

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
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Atal Nagar, District-Raipur (C.G.) 492002
Email ID – gst.aar-cg@gov.in
PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Shravan Kumar Bansal
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur (C.G)

Subject :-Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 sought vide Application dated 23/11/2022 from M/s Brindavan Agrotech Private Limited, DSC Unit no. 318, Second Floor, DLF South court Building, Saket South Delhi, New Delhi 110017, an unregistered unit having User ID - 222200000100ART (here in after referred to as the applicant), seeking advance ruling on HSN classification of the **"Fortified Rice Kernels(FRK)"** and the rate of tax applicable on its supply under GST Law.

Read :-Application 23/11/2022 from M/s Brindavan Agrotech Private Limited DSC Unit no. 318' Second Floor ' DLF South court building, Saket South Delhi, New Delhi 110017 having user ID 222200000100ART.

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/10/2022

Raipur Dated 20-02-2023

M/s Brindavan Agrotech Private Limited DSC Unit no. 318' Second Floor ' DLF South court building, Saket South Delhi, New Delhi 110017 having user ID 222200000100ART has furnished an application in form ARA-01 under section 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling regarding HSN classification of the **"Fortified Rice Kernels(FRK)"** and the rate of tax applicable on its supply under GST Law.

2. Facts of the case: -

2.1. M/s Brindavan Agrotech Private Limited (hereinafter referred to as the M/s Brindavan Agrotech Private Limited (hereinafter referred to as the "applicant"), a Company having its principal place of business at DSC Unit No-318, Second Floor, DLF South Court Building, Saket, South Delhi, 110017.

2.2. The applicant is planning to start a unit at Chhattisgarh for manufacturing and sale of a product namely **pellets of blended fortified rice flour** which is also commonly



known as **"Fortified Rice Kernels(FRK)"** in the common trade parlance (hereinafter referred as "product"/ "FRK") and accordingly the applicant wants to seek advance ruling on HSN classification of the said product and the rate of tax applicable on its supply under GST Law.

3.Contentions of the applicant: -

The applicant has in the instant application furnished the technical specification of the said product to be as under: -

Technical Specifications of the Product – "Pellets of blended Fortified Rice Flour/ FRK"

3.1. That, the process to fortify rice consists of three main steps: -

- i. Conversion of rice into rice flour
- ii. Blending of rice flour and Vitamins-Minerals premix
- iii. Extrusion of mixture in shape of rice to form pellets of blended fortified rice flour having the same composition as of rice with addition of Vitamins-Minerals premix.

3.2. That, the Product is purchased and mixed with millet/traditional rice in ratio of 1:100 for further distribution/usage by the Government Agencies/Organizations under various Schemes of Central & State Government.

3.3. That, to further understand the technical specification of the product in detail, they have extracted and enclosed the relevant portion of a tender document floated by the Government of Telangana for supply of FRK.

3.4 That, the Explanation to the tax rate Notification No. 01/2017 - CT (R) dated 28.06.2017 and exemption Notification No. 2/2017- CT(R) dated 28.06.2017 states that:

"For the purposes of this Notification:

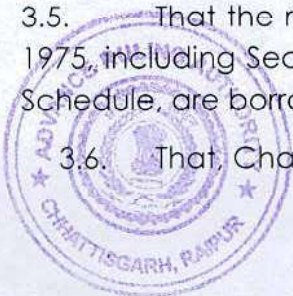
...

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification."

3.5. That the rules for the interpretation of the first Schedule to the Customs Tariff Act, 1975, including Section and Chapter Notes and the General Explanatory Notes of the First Schedule, are borrowed for interpreting the said Notifications.

3.6. That, Chapter Note 2(A) of Chapter 11 of Custom Tariff Act provides that products



from the milling of the Rice fall in this Chapter if they have:

- (1) Starch content more than 45%, and
- (2) Ash content less than 1.6%.

3.7. That, further, Chapter Note 2(B) of Custom Tariff Act provides that products of Rice falling in this Chapter under the above provisions shall be classified in heading 1101 or 1102 if it passes 80% or more through a woven metal wire cloth sieve with the aperture of 315 microns. Otherwise, they fall in heading 1103 or 1104.

3.8. That, Chapter Note 2 of Custom Tariff Act is extracted as under for ease of reference:

2(A) Products from the milling of the cereals listed in the table below fall in this Chapter if they have, by weight on the dry product:

(a) a starch content (determined by the modified Ewers polarimetric method) exceeding that indicated in column (2); and

(b) an ash content (after deduction of any added minerals) not exceeding that indicated in column (3).

Otherwise, they fall in heading 2302. However, germ of cereals, whole, rolled, flaked or ground, is always classified in heading 1104.

(B) Products falling in this Chapter under the above provisions shall be classified in heading 1101 or 1102 if the percentage passing through a woven metal wire cloth sieve with the aperture indicated in column (4) or (5) is not less, by weight, than that shown against the cereal concerned. Otherwise, they fall in heading 1103 or 1104

Cereal	Starch content	Ash content	Rate of passage through a sieve with an aperture of	
			315 micrometres (microns)	500 micrometres (microns)
(1)	(2)	(3)	(4)	(5)
Rice	45%	1.6%	80%	-

3.9. That, the rice flour used in fortification process contains starch more than 45% and ash content less than 1.6 %. Further, rice flour converted from rice more or less passes



through a woven metal wire cloth sieve with an aperture of 315 microns. In light of the above analyzed Chapter Note 2(A) and 2(B) of Custom Tariff Act, Rice Flour (i.e. product of Rice) falls under Chapter 11 under CTH 1102.

3.10. That, rice flour is classified under tariff item 1102 90 21/22/29 of Customs Tariff Act depending upon type of rice used for flour making. The same is extracted as under for ease of reference:

Tariff Item	Description of goods
1101	WHEAT OR MESLIN FLOUR
1102	CEREAL FLOURS OTHER THAN THAT OF WHEAT OR MESLIN
1102 20 00	- Maize (corn) flour
1102 90	- Other :
1102 90 10	- - - Rye flour
	- - - Rice flour:
1102 90 21	---- Brown rice flour
1102 90 22	---- White rice flour
1102 90 29	---- Other
1102 90 90	--- Other

3.11. That, explanatory Notes [as issued by World Customs Organization] to Chapter Heading 11.02 provides that "Flours of this heading may be improved by the addition of very small quantity of mineral, phosphate, anti-oxidants, emulsifiers, or prepared baking powder (self-raising flour)". The said explanatory notes is reads as under:

11.02- Cereal flours other than of wheat or meslin

1102.20- Maize (corn) flour

1102.90- Other

This heading covers flours (i.e., the pulverised products obtained by milling the cereals of chapter 10) other than flours of wheat or meslin.

Products of the milling of rye, barley, oats, maize (corn) (including whole cobs ground with or without their husks) grain sorghum, rice, or buckwheat are classified in this heading as flours if they fulfil requirements as to starch and ash content set out in paragraph (A) of Chapter 2 Note (See General



Explanatory Note) and comply with the criterion of passage through a standard sieve as required by Paragraph (B) of that Note.

Flours of this heading may be improved by the addition of a very small quantity of minerals, phosphate, anti-oxidants, emulsifiers, or prepared baking powder (self-raising flour).

The heading also covers...

[Emphasis Supplied]

3.12 That, as discussed in the facts, raw material (rice) is converted into rice flour. Thereafter, a mixture of vitamins and minerals has to be added to the rice flour as per the FSSAI guidelines. Food Safety and Standard (Fortification of Foods) Regulations, 2017 issued by FSSAI provides for the following ratio of Vitamin and Minerals which are to be added in a quantity of 1 kg of Rice:

Standards for Fortification of rice

Rice when fortified, shall contain added iron, folic acid, and Vitamin B-12 at the level given in the table below

S.No	Nutrient	Level of fortification per kg
1.	Iron- (a) Ferric pyrophosphate (b) Sodium Iron (III) Ethylene diamine tetra Acetate, Trihydrate (Sodium Ferrate - Na Fe EDTA);	20mg
2.	Folic acid- Folic acid;	1300µg
3.	Vitamin- B12 cyanocobalamin, hydroxocobalamin;	10µg

In addition, rice may also be fortified with following micronutrients, singly or in combination, at the level given in the table below:



S.No	Nutrient	Level of Fortification per Kg
1.	Zinc-Zinc Oxide	30mg
2.	Vitamin A- Retinyl Palmitate	1500µg RE
3.	Thiamine (Vitamin B1)- Thiamine hydrochloride, Thiamine mononitrate;	3.5µg
4.	Riboflavin (Vitamin B2)- Riboflavin, Riboflavin 5' phosphate sodium;	4mg
5.	Niacin-Nicotinamide, Nicotinic acid;	42mg
6.	Pyridoxine (Vitamin B6)- Pyridoxine hydrochloride	5mg

3.13 That the quantity of vitamins and minerals which are to be added in rice flour to prepare FRK as per FSSAI Regulations is very small. Therefore, in view of the applicant, Rice flour with added minerals and vitamins in small quantities are the product from milling of Rice classifiable under Chapter Heading 1102.

Pellets of Fortified Rice Flour/FRK is classifiable under CTH 1103

3.14 That, Chapter Heading 1103 covers the cereal pellets. Chapter Heading 1103 of Customs Tariff Act is extracted as under:

Tariff Item	Description of goods
1103	CEREAL GROATS, MEAL AND PELLETS
	- Groats and meal :
1103 11	-- Of wheat :
1103 11 10	--- Groat
1103 11 20	--- Meal
1103 13 00	-- Of maize (corn)
1103 19 00	-- Of other cereals
1103 20 00	- Pellets



3.15 That, in this regard Explanatory Notes [as issued by World Customs Organization] provides as under –

11.03 – Cereal groats, meal and pellets

1103.20- Pellets

Pellets are products from milling of cereals of this Chapter which have been agglomerated either directly by compression or by the addition of a binder in a proportion not exceeding 3% by weight (See Note 1 to Section II). The heading does not cover pelletised residues derived from the milling of cereals (Chapter 23).

3.16 That, the explanatory notes as extracted above in respect to pellets provides as under:

- **Pellets** are products from milling of cereals of this Chapter
- which have been agglomerated
 - either directly by compression, or
 - by the addition of a binder in a proportion not exceeding 3% by weight (See Note 1 to Section II).
- The heading does not cover pelletised residues derived from the milling of cereals (Chapter 23).

3.17 That, after analyzing the CTH 1102 there is no doubt that Rice Flour added with Minerals and vitamins are the product from milling of Rice classifiable under Chapter 11.

3.18 That, the applicant submits that the extruder machine used for converting Rice flour (added with vitamins and minerals) into FRK agglomerates rice flour by compression technique and converts it into FRK. In such technique, only 0.5 % or less binder is used for converting Rice into FRK.

3.19 That, in light of the above detailed discussion, the applicant is of the view that the pellets of blended Fortified Rice Flour which are also commonly known as 'Fortified Rice Kernel (FRK)' fall under Chapter Heading 1103 of Customs Tariff Act.

3.20 That, the relevant tax rate entry for products falling under Chapter Heading 1103 in Notification No. 01/2017-CT(R) dated 28.06.2017 reads as below:

Number 56 of Schedule I of Notification No. 1/2017-CT(R) dated 28.06.2017:

S. No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
56	1103	Cereal groats, meal and pellets, including suji and dalia,



		<i>pre-packaged and labeled</i>
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3.21 That, the relevant exemption entry for products falling under Chapter Heading 1103 in Notification No. 02/2017-CT(R) dated 28.06.2017 reads as below:

Entry Number 75 of Notification No. 2/2017-CT(R) dated 28.06.2017:

S. No	Chapter / Heading / Sub- heading / Tariff item	Description of Goods
(1)	(2)	(3)
75	1103	<i>Cereal groats, meal and pellets other than pre-packaged and labeled</i>

3.22 That, pellets of blended fortified rice flour which are commonly known as Fortified Rice Kernels (FRK) falling under Chapter Heading 1103 are subject to GST as under:

- taxable at the rate of 5% GST under Entry Number 56 of Schedule I of Notification No. 1/2017-CT(R) dated 28.06.2017, if pre-packaged and labelled or
- exempted under Entry Number 75 of Notification No. 2/2017-CT(R) dated 28.06.2017, if not pre-packaged and labelled.

3.23 That, the applicant's view that fortified rice falls under Chapter 11 is further strengthened with the discussion of the fitment committee of the GST Council which had been put forth in the agenda for the 37th GST Council Meeting.

In Annexure - III of Agenda for 37th GST Council Meeting, *issues where no change has been proposed by the Fitment Committee in relation to goods have been specified. In Sr. No. 16 of the said Annexure - III, existing HSN for the products staple foods and fortified staple are specified as "10 & 11" with existing rate at the rate of 5%. The Fitment Committee in the said Annexure-III has rejected the proposal to reduce the tax rate from 5% to 0% on branded goods including fortified staples.*

3.24 That, there is no doubt that fortified rice is a fortified staple as also defined under Regulation 2(1)(e) read with 2(1)(p) of Food safety and standard (Fortification of Foods) Regulations, 2017. The same are reproduced below for ready reference:



2(1)(e) "**fortified food**" means food that has undergone the process of fortification as per the provisions of these Regulations;

2(1)(p) "**staple food**" means articles of food intended for mass consumption on a daily basis and include rice, wheat, wheat flour. Atta, maida, oil, salt, milk, and such other articles of food as may be designed staple foods under these Regulations;

3.25 That, the Fitment Committee of GST Council has also acknowledged that goods (staple foods) including fortified staples fall under HSN 10 & 11.

3.26 The applicant under their e-mail dated 10.1.2023, furnished additional submissions post personal hearing held on 16.12.2022 as under: -

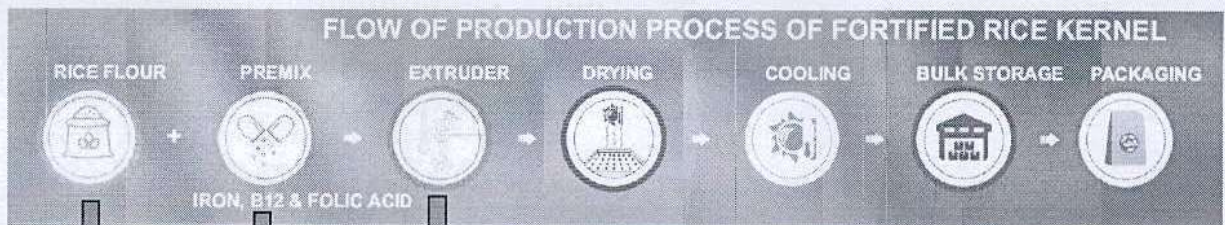
- i. That, as per the test report of Rice Flour issued by an authorized laboratory, the chemical parameters of the Rice Flour are measured and it is found that Starch content is 80.48% and Ash Content is 0.51%. Further, in a Sieve test the Lab has found that 99.91 % Rice Flour passes through a woven metal wire cloth sieve with the aperture of 315 microns. Thus, the parameters as provided in Chapter Heading 1102 are met in the present case.
- ii. That the quantity of vitamins and minerals which are to be added in Rice flour to prepare FRK as per FSSAI Regulations is very small.
- iii. That as per the test report of Pellets of Fortified Rice ["FRK"] issued by an authorized laboratory the chemical parameters of Pellets of Fortified Rice ["FRK"] have been measured and it is found that it contains following mentioned quantities of Vitamins and Minerals:

S.No	Nutrient	Quantity in per kg of FRK	Conversion in MG [Milligram]	Conversion in KG
1.	Iron (Ferric pyrophosphate)	3667.27mg (milligram)	3667.27mg	
2.	Vitamin B9 (Folic Acid)	11225.50µg (micro gram)	11.2255mg	
3.	Vitamin B12	112.57µg (micro gram)	0.11257mg	
TOTAL			3678.60807mg	0.00367860807 KG

- iv. From the above parameters of the test report, it is much clear that quantity of vitamins and minerals is very nominal i.e.**0.37%**.



- v. Rice flour with added minerals and vitamins in very small quantities is a product from milling of Rice classifiable under Chapter Heading 1102.
- vi. In the compilation submitted during the course of personal hearing on 16.12.2022, we have submitted following technical documents and all these documents provide the flow of production process of FRK:
- vii. SOP for FRK Production - issued by Food Safety and Standards Authority of India [FSSAI]- **[Refer page 3 for the Flow of Production of FRK]**
- viii. Technical Hand-out on Fortification of Rice – issued by Food Fortification Resource Centre [FFRC] - **[Refer page 7 for the Flow of Production of FRK].**
- ix. Technical Guidelines for Rice Fortification – issued by Department of Food & Public Distribution **[Refer page 13 for the Flow of Production of FRK].**
- x. With the help of the following chart, we would like to explain the flow of production process of FRK along with parameters of Customs Classification as under:



Product falling under CTH 1102

Explanatory Notes [as issued by World Customs Organization] to Chapter Heading 11.02 provides that “Flours of this heading may be improved by the addition of very small quantity of mineral, phosphate, anti-oxidants, emulsifiers, or prepared baking powder (self-raising flour)”

- Explanatory notes [as issued by World Customs Organization] to Chapter Heading 11.03 provides that **Pellets** are products from milling of cereals of **this Chapter** which have been agglomerated directly by compression.
- After analyzing the CTH 1102, there is no doubt that Rice Flour added with Minerals and vitamins in very small quantity are the product from milling of Rice classifiable under Chapter 11.
- The extruder machine, used for converting Rice flour (added with vitamins and minerals) into FRK, agglomerates rice flour by compression technique and converts it into Pellets of Fortified Rice [FRK].
- **Thus, the pellets of blended Fortified Rice Flour which are also commonly known as ‘Fortified Rice Kernel (FRK)’ fall under Chapter Heading 1103 of Customs Tariff Act.**



4. Personal Hearing: -

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant in person, as requested by them and accordingly, Shri Pawan Arora, Advocate and authorized representative of the applicant, attended the personal hearing in the matter on 16.12.2022, seeking advance ruling regarding HSN classification of the "Fortified Rice Kernels(FRK)" and the rate of tax applicable on its supply under GST Law. Accordingly, he reiterated the contention in the matter as made in their ARA01 and submitted additional submission as well and requested for a ruling in the matter.

Owing to the change in the constitution of this Authority, another Personal hearing in the matter under virtual mode was extended to the applicant when Shri Pawan Arora, Advocate and authorized representative of the applicant attended the hearing on 17.2.2023 wherein he submitted that they are seeking advance ruling as to the HSN classification of the product pellets of blended fortified rice flour which is also commonly known as Fortified Rice Kernels (FRK) and the applicable rate of GST on supply of the said product. He further informed that they are planning to have a manufacturing unit of the said FRK at Chhattisgarh. Accordingly, it was his opinion that the pellets of blended Fortified rice flour which are also commonly known as Fortified rice kernel (FRK) fall under chapter heading 1103 of Customs Tariff Act and taxable at the rate of 5% GST under entry no. 56 of Schedule I of Notification no. 1/2017-CT(Rate) dated 28.6.2017, if pre-packaged and labeled or exempted under entry no. 75 of Notification no. 2/2017-CT(Rate) dated 28.6.2017, if not pre-packaged and labelled.

He reiterated the contention in the matter as made in their ARA01 and requested for a ruling in the matter.

5. The legal position, analysis, and discussion: -

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

6. Section 96 of CGST Act, 2017, Authority for advance ruling, stipulates as under: -

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Section 97(2) of CGST Act, 2017 stipulates that: -

The question, on which the advance ruling is sought under this Act, shall be in respect of—



- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Further, section 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: –The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only –

- a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
- b. On the concerned officer or the jurisdictional officer in respect of the applicant.

Thus, in view of the above section 103 of CGST Act, 2017, the ruling so sought by the applicant would be binding only on the applicant and on the concerned officer or the jurisdictional officer as stipulated above.

7. We have gone through the submissions made by the applicant and have examined the contentions raised by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) (a) and Section 97(2)(e) of the CGST Act 2017 being a matter relating to classification of goods and the rate of tax applicable on its supply. We, therefore, admit the application for consideration on merits.

8. Now we proceed to decide the issues raised by the applicant on merits. The issues covered in the instant case in hand is regarding classification and applicability of GST on the said **Fortified Rice Kernels (FRK)** which the applicant intends to manufacture and supply at Chhattisgarh. In this context, the applicant in their writeup has submitted that the process to fortify rice consists of three main steps: -

Conversion of rice into rice flour

- i. Blending of rice flour and Vitamins-Minerals premix
- ii. Extrusion of mixture in shape of rice to form pellets of blended fortified rice flour having the same composition as of rice with addition of Vitamins-Minerals premix.

and further that, the product is purchased and mixed with millet/traditional rice in ratio of 1:100 for further distribution/usage by the Government Agencies/Organizations under various Schemes of Central & State Government.

9. We further find from the detailed submissions put forth by the applicant, that they



are of the firm opinion that their product viz. FRK fall under chapter 1103 of the Customs Tariff Act. In arriving at their above view, it has been their submission that after analyzing the CTH 1102 there is no doubt that Rice Flour added with Minerals and vitamins are the product from milling of Rice classifiable under Chapter 11 and further that, the extruder machine used for converting Rice flour (added with vitamins and minerals) into FRK agglomerates rice flour by compression technique and converts it into FRK. In such technique, only 0.5 % or less binder is used for converting Rice into FRK and accordingly pellets of blended Fortified Rice Flour which are also commonly known as 'Fortified Rice Kernel (FRK)' fall under Chapter Heading 1103 of Customs Tariff Act. In support of their above view, they have also cited reference to Chapter Note 2(A) of Chapter 11 of Custom Tariff Act and further, Chapter Note 2(B) of Custom Tariff Act as also explanatory Notes [as issued by World Customs Organization] to Chapter Heading 11.02.

9.1 To bring home their point of view that the said product fall under Chapter 1103, the applicant in their additional written submission furnished post personal hearing held on 16.12.2022 have also furnished atest report of Rice Flour issued by a laboratory, namely M/s Avon Foods Lab Pvt. Ltd, Delhi showing that the chemical parameters of the Rice Flouris well within the limits as mentioned in chapter Note of Chapter 11 ibid.

9.2 It is worthwhile to mention here that Section 9 of the CGST Act and respective SGST Acts and Section 5 of IGST Act inter alia provides for levy of tax ".....at such rates, not exceeding forty percent, as may be notified by the government on the recommendation of the council and collected in such manner as may be prescribed" A plain reading of above provision implies that government has power to notify rates of tax on recommendation of GST council. The combined rate of CGST and SGST or IGST cannot be more than 40 per cent. The Customs Tariff Act 1975 is based on Harmonised System of Nomenclature, HSN. The Customs Tariff Act 1975 is amended from time to time so as to align the same with HSN Tariff developed by world customs organisation. Harmonised System of Nomenclature (HSN) The Harmonised Commodity Description and Coding System generally referred to as "Harmonised System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It is also referred to as "Harmonised System of Nomenclature" or HSN. The rules of Interpretation of Customs Tariff are also stipulated. The rules of interpretation, section notes and chapter notes as specified under Customs Tariff Act 1975 are also applicable for classification of Goods under GST regime.

9.3 The Central government on recommendation of GST council has notified the rate of applicable tax payable on goods vide notification no. 01/2017 – CT (Rate) / Integrated tax (rate) dated 28/06/2017. It may be noted that notifications regarding central tax (CGST) are issued by central government and notification regarding state tax (SGST) issued by respective state government have identical provisions. The said notifications are subject to amendments from time to time by the government. The schedules in notifications issued have reference to chapter, heading, sub heading and tariff items. Explanation at the end of above notification no. 01/2017 – CT (Rate) dated 28/06/2017 inter alia provides that "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, subheading, heading and chapter as specified in



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the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and further that the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification. Therefore, it is implied by virtue of above explanation that the classification of goods has to be done in accordance with Customs Tariff Act 1975. However, once the heading/tariff item is arrived at, the rate of GST would be governed by above notification.

9.4 In the aforesaid context, chapter Notes to Chapter 11 of Customs Tariff Act reads as under: -

CHAPTER 11

Products of the milling industry; malt; starches; inulin; wheat gluten

Notes:

1. This Chapter does not cover :

(a) roasted malt put up as coffee substitutes (heading 0901 or 2101);

(b) prepared flours, groats, meals or starches of heading 1901;

(c) corn flakes or other products of heading 1904;

(d) vegetables, prepared or preserved, of heading 2001, 2004 or 2005;

(e) pharmaceutical products (Chapter 30); or

(f) starches having the character of perfumery, cosmetic or toilet preparations (Chapter 33).

2. (A) Products from the milling of the cereals listed in the table below fall in this Chapter if they have, by weight on the dry product:

(a) a starch content (determined by the modified Ewers polarimetric method) exceeding that indicated in column (2); and

(b) an ash content (after deduction of any added minerals) not exceeding that indicated in column (3). Otherwise, they fall in heading 2302. However, germ of cereals, whole, rolled, flaked or ground, is always classified in heading 1104. (B) Products falling in this Chapter under the above provisions shall be classified in heading 1101 or 1102 if the percentage passing through a woven metal wire cloth sieve with the aperture indicated in column (4) or (5) is not less, by weight, than that shown against the cereal concerned. Otherwise, they fall in heading 1103 or 1104.

9.5 As can be seen, Chapter note 1(c) to Chapter 11 of Customs Tariff supra stipulates that chapter 11 does not cover corn flakes or other products of heading 1904. Thus, owing to this restriction it becomes all the more important to consider Chapter 19 of Customs Tariff, which reads as under: -



CHAPTER 19

Preparations of cereals, flour, starch or milk; pastrycooks' products

NOTES :

1. This Chapter does not cover : (a) except in the case of stuffed products of heading 1902, food preparations containing more than 20% by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16);

(b) biscuits or other articles made from flour or from starch, specially prepared for use in animal feeding (heading 2309); or

(c) medicaments or other products of Chapter 30.

2. For the purposes of heading 1901:

(a) the term "groats" means cereal groats of Chapter 11;

(b) the terms "flour" and "meal" means :

(1) cereal flour and meal of Chapter 11, and

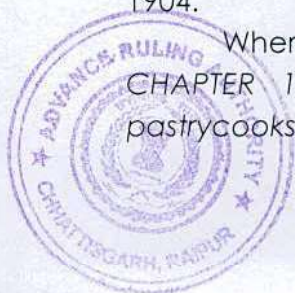
(2) flour, meal and powder of vegetable origin of any Chapter, other than flour, meal or powder of dried vegetables (heading 0712), of potatoes (heading 1105) or of dried leguminous vegetables (heading 1106).

3. Heading 1904 does not cover preparations containing more than 6% by weight of cocoa calculated on a totally defatted basis or completely coated with chocolate or other food preparations containing cocoa of heading 1806 (heading 1806).

4. For the purposes of heading 1904, the expression "otherwise prepared" means prepared or processed to an extent beyond that provided for in the headings of, or Notes to, Chapter 10 or 11.

9.6 Now on a harmonious reading of Chapter 11 vis-à-vis Chapter 19 of Customs Tariff supra, it can be seen that Chapter 11 deals with products of milling industry and further that chapter Note 2 (A) of Chapter 11 stipulates regarding the products from the milling of the cereals i.e., products obtained consequent upon being subjected only and only to the process of milling of cereals, which obviously as per the admission of the applicant themselves in their application, is not the case here in as much as post milling, rice is further subjected to the process of conversion of rice into rice flour followed by Blending of rice flour and Vitamins-Minerals premix and thereafter the resultant product is subjected to the process of extrusion of mixture in shape of rice to form pellets of blended fortified rice flour having the same composition as of rice with addition of Vitamins-Minerals premix. Besides this, Chapter note 1(c) to Chapter 11 of Customs Tariff ibid stipulates that chapter 11 does not cover corn flakes or other products of heading 1904.

Whereas going through Chapter 19 of Customs Tariff supra, it is seen that CHAPTER 19 deals exclusively with Preparations of cereals, flour, starch or milk; pastrycooks' products and further it is observed that, chapter note 4 to Chapter 19 ibid in



very unambiguous terms mentions that "For the purposes of heading 1904, the expression **"otherwise prepared" means prepared or processed to an extent beyond that provided for in the headings of, or Notes to, Chapter 10 or 11**".

9.7 Thus based on the evidences before us, we are of the firm opinion that the instant Fortified Rice Kernel (FRK), obtained consequent upon subjecting milled rice to the process of converting it to rice flour and thereafter working upon it by blending of the said rice flour and Vitamins-Minerals premix followed by subjecting the resultant product to the process of extrusion of mixture in the shape of rice to form pellets of blended fortified rice flour with addition of Vitamins-Minerals premix aptly classifiable under Tariff item 1904, details of which are as under:-

CHAPTER 19

Preparations of cereals, flour, starch or milk; pastrycooks' products

Tariff item	Description of goods
1904	PREPARED FOODS OBTAINED BY THE SWELLING OR ROASTING OF CEREALS OR CEREAL PRODUCTS (FOR EXAMPLE, CORN FLAKES); CEREALS [OTHER THAN MAIZE (CORN)] IN GRAIN FORM OR IN THE FORM OF FLAKES OR OTHER WORKED GRAINS (EXCEPT FLOUR, GROATS AND MEAL), PRE-COOKED OR OTHERWISE PREPARED, NOT ELSEWHERE SPECIFIED OR INCLUDED
1904 10	- Prepared foods obtained by the swelling or roasting of cereals or cereal products:
19041010	--- Corn flakes
19041020	--- Paws, Mudi and the like
1904 10 30	--- Bulgur wheat
1904 10 90	--- Other
1904 20 00	- Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals
1904 30 00	- Bulgur wheat
1904 90 00	- Other

9.8 Now in view of the above discussion, there remains no ambiguity as regards the fact that the impugned goods are nothing but preparations of rice flour. At this juncture, for ascertainment of the correct classification of impugned good viz. Fortified Rice Kernels (FRK) and thereby to arrive at the applicate rate of GST on the same, we would also like to cite reference to the Agenda for 45th GST Council meeting held on 17th September 2021 (volume 2) wherein at Agenda item 14 relating to issues recommended by the Fitment committee for the consideration of GST council, point no.



5 regarding proposals as contained in para 4 and placed before the GST council for consideration at Sno. 21 read as under: -

Annexure-I

Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relations to goods

S.No	Description/HSN	Present GST rate	Requested GST rate	Comments
1.				
2.				
.....				
21.	<u>Fortified Rice Kernel (Premix) [1904]</u>	18%	Rate reduction	<p>1. Fortified rice kernel (premix) is produced at substantive value addition over normal rice. Fortified Rice Kernel (FRK) is a reconstituted rice grain made from rice flour, vitamins, and minerals using hot extrusion technology. Thus, FRK is a value-add product. So exempting it would not be appropriate.</p> <p>2. Fitment Committee is of the view that Fortified Rice Kernel when supplied for any</p>



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				<p>scheme like ICDS, it may be given same treatment as given to ICDS supplies, i.e. 5% rate.</p> <p>3. The Fitment committee recommends the reduction in GST of Fortified Rice Kernel [1904] from 18% to 5% for ICDS or similar scheme subject to same conditions as apply to ICDS supply for ensuring end use</p>
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Thus, from the above it gets amply clear that Fortified Rice Kernel is classifiable under chapter heading 1904.

Thereafter it is also observed that in the 45th Meeting of the GST Council, held at Lucknow on 17th September, 2021, the GST Council has inter-alia made the recommendation of lowering the rate of GST from 18% to 5% on Fortified Rice Kernels for schemes like ICDS etc. Accordingly, vide Notification No. 11/2021 C.T.(Rate) dated 30.09.2021, Notification 39/2017 dated 18.10.2017 stood amended effective from 01.10.2021, by including the terms "Fortified Rice Kernel (Premix) supply for ICDS or similar scheme duly approved by the Central Government or any' State Government" in column (3) and also, the words 'Food Preparation' is amended as 'goods' in column (d) of the Notification, by citing the chapter of the goods as Chapter 19 or 21.

This important decision at the highest policy making forum of GST also leads us to the inevitable conclusion that Fortified Rice Kernels merits classification under chapter heading 1904. Hence, the classification of impugned goods, claimed by the applicant under Chapter Heading 1103 of Customs Tariff Act is not sustainable under law, meriting rejection.



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S. No.	Chapter /Heading /Sub-heading/ Tariff item	Description of Goods
(1)	(2)	(3)
1.	-----	-----
2.	-----	-----
3.	-----	-----
....	-----	-----
....
15.	1904 [other than 1904 10 20]	All goods i.e. Corn flakes, bulgar wheat, prepared foods obtained from cereal flakes [other than Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki]
....

Schedule IV – 14%

Schedule V – 1.5%

Schedule VI – 0.125%

10.2 Thus, from the above it gets abundantly clear that the applicable rate of GST on all goods of 1904 including Fortified Rice Kernels (FRK) meriting classification under chapter subheading 19049000 is 18% [9% CGST + 9% SGST] or (18% IGST) as the case may be, in terms of entry no. 15 to Schedule-III to Notification no. 01/2017-CT(Rate) dated 28.6.2017 as amended.

It is also seen that the applicant in their submissions have also referred that the quantity of vitamins and minerals which are to be added in rice flour to prepare FRK as per FSSAI Regulations which provides for the ratio of Vitamin and Minerals to be added in a quantity of 1 kg of Rice. In this context, it is seen that Food Fortification Resource Centre FFRC set up by the very same FSSAI has in its advisory dated 12/7/2021 addressed to all business operators and FRK manufacturers giving reference to chapter heading 1904 has advised to take appropriate action for uniform billing of Fortified Rice Kernels.



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The other issues /points raised by the applicant in their application, including the reference to the discussion of the fitment committee of the GST Council put forth in the agenda for the 37th GST Council Meeting, is distinguishable to the facts and circumstances involved here, in view of the subsequent agenda of 45th GST council meeting held on 17.9.2021, discussed herein above in the preceding para.

Having regard to the facts and circumstances of the case and discussions as above, we pass the following order: -

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/10/2022

Raipur Date 20-02-2023

The ruling so sought by the applicant is accordingly answered as under:

RULING

Fortified Rice Kernels (FRK) proposed to be manufactured by the applicant M/s Brindavan Agrotech Private Limited, DSC Unit no. 318', Second Floor, DLF South court Building, Saket South Delhi, New Delhi 110017, an unregistered unit having User ID - 222200000100ARTmerits classification under chapter subheading 19049000, attracting GST @18% [9% CGST + 9% SGST] or (18% IGST) as the case may be.

sd-

Sonal K. Mishra
(Member)

sd -

Shrawan Kumar Bansal
(Member)

Place: - Raipur

Date:-

Seal:-



TRUE COPY

[Signature]
20/2/23

MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

TRUE COPY

[Signature]
20/2/23
MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR