



**CUSTOMS AUTHORITY FOR ADVANCE RULINGS
O/o THE CHIEF COMMISSIONER OF CUSTOMS
NEW CUSTOM HOUSE, NEAR IGI AIRPORT, NEW DELHI-110037**

[Email: cus-advrulings.del@gov.in]

Present: Samar Nanda (Customs Authority for Advance Rulings, New Delhi)

The day of 4th August, 2023

Ruling No. CAAR/Del/Shree Hari/ 18/2023 / 375 to 380
09/08/2023

In Application No. C.No. VIII/CAAR/Delhi/Shree Hari/34/2023

Name and address of the applicant: Shreehari Ananta Overseas Private Limited, Near ATV Project, Agra-Delhi NH-2, Near Bharatpur Choraha, Mathura, Uttar Pradesh-281004.

Commissioner concerned: Commissioner of Customs, ICD Patparganj & others ICDs, Near Gazipur village, Patparganj, New Delhi-110096

Present for the Applicant: Shri Sanjay Sharan, A.R.
Shri Rahul Kumar Ajmera, C.A.

Present for the Department: None



Ruling

M/s Shreehari Ananta Overseas Private Limited, Near ATV Project, Agra-Delhi NH-2, Near Bharatpur Choraha, Mathura, Uttar Pradesh-281004, having IEC number and PAN - ABKCS1017P (applicant, in short) has filed an application dated 18.05.2023, received in this office on 18.05.2023, seeking advance ruling under section 28-H of the Customs Act, 1962, before the Customs Authority for Advance Rulings, New Delhi (CAAR, New Delhi in short). The application was accordingly registered under Serial No. 14/2023 dated 18.05.2023.

2. The applicant has proposed to import preparation of betel nuts into India such as '*API Supari*', '*Chikni Supari*', '*Unflavoured Supari*', '*Flavoured Supari*', and '*Boiled Supari*' packed in consumer packing and bulk packing, and the applicant has sought ruling on the classification under the Customs Tariff Act, 1975, of goods which are proposed to be imported.

3.1 The applicant has stated that, the principal raw material used by the foreign manufacturer for the proposed goods for import, will be raw betel nuts covered under heading 080280 of the First Schedule to the Customs Tariff Act, 1975, however, goods to be imported by the applicant would not contain lime, katha or tobacco but may contain other ingredients such as cardamom, copra, menthol, spices, sweetening agents. Further, the applicant has also described the process of preparation of the import items as under:-

A. '**API Supari**' - Following processes are conducted on raw green fresh betel nut: removing of large impurities by manual labour, boiling in water for 6 hours, mixing food starch, drying, polishing and packaging.

B. '**Chikni Supari**'-Following processes are conducted on raw green fresh betel nut: removing of large impurities by manual labour, slicing in small pieces, boiling in water for 6 hours, mixing food starch, drying, polishing and packaging.

C. '**Unflavoured Supari**'-Following processes are conducted on raw dried betel nut: removing of large impurities by manual labour, removing of small impurities by de-stoner, metal deflection (removal of metal item, if any), garbling, polishing in polishing machine, 3 stage cutting, blowing of weightless particles in blowers, gravity separation by automatic gravity separation machine, roasting in fire gas rotary roaster, metal detection by magnetic metal detectors and packaging.

D. '**Flavoured Supari**'-Following processes are conducted on raw dried betel nut: removing of large impurities by manual labour, removing of small impurities by de-stoner, metal deflection (removal of metal item, if any), garbling in automatic garblers, polishing in polishing machine, sterilization to remove bacterial count, three stage cutting, blowing of weightless particles in blower, gravity separation by automatic



gravity separation machine, roasting in fire gas rotary roaster, flavouring in large size automatic blenders with compound, metal detection by magnetic metal detectors, sterilization to neutralise bacteria count increased due to handling in processing and packaging, adding flavors like spices/or mulethi etc. in automatic blenders, adding outsourced liquid flavours such as permissible perfumes etc. in mega size automatic blenders with compound.

E. **'Boiled Supari'** Following processes are conducted on raw dried betel nut: removing of large impurities by manual labour, boiling in water for 4 hours, removing the husk, boiling again for 2 hours, drying by hot air, sterilizing, sorting, and packaging.

3.2 Further the applicant has stated that the main raw material for manufacturing of above items is betel nut/supari covered under sub-heading 080280 and they sought advance ruling on question, *"Whether goods sought to be imported, qualify as preparation of betel nut commonly known as Supari, whether or not containing added ingredients such as food starch, spices, mulethi, menthol (flavours), perfume etc. though not containing lime or katha (catechu) or tobacco and will the resultant product be classifiable under chapter/heading 21069030 as food preparation or under chapter heading 08028090 or any other sub heading of 080280 as areca nut?"*.

3.3 The applicant has also stated that, processed betel nut, which is a food preparation of betel nut product known as 'Supari', falls under Chapter heading 21069030 of the Customs Tariff; the above mentioned items are subjected to certain processes and added with certain materials, resulting as "preparation of betel nut"; that, note 2 of chapter 21 states that, "In this chapter "Betel Nut product known as Supari" means any preparation containing betel nuts but not containing any one or more of the following ingredients, namely lime, katha (catechu) and tobacco whether or not containing any other ingredients such as cardamom, copra or menthol"; products intended to be imported do not contain any of the such product namely katha (catechu) or tobacco.

3.4 Further, the applicant rely on the findings dated 20-05-2021 of Hon'ble Authority of Advance Ruling, Delhi in the case of M/s GREAT NUTS IMPEX PRIVATE LTD. [2021(378)E.L.T692(A.A.R.-Cus.-Del)] *wherein ruling covers all the various preparations of betel nut, which are subjected to various processes of cleaning, enhancing preservation, enhancing appearance or presentation and certain materials added. At the end of processes, betel nuts retain the character of betel nut and essential character of betel nut is not changed. Therefore, as per ruling, the items do not qualify as preparation of betel nut, which is sine qua non for goods to be classifiable under chapter 21 of Customs Tariff Act, 1975. The ruling held that various items merit assessment under chapter heading 0802 of Customs Tariff Act, 1975.* The applicant has further stated that, chapter 8 covers, Edible fruit and nuts; peel of citrus fruit or melons and Note 3 of Chapter 8 provides that, dried fruits or dried nuts of this chapter may be partially rehydrated, or treated for the following purposes: a. for additional preservation or stabilization (for example, by moderate heat treatment, sculpturing, the addition of



sorbic acid or potassium sorbate); b. to improve or maintain their appearance (for example, by the addition of vegetable oil or small quantities of glucose syrup) provided that they retain the character of dried fruits or dried nuts. The applicant has also stated that, under chapter 8, areca nuts, whole, split, ground and two residuary sub-headings are accommodated under 08028010, 20, 30, 90 respectively; processes carried out on such products for cleaning, preserving and making them more attractive to certain tastes/preferences are too minor to fall short of rendering them as preparations of betel nuts; hence, processes to which raw betel nuts have been subjected to obtain API Supari, Chikni Supari, unflavoured Supari and boiled Supari are squarely in the nature of processes referred to in the Chapter Note 3 to Chapter 8 of the Tariff Act; thus, at the end of the said processes, the betel nuts retain the character of betel nut and do not qualify to be considered as “preparations” of betel nut, which is *sine qua non* for a good to be classifiable under Chapter 21; to support their stand, the applicant has relied upon the following pronouncements:

- ROSE MARY INTERNATIONAL (2023) 4 Centax 288 (A.A.R.-Cus--Mum)
- GREAT NUTS IMPEX PVT. LTD 2021(378)E.L.T.692 (A.A.R.-Cus--Del)
- S.T.ENTERPRISES Vs COMMISSIONER OF CUSTOMS (CHENNAI-VII) 2021 (378) E.L.T. 514 (Tri. -Mad). This order was upheld by the Hon'ble Supreme Court vide order dated 19-03-2021 as reported in 2021(378) E.L.T. A 142(S.C.). The ratio of above judgments are applicable to this case in as much as various processes to which betel nut whole is subjected to, do not change its basic classification under 08028010 Of the Customs Tariff Act, 1975.
- Hon'ble Apex court in the case of Crane Betel Nut Powder works (2007 (210) ELT 171 (SC)) wherein inapplicability of note 2 of chapter 21 has been squarely ruled.
- Hon'ble CESTAT, Chennai in the matter of S.T. Enterprises Vs. Commissioner of Customs (Chennai VII) 2021(378) E.L.T.(Tri-Chennai) in which a similar view was held that betel nut (Areca nuts) subjected to processes like dehusking, cleaning, boiling, drying etc. do not change its character and would continue to merit assessment under Chapter heading 08.02 of Customs Tariff Act, 1975.

4. Comments in the matter have been received from the concerned Commissionerate wherein, it is inter-alia stated that, there are two headings in the Customs Tariff which are applicable to areca nuts/betel nut and betel nuts product known as Supari; on plain reading of the supplementary note 2 of chapter 21, it is unambiguously clear that only the preparation of betel nuts falls under Chapter 21 and not the processed betel nuts; there is difference between preparation and processing; processing of betel nuts is a series of events and boiling may be only an event of that series; in other words, cleaning, boiling, drying, mixing starch are a part of processing; even after completion of the process, the goods retain their original identity and its uses may also remain the same; on the other hand, the preparations containing betel nuts, as stipulated in the supplementary Note 2 to Chapter 21, means a preparation wherein betel nuts should be



an ingredient, in other words, the product is made of betel nut, hence, it is different from the processed one; Sub-heading 210690 covers items which are clear cut preparations, edible to the consumer; Chapter 21 needs ready-to-eat foods preparations, while the goods in the application does not mention that it is for retail sale to consumer in ready to eat format. The comments of the concerned Commissionerate also discussed the classification of the items proposed to be imported, referring to Chapter Notes of Chapter 8, Chapter 21 and judgements in the case of Crane Betel Nut Powder Works, A.R.S. & Co., Satnam Oversea Limited, Empire Industries Ltd. and summarized that the items proposed to be imported viz- Boiled Supari, API Supari, Chikni Supari, Unflavoured Supari, Flavoured Supari are betel nuts whole/dried and merit classification under Chapter 8 specifically CTH – 08028010/20/20/90.

5. Personal hearing in the matter was held on 12.07.2023. *The Authorized Representative (AR) of the applicant, at the onset, explained goods in question, which are proposed to be imported and on which advance ruling has been sought. The AR stated that they intend to import processed betel nuts into India such as API Supari, Chikni Supari, Unflavoured Supari, Flavoured Supari and Boiled Supari; that the application has been filed, seeking rulings, to obviate any dispute in respect of classification of the goods. The AR explained the processes conducted on the goods before importation such as removing of impurities, boiling, drying, polishing, packaging etc. Referring to Chapter Notes of Chapter 8, he explained as to how goods in question merit classification under heading 0802. In support of their claim of classifying the goods under chapter heading 0802, the AR cited references of judgement of Supreme Court in the matter of M/s. Crane Betel Nut and M/s. S.T. Enterprises stating that the matter has already attained finality as the Supreme Court has accepted that such processes do not amount to manufacturing and hence such goods fall under the chapter head 0802. The AR also cited other Rulings of AAR, Delhi in the matter of M/s. Great Nuts Impex Pvt. Ltd.; ruling of CAAR Mumbai in the matters of M/s. Rose Marry International and Samreen International Pvt. Ltd. and M/s. Zaveri Enterprises in support of their claim that the goods in question are classifiable under Chapter 0802. The Authority asked the AR, as the similar matter has already been settled down by the Hon'ble High Court of Delhi confirming the view taken by CAAR, New Delhi, do they have any additional facts to be submitted apart from the facts already settled down by the Hon'ble High Court of Delhi? The AR replied that they do not have any such additional submissions to give.*

6. Finding that the application is valid in terms of the provisions of the Customs Act, 1962 and the Customs Authority for Advance Rulings Regulations, 2021, having gone through submissions of the applicant, comments of the concerned Commissionerate and having heard the applicant, I proceed to examine the question on merits.

7. Since the question under the application for advance ruling relates to classification of goods proposed to be imported, guidance of the Harmonized Commodity Description



and Coding System of the World Customs Organization (HSN, in short), to which India is a signatory, would be useful.

8.1 I note that the concerned Commissionerate has opined for classification under the heading 0802. I note that advance ruling has been sought on classification of five different goods, each known as "Supari" in common trade parlance, albeit with differentiator, viz. API, Chikni, Unflavored, Flavored and Boiled. The basic raw material for each of the five goods is raw betel nut, which is classifiable under Chapter 8, more specifically sub-heading 080280. I also note that Chapter 8 covers only edible nuts; inedible nuts and fruits being excluded by virtue of Chapter Note 1; and that betel nut/supari are masticatory. However, these items have been subjected to certain processes and added with certain materials, resulting in the question being posed whether the said processes and mixing/addition of certain materials are substantive enough to lead to the said five goods be considered as "preparation of betel nut" that would make them classifiable under Chapter 21 by virtue of Supplementary Note 2 of Chapter 21. Alternatively, whether the processes carried out on the same for cleaning, cutting, preserving, and making them more attractive to certain tastes/ preferences are too minor to fall short of rendering them as preparations of betel nuts.

8.2 To answer the posed question, I consider the five goods, namely API Supari, Chikni Supari, Unflavored Supari, Flavoured Supari and Boiled Supari and in these, one set of processes are found to be intended for cleaning; the second set for enhancing preservation; and third set for enhancing appearance or presentation, in addition to cutting. Addition of starch would be included under such process. I find that these processes are clearly covered by the Chapter Note 3 to Chapter 8 as well as the HSN.

8.3 I find that in the instant case, betel nuts after being boiled are dried and this fact per se would not exclude the end-products from the scope of "dried nuts". Further, boiling or mere addition of certain additives for the purpose of enhancing preservation or appearance or ease of consumption per se does not result in obtaining a preparation of betel nut. Speaking more generally, in view of the design of the Schedule to the Customs Tariff Act, HSN and plethora of judgements, besides common understanding and parlance, every irreversible process does not result in obtaining a new product with a distinct classification even at the eight or ten-digit level; and every irreversible process does not result in coming into being of a "preparation of the raw material". Therefore, I conclude that the processes to which raw betel nuts have been subjected to obtain API Supari, Chikni Supari, Unflavored Supari, Flavoured Supari and Boiled Supari are squarely in the nature of processes referred to in the Chapter Note 3 to Chapter 8 and HSN. Therefore, at the end of the said processes, the betel nuts retain the character of betel nut and do not qualify to be considered as "preparations" of betel nut, which is sine qua non for a good to be classifiable under Chapter 21.

8.4 In the case of flavored supari, the question to be answered is whether the addition of special flavoring agents would render the betel nuts into preparations of betel nuts,

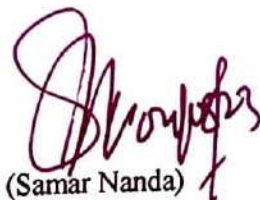


classifiable under Chapter 21. In this regard, the judgment of the Hon'ble Supreme Court of India in the case of M/s Crane Betel Nut Powder Works and of the CESTAT, Chennai in the case of M/s Azam Laminators Pvt. Ltd. [where scented betel nut was being manufactured by cracking of dried betel nut into small pieces, and thereafter, gently heating it with addition of vanaspati oil, sweetening and flavoring agents and marketed in small pouches as Nizam Pakku (in Tamil)/Betel Nut (in English), the Hon'ble CESTAT held the resultant product classifiable under sub-heading 08029019 of Central Excise Tariff and not under 21069030 as supari for period after 07.07.2009] are relevant. Put simply, these decisions clearly imply that addition of flavoring agents do not change the character of the good, meaning in the present case betel nut would continue to remain betel nut and not become preparation of betel nut.

9. In view of the aforesaid discussion, all the five goods placed before me for consideration, i.e., API Supari, Chikni Supari, Boiled Supari, Unflavored supari, and Flavored supari, merit classification under Chapter 8 of the First Schedule to the Customs Tariff Act, and more precisely, under the Sub-heading 080280. This is so in view of the fact that the processes to which raw green fresh betel nuts have been subjected to obtain the said five goods are squarely in the nature of processes mentioned in Note 3 to Chapter 8, and have not materially changed the essential character of betel nuts. Further, the said five goods are not classifiable under sub-heading 2106 9030, since they have not attained the character of "preparations" of betel nut, which is sine qua non for a good to be so considered.

10. I rule accordingly.

Date: 04.08.2023



(Samar Nanda)

Customs Authority for Advance Rulings,
New Delhi



This copy is certified to be a true copy of the ruling and is sent to: -

1. M/s Shreehari Ananta Overseas Private Limited Near Atv Project, Agra-Delhi NH-2, Near Bharatpur Choraha, Mathura, Uttar Pradesh-281004.
2. The Commissioner of Customs, ICD Patparganj & Others ICDs, Near Gazipur village, Patparganj, New Delhi-110096.
3. The Customs Authority for Advance Rulings, Mumbai, New Custom House, Ballard Estate, Mumbai-400001.
4. The Chief Commissioner (AR), Customs Excise & Service Tax Appellate Tribunal (CESTAT), West Block-2, Wing-2, R.K. Puram, New Delhi-110066.
5. The Chief Commissioner of Customs, Delhi Customs Zone, New Custom House, IGI Airport Complex, New Delhi-110037.
6. The Member (Customs), CBIC, North Block, New Delhi.
7. Guard file.
8. Webmaster.

SM
04.08.2023
(Anamika Singh)

Secretary,

Customs Authority for Advance Rulings, New Delhi

