



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)

F. No. VIII/CAAR/Delhi/R.V Intl/14/2024

The day of 09<sup>th</sup> May, 2024

Ruling No. CAAR/Del/R.V Intl/15/2024

In application No. 09/2024 dated 06.03.2024.

864  
15/5/2024

Name and address of the applicant: R V International, C-208, Mayapuri, Phase-II, New Delhi-110064

Commissioner concerned: The Principal Commissioner of Customs, ICD, Tughlakabad, New Delhi - 110020.

Present for the Applicant: Mr. Harish Kohli, Advocate

Present for the Department: None.

Ruling

The applicant, M/s R V International, New Delhi is a proprietorship firm of Mr. Prabhjyot Singh Dang duly registered under The Companies Act. The importer exporter code of the company is 0513091645 and the GST number of the applicant is 07AGQPD1949R1ZN. The applicant is in the process of setting up its business of Import of Roasted Areca Nut (Whole), Roasted Areca Nut (Split) and Roasted Areca Nut (Cut) from Burma, Indonesia, Sri Lanka, Thailand and Singapore. The applicant is approaching this Hon'ble Authority, seeking advance ruling vide the goods as mentioned in the following paras as applicant intends to import the same and hence would like to have a proper understanding and clarification as to whether the goods being ported shall be covered under a particular classification or the other.



1.1 That the nomenclature and details of the goods being sought to be imported by the applicant are as under: -

- (i) Roasted Areca Nuts (whole)
- (ii) Roasted Areca Nuts (split)
- (iii) Roasted Areca Nuts (cut)

1.2 That the processes carried out on the Roasted Areca Nut (Whole), Roasted Areca Nut (Split) and Roasted Areca Nut (Cut) are as under: -

- i. De-husking the raw betel/ areca nut and drying the same before being fed into the roasting oven;
- ii. Feeding the fresh areca nuts into a seed roasting oven, heating up the betel nuts would be roasted well beyond 100 degrees Celsius, usually in the range of 130-150 degree Celsius and roasting the fresh areca nuts is done using firewood/palm kernel-based ovens of the seed roasting machine and temperature of the flames is around 600 degrees Celsius.
- iii. Take the areca nuts out of the oven, cooling at room temperature and feeding back into the oven, heat and roast them again, and perform this cycle until the water content of the fresh areca nuts goes below 6%; and
- iv. The fresh areca nuts are repeatedly heated, roasted and cooled to ensure that the areca nuts are quickly cooled and shrunk after thermal expansion so that the roasted areca nuts have higher quality; the roasting time is around 2-3 days.
- v. That packaging in industrial packs of 50kgs to 80kg as per requirement.

1.3 That roasted betel nut, thus undergoes a change in its appearance as well as in its chemical characteristics on account of the roasting process. There is a substantial change in the chemical characteristics of the betel nut product on account of roasting process. The tannin and arecoline content of raw betel nut/areca nut get substantially changed by subjecting the same to roasting. Therefore, roasted betel nut is a distinctive product of betel nut making it suitable for immediate consumption.

1.4 That roasting is not aimed at additional preservation or stabilization or to improve or maintain their appearance. That roasted Areca nut is used for eating (mukhwas) directly as well as with paan (betel leaf). That according to the limited knowledge and information, the applicant has got the goods as stated above are covered and are classifiable under CTH 20081920 of the Customs Tariff Act, 1975. As per the HSN Explanatory Notes to Heading 2008, given below, Dry Roasted Areca (or Betel) Nuts are specifically covered under Chapter Heading 2008. That the CTH headings describe as bellow:

*CTH 2008- Furit, Nuts and other Edible Parts of Plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included &  
CTH 2008 19 20- Other Roasted Nuts and seeds.*

1.5 That as per the Explanatory Notes to Chapter 8, fruits and nuts of this Chapter remain classified here even if put up in airtight packing (e.g. dried prunes, dried nuts in cans). In most cases, however, products put up in these packing have been prepared or preserved otherwise than as provided for in the headings of this Chapter, and are therefore excluded from chapter 8 (and will fall under Chapter 20). The processes mentioned in Chapter 8 are different from the



processes performed on impugned goods; they are excluded for the purpose of classification from Chapter 8 of the Customs Tariff Act, 1975 (hereinafter also referred as "Tariff").

1.6 That further HSN explanatory note qua Chapter 20 explains as bellow:

*Chapter 20- This Chapter includes:*

- (1) Vegetables, fruit, nuts and other edible parts of plants prepared or preserved by vinegar or acetic acid.*
- (2) Vegetables, fruit, nuts, fruit-peel and other parts of plants preserved by sugar.*
- (3) Jams, fruit jellies, marmalades, fruit or nut purées, fruit or nut pastes, obtained by cooking.*
- (4) Homogenized prepared or preserved vegetables and fruit.*
- (5) Fruit or vegetable juices, neither fermented nor containing added alcohol, or of an alcoholic strength by volume not exceeding 0.5 % vol.*
- (6) Vegetables, fruit, nuts and other edible parts of plants prepared or preserved by other processes not provided for in Chapter 7, 8 or 11 or elsewhere in the Nomenclature.*

....  
*It includes, inter alia:*

*Almonds, ground-nuts, areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives*

1.7 It is submitted that for the purpose of classification of goods the Explanatory notes are guiding factors wherever any dispute arises while interpreting the classification of particulars chapters or in case of similar or competing entries and this has been held time and again in catena of judgments by the Hon'ble Courts in India in the matters of L.M.L. Ltd. Versus Commissioner of Customs Reported in 2010 (258) E.L.T 321 (S.C), Holostick India Ltd. Versus Commissioner of Central Excise, Noida Reported in 2015 (318) E.L.T 529 (S.C), Collector of Central Excise, Shillong Versus Wood Craft Products Ltd. Reported in 1995 (77) E.L.T. 23 (S.C).

1.8 That in fact for similar product Ruling No. CAAR/Mum/ARC/39,40&41/2023 dated 07.12.2022 passed in the matter of M/s. Universal Impex, Mumbai Vs. The Commissioner of Customs II, Chennai, The Commissioner of Customs, Nhava Sheva & the Commissioner of Customs (Krishnapatnam), Andhra Pradesh in Application No. CAAR/CUS/APPL/19, 21, 22/2023-O/o Commr.-CAAR-MUMBAI, where identical goods are held classifiable under 20081920.

1.9 That however the Customs Department had challenged the Advance Ruling of the CAAR, Mumbai of M/s Shahnaz Commodities International (P) Ltd, Chennai, M/s Neena Enterprises, Telangana and M/s Universal Impex, Mumbai, by way of a Civil Miscellaneous Appeal (CMA) No's 600/2023, No. 1206/2023 and No. 1750/2023, dated 01.08.2023 respectively before the Hon'ble Madras High Court, wherein the Division Bench of Hon'ble Madras High Court after elaborately hearing all the parties dismissed the CMA's of the Customs Department, thereby upholding the aforesaid ruling of the CAAR, Mumbai.

1.10 That Ruling No. CAAR/Del/Shree Durga/26, 27 & 28/2023 dated 17.11.2023 of Hon'ble Authority passed in the matter of M/s. Shree Durga Traders, Kolkata Vs The Commissioner of Customs (Preventive) Kolkata, The Principal Commissioner of Customs,



Chennai II (Import) & The Principal Commissioner of Customs Nagpur in Application No. 22, 23 & 24/2023-DELHI O/o Commr-CAAR-NEW DELHI, where identical goods are held classifiable under 20081920.

1.11 That Ruling No. CAAR/Mum/ARC/67/2023 dated 16.10.2023 of Hon'ble Authority passed in the matter of M/s. Shree Ganesh Traders, Chennai Vs. The Commissioner of Customs II (Import), Chennai, in Application No. CAAR/ CUS/APPL/95/2023-O/0 Commr-CAAR-MUMBAI, where identical goods are held classifiable under 20081920. That the process of roasting thus changes the chemical and physical characteristics of the areca nut by reducing arecoline and tannin as well moisture.

1.12 In view of above the applicant would like to have advance ruling on the following issue: "Whether the goods sought to be imported i.e. Roasted Areca Nuts (Whole) and Roasted Areca Nuts Cut" is classifiable under the **CTH 2008 19 20**. That the applicant requests the Hon'ble Authority for Advance Rulings that the appropriate classification of the aforesaid goods may kindly be ruled under section 28H of the Customs Act, 1962.

STATEMENTS CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAY BE: -

2.1 That the goods in question which are to be imported by the applicant is roasted betel nut and hence should rightly be classifiable under CTH 2008 and more particularly in 20081920. That as per the explanatory note to Chapter 8 fruit and nuts of this Chapter remain classified here even if put up in airtight packing (e.g., dried prunes, dried nuts in cans). In most cases, however, products put up in these packing have been prepared or preserved otherwise than as provided for in the headings of this Chapter, and are therefore excluded from chapter 8 (and will fall under Chapter 20).

2.2 That as the processes mentioned in Chapter 8 are different from the processes performed on the goods intended to be imported by the applicant, they are excluded for the purpose of classification from Chapter 8 of the Customs Tariff Act, 1975 (hereinafter also referred as 'Tariff'). That there is specific entry for the goods i.e. roasted nuts as given under:

*CTH 2008- Fruit, Nuts and other Edible Parts of Plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included.*

*CTH 2008 19 20- Other Roasted Nuts and seeds.*

2.2.1 Further, the HSN Explanatory Note of Chapter 20 also support the contention that the roasted betel nut are covered under CTH 20 as detailed below

*CHAPTER 20- This Chapter includes:*

- i. Vegetables, fruit, nuts and other edible parts of plants prepared or preserved by vinegar or acetic acid.*
- ii. Vegetables, fruit, nuts, fruit-peel and other parts of plants preserved by sugar.*
- iii. Jams, fruit jellies, marmalades, fruit or nut purées, fruit or nut pastes, obtained by cooking,*



- iv. *Homogenized prepared or preserved vegetables and fruit.*
- v. *Fruit or vegetable juices, neither fermented nor containing added alcohol, or of an alcoholic strength by volume not exceeding 0.5% vol.*
- vi. *Vegetables, fruit, nuts and other edible parts of plants prepared or Preserved by other processes not provided for in Chapter 7, 8 or 11 or elsewhere in the Nomenclature.*

.....  
It includes, inter alia:

- i. *Almonds, ground-nuts, areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives.*

2.3 That so far as the goods sought to be classified i.e. roasted areca nut these goods is chewed for a variety of reasons such as stress reliever, mouth freshener, concentration improver and digestive following food intake. The subject goods are specifically covered and are classifiable under CTH 2008 19 20 of the Customs Tariff Act, 1975. As per the HSN Explanatory Notes to Heading 2008, Dry Roasted Areca (or Betel) Nuts are specifically covered under Chapter Heading 2008.

2.4 CHANGE IN THE BETEL NUT BY THE PROCESS OF ROASTING: With regard to the goods in question it is submitted that during the process of roasting, the roasting is done using firewood/ palm kernel-based ovens and the temperature of the flames is around 600 degrees Celsius and as a result, the betel nuts would be roasted well beyond 100 degrees Celsius, usually in the range of 130-150 degrees Celsius.

2.4.1 That roasted betel nut undergoes a change in its appearance as well as in respect of its chemical characteristics on account of the roasting process. There is a visible deposition of an ash-like substance on the outer surface of the betel nut. There is a substantial change in the chemical characteristics also of the betel nut product on account of the roasting process. That the tannin and arecoline content of raw betel nut/ areca nut gets substantially changed by subjecting the same to roasting and boiling. Therefore, roasted betel nut is a distinctive product of betel nut making it suitable for immediate consumption.

2.4.2 That roasting is not aimed at additional preservation or stabilization or to improve or maintain their appearance. That in this regard applicant takes support from the article titled "Estimation of arecoline content of various forms of areca nut preparations by high-pressure thin-layer chromatography" which throws light on the chemical composition of various forms of areca nuts. As per the article, Polyphenols (flavonols, tannins) constitute a large proportion of the dry weight of the nut. Its content in areca nut may vary depending on the degree of maturity and its processing method. The tannin content is highest in unripe areca nuts and decreases significantly with increasing maturity. The roasted nut possesses the highest average 17/65 content of tannins, ranging from 5 to 41 % (mean, 1.4%); the average tannin content of sun-dried nuts is 25%; and the lowest levels are seen in boiled nuts, which contain 17%. The article further states that raw areca nut contains the highest concentration of arecoline ( $1.15 \pm 0.008$ ) followed by pan masala preparations ( $0.94 \pm 0.006$ ), least content in boiled areca nut (0.79 that the tannin and arecoline content of raw betel nut/ areca nut gets substantially changed by subjecting the same to roasting and boiling. Therefore, roasted betel nut is a distinctive product of betel nut making it suitable for immediate consumption.



2.5 From the above detail and process mentioned above it is clear that the product though use the betel nut areca nut as main raw material however, in the process various other product are mixed and becomes a preparation and hence these goods clearly falls under the chapter heading 21 and more particularly CTH 2106 90 30 as stated and not under Chapter 8 of Customs Tariff and more particularly CTH 08029000 which is for the product namely Areca nut.

2.5.1 That in fact for similar product Hon'ble CAAR Mumbai has already issued a Ruling thereby declaring the above said goods falls under CTH 20 and particularly under CTH 200819 20 and not CTH 8. The said ruling has been given in the case of in Ruling dated 7.12.2022 no. CAAR/Mum/ARC/44, 45 & 46/ 2022 in Application no. AAR/Cus/APPL/70,77 & 78/2022 - 0/o Commr-CAAR-Mumbai (Applicant-M/s Shahnaz Commodities International, Chennai).

2.5.2 Further, in fact, the customs authority challenged the said Advance Ruling before the Hon'ble High Court of Madras vide CMA No. 600, 1206 and 1750 of 2023 - The Commissioner of Customs Chennai Vs. M/s Shahnaz Commodities International P. Ltd. However, the said case were rejected by the Hon'ble High Court vide its judgment dated 01.08.2023.

2.5.3 The Hon'ble High Court has after considering all the other chapter including chapter 08, and chapter 21 of Customs Tariff and also considered the other rulings as submitted by the customs authority though qua other goods i.e. boiled areca nuts, API supari, unflavoured supari etc.

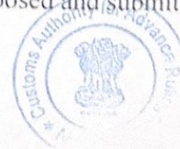
2.5.4 It has been observed by the Hon'ble High Court that the Rulings of the Advance Ruling Authority did not deal with Roasted areca nut and thus would have no relevant to the issue on hand. Further, it has been held that Roasting is a process treated to be distinct from the process of boiling and drying, in fixing the classification in respect of betel/ areca nut under CTH; that roasted betel /areca nut having been specifically classified under CTH 2008 19 20, the attempt to classify under CTH 08 02 80 would fall foul of the settled rule of construction that specific entry would prevail over general entry. Also it is held that HSN explanatory notes is normally a safe guide in determining classification under CTH. Roasted Areca / betel nut having mentioned in CTH 2008 19 20 under HSN the impugned Ruling is in consonance with HSN classification and that when there is a specific entry covering a product/ commodity, the test of common parlance is irrelevant in determining classification.

2.6 Hence, the subject goods i.e. Roasted areca nuts are squarely covered under the classification 2008 19 20 and cannot be covered under CTH 08 which has been stand taken by the customs authority before this Hon'ble Authority as well as before the Hon'ble High Court and their said contention has been rejected.

2.7 That the applicant has made the present application in bonafide and seeks the kind indulgence of this Hon'ble authority thereby seeking the subject goods under classification CTH 20 and more particularly under CTH 2008 19 20.

2.8 That the applicant craves leave of this Hon'ble Authority to add amend or alter the submission made above during the course of hearing. Accordingly, Hon'ble Advance Ruling Authority may pass order for appropriate classification of the goods as explained above.

3. The comments were received from the Port Commissionerate of ICD, Tughlakabad, New Delhi on 26.04.2024, wherein the claim of the applicant has been opposed and submitted as under: -



3.1 Para 3(i) - The IEC details were obtained from the DGFT website, and upon examination, it is evident that the IEC is valid. As a result, the applicant is eligible for advance ruling under Section 28-E of the Customs Act, 1962.

3.1.1 Para 3(ii) - The records in this office were searched and it was observed that neither the matter is pending before the officer of customs, the Appellate Tribunal or any Court nor the same has been decided by the Appellate Tribunal or any Court.

3.1.2 Para 3(iii) - According to the importer's submission, the matter is still ongoing.

3.1.3 Para 3(iv) - On perusal of the application filed by M/s RV International, it is observed that the applicant has sought classification of goods viz "Roasted Areca Nut (Whole) and Roasted Areca Nut (Split) Roasted Areca Nut (Cut)"

3.2 It is submitted that roasting fall under the 'moderate heat treatment' mentioned in Chapter Note 3 of Chapter 8, which is reproduced below:

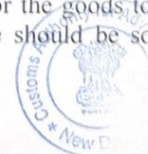
*"3. Dried fruits or dried nuts or this Chapter may be partially rehydrated, or treated for the following purposes*

*a) For additional preservation or stabilization (for example, by moderate heat treatment, sulphuring 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 betel nut, fruit or dried nuts."*

3.3 The applicant's claim that after repeated roasting of the areca nuts at the temperature of more than 150 degrees Celsius in a roasting oven due to which the water content is reduced to 6% is a complete misrepresentation of facts. The applicant has claimed that after roasting water content comes down to 6 percent. It is submitted that the moisture content is normally less than 10% for various consignments of raw betel nuts imported under Chapter 08. Therefore, there is not much difference between the roasted nuts and raw betel nuts in terms of temperature. Applicant did not provide any test report before Advance Ruling authority in support of his claim. Hence, it is clear that the applicant did not provide the complete process before the CAAR and have mis-represented the facts. Further, the applicant did not provide any Test Report/documentary evidence to support its claim that the tannin and arecoline content of raw betel nut/areca nut get substantially changed by subjecting the same to roasting. Since the claimed process by the applicant is devoid of any test report and roasting is well inclusive in heat treatment mentioned in Chapter note 3 of Chapter 8, the applicant's contention does not hold any water. After roasting, the end product remains dried areca nut, which is well defined in chapter 8 up to 6- digit level.

3.4 In the process flow to make roasted betel nut, one set or process are found to be intended for cleaning, the second set for heating and roasting. These processes are clearly covered by the Chapter Note 3 to Chapter 8 (supra). In the instant case, betel nuts after being roasted are cooled and this fact per se would not exclude the end-products from the scope of "dried nuts". Further, it is equally obvious that roasting or mere addition of certain additives for the limited purpose of enhancing preservation or appearance or ease of consumption per se does not result in obtaining a preparation of betel nut. Therefore, the process to which raw betel of processes referred to in the Chapter Note 3 to Chapter 8 and HSN Notes. Hence 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 the goods to be classifiable under Chapter 20. To be classified under Chapter 20 there should be some



preparation as the Chapter heading reads as "Preparations of vegetables, fruit, nuts or other parts of plants" Mere roasting of betel nut does not render the product to be distinctive as claimed by the applicant or does not alter the character of the original good. Hence it remains the betel nut and rightly classifiable under Chapter 08.

3.5 According to Cambridge dictionary, "Preparation is a mixture of substances, often for use as a medicine". According to Collins Dictionary 'A preparation is a mixture that has been prepared for use as food, medicine, or a cosmetic.' However, in the process flow mentioned in para above. It is evident that there is neither any mixture of products nor any change in the original good which tantamount to no preparation.

3.6 The applicant has claimed that dry Roasted Areca (or Betel) Nuts are specifically covered under Chapter Heading 2008. This is another misrepresentation of facts since the Chapter 20 cannot and does not cover any nuts or fruits prepared or preserved by the processes specified under Chapter 8 as per the Chapter Note 1 of the Chapter 20 and the chapter note 3 of Chapter 8 includes roasting under 'moderate heat treatment', hence the impugned goods cannot be classified under Chapter 20. The said chapter note is reproduced below:

*"This chapter does not cover .*

- a. Vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, Chapter 8, or Chapter 11;*
- b. Vegetables fats and oils (chapter 15);*
- c. Food preparations containing more than 20% by weight of sausage, meat, meat offal, blood, insects, fish or crustaceans, maltose's or other aquatic invertebrates, or any combination thereof (chapter 16)*
- d. Bakers wares and other products of heading 1905, or*
- e. Homogenized composite food preparations of heading 2104."*

3.7 Further, as per Rule 3(a) of General Rules for the Interpretation of the Harmonized System since the product is more specifically classified under CTH 08020 classification under Chapter 2008 or 2106 is unwarranted. When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable:

*"The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods."*

3.8 The issue has been examined by the authority itself in number of cases and consistently viewed and held that the Chapters are organised as per evolution which is evident by the fact that the edible nuts and fruits are classified under Chapter 8, preparations of vegetables, fruits, nuts or other parts of plants under Chapter 20 and miscellaneous edible preparations under Chapter 21. Hence, since the roasted betelnut which did not undergo any preparation is rightly classifiable under Chapter 8. Further, reliance is placed on the following Advance Rulings:

- i. CAAR Delhi vide Ruling No. CAAR/Del/Vaibhav/21/2021 in the case of M/s Vaibhav Enterprises;





- ii. CAAR Delhi vide Ruling No. CAAR/ Del/Sarveshwari/11/2021 in the case of M/s Sarveshwari Industries;
- iii. CAAR Delhi vide Ruling No. CAAR/Det/Naman Agri/ 09/ 2011 in the case of M/s Naman Agri Impex Private Ltd. Chennai;
- iv. CESTAT order in M/s ST Enterprises Vs. Commissioner of Customs.

3.9 Further, Hon'ble CESTAT Judgement in the case of M/s ST Enterprises VS Commissioner of Customs [(Chennai) 2021 (378) ELT, 514] has been affirmed by the Apex Court [2021 (378) ELT A 142] with regards to "betel nuts whole" merits classification under Chapter 08.

3.10 On the basis of foregoing, it is evident that that the Roasted Areca nuts/betel nuts fall under Customs Tariff 08.

4. The applicant was provided the comments received from the jurisdictional Commissionerate. The applicant vide reply dated 01.05.2024 submitted their counter reply on the comments of the concerned commissionerate, wherein the applicant relied upon some rulings pronounced earlier on the identical issues and submitted at under: -

4.1 That it is submitted that submission filed by the Port Commissionerate, wherein it opposed the advance ruling sought by the applicant for the goods i.e. roasted areca nut under CTH 20081920 is without any justification.

4.2 That the contention of the Addl. Comm. that the roasting is for additional preservation or stabilization is not correct as roasting involves severe heat treatment and is different from moderate heat treatment as well as dehydration. Further, the classification as far as possible must be in conformity and in consonance with the HSN explanatory notes and that whenever there is specific entry, the same would prevail over general entry as per the principle incorporated under Rule 3 (A) of General Rules of Interpretation.

4.3 That in fact, the Ld. Addl. Comm. in support of its contention has relied upon certain judgments however, with due respect the said judgments are in the case wherein the challenge was between CTH 08 and CTH 21 whereas the present is case of CTH 20 and hence the said judgment are not applicable.

4.4 Further, this Hon'ble Authority has also issued an advance Ruling No. CAAR/Del/Perfect/ 01/2024 In application No. 32/2023-Delhi dated 28.11.2023 in the case of Perfect Trading Co., wherein this Authority has allowed the advance ruling for the goods i.e. roasted area nut under CTH 20081920 only.

4.5 Also there are other Advance Rulings on the similar contention issued by the Advance Ruling Mumbai in the cases of Kataria Traders and M/s Shree Ganesh Trades vide Advance Ruling dated 16.10.2023 and 7.11.2023 respectively.

4.6 That further, it is submitted that the contention of the applicant is duly supported by the explanatory note qua chapter 20 wherein it is duly clarified that:

*"Chapter 20 -This Chapter includes:*



- (1) Vegetables, fruit, nuts and other edible parts of plants prepared or preserved by vinegar or acetic acid.
- (2) Vegetables, fruit, nuts, fruit-peel and other parts of plants preserved by sugar.
- (3) Jams, fruit jellies, marmalades, fruit or nut purées, fruit or nut pastes, obtained by cooking,
- (4) Homogenised prepared or preserved vegetables and fruit.
- (5) Fruit or vegetable juices, neither fermented nor containing added alcohol, or of an alcoholic strength by volume not exceeding 0.5 % vol.
- (6) Vegetables, fruit, nuts and other edible parts of plants prepared or preserved by other processes not provided for in Chapter 7, 8 or 11 or elsewhere in the Nomenclature.

.....

It includes, inter alia:

- (1) Almonds, ground-nuts, areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives."

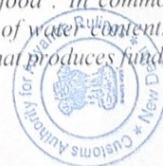
4.7 The Explanatory notes are guiding factors wherever any dispute arises while interpretation the classification of particulars chapters and from the above it is very much clear that the roasted areca nut are covered under CTH 2008. In view of the above it is prayed that the application filed by the applicant may kindly be allowed.

5. A personal hearing in the matter was conducted on 02.05.2024. During the personal hearing, the authorized representative / Advocate representing the applicant explained in brief the reasons for filing the application and referred to a few earlier rulings of CAAR, Mumbai on the similar question of classification for goods in question. He reiterated the submissions given in their application for advance ruling.

#### **Finding, Discussion and Conclusion**

6. I have taken into consideration of all the materials placed on record in respect of the subject goods including the submissions made by the applicant during the course of personal hearing. I have gone through the response from the Customs Port Commissionerate. I proceed to decide the present application regarding classification of Provisionally preserved Areca nut (whole) and Provisionally preserved Areca nut (split) on the basis of the information on record as well as the existing legal framework having bearing on the classification of the Provisionally preserved Areca nut (whole) and Provisionally preserved Areca nut (split) under the first schedule of the Customs Tariff Act, 1975.

6.1 The processes mentioned in Chapter 8 include chilling, steaming, boiling, drying and provisionally preserving. It does not specifically include the process of roasting. Here it is important to understand the difference between the processes of moderate heat treatment & dehydrating/drying referred in chapter 8 and processes of dry roasting, oil-roasting and fat-roasting referred in chapter 20. The terms dry-roasting, oil roasting and fat-roasting however are not defined in the Customs Tariff Act, 1975. Therefore, these terms have to be understood in a commonly accepted sense. The Hon'ble Apex Court in the case of Alladi Venkateswarlu v. Government of Andhra Pradesh 1978 AIR 945 held that "the commonly accepted sense of a term should prevail in construing the description of an article of food". In common trade parlance, "drying" is a method of food preservation by the removal of water content. On the other hand, "roasting" means the excess or very high heat treatment that produces fundamental



chemical and physical changes in the structure and composition of the goods, bringing about a charred physical appearance. Therefore, drying is a moisture removal process involving methods such as dehydration, evaporation, etc., whereas roasting is a severe heat treatment process”.

6.2. Chapter 20 of the Tariff covers the Preparations of vegetables, fruit, nuts or other parts of plants. As per Chapter Note 1 (a) to Chapter 20, the Chapter does not cover vegetables, fruits or nuts prepared or preserved by the processes specified in Chapters 7, 8 or 11. Therefore, vegetable, fruit or nut products or preparations made other than by the processes specified in Chapters 7, 8 or 11 are classifiable in Chapter 20. The processes specified in Chapters 7, 8 or 11 mainly include freezing, steaming, boiling, drying, provisionally preserving and milling. Therefore, any vegetable, fruit, nut or edible parts of a plant which is prepared or preserved by any other process than these are liable to be classified under Chapter 20. Heading 2008 covers Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included. Roasting is a process used for bringing in to existence roasted nuts and as discussed earlier I find that the processes mentioned in chapter 8 do not cover roasting process.

6.3. Note 3 to Chapter 8 specifies certain treatments that could be carried out on the dried nuts for additional preservation or stabilization or to improve or maintain their appearance. The applicant in their application has declared that the objectives of the roasting are not as specified in the said note. Further, as per the above note, the processes that could be carried out are moderate heat treatment, sulphuring, and the addition of sorbic acid or potassium sorbate by the addition of vegetable oil or small quantities of glucose syrup. Roasting is different from all the processes mentioned above. Roasting, as submitted by the applicant, is carried out using roasting ovens due to which betel nuts are roasted well beyond 150 degrees Celsius then cooled in room temperature and the cycle is repeated until the moisture content is less than 6 %. This clearly indicates that the roasting is much more than mild heat treatment. Even in the generally understood meaning of the terms, it is understood that roasting involves severe heat treatment and is different from moderate heat treatment as well as dehydration. Therefore, the impugned goods do not satisfy Note 3 to Chapter 8.

6.4. While examining the scope of CTH 2008 I find that, as per HSN Explanatory Notes, heading 2008 covers fruit, nuts and other edible parts of plants, whether whole, in pieces or crushed, including mixtures thereof, prepared or preserved otherwise than by any of the processes specified in other Chapters or in the preceding headings of this Chapter. Specifying what is included in this heading, the explanatory note states that almonds, ground nuts, areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives. Dry-roasting, oil-roasting & fat-roasting, as a process, are very much a part of chapter heading 2008 by virtue of HSN Explanatory Notes. It is also pertinent to observe that none of these processes are mentioned in the chapter note 3 to Chapter 8 of the Customs Tariff Act, 1975 as well as HSN Explanatory Notes to Chapter heading 0802.

6.5. The applicant has answered all the queries raised by the Jurisdictional Commissionerate during the Personal Hearing. The queries raised regarding the method of packing of the goods in question and the moisture content have been logically answered by the applicant in its rebuttal submitted in this office. In support of its arguments the applicant has made reference to the results/reports of some tests of the goods in question carried out at Chennai Customs. I concur with the arguments submitted by applicant in its rebuttal.



7. It is an established fact that in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Tariff Act. The case of Commissioner of Customs & Central Excise vs Phil Corporation Ltd in Appeal (civil) 2215 of 2002 dated 07/02/2008, is directly relevant and applicable in the instant case of the applicant. In the judgement of the said case Honourable Supreme Court has held "*a number of cases, this Court has clearly enunciated that HSN is a safe guide for the purpose of deciding issues of classification. In the present case, the HSN Explanatory Notes to Chapter 20 categorically state that the products in question are so included in Chapter 20. The HSN Explanatory Notes to Chapter 20 also categorically state that its products are excluded from Chapter 8 as they fall in Chapter 20. In this view of the matter, the classification of the products in question has to be made under Chapter 20.*" While delivering Phil Corporation Judgment honourable Supreme Court has clearly spelt out importance of HSN Explanatory notes in deciding the matters of classification placing reliance on the judgment of Supreme Court in the case of Collector of Central Excise, Shillong v. Wood Craft Products Ltd. (1995) 3 SCC 454. Honourable Supreme Court in paragraph 12 of the said judgment observed as under: - "*Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN. This being the expressly acknowledged basis of the structure of the Central Excise Tariff in the Act and the tariff classification made therein, in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Act.*"

7.1 From the apex court's foregoing judgments, it is observed that the roasted nuts find specific mention in the then chapter 20 of the then Central Excise Tariff Act and the chapter 20 of the schedule I of the Customs Tariff Act 1975 as well as corresponding HSN Explanatory Note. It is important to pay attention to the fact that, in the above referred HSN explanatory note, a process of roasting is not specifically mentioned as a process of preservation or stabilization or a process to improve or maintain the appearance. Specific attention is invited to the paras 10 & 11 of the SC judgment (M/s Phil Corporation) in which paras 6 & 7 of SC judgment in case of M/s Amrit Agro are relied upon. Para 6 *inter alia* reads as follows: "*roasted peanuts are covered by Chapter 20. Even according to the Explanatory notes of HSN under Heading 20.08 ground-nuts, almonds, peanuts etc. which are dry-roasted, fat-roasted whether or not containing vegetable oil are the items which all would stand covered by the said Heading 20.08.*"

7.2 Honourable Apex Court's conclusions corroborate the finding that the process of roasting is not covered by Note 3 to Chapter 8 and hence these products, roasted betel nuts are not classifiable under chapter 8 of the Tariff.

7.3 In the CAAR, Mumbai Ruling No. CAAR/Mumbai/ARC/39,40,41/2023 in the case of M/s. Universal Impex, the Authority has stated his findings and has ruled accordingly- "*in view of the specific CTH 2008 19 20: Other roasted nuts & seeds in chapter 20 of the first schedule to the Customs Tariff, HSN Explanatory note to CTH 2008, various Supreme Court rulings upholding guiding value of the HSN Explanatory notes for deciding classification under Customs Tariff Act, 1975 and previously mentioned two Supreme Court judgments classifying roasted nuts which include almonds, betel nut and other nuts under chapter 20 by taking recourse to HSN explanatory note to Tariff Heading 2008", I rule that roasted betel nuts are correctly classifiable under the tariff item 2008 19 20 of chapter 20 of the first schedule of the Customs Tariff Act, 1975.*"



7.4 The Honourable High Court of Madras in its recent judgement on 01.08.2023, has upheld the classification of Roasted Betel Nuts under CTH 2008 19 20. The Honourable High Court went on to analyse the various aspects in determining classification and summed up that:


- (a) Roasting is a process treated to be distinct from the process of boiling and drying, in fixing the classification in respect of betel/areca nut under CTH.
- (b) Roasted betel/areca nut having been specifically classified under CTH 2008 19 20, the attempt to classify under CTH 08 02 80 would fall foul of the settled rule of construction that specific entry would prevail over general entry.
- (c) HSN explanatory notes is normally a safe guide in determining classification under CTH. Roasted areca / betel nut having been mentioned in CTH 2008 19 20 under HSN.
- (d) When there is a specific entry covering a product/commodity, the test of common parlance is irrelevant in determining classification.
- (e) There is considerable force in the submission that the classification as far as possible must be in conformity and in consonance with the HSN Explanatory Notes.

In this judgement the Hon'ble High Court has stated about the relevance of CAAR Rulings relied on by the Jurisdictional Commissionerate. Relevant para of the said judgement is reproduced verbatim as follows: - *"on perusal of the Rulings relied upon by the appellant, we find that the same did not deal with roasted areca / betel nuts, but boiled/ dried nuts and in some cases, the question was whether the commodity in issue was a preparation of betel nut. However, the cases did not deal with roasted betel/ areca nut nor was CTH 20 considered. Thus, the above Rulings may have no relevance."*

I find that the issue dealt with i.e. Classification of "Roasted betel nuts" in the judgement of the Honourable High Court of Madras is of exactly the same issue that is impugned in this application and therefore is squarely applicable to this case.

8. On the basis of foregoing, I am of the view that the Roasted areca/betel nuts fall under Custom Tariff Heading 2008, specifically under **CTI 2008 19 20** 'Other roasted nuts & seeds' of Chapter 20 of the First Schedule of the Customs Tariff Act, 1975.

9. I rule accordingly.



(SAMAR NANDA)

Customs Authority for Advance Rulings

New Delhi



F. No. VIII/CAAR/Delhi/R V Intl./14/2024

Dated: 09.05.2024

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

1. M/s R V International, C-208, Mayapuri, Phase-II, New Delhi-110064.
2. The Principal Commissioner of Customs, ICD, Tughlakabad, New Delhi – 110020.
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. Guard file.
7. Webmaster.

LS  
09.05.24

(Anamika Singh)  
Secretary,

Customs Authority for Advance Rulings, New Delhi

