



**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/ Prenda/29/2024

The day of 28th June, 2024

Rulings No. CAAR/Del/Prenda/ 29 /2024

In application No. 21/2024 dated 16.04.2024

1017 to 1021
28/6/2024

Name and address of the applicant: M/s. Prenda Creations Private Limited.
306, Industrial Area-A, Ludhiana,
Punjab – 141003.

Commissioner concerned: Commissioner of Customs (Import),
ICD, Pristine Chawa Payal, G.T. Road,
Ludhiana Punjab - 141120.

Present for the Applicant: Mr. Jayant Kumar, Advocate,

Present for the Department: None

Ruling

1. M/s. Prenda Creations Private Limited, 306, Industrial Area-A, Ludhiana, Punjab – 141003, the Company, registered under the Company Act, 2013 (18 of 2013) having Importer-Exporter Code is 3017506002. The applicant filed the instant application in Form CAAR-1 before the Customs Authority for Advance Rulings, New Delhi (CAAR, in short) for seeking advance ruling. The said application was received in the secretariat of the CAAR, New Delhi on 16.04.2024 along with their enclosures in terms of Section 28H (1) of the Customs Act, 1962 (hereinafter referred to as the 'Act'). The applicant intends to import "Roasted Areca Nuts (Whole) and Roasted Areca Nuts (Cut)" from Myanmar, Indonesia, Sri Lanka, Singapore, UAE etc. The applicant sought the advance rulings on the following points:

o/c



- i. Whether the goods sought to be imported, namely, 'Roasted Betelnut/Areca Nut (whole/cut) are classifiable under the HS Code 2008 19 20 as per First Schedule of the Customs Tariff Act, 1975?
- ii. Whether subjecting the betel nuts/ areca nuts to the processes of roasting as detailed *infra* would qualify the products to be described as Roasted Betelnut/ Areca Nut in order to classify the same under the HS Code 2008 19 20 of the Customs Tariff Act, 1975 or any other Chapter Heading?
- iii. Whether the import of 'Roasted betelnuts / areca nut' from the member states of ASEAN is eligible for exemption under Notification no. 46/2011-CUs dated 01.06.2011? If yes, what are the documents required to claim the exemption under the said notification?
- iv. Whether the import of 'Roasted betelnuts / areca nut' from the Least Developed Countries (LDCs) is eligible for exemption under Notification no. 96/2008-Cus dated 13.08.2008? If yes, what are the documents required to claim the exemption under the said notification?

2.1. The applicant submits that as per the present scheme of Classification of commodities under the Customs Tariff Act, 1975 "Fruits, Nuts and other edible parts of plants" are classified under the Customs Tariff Heading 2008. For the sake of brevity CTH 2008 is reproduced below:

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
	-	<i>Nuts, ground-nuts and other seeds, whether or not mixed together:</i>
2008 11 00	--	Ground-nuts
2008 19	--	<i>Other, including mixtures:</i>
2008 19 10	---	Cashew nut, roasted, salted or roasted and salted
2008 19 20	---	Other roasted nuts and seeds
2008 19 30	---	Other nuts, otherwise prepared or preserved
2008 19 40	---	Other roasted and fried vegetable products
2008 19 90	---	Other

2.2 It can be seen from CTH 2008 that 'roasted nuts' are particularly and specifically classified under the Tariff item 2008 19 20.

2.3. It is submitted that the process of 'roasting' is not defined in the Customs Tariff nor in the HSN Explanatory Notes nor in any of the Sections/Chapters, therefore, its meaning has to be understood in common trade parlance. In common trade parlance "roasting" means excess or very high heat treatment that produces fundamental chemical and physical changes in structure and composition of goods, bringing about charred physical appearance.

2.4. In the absence of such a definition, recourse is sought to the dictionary and other literature meaning of the word 'roasting' that is defined as follows:

Merriam- Webster:



a.: to cook by exposing to dry heat (as in an oven or before a fire) or by surrounding with hot embers, sand, or stones

b: to dry and parch by exposure to heat.

Illustrated Oxford Dictionary:

Cook (food esp. meat) in an oven or by exposure to open heat.

Britannica:

Roasting, cooking, primarily of meats but also of corn ears, potatoes, or other vegetables thus prepared, by exposure to dry radiant heat either over an open fire, within a reflecting-surface oven, or in some cases within surrounding hot embers, sand, or stones.

2.5. The Areca nut is a tropical plant, belonging to the palm tree species. The kernel is obtained from the fruit of areca nut palm, known as the Areca Nut/Betel Nut or supari in India.

2.6. Now, the following process are involved in the preparation of Roasted Araca nut (Whole/Cut):

- i. Firstly, the raw areca nut is de-husked and its outer shell is removed. Thereafter, it is cleaned and left to dry.
- ii. Secondly, the cleaned and dried de husked areca nuts are fed into the seed roasting oven/machine and heated at the temperature in the range of 130-150 Degree Celsius. The roasting is done using firewood/palm kernel-based ovens/machines and the temperature of the flames is around 400 to 600 degrees Celsius. As a result, the betel nuts would be roasted well beyond 100 degrees Celsius, usually in the range of 130-150 degrees Celsius.
- iii. Thirdly, the areca nuts are removed from the roasting oven and allowed to cool at normal room temperature.
- iv. Fourthly, when the areca nuts have cooled and attained normal room temperature, they are again fed back into the oven at enormous heat, so as to evenly roast the areca nut.

2.7. The process of roasting and cooling is generally completed in 2-3 days. Pursuant to roasting, the areca nut undergoes a drastic change in its appearance as well as 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.

2.8. By virtue of 'roasting' as per the processes detailed above, the betelnut/areca nut proposed to be imported by the appellant would fall under the **HS Code 2008 19 20** as '**Other Roasted Nuts and Seed**' and this Application before the Hon'ble Authority is seeking a Ruling on the classification of the same.

2.9. Further, the applicant will also be importing the 'Roasted Areca Nuts/betel nuts (whole/cut)' from the Member States of the Association of Southeast Asian Nations (ASEAN) and Least Developed Countries (LDC). In this back drop, the applicant is also seeking a ruling on applicability of exemption notification no. 46/2011-Cus dated 01.06.2011 & Notification no. 96/2008-Cus dated 13.08.2008 on import of 'Roasted Areca Nuts/betel nuts (whole/cut)' and documents required to claim the exemption under these notifications.



2.10. In the interpretation of law, the applicant submits that the classification of items is governed by the scheme of classification under the **Customs Tariff Act, 1975** read with the "**The General Rules for The Interpretation of Import Tariff**". As per the statutory scheme of 1975 Act, 'roasted nuts' are specifically classifiable under the 'HS Code 20081920'. Further, in terms of **Rule.1** of "**The General Rules for The Interpretation of Import Tariff**" reproduced below, classification of the item shall be determined according to the terms of the heading and any relative section or chapter notes:

1. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:

2.11. Therefore, both by the statutory provisions of the Act as well as Rules for classification, the item proposed to be imported, namely, 'roasted areca nut' are appropriately classifiable under the HS Code 2008 19 20 only.

2.12. The Applicant submits that the Harmonized Commodity Description and Coding System generally referred to as the "Harmonized System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). The system is used by more than 200 member countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. The official interpretation of the HS is given in the **Explanatory Notes** published by the WCO and offers a safe guide to interpret and classify the commodity under consideration.

2.13. As per the **HSN Explanatory Notes to the Chapter Heading 2008** given below, '**Dry Roasted Areca (or Betel) Nuts**' are specifically covered under the **Chapter Heading 2008**:

*This heading 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.***

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.***

2.14. Hence from the above, the Applicant submits that the proposed item to be imported, 'roasted betelnut/ areca nut (whole/cut) are classifiable under the HS Code 2008 1920 by virtue of mere roasting as clearly given in the HSN Explanatory Note by the product name. Although the aspect of classification of 'roasted betelnut/ areca nut' is unambiguously clear by the scheme of classification as well as HSN Explanatory Note to the relevant Chapter Heading, the Applicant craves to submit the following case law citations wherein the Hon'ble Supreme Court has decided and reiterated that the HSN Explanatory Note is the safe and dependable guide in the matters of classification of items:

*i. **L.M.L. Ltd. Versus Commissioner Of Customs Reported In 2010 (258)***



- E.L.T 321 (S.C)*
- ii. *Holostick India Ltd. Versus Commissioner Of Central Excise, Noida Reported In 2015 (318) E.L.T 529 (S.C)*
- iii. *Collector Of Central Excise, Shillong Versus Wood Craft Products Ltd Reported In 1995 (77) E.L.T 23 (S.C)*

2.15. Accordingly, the Applicant humbly submits that by the vary description of the item as 'Roasted Betelnut/areca nut' the item clearly falls under the HS Code 2008 19 20 in terms of Rule 1 of the GIR strongly supported by the relevant HSN Explanatory Notes.

2.16. The Applicant submits that both as per the Scheme of Classification under the Customs Tariff Act, 1975 for the Chapter Heading 2008 and the HSN Explanatory Notes reproduced above, **the items classifiable under the Chapter Heading 2008 should not be elsewhere specified or included nor prepared or preserved otherwise than by any of the processes specified in other Chapters or in the preceding headings of this Chapter.** Examined in this context, the competing entries for the item namely, 'betel nut/ areca nut' are the HS Code 08029000 and 21069030. For proper appreciation of facts, relevant entries, Chapter Notes and HSN Explanatory Notes of these Chapters are juxtaposed and examined as below:

A. UNDER THE HS CODE 08029000: While Chapter 8 of the *Customs Tariff Act, 1975* deals with 'edible fruits and nuts', that include areca/betel nut, Chapter 21 deals with 'miscellaneous edible preparations'. A closer reading of the Chapter Note and the General Explanatory Note to the Chapter 08 reproduced below would convey that only 'nuts' that are processed for preservation and as the manner prescribed therein are classified under the Chapter 08.

Chapter 8

Edible fruit and nuts; peel of citrus fruit or melons

Notes.

1.- *This Chapter does not cover inedible nuts or fruits.*

2.- *Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.*

3.- *Dried fruit 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, sulphuring, the addition of sorbic acid or potassium sorbet),*

(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 fruit or dried nuts.

2.17. From the above, it is clear that the nuts classifiable under this Chapter should be treated **only for the purpose of additional preservation or stabilization or to improve**



or maintain their appearance. In effect, any treatment that is aimed at **other than or beyond** preservation/stabilization or improve/maintain appearance automatically makes the product **ineligible** for classification under the Chapter 08 itself. This has been legibly brought out in the **HSN General Explanatory Note to the Chapter 08** reproduced below:

GENERAL:

*This Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally **intended** for human consumption (whether as presented or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated, evaporated or freeze-dried); provided they are **unsuitable for immediate consumption in that state**, they may be provisionally preserved (e.g., by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions).*

The term "chilled" means that the temperature of a product has been reduced, generally to around 0°C, without the product being frozen. However, some products, such as melons and certain citrus fruit, may be considered to be chilled when their temperature has been reduced to and maintained at + 10 °C. The expression "frozen" means that the product has been cooled to below the product's freezing point until it is frozen throughout. Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled.

It should be noted that homogenisation, by itself, does not qualify a product of this Chapter for classification as a preparation of Chapter 20.

The addition of small quantities of sugar does not affect the classification of fruit in this Chapter. The Chapter also includes dried fruit (e.g., dates and prunes), the exterior of which may be covered with a deposit of dried natural sugar thus giving the fruit an appearance somewhat similar to that of the crystallised fruit of heading 2006.

*However, this Chapter does not cover fruit preserved by osmotic dehydration. The expression "osmotic dehydration" refers to a process whereby pieces of fruit are subjected to prolonged soaking in concentrated sugar syrup so that much of the water and the natural sugar of the fruit is replaced by sugar from the syrup. **The fruit may subsequently be air-dried to further reduce the moisture content. Such fruit is classified in Chapter 20 (heading 20.08).***

- 2.18. From the above, it is amply clear that **none of the processes** referred above is employed in the product proposed to be imported. **Further, the fruits air-dried to reduce moisture itself excludes it from the purview of Chapter 08 and places the same under the Chapter 20.** Therefore, the processes involved in the proposed import item, 'Roasted Areca Nut (Whole/split) is completely different from the preservative processes for the products falling under the Chapter Heading 0802 and hence would not fall under the said Chapter.



- 2.19. Apart from the above, the impossibility of classifying 'roasted betelnut/ areca nut' under the Chapter Heading 0802 can be further ascertained from the Exclusion Clause to the HSN General Explanatory Note to the Chapter 08 given below:

This Chapter also excludes a number of vegetable products more specifically covered in other Chapters (even though botanically some of them are fruits, e.g:

- (a) Olives, tomatoes, cucumbers, gherkins, marrows, pumpkins, aubergines (egg-plant), fruits of the genus *Capsicum* or of the genus *Pimenta* (Chapter 7).
- (b) Coffee, vanilla, juniper berries and other products of Chapter 9.
- (c) Ground-nuts and other oleaginous fruit, fruit used primarily in pharmacy or in perfumery, locust beans, kernels of apricots or of similar fruit (Chapter 12).
- (d) Cocoa beans (heading 18.01).

The Chapter further excludes:

- (i) Fruit flour, meal and powder (heading 11.06).
- (ii) Edible fruit and nuts and peel of melons or citrus fruit, prepared or preserved otherwise than as described above (Chapter 20).
- (iii) Roasted fruit and nuts (e.g., chestnuts, almonds and figs), whether or not ground, generally used as coffee substitutes (heading 21.01).

It should be noted that fruit and nuts of this Chapter remain classified here even if put up in airtight packing's (e.g., dried prunes, dried nuts in cans). In most cases, however, products put up in these packings have been prepared or preserved otherwise than as provided for in the headings of this Chapter, and are therefore excluded (Chapter 20).

Products of this Chapter remain classified here (e.g., fresh strawberries) when subjected to packaging by means of a Modified Atmospheric Packaging (MAP) process. In a MAP process the atmosphere surrounding the product is altered or controlled (e.g., by removing or reducing the oxygen content and replacing it with or increasing the nitrogen or carbon dioxide content).

- 2.20. Clearly, the products proposed to be imported, namely, roasted areca/betel nut undergoes the process otherwise than the one mentioned in the Notes to the Chapter 08 and hence falls outside the purview of the said Chapter.

2.21. The Applicant submits that the vital question as to whether the roasted nuts would fall under the Chapter Heading 0802 or Chapter Heading 2008 was affirmatively answered in favour of the later (CTH 2008) by the Hon'ble Supreme Court in the case of ***Commissioner of Customs & Central Excise, Goa Vs Phil Corporation Ltd reported in 2008 (223) E.L.T 9 (S.C)***. Similarly, while answering whether 'roasted peanut' would fall under Chapter 21 or under Chapter 20, the Apex Court in the case of ***M/s. Amrit Agro Industries Ltd Vs Commissioner of Central Excise, Ghaziabad reported in 2007 (210)***



E.L.T 183 (S.C) held that roasted nuts are classifiable under the Chapter 20. In both the cases, the Department vehemently argued in favour of classifying the 'roasted nuts' under Chapter 20 and the same was upheld. Hence, the settled position of law is that nuts falling under Chapter 08 would be classified under Chapter 20, if the same is subjected to the process of roasting. Apart from the decisions of Hon'ble Supreme Court, the various decisions of the Advance Ruling Authorities given below supports the case of the Applicant that 'roasted nuts' are rightly classifiable under the Chapter Heading 2008 and not under the Chapter Heading 08 of the Customs Tariff.

- i. **COMMISSIONER OF CUSTOMS, CHENNAI-II v. M/s SHAHNAZ COMMODITIES INTERNATIONAL PVT LTD 2023 (386) E.L.T. 214 (Mad.)**
- ii. **Advance Ruling No. CAAR/Del/Perfect/05/2024/705 dated 28.02.2024 in Re M/s Perfect Trading Company**
- iii. **In Re: Shahnaz Commodities International Pvt. Ltd. (2023) 4 Centax 231 (A.A.R. - Cus. - Mum.)**
- iv. **In RE : Universal Impex 2023 (385) E.L.T. 587 (A.A.R. - Cus. - Mum.)**

Applicability of Exemption notification no. 46/2011-Cus on import of 'Roasted Betelnut/areca nut'

2.22. It is submitted that the applicant intends to import 'Roasted Betelnut/areca nut' falling under Tariff Item 2008 19 20 from Member states of ASEAN and Least Developed Countries.

2.23. For import from ASEAN Countries, the applicable exemption notification is notification no. 46/2011-Cus dated 01.06.2011. The operative part of the notification is reproduced below:

Notification No. 46/2011-Cus Dated 01/06/2011

G.S.R.(E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), and in supersession of the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 153/2009-Customs dated the 31st December, 2009 [G.S.R. 944 (E), dated the 31st December, 2009], except as respects things done or omitted to be done before such supersession, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods of the description as specified in column (3) of the Table appended hereto and falling under the Chapter, Heading, Sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as specified in the corresponding entry in column (2) of the said Table, from so much of the duty of customs leviable thereon as is in excess of the amount calculated at the rate specified in,'

column (4) of the said Table, when imported into the Republic of India from a country listed in APPENDIX I; or

column (5) of the said Table, when imported into the Republic of India from a country listed in APPENDIX II.

Provided that the importer proves to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, that the goods in respect of which the benefit of this exemption is claimed are of the origin of the countries as mentioned in Appendix I, in accordance with provisions of the Customs Tariff [Determination of Origin of Goods under the Preferential Trade



Agreement between the Governments of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India] Rules, 2009, published in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 189/2009-Customs (N.T.), dated the 31st December 2009.

Provided further that the exemption specified in S. No. 31A of the said Table shall not apply to the goods imported into the Republic of India from the countries listed in Appendix I other than Myanmar.

2.24. The notification 46/2011 exempts the goods specified in the table subject to the condition that the said goods are of the origin of the Member countries in accordance with rules notified vide notification No. 189/2009-Customs (N.T.), dated the 31st December 2009. Sr. No. 172 of the Table of Notification 46/2011 states as under:

S. No.	Chapter, Heading, Subheading and Tariff item	Description	Rate (in percentage unless otherwise specified)	
(1)	(2)	(3)	(4)	(5)
172.	200710 to 200820	All Goods	0.0	0.0

2.25. Further, Rule 13 of Notification 189/2009 states as under:

13. *Certificate of Origin.*- Any claim that a product shall be accepted as eligible for preferential tariff treatment shall be supported by a Certificate of Origin as per the specimen in the Attachment to the Operational Certification Procedures issued by a Government authority designated by the exporting party and notified to the other parties in accordance with the Operational Certification Procedures as set out in Annexure III annexed to these rules.

2.26. So, import of 'Roasted Betelnut/areca nut' falling under Tariff Item 2008 19 20 is eligible for exemption under Notification no. 46/2011-CUs dated 01.06.2011 subject to the condition that the importer submits a certificate of Origin in terms of rules of origin notified vide Notification No. 189/2009-Cus (NT) Dated 31.12.2009.

Applicability of Exemption notification no. 96/2008-Cus on import of 'Roasted Betelnut/areca nut' from Least Developed Countries (LDC)

2.27. For Import from Least Developed Countries, the relevant exemption notification is notification 96/2008-Cus dated 13.08.2008. The operative part of the notification is reproduced below:

Notification No. 96/2008-Cus Dated 13/8/2008

Regarding Duty free tariff preference for Least Developed Countries-G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the



Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts,-

(i) goods falling under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), other than those specified in the Appendix I and Appendix II appended hereto, from whole of the duty of customs as specified in the first schedule to the Customs Tariff Act, 1975 and from whole of Agriculture Infrastructure and Development Cess, leviable under section 124 of the Finance Act, 2021 (13 of 2021)

(ii) all goods of the description as specified in column (3) of the Table in Appendix I and falling under the Chapter, Heading No. or Sub-heading No. of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) specified in the corresponding entry in column (2) of the said Table, from so much of that portion of the applied rate of duty of customs leviable as is specified in the corresponding entry in column (4) of the said Table;

when imported into India from a country listed in the Schedule to this notification:

Provided that the importer proves to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, that the goods in respect of which the exemption under this notification is claimed are of the origin of the country listed in the Schedule to this notification, in accordance with provisions of the Rules of Origin, published in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 29/2015-Customs (N.T.), dated 10th March, 2015]

Explanation: - For the purposes of this notification, "applied rate of duty" means the sum of the standard rate of duty specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and Agriculture Infrastructure and Development Cess leviable under section 124 of the Finance Act, 2021 (13 of 2021)

2.28. It is submitted that 'Roasted Betelnut/areca nut' falling under CTH 2008 has not been specified in the Appendix I or Appendix II of notification 96/2008-cus and is eligible for exemption from whole of the duty of customs as specified in the first schedule to the Customs Tariff Act, 1975 and from whole of Agriculture Infrastructure and Development Cess leviable under section 124 of the Finance Act, 2021. The said exemption is available if the imported goods are of the origin of the country listed in the schedule of the notification in accordance with Rules of Origin notified vide notification No. 29/2015-Customs (N.T.), dated 10th March, 2015.

2.29. Rule 15 of Notification 29/2015 states as under:

15. Issuance of certificate of origin.-

(1) The products eligible for preferential treatment **shall be supported by a certificate of origin** as per the format in Annexure C to the rules, issued by the issuing authority.

(2)

.....

2.30. So, import of 'Roasted Betelnut/areca nut' falling under Tariff Item 2008 19 20 is eligible for exemption under Notification no. 96/2008-Cus dated 13.08.2008 subject



to the condition that the importer submits a certificate of Origin in terms of rules of origin notified vide Notification No. 29/2015-Cus (NT) Dated 10.03.2015.

Documents required under CAROTAR Rules 2020

2.31. It is submitted that vide Notification No. 81/2020 - Customs (N.T.) Dated 21/08/2020, Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR Rules) has been notified which shall apply to import of goods into India where the importer makes claim of preferential rate of duty in terms of a trade agreement.

2.32. Rule 4 of CAROTAR Rules states as under:

4. Origin related information to be possessed by importer- *The importer claiming preferential rate of duty shall-*

(a) possess information, as indicated in Form I, to demonstrate the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the Rules of Origin, are satisfied, and submit the same to the proper officer on request.

(b) keep all supporting documents related to Form I for at least five years from date of filing of bill of entry and submit the same to the proper officer on request.

(c) exercise reasonable care to ensure the accuracy and truthfulness of the aforesaid information and documents.

2.33. So, to claim the benefit of exemption under notification 46/2011-Cus for import from ASEAN member countries or under notification no. 96/2008-Cus for import from Least Developed Countries, the importer shall possess information as indicated in FORM-I of CAROTAR RULES, 2000.

2.34. Therefore, in view of above facts and circumstances and relied upon cases laws, it is requested to rule in favour of the applicant by ascertaining the classification of 'roasted betelnut/ areca nut (whole/cut)' under the HS Code 2008 1920 and applicability of exemption notifications.

3. The **Comments** of the concerned Commissionerate i.e. Ludhiana Customs Commissionerate in the matter with regard to points raised in the application are furnished, as under:

3.1. In this regard, it is intimated that with respect to the classification of the 'Roasted Area Nut/Betel Nut', it is submitted that classification of any goods is decided as per General Rules of Interpretation, relevant chapter/section notes and references are also taken from HSN explanatory notes issued by WCO.

For the classification of the goods Roasted Areca Nut and Roasted Areca Nut Cut, two headings 2008 & 0802 are being examined by this office. Text of these heading is reproduced below.



"CTH 0802: OTHER NUTS, FRESH OR DRIED, WHETHER OR NOT SHELLED OR PEELED 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"

3.2. As per HSN Explanatory notes to Chapter 8, this Chapter covers fruit, nuts and peel of citrus fruit or melons (including watermelons), generally intended for human consumption (whether as presented, or after processing). They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated evaporated or freeze-dried); provided they are unsuitable for immediate consumption in that state, they may be provisionally preserved (e.g., by Sulphur dioxide gas, in brine, in Sulphur water or in other preservative solutions). From the above-stated explanatory notes to Chapter 8, it appears that the processes mentioned in Chapter 8 include chilling, steaming, boiling, drying and provisionally preserving. **However, it does not specifically include the process of roasting.**

3.3. The explanatory notes to CTH 0802 are reproduced as under:

"The principal nuts of this heading are almonds (sweet or bitter), hazelnuts or filberts, walnuts, chestnuts (Castanea spp.), pistachios, macadamia nuts, pecans and pine nuts.

This heading also covers areca (betel) nuts used chiefly as a masticatory, cola (kola) nuts used both as a masticatory and as a base in the manufacture of beverages, and an edible, nutlike, spiny-angled fruit of the species Trapa natans, sometimes referred to as a water chestnut.

This heading does not include:

3.3.1. *The edible tuber of the species Eleocharis dulcis or Eleocharis tuberosa, commonly known as the Chinese water chestnut (heading 07.14).*

3.3.2. *Empty walnut or almond hulls (heading 14.04).*

3.3.3. *Ground-nuts (heading 12.02), roasted ground-nuts or peanut butter (heading 20.08).*

3.3.4. *Horse chestnuts (Aesculus hippocastanum) (heading 23.08).*

The above-mentioned explanatory notes to CTH 0802 includes areca (betel) nuts, however, **it does not specifically include the roasted Areca-Nut/Betel Nut.**

Further, these explanatory notes to CTH 0802 also mentions that Ground-nuts are of heading 12.02 whereas roasted ground-nuts are included under heading 20.08.



3.4. The relevant explanatory notes to CTH 2008 are reproduced as under:

"This heading 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 heading of this Chapter:

It includes, inter alia:

3.4.1. *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 flavors, spices or other additives."*

The above-mentioned explanatory notes CTH 2008 specifically include the roasted areca (betel) nuts.

Comments in respect of Exemption Notifications, are as under:

3.5. Applicability of exemption notification no. 46/2011 dated 01.06.2011.

Benefits of the exemption notification no.46/2011 dated 01.06.2011 is available subject to the conditions laid down in the notification and provisions of section 28DA of the Customs Act, 1962 along with other provisions in this regard.

3.6. Applicability of Exemption Notification No.96/2008 dated 13.08.2009.

Benefits of the Exemption Notification No.96/2008 dated 13.08.2009 is available subject to the conditions laid down in the notification and provisions of Section 28DA of the Customs Act, 1962 along with other provisions in this regard.

3.7. Determination of origin of goods in terms of origin notified vide Notification No.189/2009 dated 31.12.2009.

Origin of goods in terms of origin notified vide Notification No.189/2009 dated 31.12.2009 shall be decided subject to the conditions laid down in the notification and as per the CAROTAR Rules, 2020 read with Section 28DA of the Customs Act, 1962.

3.8. Determination of origin of goods in terms of origin notified vide notification no.29/2015 dated 10.03.2015.

Origin of goods in terms of origin notified vide Notification No.29/2015 dated 10.03.2015 shall be decided subject to the conditions laid down in the notification and as per the CAROTAR Rules, 2020 read with section 28DA of the Customs Act, 1962.

4. A **personal hearing** in the matter was conducted on 24.06.2024. During the personal hearing, the authorized representative of the applicant reiterated the submissions already made in their application for advance ruling.



5. The applicant, during the personal hearing, did not submit any additional submission except a copy of Rulings dt. 09.05.2024 in respect of M/s R.V. International, pronounced by CAAR, New Delhi in their support.

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 Commissionerates of Ludhiana. With these backgrounds, I proceed to decide the present application regarding classification of roasted Areca nut on the basis of the information on record as well as the existing legal framework having bearing on the classification of the roasted areca nut under the first schedule of the Customs Tariff Act, 1975.

6.1 I note that 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 I also note that 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 fruits, 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 I find that the processes mentioned in chapter 8 do not cover roasting process.

6.3 I also note submissions of the applicant that the 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 in the range of 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 Moreover, 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. 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."

6.6 Further, 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."*

6.7 Also, the Honourable High Court of Madras in its recent judgement on Civil Miscellaneous Appeal (CMA) No's 600/2023, No. 1206/2023 and No. 1750/2023, dated 01.08.2023, had 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 are 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.

7. 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 similar in nature to that of the impugned issue in this application and therefore is squarely applicable to this case.

8. On the basis of aforesaid orders of Hon'ble Courts and also earlier CAAR Rulings in the matter, I am of the view that the "Roasted Areca Nuts (Whole) and Roasted Areca Nuts (Cut)" fall under Custom Tariff Heading 2008, specifically under Sub-heading **20081920** covering "Other roasted nuts & seeds" of the First Schedule of the Customs Tariff Act, 1975. Accordingly, reply to the issues raised by the applicant in the instant application are, as under:

- i. Whether the goods sought to be imported, namely, 'Roasted Betelnut/Areca Nut (whole/cut) are classifiable under the HS Code 2008 19 20 as per First Schedule of the Customs Tariff Act, 1975?

Reply: Yes, Roasted Areca Nuts (Whole) and Roasted Areca Nuts (Cut) are classifiable under Custom Tariff Heading 2008, specifically under Sub-heading **20081920** covering "Other roasted nuts & seeds" of the First Schedule of the Customs Tariff Act, 1975.

- ii. Whether subjecting the betel nuts/ areca nuts to the processes of roasting as detailed *infra* would qualify the products to be described as Roasted Betelnut/ Areca Nut in order to classify the same under the HS Code 2008 19 20 of the Customs Tariff Act, 1975 or any other Chapter Heading?

Reply: The roasted arecanut is classifiable under Custom Tariff Heading 2008, specifically under Sub-heading **20081920** covering "Other roasted nuts & seeds" of the First Schedule of the Customs Tariff Act, 1975.

- iii. Whether the import of 'Roasted betelnuts / areca nut' from the member states of ASEAN is eligible for exemption under Notification no. 46/2011-CUs dated 01.06.2011? If yes, what are the documents required to claim the exemption under the said notification?

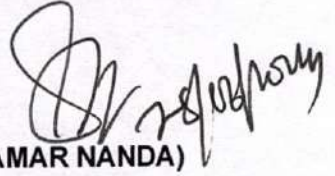


Reply: The benefits of the exemption notification No.46/2011 dated 01.06.2011 is strictly available subject to the conditions laid down in the notification and provisions of section 28DA of the Customs Act, 1962 along with other provisions in this regard. The documents required for the above said exemption notification are as per the provisions given in the Notification.

iv. Whether the import of 'Roasted betelnuts / areca nut' from the Least Developed Countries (LDCs) is eligible for exemption under Notification no. 96/2008-Cus dated 13.08.2008? If yes, what are the documents required to claim the exemption under the said notification?

Reply: This is not in the domain of advance ruling to give any ruling or order on this speculative issue.

9. I rule, accordingly.


(SAMAR NANDA)

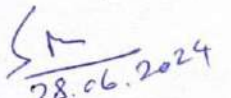
Customs Authority for Advance Rulings
New Delhi

F. No. VIII/CAAR/Delhi/ Prenda/29/2024

Dated:--28.06.2024

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

1. M/s. Prenda Creations Private Limited, 306, Industrial Area-A, Ludhiana, Punjab – 141003.
2. The Commissioner of Customs (Import), ICD, Pristine Chawa Payal, G.T. Road, Ludhiana Punjab – 141120.
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.


28.06.2024
(Anamika Singh)

Secretary,
Customs Authority for Advance Rulings, New Delhi

