

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Act, 2017)

BENCH

Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX
Mr Parthasarathi Dey, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Ambo Agritec Pvt Ltd
Address	'Chandrakunj Building', 3, Pretoria Street, 2 nd Floor, Kolkata – 700071
GSTIN	19AAHCS6453M1ZO
Case Number	43 of 2019
ARN	AD190919002845K
Date of application	September 30, 2019
Order number and date	39/WBAAR/2019-20 dated 24/12/2019
Applicant's representative heard	Ms Surabhi Bohra, ACA Mr Umesh Kr Agarwal, Director

1. Admissibility of the Application

1.1 The Applicant is stated to be a manufacturer of vanaspati, refined oil and biscuits. This apart, the Applicant also manufactures a non-edible intermediary product for confectionery industry, which is prepared from dough of wheat flour, sugar, food grade sodium bicarbonate and water, cut into tiny Kaju shaped pellets. It seeks a ruling on the classification of the above intermediary product. An advance ruling is admissible on the classification of any goods under section 97(2) (a) of the GST Act.

1.2 The Applicant declares that the issue raised in the application is not pending nor decided in any proceedings under any provisions of the GST Act. The officer concerned from the revenue has not objected to the admissibility of the Application.

1.3 The Application is, therefore, admitted.

2. Submissions of the Applicant

2.1 The Applicant submits that the above non-edible intermediary product is prepared by mixing wheat flour, sugar and water in a dough mixing machine for several minutes. The dough is thrown into the hopper of a cutting machine, which flattens and cuts it into tiny Kaju shaped pellets. The preparation is thereafter passed through a heating unit that dries and hardens the dough to form a solid shape. It is left open in the production floor for several hours till it cools down and is ready for packing. It is packed in non-branded plastic bags.

2.2 The Applicant also submits that the above product is sold in non-branded packs to confectionery manufacturers, who process it further by baking or frying and adding necessary condiments to come out with an edible preparation.

2.3 At present, the Applicant is classifying the product as 'pellets' under HSN 1103 based on industry parlance. The tariff item 1103 20 00 under the First Schedule of the Customs Tariff Act, 1975 (hereinafter the Tariff Act) is relevant. The pellets refer to a small, rounded, compressed mass of a substance. The Applicant argues its product satisfies the above criterion.

2.4 However, mixes and dough that are used for making bakers' ware under HSN 1905 are classified under tariff item 1901 20 00. The Applicant argues that although its product can be placed in the category of mixes and dough, the final edible preparation is not limited to bakers' ware. It can be baked into biscuits or fried into namkeen.

2.5 The Applicant brings attention to the ruling of AAR, Tamilnadu in Subramani Sumathi (Order No. 7/AAR/2019 dated 22/01/2019). The issue therein was classification of a mixture of wheat flour, sugar, vanaspati, edible salt and soda salt, cut into the desired shape and dried in oven that is sold as an intermediate product and needs to be fried and some masala added to make it edible. The Id AAR has classified the product as 'maida vadam / papad' under tariff item 1905 05 40.

2.6 The Applicant also mentions about the correspondence via email with DGFT, which suggests that the product should be classified under HSN 1901. On examination of the sample at the Chennai Laboratory, Customs House, the Customs authority also confirms that the Applicant's product is classifiable under tariff item 1901 20 00.

3. Submissions of the Revenue

3.1 The concerned officer from the Revenue submits that HSN 1103 classifies the goods that bears registered brand names. As the Applicant is not supplying its kaju-shaped products under any brand name, it is not classifiable under HSN 1103.

4. Observations & Findings of the Authority

4.1 Baked food preparations of flour are classifiable under HSN 1905, which includes bread, pastries, cakes, biscuits and *other bakers' wares*. Explanatory Notes to HSN, Third Edition, published by the World Customs Organization (hereinafter EN) clarifies that the heading 1905 includes all bakers' wares, except when it contains 20% or more by weight sausage, meat, fish etc. Any food preparation that involves baking at any stage of cooking should, therefore, be included under HSN 1905, except the ones mentioned above.

4.2 The Applicant's product is a mixture and dough of wheat flour, sugar and water, cut into specific shape, dried and hardened by heating. Dry heating for hardening dough is a cooking process known as baking. The Applicant's product is, therefore, a baked item, which needs further processing to become edible. The final edible product, therefore, already involves baking as the method of cooking at an intermediate stage. The end product is, therefore, biscuit or other bakers' ware classifiable under HSN 1905.

4.3 In Subramani Sumathi (*supra*) the Id AAR, Tamilnadu has dealt with a product, namely 'papad', which is specifically included under tariff item 1905 05 40. It is placed as a sub-classification of 'other bakers' wares'. The product involves baking at an intermediate stage although the end edible preparation needs frying.


4.4 It follows from the above discussion that the Applicant is supplying mixes and dough for preparation of biscuits and other bakers' wares, whether or not preparation of the final edible item involves further baking or frying. It is, therefore, classifiable under tariff item 1901 20 00.

In light of the above discussion, we rule as under:

RULING

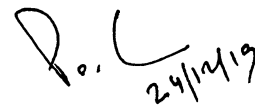
The Applicant is supplying a mixture and dough of wheat flour, sugar and water, cut into specific shape, which is dried and hardened by heating. It is classifiable under tariff item 1901 20 00.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.



(SUSMITA BHATTACHARYA)

Member



(PARTHASARATHI DEY)

Member

West Bengal Authority for Advance Ruling

West Bengal Authority for Advance Ruling