



**BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING
for the State of Andhra Pradesh (Goods and Service Tax)**

(Office at O/o Chief Commissioner of State Tax, Govt. of A.P., D NO 5-56, Block-B,
R.K.Spring Valley Apartment, Bunder Road, Edupugallu, Vijayawada,
Andhra Pradesh - 521151)

Present:

Sri Suresh Kishnani (Member) (Central Tax)

Sri S. Ravi Shankar Narayan (Member) (State Tax)

The 20th day of January, 2022

Order /AAAR/AP/02 (GST)/2022

1	Name and address of the appellant	M/s. Sri Manjunatha Fruit Canning Industries, Survey No 1487, Maddiapatlapalli Village, M.Paipalli Post, Chittoor District-517131
2	GSTIN	37AAGFS6678E1ZR
3	Date of filing of Form GST ARA-02	16.09.2021
4	Hearing (Virtual)	14.12.2021
5	Authorized Representative	Sri KVJLN Sastry, Advocate
6	Jurisdictional Authority - Centre	The Superintendent of Central Tax, Chittoor-1 Range, Tirupati Division.

(Under Section 101 of the Central Goods and Service Tax Act and the Andhra Pradesh Goods and Service Tax Act).

At the outset, we would like to make it clear that the provisions of both the CGST Act and the APGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the APGST Act.

The present appeal has been filed under Section 100 of the Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and APGST Act"] by M/s.Sri Manjunatha Fruit Canning Industries (herein after referred to as the "Appellant") against the Advance Ruling No. AAR No.17/AP/GST/2021 dated 14.07.2021 issued by Authority for Advance Ruling, Andhra Pradesh.

1. Background of the Case:

- M/s. Sri Manjunatha Fruit Canning Industries is a partnership firm registered under the partnership Act, 1932, and engaged in the business of supplying of mango pulp/puree to the dealers situated in India, including merchant export. The applicant submitted the manufacturing process of the Mango pulp/puree as under.

- The Manufacturing process of Mango pulp:

The applicant states that selected varieties of fresh mango fruits are procured and transported to the fruit processing plant. The fruits are inspected, graded and washed and sent to the controlled ripening chambers. The fully ripened mango fruits are then washed, blanched, pulped, deseeded, centrifuged, homogenized, and thermally processed. The preparation process includes cutting, de-stoning, refining and packing. The refined pulp is packed in cans, hermetically sealed and retorted. The applicant claims, this process ensures the retention of the natural flavor and aroma of the fruit in the final product. The applicant submits that the product in question is called 'pulp' in some countries and 'puree' in some other countries.

In connection with the above product, the Appellant sought clarification with regard to classification of the product and the rate payable thereon.

The Appellant had filed an application for Advance Ruling before the Authority for Advance Ruling on the following questions:

- i) Can the Mango Pulp be treated as fresh fruit and exemption be claimed? If not whether the mango pulp falls under the heading 20079910 or 0804?
- ii) What is the rate of tax payable on outward supplies of Mango fruit pulp under the GST Act?

The Authority for Advance Ruling Andhra Pradesh in its orders in **AAR No.17/AP/GST/2021 dated 14.07.2021** held:

- Mango Pulp/Puree shall neither be treated as a fresh fruit nor be classified under headings 20079910 or 0804.
- 'Mango pulp/puree', under the entry no. 453 of Schedule-III of Notification No.1/2017-Central Tax (Rate) dt: 28.06.2017 attracts the tax rate of 18%.

Aggrieved by the impugned order, the appellant has filed the present appeal on the following grounds.

2. Grounds of Appeal:

2.1 The appellant claims that mango pulp/puree is nothing but fresh fruit; hence they are not liable to pay tax on outward supplies. The above process converting fruit into pulp /puree increases only shelf life of the product. In this regard the applicant relies on the decision reported in 10APSTJ page 219 and submits that the same was also affirmed by Honorable Andhra Pradesh High Court reported in 24APSTJ page 113.

2.2 The appellant submits that to make puree/pulp the fruit is cooked, grinded, pressed and sieved to the consistency of cream, paste or liquid. Appellant further submits that fruit puree/ fruit pulp is part of the fruit with skin and seeds already removed. The puree may be more finely blended /broken down than fruit pulp. Appellant further submits that puree pours very slowly and pulp pours even more

slowly. It is very much clear from above observation that the explanation given above clearly indicates that there is no difference between puree and pulp. Hence the HSN code applicable is 20079910. The above view was endorsed by Customs Authority.

2.3 Without prejudice to the contention raised above, appellant submits that the product can be directly drinkable and hence be classified under the heading "fruit pulp or fruit juice-based drinks" i.e., 2202 9920. Chapter 22 deals with beverages spirit and vinegar, and the dictionary meaning of beverages is that, 'condition of being in liquid form and must be drinkable other than water'.

2.4 The appellant submits that as per the explanation at the end of the Notification No.1/2017 – Central Tax (Rate), dt:28.06.2017 which inter alia provides – "Tariff item", "sub-heading" "heading" and "chapter" shall mean respectively a tariff item, subheading, heading and chapter as specified in the first schedule to the customs tariff Act, 1975 (51 of 1975). Therefore, it is implied by virtue of above explanation, the classification of goods has to be done in accordance with Customs Tariff Act 1975. Under the said notification Heading 2007 is provided against Sl.No.39 and no sub-heading/tariff item were provided like in the case of most of the other goods notified there under. The appellant submits that as per the General Rules of Interpretation, when the goods are described against the Heading containing 4 digits all the sub-headings and tariff items would be comprehended under such entry. Once the heading/tariff item is recognized, the rate of GST would be governed by the said notification. Once 4 digits is mentioned in chapter sub heading tariff in Serial No.2 of 01/2017 Central tax (rate) dt.28.06.2017, automatically it covers all the items accompanied by full 8 digits.

2.5 The appellant further submits that according to the notes furnished in Chapter 20 of the Customs Tariff Act, 1975 for the purposes of heading 2007 the expression "obtained by cooking" means obtained by heat treatment at atmospheric pressure or under reduced pressure to increase the viscosity of a product through reduction of water content or other means. As per the above entry mango fruit pulp/puree is obtained after preheating @ 60⁰ To 70⁰ C and no sugar or other sweetening matter, is added and hence falls under 2007 9910. The appellant further submits that if an item falls under two entries the benefit of tax shall be given to the appellant as held by the Honorable Supreme Court of India.

2.6 The appellant submits that the Advance Ruling Authority has not discussed either the filing of additional grounds or the applicability of contentions raised in his additional grounds while passing the order. The advance ruling authority has failed to discuss the applicability of entries 2007, 0804 or 2008, 2007 9910 or 2202 9920.

2.7 The appellant invites attention to last but one para record of the Advance Ruling order which reads as under:

"It is evident from the above that Headings 2007 and 2008 do not apply to the goods under discussion i.e., 'Mango Pulp/Puree', which are nothing but fruit pastes. Hence the claim of the appellant is non-applicable in the present context."

The appellant submits that the Advance Ruling Authority has accepted that the Mango Pulp/puree are nothing but fruit pastes. But, failed to discuss as to why the HSN Code 2007 does not apply. The Advance Ruling Authority has not considered the classification of the product under 2007 99 10, which was accepted by Customs Authority, while exporting the goods.

2.8 The appellant finally prays the Appellate Authority for Advance Ruling to set-aside the orders passed by the Advance Ruling Authority and pass orders afresh, which are fit and proper.

3. Virtual Hearing:

The authorized representative, Sri KVJLN Sastry, Advocate attended the Hearing on 14.12.2021 and reiterated the submissions already made.

4. Discussion and Findings:

We have gone through the entire submission made by the appellant along with the Ruling pronounced by the Authority for Advance Ruling. On perusal of the appeal and submission made by the appellant at the time of Hearing, it is observed that the main issue of contention is the classification of the product 'Mango Pulp/Puree' and its taxability thereon.

4.1 In paragraph 2.1, the appellant claims that 'mango pulp/puree' is fresh fruit and not exigible to tax. In support of this argument, the case laws cited by him, as referred to in 10APSTJ page 219 and in 24APSTJ page 113, are irrelevant and not applicable as the facts of the instant case are different from the above cases. The cases cited are with reference to milk and milk products, which is way too different from the present context i.e., Mango Pulp.

4.2 In paragraph 2.2, the appellant states that there is no difference between puree and pulp. This authority does not differ with the above opinion as far as the nomenclature of the product is concerned.

4.3 In paragraph 2.6, the appellant claims that the lower Authority failed to discuss the applicability of code 0804 for 'Mango Pulp'. Now we examine the classification of the product, Mango Pulp in the context of the above contention.

At the outset, in order to classify any product, its intrinsic attributes are to be ascertained so that it shall be placed consequently in the respective rate schedules as notified.

In this context, it is pertinent to note that the Explanation to the Rate Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 states as:

"For the purposes of this Notification: ...

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

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

Therefore, while the Rate Notification under GST provides the rate of tax on goods and services, in order to interpret these Rate Notifications for purposes of levy of GST, one has to read the same along with the First Schedule (including the Section and Chapter Notes and General Explanatory Notes) of the Customs Tariff Act, 1975 ("Tariff").

Each Section and Chapter under the Tariff is accompanied by the notes known as "Section Notes" and Chapter Notes. Classification is to be determined only on the basis of description of the heading read with relevant section or Chapter notes.

Coming to the product 'Mango Pulp/Puree', it finds place under chapter heading no. 08045040 of the Customs Tariff Act, 1975.

Chapter 8

Tariff Item	Description of goods
0804	Dates, figs, pineapples, avocados, mangos, and mangosteens, fresh or dried.
0804 50	Guavas, mangoes, and mangosteens
0804 50 40	- Mango Pulp

Chapter 8 deals with "Edible fruit and nuts; peel of citrus fruit or melons". Moreover, there is a specific entry for 'Mango Pulp' as shown above. Whenever a specific entry is available for a product, it has to be adopted in place of the general description. It has been decided by the Hon'ble Supreme Court in **Moorco India Limited Vs. CC 1994 (74) ELT 5 (SC)**. Thus, the principle that specific heading overrides a general heading is well established in tax statutes. The same is applicable as well in the instant case. When there is a specific entry for 'Mango Pulp' in chapter 8, it is to be preferred over other general entries in the subsequent chapters.

4.4 In paragraphs 2.4, 2.5, 2.6 and 2.7 the appellant requests the classification of the product under Chapter Heading 2007 and submits that the Mango Pulp is 'Fruit Puree obtained by cooking'. The appellant draws attention to Chapter Note 5 to Chapter 20, according to which the expression-"obtained by cooking" means obtained by heat treatment at atmospheric pressure or under reduced pressure to increase the viscosity of a product through reduction of water content or other means. This Authority disagrees with the contention of the appellant in view of the following.

There is a specific entry for 'Mango pulp' under chapter 8, and it is also mentioned categorically in Notes to chapter 20 that, 'the fruits or nuts prepared or preserved by

the processes specified already in Chapter 8 shall not be covered under chapter 20'. The excerpt of the chapter notes is presented below.

"CHAPTER 20 Preparations of vegetables, fruit, nuts or other parts of plants

NOTES: 1. This Chapter does not cover : (a) vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11;"

In this regard this authority opines that the product shall invariably fall under chapter 8.

4.5 In paragraph 2.3, the appellant contends that their product, 'Mango Pulp' is directly drinkable and hence be classified under the heading "fruit pulp or fruit juice-based drinks" i.e., 2202 9920. The same principle of 'specific entry preferred over general entry' is applicable here as well. When there is a specific entry for 'Mango Pulp' in chapter 8, it is unnecessary to probe further in subsequent chapters as discussed supra.

4.6 Now, we examine the applicable rate of tax for the product 'Mango Pulp'. It is not specifically mentioned anywhere in GST tariff notifications. There are different entries related to 'Mangoes and Mango Products' at various schedules, with different tax rates in the tariff notification, as presented under.

(i) The entry **No.51** of 0804 of the above notification reads as,

0804 "Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh."

The above entry exempts only fresh mangoes from being exigible to tax.

(ii) The tariff rate changes brought about by Notification No. 35/2017 Integrated Tax (Rate) dt:30.10.2017, amending notification No. 1/2017-Integrated Tax (Rate), dt: 28.06.2017 added the following entries:

"In the said notification-

(A) In Schedule I - 5%,-

After S. No. 30 and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

"30A 0804 Mangoes sliced, dried" ;

(iii) In Schedule II-12%,-

(i) In S. No. 16, in column (3), for the words and brackets "Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried", the words and brackets, "Dates (soft or hard), figs, pineapples, avocados, guavas and mangosteens, dried", shall be substituted"

The above amended notification reveals that **"Mangoes sliced, dried"** are taxable @ **5%-** while it is silent on 'Mango Pulp'.

As there is no specific entry under GST tariff notifications meant for this product 'mango pulp/puree', the entry no. 453 of Schedule -III of Notification No.1/2017-Central Tax (Rate) dt: 28.06.2017 is applicable, which is a residuary entry covering

goods which are not specified in Schedules I, II, IV, V, VI of the Notification, attracting the tax rate of 18%.

S.No	Chapter/ Heading/ Sub-heading/ Tariff item	Description of Goods
453	Any chapter	Goods which are not specified in Schedule I, II,IV, V or VI

In view of the foregoing, we rule as under.

ORDER

We hereby modify the Order passed by the Authority for Advance Ruling vide AAR No. 17/AP/GST/2021 Dated 14.07.2021 and hold that the 'Mango Pulp / Puree' is classifiable under **Tariff Item 0804 50 40** and chargeable to GST @ 18%, by virtue of entry No.453 of Schedule III in Notification No. 1/2017 - Central Tax (Rate) Dated 28.06.2017.

Sd/-Suresh Kishnani
Chief Commissioner (Central Tax)
Member

Sd/- S. Ravi Shankar Narayan
Chief Commissioner (State Tax)
Member

// t.c.f.b.o //


Deputy Commissioner (ST)
DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

To

- 1) M/s. Sri Manjunatha Fruit Canning Industries, Survey No 1487, Maddiapatlapalli Village, M.Paipalli Post, Chittoor District-517131. **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Chittoor-II Circle, Chittoor Division. **(By Registered Post)**
2. The Superintendent of Central Tax, Chittoor I Range, Tirupathi Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. **(By Registered Post)**