



**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]

DIN: 202412740 R000077407A

Present

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

F. No. VIII/CAAR/Delhi/Betelnut /127/2024

The day of 23rd December 2024

Rulings No. CAAR/Del/Betelnut /109/2024

1203842044

In application No. 96/2024 dated 23.09.2024

Name and address of the applicant: M/s Betelnut Suppliers LLP,
6th Floor, 207, Maharshi Debendra Road,
Kolkata, West Bengal – 700007.

Commissioner concerned: Commissioner of Customs
Custom House ICD-GRFL Complex,
GT Road, Sahnewal, Ludhiana – 141120.

Present for the Applicant: Harish Kohli, Advocate.

Present for the Department: None

Ruling

M/s Betelnut Supplier LLP, 6th Floor, 207, Maharshi Debendra Road, Kolkata, West Bengal – 700007, hereinafter referred to as applicant, "in short", 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 23.09.2024 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 setting up its business of trading / export of "Menthol Scented Supari" in India for use in mouth freshener.

The applicant submitted as under:

1.1. That the firm M/s Betelnut Supplier LLP is duly registered with the respective statutory authorities viz. GST Department, Income Tax Department and DGFT Department, Kolkata. The Importer Exporter Code of the firm is AAUFB6072H and the GST number is 19AAUFB6072H1ZY. The applicant has been regularly filing its statutory returns with the concerned departments and authorities. The applicant is in the process of setting up its business of trading / import of Menthol Scented Supari (hereinafter referred to as the 'subject goods') in India for use in mouth freshener. The appellant intends to import the said goods mainly from Burma (Myanmar), Indonesia, Malaysia, Sri Lanka, Thailand, Cambodia, UAE and Singapore etc. in India. Therefore, the applicant is



approaching this Hon'ble Authority, seeking advance ruling qua the subject goods as mentioned in the following paras of this application as the applicant intends to import the same in India and hence would like to have a proper understanding and clarification as to whether the goods being imported shall be covered under a particular classification or the other. The nomenclature and details of the goods being sought to be imported by the applicant is Menthol Scented Supari.

1.2. That it is submitted that the raw whole, split or ground Betel Nut (Areca Nut) as an agricultural product, is no doubt should classifiable under CTH 0802. Arecoline is a mild Para sympathomimetic stimulant alkaloid found in the areca nut, the fruit of the areca palm. It brings a sense of enhanced alertness and energy, euphoria and relaxation. Chewing the nut stimulates the flow of saliva to aid digestion. In India there is a huge market of Betel nut-based product known as Supari which is a flavoured preparation of crashed/cut betel nut with Menthol, Cyperus Scariosus (Nagarmotha Oil), Gulab oil, Cardmom, Clove oil, Pacholi oil, Liquorice (Mulethi), Sweetener, Edible colors etc. The product is sold across the retail counters and is used as a mouth freshener.

1.3. That Supplementary Notes of Chapter 21, Note No. 2 of the Customs Tariff reads as under:

"In this Chapter "Betel Nut" product known as "SUPARI" means any preparation containing Betel-Nuts, but not containing any one or more of the following ingredients, namely: Lime, Katha (catechu), and tobacco whether or not containing any other ingredients, such as Cardamom, Copra or menthol."

Therefore, the products, Menthol scented supari (Nut based mouth freshener FSSAI category - 5.2.4.1) should ordinarily be covered under entry 21069030 which is described as "**Betel Nut Product known as Supari**".

1.4. That the processes carried out on the Menthol Scented Supari is mentioned herein under: -

- (i) Drying of Betel Nut,
- (ii) Removing of large impurities by labour,
- (iii) Removing of small impurities by de- stoner, metal deflection (removal of metal item, if any),
- (iv) Garbling in automatic garblers,
- (v) Polishing in polishing machine,
- (vi) Sterilization to remove bacterial count,
- (vii) Cutting,
- (viii) Blowing of weightless particles in blower,
- (ix) Gravity separation by automatic gravity separation machine,
- (x) Roasting in fire gas rotary roaster,
- (xi) Adding scents and flavors e.g., Menthol, Cyperus Scariosus (Nagarmotha Oil), Gulab oil, Cardmom, Clove oil, Pacholi oil, Liquorice (Mulethi), Spices, sweetening agents etc. in desired quantities along with liquid flavours (as and if desired) and edible oil are mixed in automatic mega size Blenders,
- (xii) Packaging in industrial packs of 5kgs to 80kgs as per requirement.
- (xiii) This process however, does not contain any materials like Lime, Katha (catechu) and tobacco.

1.5. That the raw material i.e. betel nut, thus undergoes a substantial change in its appearance as well as in its chemical characteristics on account of various processes mentioned herein above and thus the tannin and arecoline and other content of raw betel nut/areca nut get substantially changed and therefore, after process as mentioned herein above on the betel nut, it become a distinctive product of betel nut which is processed and prepared and thus making it suitable for immediate consumption also.

1.6. That as per the supplementary notes (2) of Chapter 21 of Customs Tariff Act, 1975, "Betel nut product known as Supari" means "any preparation containing betel nuts, but not containing any one or more of the following ingredients, namely: lime, katha and tobacco whether or not containing any other ingredients, such as cardamom, copra or menthol."



From the process mentioned herein above, it is clear that the product though uses the betel nut / areca nut as main raw material however, in the process, various other product is mixed and it then becomes a preparation and hence the prepared goods clearly fall under the chapter heading 21 and more particularly under CTH 2106 90 30 and not under Chapter 8 of Customs Tariff.

1.7. That the product thus would be subject to the processes before their import in India and hence kind attention is invited to the decision of GST council as well as CBIC circular based on GST council's decision issued in October, 2021. The relevant para of the said circular is reproduced below:

7. Applicability of GST on scented sweet supari & flavored and coated illaichi:

7.1 Representations have been received seeking clarification regarding classification and applicable GST rates on flavored and coated illaichi, and scented sweet supari.

7.2 Scented sweet supari falls under tariff item 2106 90 30 as "Betel nut product" known as "Supari" and attracts GST rate of 18% vide entry at S. No. 23 of Schedule III of notification No. 1/2017-Central Tax (Rate) dated 28.6.2017.

Therefore, according to the limited knowledge and information of the applicant, the subject goods as stated herein above are covered and classifiable under CTH 2106 9030 of the Customs Tariff Act, 1975.

1.8. That in terms of the indicated additives like flavors and menthol etc., the product is classifiable under 2106.90.30 in terms of Supplementary Note 5(b) to Chapter 21 which reads as:

Heading 2106 (except tariff items 2106 90 20 and 2106 90 30), *inter alia*, includes:

(b) Preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption;

However, as per the Explanatory Notes to Chapter 08, 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 21). Therefore, the processes mentioned in Chapter 08 are absolutely different from the processes performed on the subject goods; they are excluded for the purpose of classification from Chapter 8 of the Customs Tariff Act, 1975.

1.9. That for the purpose of classification of the 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.).

1.10. That the explanations (iii) and (iv) appended to IGST Rate Notification 01/2017- IGST (Rate) Dated 08-06-2021, the relevant text is reproduced hereunder:

(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.

Further, in this regard identical provisions have already been incorporated in CGST rate Notification No. 01/2017-C.T. (Rate) Dated 28-6-2017. Applicability of the CBIC circular read with the explanations to the IGST rate notification to the present case can be properly



understood by referring to the section 3(7) of the Customs Tariff Act, 1975. Section 3(7) of the Customs Tariff Act, 1975 is reproduced below:

Section 3. Levy of additional duty equal to excise duty, sales tax, local taxes and other charges.

(7) Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8) [or sub-section (8A), as the case may be].

This provision has been substituted (w.e.f. 01-07-2017 *vide Notification* No. 25/2017-Cus., dated 28-6-2017) by S. 4 of the Taxation Laws (Amendment) Act, 2017 (18 of 2017). Contents of the **CBIC Circular No. 163/19/2021-GST dated 06.10. 2021** are applicable to the present case by virtue of legal framework as discussed herein above. Classification and applicable rate of duty under GST are clarified in the paras reproduced from the CBIC Circular No. 163/19/2021-GST dated 06.10.2021 from F. No. 190354/206/2021-TRU. By virtue of application of section 3(7) of the Customs Tariff Act, 1975

"any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty percent as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8) for sub-section (8A), as the case may be.

1.11. Based on the contents of the CBIC Circular No. 163/19/2021-GST dated 6th October, 2021, it is clear that the provision of section 3(7) of the Customs Tariff Act, 1975 applies to scented supari classifiable under CTH 2106 90 30. In the instant case, menthol scented supari does not contain lime, katha (catechu) and tobacco and it will specifically contain menthol, Cyperus scariosus (Nagarmotha Oil) Gulab oil, Cardamom, Clove oil, Pacholi oil, Liquorice (Mulethi), etc. Therefore, due to carrying out of such processes, this product is not classifiable under chapter 08 of the Customs Tariff Act, 1975. On the background of contending classifications, relevant chapter notes & supplementary notes, CBIC Circular referred herein above, explanations in the IGST Rate Notification amended from time to time, and the section 3(7) of Customs Tariff Act, 1975 instant product i.e. - Betel Nut product known as supari - Menthol scented is more appropriately classifiable as a Betel Nut preparation under chapter 21 i.e., CTH 2106 9030 than in any of the headings under chapter 08 and CBIC circular legally also supports this view. There cannot be a situation where same product is subjected to levy of basic customs duty under one CTH and levy of IGST under another CTH of the Customs Tariff Act, 1975. Hence, in view of Supplementary Note 2 of chapter 21 of schedule 1 of the Customs Tariff Act, 1975 read with para 7 of the CBIC Circular No. 163/19/2021-GST dated 06.10.2021 from F. No. 190354/206/2021-TRU and the provisions of section 3(7) of the Customs Tariff Act, 1975 the scented sweetened supari merits classification under CTH 2106 90 30. Chapter 21 includes within its ambit, miscellaneous edible preparations and tariff item and Heading 2106 covers food preparations not elsewhere specified or included. Betel Nuts is subjected to elaborate process to make it fit for consumption as mouth freshener. Due to processes of coating with edible colours, silver, menthol, Cyperus Scariosus (Nagarmotha Oil), Gulab Oil, Cardamom, Clove Oil, Pacholi Oil, Liquorice (Mulethi), and adding of artificial sweeteners and aromatic additives to which Betel Nuts is subjected to in the instant case the emerging product is definitely a value-added product of Betel Nut Known as Supari and also distinctly different from Betel Nut/Areca Nut. In view of the above supplementary note to chapter 21 read with para 7 of CBIC circular No. 163/19/2021-GST dated 06.10.2021, same merits to be classified under Tariff Heading 2106 9099.

VALUE ADDITION

1.12. That it is submitted that Menthol Scented cutting supari the manufacturing process involves intricate and skilled manufacturing process on raw produce the value of the processed materials is enhanced at each and every stage. For example, the refining stage improves the quality of major inputs. The sweetening and blending stage require use of costly raw materials like fragrances and flavours which enhances the manufacturing cost.



THE PREPARATION & CHANGED NATURE

1.13. That the preparation, by use of above ingredients, results in a manufacturing product which is distinct and distinguished from any of the ingredient used in the preparation. The resultant products are for end use only as mouth freshener and same cannot be ordinarily used for any other purposes.

PRODUCT IS DISTINCT FROM ARTICLES OF CHAPTER-08:

1.14. That since the manufacturing process mentioned herein above, intends to manufacture absolutely a new and distinct product with its distinct use; the skilled and measured blending of flavours and sweeteners exceeds the process of preservation.

1.15. That the manufacturing processes results in an edible preparation having a distinct as a new edible product where supari is merely remains one of the ingredients of whole preparation. In this regard the supplementary note to Chapter 21 is pertinent to the issue under consideration which reads as:

GST/Customs classification adopted and clarified by central government:

Kind reference in this regard is invited to Agenda of 45th Meeting of GST Council and the recommendation of the fitment committee available at [https://gstcouncil.gov.in/sites/default/files/Agenda/ Detailed Agenda Note - 45th GSTCM Vol. 2.pdf](https://gstcouncil.gov.in/sites/default/files/Agenda/Detailed%20Agenda%20Note%20-%2045th%20GSTCM%20Vol.%202.pdf) which confirms classification of the Sweet Supari under 2106.90.30 and IGST rate as 18%. Subsequently CBIC issued Circular No. 163/19/2021 -GST dated 06 October 2021 clarifies the position of the Union Government to be in conformity of the GST Council.

RELEVANCE TO CUSTOMS TARIFF:

1.16. That kind reference is invited to the explanations (iii) and (iv) appended to IGST Rate Notification 01/2017- IGST (Rate), dated 08-06-2017 which read as below:

"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). The rules for the interpretation of the First Schedule to the Customs Tariff, 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.

1.17. That identical provisions have been incorporated in CGST Rate notification No. 01/2017-CGST (Rate) dated 28-6-2017. In view of the acceptance of the fitment committee in GST Council, clarificatory acceptance of Central Government through its board circular and the homogenous adaptation of Customs Tariff Act for classification and interpretation makes it amply clear that the classification of any product under Customs and GST has to remain same for all purposes in both laws. This would also be required with a view that while filing a bill of entry, a product cannot be classified in two different headings for the purpose of charging basic customs duty and IGST.

1.18. That a legal framework governed by Customs Tariff Act, 1975, specifically section 3(7), Chapter notes of Chapters 8, 9 and 21, section notes, supplementary notes of chapter 8 of the Customs Tariff Act, 1975 and CBIC Circular No. 163/19/2021-GST dated 06.10.2021 issued based on the recommendations of the GST Council in its 45th meeting held on 17.09.2021 clarifying classification aspects related to both the products covered in the instant application and explanations (iii) and (iv) of the IGST rate notification vide entry at S. No. 23 of Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28-6-2017, amended from time to time. Therefore it can be seen that the product will be subjected to few processes before the import and it is essential to consider the contending classifications for the product.

1.19. That insofar, as scented supari is concerned the contending classifications can be from chapter 08 and chapter 21 of the Customs Tariff Act, 1975. The relevant notes to chapter 8 lay down the following:



3. Dried fruits or dried nuts of this Chapter may be partially rehydrated or treated for the following purposes:

(A) For additional preservation or stabilization (for example, by moderate heat treatment, 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 fruit or dried nuts."

1.20. That nut including betel nut, are either partially rehydrated or treated for additional preservation or stabilization or for improving or maintaining appearance of the original product. In view of processes, it is clear that these processes are not meant for partial rehydration or treating for additional preservation or stabilization or for improving or maintaining appearance of the original product.

1.21. Alternate classification for scented supari can be found in chapter 21. Chapter 21 includes within its ambit, miscellaneous edible preparations and tariff item 2106 covers Food preparations not elsewhere specified or included. Further, the supplementary note 2 to the said chapter lay down that, in this Chapter "betel nut product known as Supari" means any preparation containing betel nuts, but not containing any one or more of the following ingredients, namely: lime, katha (catechu) and tobacco whether or not containing any other ingredients, such as cardamom, copra or menthol'.

21.06 - Food preparations not elsewhere specified or included.

2106.10 - Protein concentrates and textured protein substances

2106.90 - Other

In this classification the word 'preparation' is a guiding factor. The applicant has explained the detailed process carried out on the raw product i.e., betel nut. These processes as described and carried out on the subject product are essential for the preparation of the subject goods as mouth freshener and goods after being subjected to such processes cannot be ordinarily used for any other purpose. The betel nut products, commonly known as supari is covered under sub-heading 21069030 of this chapter. In this regard CBIC Circular No. 163/19/2021-GST dated 06.10.2021 for its claim to the classification of scented supari.

1.22. That in fact for similar product, the Hon'ble Authority of CAAR, Mumbai has already issued Ruling thereby declaring the above said goods falls under CTH 21 and not CTH 8. The said ruling has been given in the case of M/s BAG Industries, vide (2023) 2 Centax 213 (A.A.R. - Cus. - Mum.)/2023 (384) E.L.T. 119 (A.A.R. - Cus. - Mum.) on 31-10- 2022 by CAAR, MUMBAI. 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. processed betel nut as described herein above which does not contain lime or katha (catechu) or tobacco but may or may not contain any other ingredients, such as menthol, and/or cardamom, and/or copra etc. is classifiable under the CTH 2106 9030"

1.23. In view of the above, it is most humbly prayed that this Hon'ble Authority may kindly issue the advance ruling on classification of Menthol scented supari flavored under CTH 2106.90.30; at an early date under section 28H of the Customs Act, 1962.

1.24. STATEMENTS CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAY BE, IN RESPECT OF THE QUESTIONS(S) ON WHICH ADVANCE RULING IS REQUIRED:

- a. That the goods in question which is to be imported in India by the applicant will be processed goods in which Betel Nut is used as one of the ingredients hence is rightly classifiable under CTH 2106 and particularly 21069030.
- b. That as per the supplementary notes (2) of Chapter 21 of Customs Tariff of India it is stated that "betel nut product known as Supari" means any preparation containing betel nuts, but not containing any one or more of the following ingredients, namely: lime, katha



and tobacco whether or not containing any other ingredients, such as cardamom, copra or menthol."

- c. That the process mentioned in Annexure I, clearly shows that use of betel nut / areca nut is mainly as raw material however during processing, various other products will be including /mixed and hence, it becomes a preparation and a **distinctive product of betel nut which is processed and prepared and thus making it suitable for immediate consumption also**. For the said reasons these goods must be categorized under the chapter heading 21 and more particularly CTH 2106 90 30.
- d. That the process mentioned in Annexure I is a food preparation therefore it cannot be treated as only betel nut which is found mentioned under CTH 08 as the same only is for the raw betel nut and not for any processed and/or prepared betel nut hence, the goods in question must fall under CTH 21 and not under CTH 08.
- e. That in fact for the similar product, this Hon'ble Authority has already issued Ruling thereby declaring the above said goods falls under CTH 21 and not CTH 08. The said ruling has been given in the case of M/s BAG Industries, vide (2023) 2 Centax 213 (A.A.R. - Cus. - Mum.)/2023 (384) E.L.T. 119 (A.A.R. - Cus. - Mum.) on 31-10- 2022 by CAAR, MUMBAI.
- f. That the applicant has made the present application *bonafide* and seeks the kind indulgence of this Hon'ble authority thereby seeking the subject goods under classification CTH 21 and more particularly under the CTH 2106 90 30.

2. As per the provisions of CAAR Regulation, 2021, the complete application of the applicant was provided to the concerned custom port, i.e. Customs Port Commissionerate of ICD-GRFL Complex, GT Road, Sahnewal, Ludhiana and requested to furnish the requisite comment in the instant matter. However, unfortunately, the response from the Customs Port Commissionerate, has not been received in spite of multiple reminders being issued.

3. The instant applicant had filed Five applications pertaining to Five different Customs ports on the same issue and same goods for seeking of Rulings. The requisite comments from the Customs port Commissionerate of Chennai-II received first and accordingly, personal hearing was conducted and rulings was pronounced. Thereafter, comments in the matter on the same issue and same goods have also been received from NS-1 Mumbai, Mundra Gujarat and Tuticorin Tamil Nadu and action have been taken accordingly. The Custom Port Commissionerate of ICD-GRFL Complex, GT Road, Sahnewal, Ludhiana was also asked to provide the requisite comments and to participate in the hearing, as the matter, under consideration, was same, in filed all Five applications. However, the Customs Port Commissionerate did not participate in the hearing, neither shared any comments in the matter. In this situation, the authority is constrained to proceed to pronounce ex-parte Rulings in view of the provisions of the CAAR Regulation 2021 in order to stick to the 90 days mandatory timeline given under the Act & Rules.

Records of the personal hearing in the matter: -

4. **"As per the sub-rule 19 of the CAAR Regulation 2021 as provided under Notification No.01/2021-Customs (N.T.) dated 04.01.2021 as amended vide Notification No.63/2022-Customs (N.T.) dated 20.07.2022, Hearing of application ex parte. -**

Where on the day fixed for hearing or any other day to which the case is adjourned, the applicant or the Principal Commissioner or Commissioner does not appear in person or through an authorised representative when the application is called for hearing, the Authority may dispose of the application ex parte on merit:

Provided that where an application has been disposed of 1[under this regulation]and the applicant or the Principal Commissioner or Commissioner, as the case may be, applies within seven days of receipt of a copy of the order or advance ruling and the Authority is satisfied that there was sufficient cause for his non-appearance when the application was called for hearing, the Authority may, after allowing the opposite party a reasonable opportunity of being heard, make an order setting aside the ex parte order or advance ruling and restore the application for fresh hearing."



4.1 In the instant case, the personal hearing could not be taken place, as the port authority neither furnished any comments in the matter nor requested for opportunity of personal hearings, in spite of multiple reminders. The Authorized Representative (AR) of the applicant was informed the present status of their cases vide email dated 20.12.2024 and requested to intimate as to whether they want to avail opportunity of personal hearing in the matter. The AR of the applicant vides their email dated 22.12.2024 submitted additional submissions and informed that the applicant does not want any further opportunity of personal hearing in above said instant matters and requested for taken the additional submissions, on record.

4.2 The additional submissions of the applicant are as under: -

- i. That it is submitted that in India, there exists a vast market for Betel Nut-based products, commonly known as Supari. This flavored preparation consists of crushed or cut betel nuts combined with various ingredients, including menthol, Nagarmotha oil, gulab oil, cardamom, clove oil, pacholi oil, liquorice (mulethi), sweeteners, and edible colors. Supari is sold across retail counters and serves as a mouth freshener.
- ii. According to the Supplementary Notes of Chapter 21, Note No. 2 of the Customs Tariff, "Betel Nut product known as SUPARI" refers to **any preparation containing betel nuts**, excluding lime, katha (catechu), and tobacco, and may include other ingredients like cardamom, copra, or menthol.
- iii. The manufacturing process for Menthol Scented Supari (Nut-based mouth freshener, FSSAI category - 5.2.4.1) involves: Drying betel nuts, Manual removal of large impurities, De-stoning and metal detection, Automatic garbling, Polishing, Sterilization, Cutting, Removing weightless particles, Gravity separation, Roasting in a fire gas rotary roaster, Adding scents, flavors, and spices, Mixing with liquid flavors and edible oil in automatic blenders, Packaging in industrial packs (5-80 kg) etc.
- iv. That it can clearly be seen from the above explanation that this process transforms the raw betel nut's appearance and chemical characteristics, altering its tannin and arecoline content and therefore the resulting product is a distinct, processed betel nut preparation suitable for immediate consumption.
- v. As per the Customs Tariff Act, 1975, and the GST Council's decision (CBIC circular, October 2021), scented sweet supari falls under tariff item 2106 90 30, attracting an 18% GST rate. The product is classified under Chapter 21, specifically CTH 2106 90 30, and not under Chapter 8.
- vi. The processes involved exclude the product from Chapter 8, and Supplementary Note 5(b) to Chapter 21 confirms its classification under 2106.90.30 as a preparation for human consumption. Therefore, based on the manufacturing process and ingredients, the subject goods are classified under CTH 2106 9030 of the Customs Tariff Act, 1975.
- vii. Classification of Menthol Scented Supari under Customs Tariff Act, 1975 and GST: The Customs Tariff Act, 1975 ("CTA") and Goods and Services Tax ("GST") laws govern the classification of menthol scented supari. Specifically:

Definitions

- "Tariff item," "sub-heading," "heading," and "chapter" refer to the First Schedule to the CTA.
- The rules for interpreting the First Schedule, including Section and Chapter Notes and General Explanatory Notes, apply to this notification.

Applicability of CBIC Circular and GST Council Recommendations

- The Central Board of Indirect Taxes and Customs ("CBIC") Circular No. 163/19/2021-GST dated October 6, 2021, clarifies the classification of scented supari.
- The GST Council's 45th meeting recommendations support classification under 2106.90.30 with an 18% IGST rate.

viii. Classification under Customs Tariff:



- Contending classifications are Chapter 8 (dried fruits/nuts) and Chapter 21 (miscellaneous edible preparations).
- Chapter 8's relevant notes do not apply since the processes exceed partial rehydration or preservation.
- Chapter 21's supplementary note 2 defines "betel nut product known as Supari" as preparations containing betel nuts without lime, katha, or tobacco.

In view of the above it can be concluded that Menthol scented supari is appropriately classified under 2106.90.30 as a betel nut preparation and the CBIC Circular and GST Council recommendations support this classification.

ix. **Value Addition and Manufacturing Process:**

- The manufacturing process involves skilled labor and enhances the value of raw materials.
- The resultant product is distinct and different from its ingredients.

x. **Legal Framework:**

- Section 3(7) of the CTA and Chapter notes of Chapters 8, 9, and 21 govern classification.
 - CBIC Circular No. 163/19/2021-GST dated October 6, 2021, clarify classification aspects.
- xi. That the judgements cited by the respondent are distinguished including the Apex Court ruling in Crane Betel Nut's case in view of the amendment to Chapter 21, of the Central Excise Act and the GST Supplementary Note 2 to Chapter 21, read with CBIC Circular No. 163/19/2021-GT dated 6-10-2021.
 - xii. That there has been a fundamental shift in the tax regime in view of Central Excise being replaced by Goods and Service Tax (GST), totally effacing the concept of manufacture in the area of tax and the product, 'Menthol Scented Supari' also no longer coming under the purview of Central Excise Tariff Act, 1985, no duty is chargeable under the Act.
 - xiii. That the reference to the HSN Explanatory Note to Chapter 8 was wholly misplaced as Rule (1) of the General Rule for Interpretation of Import Tariff makes it abundantly clear that for all legal purposes, classifications shall be determined according to the terms of the headings and any related Section or Chapter Notes. When the subject product was specifically defined under Supplementary Note 2 to Chapter 21 of the Customs Tariff Act, 1975, the classification can only be under Chapter 21 and the reliance placed on HSN by the Appellant was totally unconnected and unwarranted as it was only relatable to Chapter 8 alone.
 - xiv. That the decision of the Apex Court in Crane Betel Nut Work's case as well as the decision of the Delhi High Court in Great Nuts Impex Pvt. Ltd., lost its precedential value because of a subsequent new scenario that has emerged, post the Finance (No.2) Act, 2009 dated 9th August 2009 and also in view of the concept of 'manufacture' itself being of no consequence in the wake of the introduction of GST in 2017.
 - xv. That it is important to reliance on the decision of this Court in *The Commissioner of Customs v. M/s. Shahnaz Commodities International P. Ltd. and 2 others*, rendered in CMA Nos. 600, 1206 and 1750 of 2023 = 2023 (386) E.L.T. 214 (Mad.) = (2023) 9 Centax 183 (Mad.), where a Division Bench of Madras High Court, in and by a Common Judgment dated 1-8-2023, held that **when there is a specific clause under Chapter 20, the classification cannot be made under Chapter 8.**
 - xvi. That for the correct classification of 'Menthol Scented Supari', we may refer to some of the relevant statutory provisions and supplementary notes.

Chapter 08 (02) deal with 'other nuts, fresh or dried, whether or not shelled or peeled.
Chapter Note 3 to Chapter 8 reads thus:



"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, or 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 fruit or dried nuts."

Chapter 21 (06) deals with 'Food preparations not elsewhere specified or included'. The Supplementary Note 2 in Chapter 21 runs thus:

"2. In this Chapter "betel nut product known as Supari" means any preparation containing betel nuts, but not containing any one or more of the following ingredients, namely, lime, katha (catechu), and tobacco whether or not containing any other ingredients, such as cardamom, copra or menthol."

Rule 3 of General Rules for Interpretation of Import Tariff runs thus:

"When by application of Rule 2 (b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

- (a.) The heading which provides the most specific descriptions shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only the materials or substances contained in mixed or composite goods or to part only of the items in a set up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them give a more complete or precise description of the goods.
- b. Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.
- c. When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration."

xvii. The crucial aspect that needs to be addressed is whether "the product in question", viz., "Menthol Scented Supari" can be classified under Chapter 8 or not or whether it has to be classified under Chapter 21. We can notice that under Chapter 8, betel nut can be whole, split, ground or other. The HSN Explanatory Notes clarifies that fruit and nut in Chapter 8 may be whole, sliced, chopped, shredded, stoned, pulped, graded, peeled or shelled and further addition of small quantities of sugar does not affect the classification of fruit in this Chapter.

xviii. That as it is contented by the Ld Commissioner (Respondent) that the betel nut being merely cut into smaller pieces and it is sweetened, it remains a betel nut only and would therefore squarely come under the purview of Chapter 8 and that Chapter 21 is only residuary in character and when Chapter 8 applies to the product in question, the Advance Ruling Authority cannot fall back on Chapter 21 and classify the product under Chapter 21. In this regard it is submitted that Supplementary Note 2 specifically deals with 'Supari' and states that it is any preparation containing betel nuts, but not containing lime, katha (catechu) and tobacco, whether or not containing cardamom, copra or menthol. Therefore Supplementary Note 2 placed under Chapter 21 would certainly cover the product in question, viz., 'Menthol Scented Supari'. Respondent is nowhere saying that the product in question contains lime, katha (catechu) or tobacco. Only if any of these 3 ingredients are used, then the betel nut product known as 'Supari' would fall outside the purview of Chapter 21.

xix. Thus, reading Chapter 21 as a whole, harmoniously with Supplementary Note 2, it is evident that the legislature has specifically carved out an entry for "Menthol Scented Supari" which contains betel nut pieces, menthol added to it and does not include any of the 3 items viz., lime, katha (catechu) or tobacco.



- xx. Applying the General Rules for Interpretation of Import Tariff, when there is a specific entry for 'Menthol Scented Supari' found under Chapter 21, Supplementary Note 2, the same would prevail over the general description of the nut under Chapter 8.
- xxi. By a specific entry, when 'Supari' is added under supplementary Note 2 to Chapter 21, it is for a specific purpose of dealing with the said product 'Supari' under Chapter 21 alone. Giving any other interpretation to the inclusion of 'Supari' under Supplementary Note 2 to Chapter 21 would defeat the object and purpose of its inclusion under Chapter 21 specifically.
- xxii. Further in the HSN under Chapter 8, set out as general guidelines, when dealing with addition of sugar in small quantities, consciously nuts have been excluded and reference is made only to fruits. Therefore, this is yet another pointer that the Legislature was very clear in bringing 'Supari', a betel nut product, only under Chapter 21 and not Chapter 8.
- xxiii. That the issue is also clinched from the fact that in Chapter 21, under the heading "Food preparations not elsewhere specified or included" also, under Tariff Item 21, 06, 90 and 30, Betel nut product known as 'Supari' finds a specific entry/inclusion.
- xxiv. That the process involved and referred to in Chapter 8 as seen from Note 3 is relating to treating the dried nuts for preservation, stabilization and to improve or maintain the appearance and in such cases, even if the process involved moderate heat treatment, sulphuring or adding sorbic acid or potassium sorbate or vegetable oil or small quantity of glucose syrup, as long as the product retains the character of a dried nut or fruit, it would be classified under Chapter 8. However, under Chapter 21 what is contemplated is a preparation containing betel nuts and not containing lime, katha (catechu) or tobacco, whether or not it contains ingredients like cardamom, copra or menthol. Thus, there is a fundamental distinction even in the object and purport of both the Chapters. Therefore, applying the General Rules of Interpretation for Import Tariff, there being a specific entry for the product in question, viz. "Menthol Scented Supari" under Chapter 21, applying the rules of interpretation, the classification of the said product has to be only under Chapter 21 and not Chapter 8.
- xxv. In the case before the Hon'ble Supreme Court in Crane Betel Nut Powder Work's case, the issue was relating to whether crushing of betel nut and adding ingredients to it would involve any 'manufacture' or not and in that context it was held that the process of boiling, slicing etc. and adding flavours to the betel nut would not result in altering the nature and characteristics of the product and therefore the classification would have to be made under Chapter 8. It is submitted that post this judgment, two important subsequent factors have intervened. Firstly, *vide* Finance (No.2) Act, 2009 dated 19th August, 2009, there has been an insertion of Note 6 in Chapter 21, which specifically relates to Tariff Item 2106 90 30 relating to 'supari' and stating that **the process of adding or mixing cardamom, copra, menthol, spices, sweetening agents or any such ingredients other than lime, katha (catechu) or tobacco to betel nut, in any form, shall not amount to "manufacture"**. Secondly, w.e.f. 1-7-2017, the GST Act was introduced and the concept of taxation itself has undergone a change from 'manufacture' to 'supply'. The Supplementary Note 2 in Chapter 21 of CGST Tariff is also verbatim the same as Supplementary Note 2 under Chapter 21 of the Customs Tariff Act, 1975. This only exemplifies the intention of the legislature to have always treated 'supari' as a special entry and not as a betel nut under the general entry of 'nuts'. There being a specific entry for 'Supari' under Chapter 21 and it would take precedence over the general entry under Chapter 8, the question of applying the ratio laid down by the Apex Court would not even arise for the simple reason that the issue on hand is only revolving around classification of 'Supari' under Chapter 8 or Chapter 21 and the facts of the case before the Apex Court was entirely different and the issue was whether process involved in manufacture of sweetened betel nut pieces would result in a totally new product or not.
- xxvi. That both the statutory enactments viz., Central Excise Tariff Act and the Customs Tariff Act operate in different spheres. In so far as the Central Excise Tariff Act, it deals with goods that are manufactured inside the Country and the tariffs applicable to various categories and products. In that context, process or manufacture involved assumes significance. However, under the Customs Tariff Act, the products are imported from foreign countries and therefore the significance attached to the concept of manufacture does not carry the same weightage as it does under the Central Excise Tariff Act. The Hon'ble Supreme Court in Crane Betel Nut Powder Work's case was dealing with an issue that arose only under the Central Excise Tariff Act and not the Customs Tariff Act. The amendments also have been incorporated only under the Central Excise Tariff Act, clarifying that the process of adding or mixing cardamom, copra, menthol etc. would not amount to manufacture etc.



xxvii. Under the Customs Tariff Act, the question of manufacture loses its relevance since the Act deals only with the tariff applicable to the goods or products imported from outside the country, in an as is where is basis, or rather the product as imported in whatever form is the basis for levy of Customs Tariff. Thus, the judgment of the Hon'ble Supreme Court in Crane Betel Nut Powder Work's case cannot be said to be a bar U/s. 28(i) of the Customs Act.

xxviii. It is pertinent to note that by inserting a specific tariff entry for 'Supari' under Chapter 21, the question of classifying it under Chapter 8 does not even arise, especially when this was neither the issue before the Apex Court nor the basis on which the decision was rendered. It is also trite law that a decision is only an authority for what is decided and it cannot be extended to something which has not been decided by applying the process of a logical deduction. In *P.Rajendran v. The Assistant Director*, in Crl.O.P. No. 19880 of 2022 dated 14-9-2022, the Division Bench of Madras High Court, in fact, one of us being a part of the Bench (Justice. RMT.TEEKAA RAMAN) held that "a case is only an authority for what it decides". As observed by Lord Halsbury in *Quinn v. Leathem*, reported in 1901 AC 495, quoted hereunder for easy reference:

"... that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides."

In *Rajendra Singh v. State of U.P. & others*, reported in (2007) 7 SCC 328, also the Apex Court approved the said position, by citing the above passage as well. Thus viewed from these angles also, the ratio laid by the Apex Court in Crane Betel Nut Powder Work's case cannot be enlarged.

xxix. That on the basis of foregoing it is submitted that the Menthol Scented Supari " should fall under Tariff heading 2106, specifically under Tariff entry 2106 90 30: of the first schedule of the Customs Tariff Act, 1975.

In view of the above, it is requested that this Hon'ble Advance Ruling Authority may take the aforesaid additional submissions into consideration while passing orders in the interest of justice.

Findings, Discussion and Conclusion

5. 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 and additional submissions for another application of the applicant on the same goods and same issues filed for the Custom Port Commissionerate of Chennai-II. I have also taken consideration of comments of Customs Port Commissionerate of NS-1 Mumbai, Mundra Gujarat and Tuticorin Tamil Nadu, in respect of applications filed by the instant applicant on the same goods. As no comments have been received from the Customs Port Commissionerate of ICD-GRFL Complex, GT Road, Sahnewal, Ludhiana, I proceed to decide the present application regarding classification of Menthol Scented Supari on the basis of the information on record as well as the existing legal framework having bearing on the classification of the Menthol Scented Supari, under the first schedule of the Customs Tariff Act, 1975.

5.1 "As per the sub-rule 19 of the CAAR Regulation 2021 as provided under Notification No.01/2021-Customs (N.T.) dated 04.01.2021 as amended vide Notification No.63/2022-Customs (N.T.) dated 20.07.2022, Hearing of application ex parte. –

Where on the day fixed for hearing or any other day to which the case is adjourned, the applicant or the Principal Commissioner or Commissioner does not appear in person or through an authorised representative when the application is called for hearing, the Authority may dispose of the application ex parte on merit:

Provided that where an application has been disposed of 1[under this regulation]and the applicant or the Principal Commissioner or Commissioner, as the case may be, applies within seven days of receipt of a copy of the order or advance ruling and the Authority is satisfied that there was sufficient cause for his non-appearance when the application was called for hearing, the Authority



may, after allowing the opposite party a reasonable opportunity of being heard, make an order setting aside the ex parte order or advance ruling and restore the application for fresh hearing."

5.2 The applicant has sought the classification of the "Menthol Scented Supari" under Chapter 21 on the following, among other grounds:

- i. The raw betelnut/ areca nut is classifiable under the HS code 0802 80.
- ii. Edible preparation of betel nut, i.e., betelnut product known as 'supari' is classifiable under the HS code 2106 9030.

5.3 The processing as mentioned by the importer i.e. Harvesting and Drying the Raw Betel Nut under Sun or oven, de-husking, boiling, washing & drying in sun or oven, multi stage cutting, flavouring and packing do not change the character of the Betel Nut and after going through the above mentioned process the Betel Nut has not attained any major change causing it to be classified under Heading 0802 not under the heading 2106 9030.

5.4 Further, Chapter 21 covers miscellaneous edible preparations. The relevant supplementary note 2 to the said Chapter lays down that, - *"In this Chapter "betel nut product known as Supari means any preparation containing betel nuts, but not containing any one or more of the following ingredients, namely: lime, katha (catechu) and tobacco whether or not containing any other ingredients, such as cardamom, copra or menthol".* In this Chapter, the related entry, with respect to betel nuts, is the sub-heading 21069030, i.e. betel nut products known as supari. On the other hand, Chapter 8, covers Edible fruit and nuts; peel of citrus fruit or melons. In Chapter 8, areca nuts, whole, split, ground, and two residuary sub-headings are under 08028010, 20, 30, 90, and 08029000, respectively. Further, Note 3 to Chapter 8 reads as under:-

"3. Dried fruit or dried nuts of this Chapter may be partially rehydrated or treated for the following purposes:

- (a) for additional preservation or stabilisation (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 fruit or dried nuts,"

5.5 Further, it is seen that with respect to Chapter 8, the explanatory notes to HSN prescribes the following as general guidelines:

'Fruit and nuts of this Chapter may be whole, sliced, chopped, shredded, stoned, pulped, grated, peeled or shelled. The addition of small quantities of sugar does not affect the classification of fruit in this Chapter.'

5.6 Thus, Chapter Note 3 of Chapter 8 read with explanatory notes to HSN clearly stipulates that even if the dried nuts are- i. rehydrated, or ii. imparted treatment of preservation or stabilisation by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbet etc., or iii imparted treatments like addition of vegetable oil or glucose syrup etc. to improve or maintain their appearance. They remain classified under Chapter 8 only. Thus, any treatment which is either one of the processes mentioned in the said Chapter note to Chapter 8 or, is akin to such processes, will not take the classification of Betel Nut out of the purview of Chapter 8. It is also worthwhile to mention that the processes mentioned in Chapter notes 3(a) and 3(b), as reproduced in para above, are not exhaustive but only illustrative as the expression used in the bracket is "for example". Hence, all such processes, as are done for preservation or stabilization of Betel Nut or for maintaining or improving their appearance, will be covered under the ambit of Chapter Note 3 of Chapter 8 and, hence the betel nut, having undergone such processes, will continue to be covered under Chapter 8.

5.7 From the processes detailed in para 5.1 above, to obtain menthol scented supari, betel nut is dried, de-stoned (removal of metal item), garbled, polished, sterilized for cleaning and to remove bacterial count. The cleaned betel nuts are then cut and roasted. After going through the stage of cutting and roasting the betel nuts are mixed with menthol flavour. After blending with flavours, the



processed betel nuts are ready to pack. Thus, the processes involved are nothing but dehydrating, removal of impurities, cutting, sterilization, roasting and addition of flavours. These processes are intended for cleaning, enhancing preservation; and for enhancing appearance or presentation, which are clearly covered by the Chapter Note 3 to Chapter 8.

5.8 The Hon'ble Apex Court had affirmed the order dated 26.02.2021 of CESTAT, Chennai Bench in case of S.T. Enterprises- 2021(378) E.L.T. 514 (S.C.) and Ayush Business Overseas-2021 (378) E.L.T. A142 (S.C.), wherein CESTAT had held that boiled betel nuts are appropriately classifiable under Chapter 8, and not Chapter 21 relying on the principles observed in the Hon'ble Supreme Court's decision in case of Crane Betel Nut Powder Works case- 2007 (210) E.L.T. 171 (S.C.)

5.9 Furthermore, Hon'ble Supreme Court had held the following principle in case of Crane Betel Nut Powder Works case:

"3.1. In our view, the Commissioner of Customs and Central Excise (Appeals) has correctly analysed the factual as well as the legal situation in arriving at the conclusion that the process of cutting betel nuts into small pieces and addition of essential/non-essential oils, menthol, sweetening agent etc. did not result in a new and distinct product having a different character and use."

5.10 Further, it could be seen that there are multiple Rulings being issued by Advance Rulings Authorities both at Delhi and Mumbai, wherein flavoured supari obtained by performing same processes as mentioned in the application for menthol scented supari, has been ruled to merit classification under Chapter 8 of the Customs Tariff Act, 1975.

S. No.	Ruling No.	Applicant's Name
1	CAAR/Del/Cosmos Int./06/2021	M/s. Cosmos International
2	CAAR/Del/Dry Nut/01/2021	M/s. Dry Nut Enterprises
3	CAAR/Del/Globe Impex/02/2021	M/s. Globe Impex
4	CAAR/Del/Great Nut/05/2-21	M/s Great Nut Impex P. Ltd.
5	CAAR/Del/Perfect/04/2021	M/s. Perfect Trading
6	CAAR/Del/PG International /22/2021	M/s.PG International
7	CAAR/Del/Sarveshwari/11/2021	M/s Sarveshwari Industries.
8	CAAR/Del/Star Spices/03/2021	M/s. Star Spices
9	CAAR/Del/UBS Exports/23/2021	M/s.UBS Exports International Pvt Ltd,
10	CAAR/Del/Vaibhav/21/2021	M/s.Vaibhav Enterprises
11	CAAR/Mum/ARC/3/2021	M/s Samreen International Pvt Ltd.
12	CAAR/Mum/ARC/5&6/2021	M/s SRG Enterprises & M/s SYM Company
13	CAAR/Mum/ARC/9 & 10/2021	M/s BMG Corporation, M/s Bhagwan Corporation.
14	CAAR/Mum/ARC/12/2021	M/s Zaveri Enterprises
15	CAAR/Del/Morchhadi Traders/ 07/ 2021	M/s Morchhadi Traders
16	CAAR/Del/Naman Agri/09/2021	M/s Naman Agri Impex Pvt Ltd
17	CAAR/Del/The Nut/10/2021	M/s The Nut Company
18	CAAR/Del/Tirupati/12/2021	M/s Shri Tirupati Balaji Overseas
19	CAAR/Del/Shreedhra/07/2022	M/s Shreedhra Agro LLP

5.11 Also, Hon'ble Delhi High Court's vide its order dated 01.03.2023 in case of M/s Great Nuts Impex Pvt. Ltd & M/s The Nut Co Vs Commissioner of Customs Delhi & Ors. (CUSAA17/2022 & CUSAA18/2022 respectively) is noteworthy to mention. The Hon'ble High Court upheld the view taken by CAAR (Customs Authority for Advance Rulings) in case of M/s Great Nuts Impex Pvt Ltd & M/s The Nut Co wherein it was ruled that the goods (i) API Supari; (ii) Chikni Supari; (iii) Unflavoured Supari; (iv) Flavoured Supari; and (v) Boiled and Cut Supari are classifiable under Chapter 8. The process involved in making flavoured supari in these cases were as those carried out in case of impugned ruling. The relevant extract of the aforesaid order is as follows:



"23. The CAAR had ruled that that the processes for making API Supari, flavoured supari, unflavoured supari chikni supari, boiled supari, and boiled and cut supari are, essentially, the processes of cleaning, preservation and enhancing the appearance of presentation and thus, were covered under Note 3 of the Chapter 8 of the Customs Tariff.

24. Insofar as flavoured supari is concerned, the CAAR relied on the decision of the Supreme Court in *Crane Betel Nut Powder Works v. Commissioner of Customs and Excise, Tirupathi & Anr.* (supra) and held that the same would continue to be classified under Chapter 8 of the Customs Tariff.

25. We find no infirmity with the aforesaid view. As noted above, the decision in the case of *Crane Betel Nut Powder Works v Commissioner of Customs and Excise, Tirupathi & Anr.* (supra) (supra) squarely covers the issue involved in the present cases."

5.12 The claims made by the applicant and the ruling sought is devoid of merits and legally untenable on the following grounds:

As per the Indian Customs Tariff, CTH 2106 is applicable for "Food preparations not elsewhere specified or included". Therefore, to get classified under CTH 2106 two tests have to be satisfied.

- i. Firstly, it should be a food preparation
- ii. Secondly, it should not be specified or included anywhere else in the nomenclature

The introductory language of Explanatory Notes to CTH 2106 states: "Provided that they are not covered by any other heading of the Nomenclature...". Therefore, before classifying the products in Chapter 21, it must be first determined whether they can be classified in any other heading under the nomenclature.

Further, supplementary note 2 to Chapter 21 of the Customs Tariff defines betel nut product known as Supari betel nut product in three pertinent parts:

- i. As any preparation containing betel nuts
- ii. But not containing lime, katha (catechu) and tobacco cardamom, copra or menthol."
- iii. May contain any other ingredients, such as cardamom, copra or menthol

Further, as per Note 3 of Chapter 8, the ambit of the classification under Chapter 8 is defined as follows:

"Dried fruit or dried nuts of this Chapter may be partially rehydrated, or treated for the following purposes:

- a. *For additional preservation or stabilisation (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 fruit or dried nuts."*

Whereas, the processes listed out by the Importer for arriving at the impugned goods are squarely covered under the scope of Dried Nuts as defined under Chapter 8, except for adding of Menthol to the goods. Further, the addition of the Menthol does not alter the character of the goods viz., dried Areca/ Betel Nut.

5.13 As far as the General Rules for the Interpretation (GRI) is concerned, the classification process is guided by six GRIs of the Harmonized System of Nomenclature (HSN), out of which, particular relevance is drawn to- i. GRI 1: Classification is determined according to the terms of the headings and any relative Section or Chapter Notes; ii. GRI 3(a): The heading providing the most specific description shall be preferred to headings providing a more general description; & iii. GRI 6: Classification in subheadings should be determined according to the terms of those subheadings, related subheading notes, and mutatis mutandis, to the above rules.

5.14 The Port Commissionerate has correctly cited the Principles of: Specificity, Essential Character, Degree of Processing, Intended Use & Exclusion to establish the classification under 0802. The applicant's point is that the addition of menthol constitutes a form of preparation, potentially shifting classification to 21.06, however, this argument is weakened by the allowances made in Chapter 8 for minor treatments and the principle of specificity favouring 08.02.



5.15 Also, the supplementary note defining "betel nut product known as Supari" under 21.06 appears to target more substantially prepared products, and not simply scented whole nuts. In view of the above, it can be deduced that any preparation containing betel nuts should be read as any specially prepared substance which has betel nuts as constituent part in it. In accordance with Rule 1 of the GRI of the HSN, the goods in question appear to be most appropriately classifiable under Customs Tariff Item (CTI) 0802 8090. This classification is predicated on the principle that goods should be classified according to the terms of the headings and any relative Section or Chapter Notes. In this case, the specificity of heading 08.02, which explicitly covers "Other nuts, fresh or dried, whether or not shelled or peeled," provides a more precise description of the goods than alternative headings.

5.16 The matter of classifying Areca Nut 'whole' and Areca Nut 'split' in relation to 'Supari' has been definitively adjudicated by the Hon'ble Supreme Court of India. This jurisprudence serves as a crucial precedent in determining the proper classification of areca nuts subjected to various degrees of processing. The Chennai Customs, Excise and Service Tax Appellate Tribunal (CESTAT) ruling in M/s S.T. Enterprises Versus Commissioner of Customs (Chennai VII) [2021 (378) E.L.T. 514 (Tri. - Chennai)] is particularly instructive. This decision, which relied upon the similar case of M/s Crane Betel Nut Powder Works vs Commissioner - 2007 (210) E.L.T. 171 (S.C.), established that:

"Imported betel nuts 'whole' that have undergone processes such as de- husking, cleaning, boiling, and drying are to be classified under Tariff Item 0802 80 10 of the Customs Tariff Act, 1975, as betel nut 'whole'. Significantly, such processing does not warrant classification under Tariff Item 2106 90 30 as a betel nut product known as 'supari'."

The legal weight of this CESTAT order was further reinforced by its subsequent affirmation by the Hon'ble Supreme Court [2021 (378) ELT A142 (Supreme Court)], thus establishing a binding precedent on the matter. This classification is in compliance with principle of specificity, aligns with the allowances for minor treatments in Chapter 8, and recognizes that the essential character of the product remains that of a nut rather than a prepared food item.

6. Based on a comprehensive analysis of the HS structure, legal notes, and interpretative rules, the most appropriate classification for **Menthol Scented Betel Nuts** is under subheading 0802.80 and specifically under **CTI 0802 8090** under First Schedule of the Customs Tariff Act, 1975.

7. I rule, accordingly.



(SAMAR NANDA)
Customs Authority for Advance Rulings
New Delhi



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

1. M/s Betelnut Supplier LLP, 6th Floor, 207, Maharshi Debendra Road, Kolkata, West Bengal – 700007.
2. The Commissioner of Customs, Custom House ICD-GRFL Complex, GT Road, Sahnewal, Ludhiana – 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 Pr. Chief Commissioner of Customs, Delhi Customs Zone, New Custom House, IGI Airport Complex, New Delhi-110037.
6. Guard file.
7. Webmaster.


Secretary,
Customs Authority for Advance Rulings, Delhi

