

	सीमाशुल्क अग्रिम विनिर्णय प्राधिकरण Customs Authority for Advance Rulings नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - ४०० ००१ New Custom House, Ballard Estate, Mumbai - 400 001 E-MAIL: cus-advrulings.mum@gov.in	
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F.No. CAAR/CUS/APPL/22/2024-25 - O/o Commr-CAAR-Mumbai

दिनांक/Date : 04.07.2025

Ruling No. & date	CAAR/Mum/ARC/41/2025-26 dated 04.07.2025
Issued by	Shri Prabhat K. Rameshwaram, Customs Authority for Advance Rulings, Mumbai
Name and address of the applicant	M/s Orange Pet Nutrition Pvt. Ltd. Gat No. 47, Datta Nagar, Lonikad, Pune, Maharashtra 412 216 Email: Aiyaaz@hamiranimetals.com ; Bharat@orangepet.in ; Sandeep.sachdeva@dservelegal.com
Concerned Commissionerate	The Principal Commissioner of Customs, JNCH, Nhava Sheva, NS-I, District Raigad 400 707

ध्यान दीजिए/ N.B.:

- सीमा शुल्क अधिनियम, 1962 की धारा 28I की उप-धारा (2) के तहत किए गए इस आदेश की एक प्रति संबंधित को निःशुल्क प्रदान की जाती है।
A copy of this order made under sub-section (2) of Section 28-I of the Customs Act, 1962 is granted to the concerned free of charge.
- इस अग्रिम विनिर्णय आदेश के खिलाफ कोई भी अपील ऐसे निर्णय या आदेश के संचार की तारीख से 60 दिनों के भीतर संबंधित क्षेत्राधिकार उच्च न्यायालय के समक्ष की जाएगी।
Any appeal against this Advance Ruling order shall lie before the jurisdictional **High Court of concerned jurisdiction**, within 60 days from the date of the communication of such ruling or order.
- धारा 28-I के तहत प्राधिकरण द्वारा सुनाया गया अग्रिम विनिर्णय तीन साल तक या कानून या तथ्यों में बदलाव होने तक, जिसके आधार पर अग्रिम विनिर्णय सुनाया गया है, वैध रहेगा, जो भी पहले हो।
The advance ruling pronounced by the Authority under Section 28 - I shall remain valid for three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.
- जहां प्राधिकरण को पता चलता है कि आवेदक द्वारा अग्रिम विनिर्णय धोखाधड़ी या तथ्यों की गलत बयानी द्वारा प्राप्त किया गया था, उसे शुरू से ही अमान्य घोषित कर दिया जाएगा।
Where the Authority finds that the advance ruling was obtained by the applicant by fraud or misrepresentation of facts, the same shall be declared void *ab initio*.



अग्रिम विनिर्णय / Advance Ruling

M/s. Orange Pet Nutrition Private Limited (IEC No.: AACCO9100C) (hereinafter referred to as 'the Applicant') filed an application (CAAR-1) for advance ruling in the Office of Secretary, Customs Authority for Advance Ruling (CAAR) Mumbai. The said application was received in the secretariat of the CAAR, Mumbai on 31.01.2025 along with its enclosures in terms of Section 28H(1) of the Customs Act, 1962(hereinafter referred to as the 'Act also'). The Applicant is seeking advance ruling on the issue of classification of Dog & Cat feed imported under CTI 2309 90 10 of the First Schedule of the Customs Tariff Act, 1975.

2. Applicant's Submissions:

2.1 The Applicant, M/s. Orange Pet Nutrition Private Limited, a private limited company incorporated under Indian law, with its registered office located at Gat No. 47, Datta Nagar, Lonikad, Pune, Maharashtra, Pin-412216, submitted that it is engaged in the import and sale of feed for various categories of pets including dogs, cats, birds, small animals, aquatics, and reptiles. These feeds, imported in bulk, are primarily in the form of pellets and liquids tailored to the nutritional needs of different pet categories based on their age and size. The Applicant holds a valid Importer-Exporter Code (IEC) bearing number AACCO9100C, a copy of which was enclosed as Exhibit-1.

2.2 The present application had been filed by the Applicant seeking an advance ruling on the classification of dog and cat feed imported in bulk packages/bags and the applicable rate of customs duty on the same.

2.3 It was stated that the products imported by the Applicant are designed with varying combinations of components such as dehydrated chicken, white rice, maize, peas, brown rice, dried beet pulp, coconut oil, and dried ginger, among others. The Applicant clarified that the proportions of these components differ depending on the breed, age, and size of the pet for which the feed is intended. A comprehensive list of products along with their components and respective exhibits (Exhibits 2(a) to 2(n)) was submitted as part of the application.

2.4 For ease of reference and owing to their common functionality, all these imported goods were collectively referred to as "the products". These products were described as nutritionally complete, ensuring that animals receive balanced amounts of proteins, fats, carbohydrates, vitamins, minerals, and water, thus promoting optimal health. It was further clarified that the products were dry in nature, ready to feed without needing to be mixed with water or milk. Feeding quantities vary based on the animal's size and age—ranging from 60 grams per day for a small puppy to 750 grams per day for a large adult dog—and such details were specified on retail packets.

2.5 It was also submitted that these products serve as complete feed, negating the need for supplementary feeding. An example was cited where the BIP Puppy Large Breed variant had its analytical constituents listed, including protein (25%), fat (15%), and various vitamins and minerals, thereby establishing that the feed offers balanced nutrition.

2.6 Regarding the Applicant's import practice, it was stated that the products are imported in 20 kg bags labelled as bulk packs. These packages do not contain pre-printed retail information such as MRP or best-before dates, and as such, they do not comply with Legal Metrology Rules applicable to packages meant for retail sale. Consequently, these goods



cannot be sold directly to end consumers without repacking and appropriate labelling. Post-import, the bulk packages are brought to the Applicant's warehouse and repacked into smaller units (ranging from 70 gm to 12 kg) suitable for retail sale under the brand name "Fidele+". These retail packets include all requisite information such as manufacturer/importer details, customer care contacts, MRP, and date of packing.

2.7 It was brought to the Authority's attention that in the past, the Applicant had imported and cleared similar goods via JNCH, Nhava Sheva, under CTH 23091000 as "Dog & Cat food, put up for retail sale" and paid 20% Basic Customs Duty. However, the Applicant is now of the considered opinion that the imported goods merit classification under CTH 23099010, which attracts a lower duty rate of 15%. Sample Bills of Entry in support of past transactions were submitted as Exhibit-3.

2.8 Accordingly, the Applicant has sought an advance ruling on the question of whether the pet feed imported in bulk packages should be classified under CTH 23099010 of the First Schedule to the Customs Tariff Act, 1975, and what rate of customs duty would apply.

2.9 As for the Applicant's eligibility to seek the ruling, it was noted that Section 28E(c)(i) of the Customs Act defines "Applicant" to include anyone holding a valid IEC, which the Applicant satisfies. Additionally, the application pertains to the classification of goods—a question expressly permissible under Section 28H(2)(a) of the Act. It was submitted that the matter was not pending before any officer, Tribunal, or Court, and hence, the application is admissible under the provisions of Section 28-I(2)(a) of the Customs Act.

2.10 In interpreting the classification of goods, the Applicant submitted that classifications under the Customs Tariff Act are governed by the General Rules of Interpretation and the Harmonized System of Nomenclature (HSN) as per WCO guidelines. In light of this, it was contended that the goods in question fall under Heading 2309, which deals with preparations used in animal feeding.

2.11 According to the HSN explanatory notes, Heading 2309 includes mixtures of nutrients designed for a balanced daily animal diet. The Applicant argued that their imported feeds meet this description and are thus covered under this heading.

2.12 However, CTH 23091000 applies only to dog and cat food that is "put up for retail sale". The Applicant emphasized that two conditions must be satisfied for classification under this heading: the product must be intended for dogs or cats and must be packaged for retail sale. As the bulk packs imported lack requisite labeling and are not directly sold to consumers, the Applicant asserted that the goods do not qualify under CTH 23091000.

2.13 To support their interpretation, the Applicant referred to the Legal Metrology Act and Rules, specifically citing the definitions of "retail package", "retail sale", and "wholesale package". Based on these definitions, it was submitted that the imported 20 kg bulk packs qualify as wholesale packages and not as retail packages since they require repacking before being made available to consumers. Hence, the goods are not "put up for retail sale".

2.14 It was further contended that the appropriate classification should be under CTH 23099010, which covers "compounded animal feed". The Applicant relied on various dictionary definitions of the term "compound" to argue that the feeds are mixtures of multiple ingredients and nutrients formulated for pet animals of varying sizes and breeds. Reference was also made



to the Bureau of Indian Standards (IS 2052:2009), which outlines the nature of compounded cattle feed—showing similar ingredients and formulation logic.

2.15 Moreover, the HSN explanatory notes distinguish between "dog and cat food put up for retail sale" and other types of preparations, placing complete and balanced feeds (not for retail sale) under the "others" category i.e., 230990.

2.16 The Applicant also referred to a previous advance ruling in the case of Royal Canin (Ruling No. CAAR/Mum/ARC/35/2024 dated 05.03.2024) wherein it was held that dog food imported in bulk (15 to 700 kg), not meant for direct retail, was not classifiable under CTH 23091000. Although the ruling classified Royal Canin's products under CTH 23099090, the Applicant contended that the correct classification in its case would be under CTH 23099010, as their products clearly fall within the scope of "compounded animal feed", and CTH 23099010 is a more specific heading compared to the residuary 23099090.

2.17 Therefore, it was submitted that the Applicant's products, being nutritionally complete, imported in bulk, and repackaged for retail sale under a separate brand, merit classification under CTH 23099010 and are liable to Basic Customs Duty at the rate of 15%.

3. Comments from the jurisdictional Commissionerate.

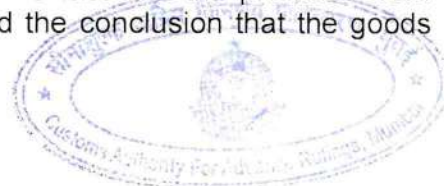
3.1 The jurisdictional Commissionerate submitted its observations in response to the application for advance ruling dated 31.01.2025 filed by M/s. Orange Pet Nutrition Private Limited (hereinafter referred to as "the Importer"). The comments were offered as per the requisition made by the Customs Authority for Advance Rulings via email dated 04.02.2025, seeking the field formation's views under Section 28-I(1) of the Customs Act, 1962 read with Regulation 8(7) of the CAAR Regulations, 2021.

3.2 Upon detailed examination, the jurisdictional Commissionerate expressed the view that the correct classification of the goods should be under CTH 2309.10.00, not under CTH 2309.90.90, asserting that the Importer appeared to be attempting to circumvent the higher customs duty applicable to retail goods by importing them in bulk and later repackaging them domestically.

3.3 It was argued that the term "put up for retail sale" should be interpreted with reference to the product's intended end use, rather than the condition of packaging at the time of import. Reliance was placed on judicial precedent—specifically, the decision in *Commissioner of Customs C.G.O. vs. Sonam International Shop No. 9* [2010 (10) LCX 0014]—which emphasized that classification must be based on inherent nature and intended use, and not merely the form in which goods are imported.

3.4 The Commissionerate noted that although the bulk packaging may lack retail-specific labelling required under the Legal Metrology (Packaged Commodities) Rules, 2011, such absence does not change the nature or purpose of the product if it is clearly intended for subsequent retail sale. It was emphasized that allowing classification solely based on import packaging would create a precedent enabling duty evasion, whereby importers could deliberately avoid higher tariffs associated with retail-ready products.

3.5 On the issue of repackaging, it was submitted that this post-import activity does not change the intention with which the goods were imported. The fact that the products were repackaged into retail-sized units after import only reinforced the conclusion that the goods



were, from the outset, intended for retail sale, thereby justifying classification under CTH 2309.10.00.

3.6 As for the Importer's reliance on the HSN Explanatory Notes, the Commissionerate stated that the HSN must be interpreted contextually, with attention to the product's formulation and consumer target group. Since dog and cat food is formulated distinctly for retail consumers—even if not in final packaging—such products align more closely with the classification under 2309.10.00. Again, support was drawn from the *Sonam International* judgment.

3.7 Regarding the Royal Canin case, the Commissionerate clarified that rulings are case-specific, and each must be judged on its unique factual matrix. Hence, even if Royal Canin's imports were classified under CTH 2309.90.90, that classification did not automatically apply to other importers. It was stressed that consistent classification based on intent and end-use is critical to safeguard revenue.

3.8 The Commissionerate also cautioned that the Importer's strategy raised genuine concerns of duty evasion, given the disparity between the applicable BCD rates—20% under 2309.10.00 and 15% under 2309.90.90. It was argued that such practices, if permitted, would undermine revenue and contravene the statutory framework of customs classification.

3.9 In conclusion, the Commissionerate recommended denial of the Importer's request for classification under CTH 2309.90.90. It was asserted that classification under CTH 2309.10.00 was correct, appropriate, and consistent with the legislative intent, judicial interpretation, and the imperative of preventing revenue leakage.

4. The Applicant further submitted a rejoinder in response to the comments filed by the jurisdictional customs authorities (JNCH) on its application for advance ruling. The Applicant contended that it was not in dispute that the imported goods consisted of pet food for dogs and cats, and that such goods were imported in **bulk packaging without retail labelling** such as MRP, expiry date, or batch number. Post-import, the goods were repackaged into smaller retail-sized units for sale to consumers.

4.1 It was further stated that the entire position adopted by the customs authorities was that the **intended end use**—i.e., retail sale—ought to determine the classification of the goods. As per this view, such products were to be classified under **CTH 2309.10.00** ("Dog or cat food, put up for retail sale").

4.2 The Applicant, however, submitted that this interpretation was erroneous. It asserted that classification must be based on the **form and condition** of the goods **at the time of import**, and not the end use. The determining factor for classification under **CTH 2309.10.00** should be whether the goods, at the time of import, are packaged in a manner intended for **retail sale**, i.e., if they include required consumer-facing details such as MRP, date of manufacture, etc.

4.3 The Applicant emphasized that there was **no reference** in Chapter Notes or the HSN Explanatory Notes to CTH 2309 indicating that classification was to be determined based on the intended post-import use. As such, the approach adopted by the customs authorities lacked any legal basis.



4.4 In support of this position, the Applicant relied on the Supreme Court's judgment in *Dunlop India Ltd. & Madras Rubber Factory Ltd. v. Union of India* [1983 (13) E.L.T. 1566 (SC)], which held that **classification is to be determined at the time of import and use-based reasoning is irrelevant** where the tariff heading contains no reference to use. The relevant extracts of the judgment were cited, particularly where the Court held that condition of the article at the time of importing is the only material factor.

4.5 Further reliance was placed on *Commissioner of Central Excise v. Carrier Aircon Ltd.* [2006 (199) E.L.T. 577 (S.C.)], where the Supreme Court again clarified that classification should depend on the **statutory entry and character of the product**, not the ultimate use by consumers.

4.6 The Applicant also cited the Bombay High Court's ruling in *Hemant Subhas Teke v. Union of India* [2024 (3) TMI 297 (Bom.)], reiterating the principle that **use after import** is not relevant for classification purposes. Several other tribunal and court decisions were cited to the same effect, including rulings in:

- *New India Industries Ltd.* [1994 (73) ELT 723]
- *Shri Ram Refrigeration Industries Ltd.* [1993 (63) ELT 593]
- *Netlon India Ltd.* [2000 (121) ELT 675]
- *Tata Hydro Electric Power Supply* [1996 (83) ELT 642]
- *Mukesh Kumar Agarwal & Co.* [2004 (178) ELT 3]
- *Muller and Phipps (India) Ltd.* [2004 (167) ELT 374]
- *LE Industries* [2005 (180) ELT 409]

4.7 In regard to the department's reliance on *Commissioner of Customs v. Sonam International Shop No.9* [2010 (10) LCX 0014], the Applicant submitted that the case was distinguishable as it dealt with **misdeclaration of goods (Vitamin E powder)** and did not involve interpretation of "retail sale" vis-à-vis packaging at the time of import. Therefore, the decision had limited relevance and could not be applied to the present factual matrix.

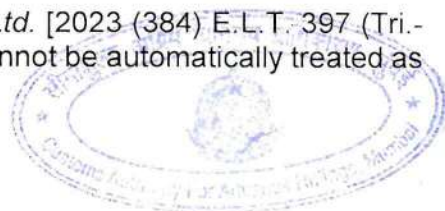
4.8 The Applicant submitted that it was accepted by the customs authorities that the product fell under Heading 2309, which is bifurcated into:

- **CTH 23091000** – Dog or cat food, put up for retail sale; and
- **CTH 230990** – Other

4.9 The customs department contended that, since the goods were eventually sold in the retail market, they should be classified under CTH 23091000, regardless of the packaging at the time of import. This interpretation was again challenged by the Applicant as **legally untenable**.

4.10 The Applicant stressed that the **expression "put up for retail sale"** had not been defined in the Tariff Act, and therefore must be interpreted through the lens of the **Legal Metrology Act and Rules**. As per Rule 2(k) of the Legal Metrology (Packaged Commodities) Rules, a **retail package** must include consumer declarations and be intended for direct sale to end consumers. Therefore, **bulk packages of 20 kg**, which do not contain required declarations, MRP, expiry dates, etc., **cannot be deemed as retail packages**.

4.11 The Applicant referred to *Midas Fertchem Impex Pvt. Ltd.* [2023 (384) E.L.T. 397 (Tri.-Del.)], where CESTAT held that even packages up to 25 kg cannot be automatically treated as



consumer packages, unless supported by **evidence of intended retail use and requisite labeling**. Applying this reasoning, the Applicant submitted that the imported pet food in bulk 20 kg bags, without labeling, clearly fell outside the scope of CTH 23091000.

4.12 Support was also drawn from **CBEC Circular No. 7/88-CX.3**, dated 5 April 1988, where it was clarified that **bulk products** not packaged for retail sale must be classified under **residual headings**, even if their repackaged variants fall under a specific entry. This circular reinforced the principle that classification must reflect the condition of the goods **at the time of import**.

4.13 The Applicant submitted that since the products were not "put up for retail sale," classification under CTH 23091000 must be ruled out. Heading 230990, which covers "other" animal feed preparations, is further sub-classified into:

- **23099010** – Compounded animal feed
- **23099020** – Concentrates for compound feed
- **23099031 to 23099039** – Fish feed
- **23099090** – Others (residual)

4.14 The Applicant stated that the imported pet food is a **compounded mixture of ingredients** such as chicken, rice, oils, and supplements, tailored for specific pet breeds and age groups. Hence, it squarely falls under **CTH 23099010**.

4.15 It was also pointed out that **CTH 23099010 is a specific entry**, and as per settled principles of classification, **a specific entry will always prevail over a residual one** such as CTH 23099090.

4.16 In response to the department's concerns about **potential revenue loss**, the Applicant submitted that once the correct classification was determined based on law and facts, there could be no allegation of evasion. The importer was well within its legal rights to adopt the correct classification for its goods, and there existed **no estoppel in law** against seeking such classification even if different treatment had occurred in the past.

4.17 The Applicant submitted a detailed rebuttal to the specific contentions raised by the Customs authorities. With respect to Point 1, the Applicant has refuted the argument that the "intent for retail sale" determines the appropriate tariff classification, reiterating the settled legal position—supported by judicial precedents cited earlier—that classification must be based solely on the form, nature, and presentation of the goods *at the time of importation*, rather than any subjective intent. In response to Point 2, the Applicant rejected the Department's assertion that packaging labels are irrelevant for classification purposes. It was emphasized that the imported products are in bulk packaging and do not bear declarations such as Maximum Retail Price (MRP) or expiry date, thereby disqualifying them from being treated as "retail packaging" under the Legal Metrology (Packaged Commodities) Rules, 2011. Regarding Point 3, the Applicant argued that the Department's emphasis on "intent at the time of importation" was misplaced, reiterating that classification under the Customs Tariff must rely on the objective characteristics of the goods and not on post-import usage or intended marketing practices.

4.18 In relation to Point 4, the Applicant specifically contested the Department's reliance on the Harmonized System of Nomenclature (HSN) Explanatory Notes and the decision in *Sonam International*, asserting that the cited authorities were factually distinguishable and not applicable in the present case. It was submitted that the products are not imported in a form



suitable for direct retail sale, and therefore, classification under Heading 23091000 is not warranted. On Point 5, while acknowledging that advance rulings are binding only on the parties involved, the Applicant referred to the *Royal Canin* advance ruling as being factually similar and therefore persuasive. Nevertheless, the Applicant maintained that the correct classification of the subject goods lies under **CTH 23099010** (compounded animal feed) and not under **CTH 23099090** (others). Finally, addressing Point 6, the Applicant contended that the Department's allegation of revenue loss was purely speculative. Since the product, in their view, does not fall under Heading 23091000, the question of applying a higher Basic Customs Duty (BCD) does not arise.

4.19 In conclusion, the Applicant reiterated that the pet food imported in **bulk packaging** without retail markings was **not put up for retail sale** and therefore **not classifiable under CTH 23091000**. Instead, it squarely fell under the specific heading **CTH 23099010** as "compounded animal feed" and attracted **15% BCD**.

5. Details of Hearing

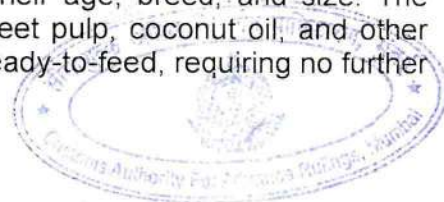
A hearing was conducted on 11.06.2025 at 03:00 pm. Shri Sandeep sachdeva, Advocate appeared for Personal hearing in this matter. He reiterated the contention filed with the application and that the subject import goods are Cat or Dog food to be imported in bulk pack and merit classification under Custom Tariff Heading 2309, more particularly under CTI 2309 9010. The subject goods comprise of ingredients – dehydrated chicken, white rice, maize, peas, chicken fat, salmon oil, flax seeds, beet pulp, chicken protein, etc.) and used as Cat or Dog feed. He also relied upon legal metrology rules – 2011 for differentiating retail sale and whole sale packages. He further relied upon HSN explanatory note to the chapter 23 and CTH 2309 and elaborated explanation of other Preparation/ complete feeds. He also relied upon an advance ruling issued by the authority in the matter of M/s Royal Canine India [2024(390) ELT 530 AAR Cus Mumbai]. Nobody appeared from the department side for personal hearing.

DISCUSSION AND FINDINGS

6. I have taken into consideration all the materials placed before me in respect of the subject goods including all the submissions and citations made by the applicant during the personal hearing as well as the response received from the Jurisdictional Customs Commissionerate. Accordingly, I proceed to pronounce a ruling on the basis of information available on record as well as existing legal framework having bearing on the classification of the goods in question under the first schedule of the Customs Tariff Act, 1975, its corresponding Chapter notes, supplementary notes and relevant HSN explanatory notes.

6.1 The present matter pertains to the customs classification of dry dog and cat feed proposed to be imported by M/s Orange Pet Nutrition Pvt. Ltd., and falls squarely within the purview of Section 28H(2)(a) of the Customs Act, 1962, as it directly relates to the classification of goods under the Customs Tariff. Before determining the appropriate classification, it is essential to examine the applicant's submissions in detail, including the nature, composition, packaging, and intended use of the product.

6.2 The Applicant proposes to import nutritionally complete dry pet food in 20 kg bags, tailored to the specific needs of dogs and cats based on their age, breed, and size. The products comprise dehydrated chicken, rice, maize, peas, beet pulp, coconut oil, and other essential nutrients. These products are fully formulated and ready-to-feed, requiring no further



processing or dilution. While acknowledging that these goods were previously classified under Customs Tariff Heading (CTH) 23091000, the Applicant now seeks reclassification under CTH 23099010, arguing that the 20 kg bulk packages, lacking MRP and other retail declarations, do not satisfy the requirement of being "put up for retail sale" and instead qualify as "compounded animal feed."

6.3 In support of this position, the Applicant relies on the HSN Explanatory Notes to Heading 2309, the Legal Metrology (Packaged Commodities) Rules, 2011, particularly Rule 2(k) and Rule 6(1), BIS Standard IS 2052:2009 (relevant to cattle feed), and a ruling by the Customs Authority for Advance Rulings (CAAR) in the case of Royal Canin. The Applicant contends that the absence of consumer declarations such as MRP and the repackaging of these goods into smaller units, post-import indicate that the product does not qualify as a retail package at the time of import.

6.4 However, a thorough examination of the factual and legal matrix gives a contrary picture. The Customs Tariff Act, 1975, read with the General Rules for Interpretation (GIR) and HSN Explanatory Notes, requires classification based on the objective characteristics and presentation of goods at the time of import. Heading 2309 of Chapter 23 covers "Preparations of a kind used in animal feeding," and its six-digit subheading 230910 specifically includes "Dog or cat food, put up for retail sale." The term "put up for retail sale" necessitates an assessment of whether the goods are in a condition suitable for direct sale to the final consumer at the time of import, which includes analysis of packaging, labelling, presentation and practically feasible.

6.5 The Harmonized System of Nomenclature (HSN) Explanatory Notes to Heading 2309 clarify that pet food qualifies under Subheading 230910 if: (i) it is prepared in a form suitable for direct sale to the consumer; (ii) it provides complete and balanced nutrition for pets; (iii) it is packaged in consumer-friendly units; and (iv) it carries consumer-oriented declarations, including usage instructions, manufacturer/importer details, batch number, and expiry date. Furthermore, under Rule 2(k) of the Legal Metrology (Packaged Commodities) Rules, 2011, a "retail package" is defined as *"a package containing commodity which is produced, distributed, displayed, delivered or stored for sale through retail sales for the purpose of consumption by the individual or a group of individuals and includes the commodities packed for consumption by any institutional consumer or industrial consumer"* and which is required to bear declarations in accordance with Rule 6(1). These declarations include, inter alia, the name and address of the manufacturer/importer, net quantity, month and year of manufacture or packing, retail sale price (MRP), and consumer care contact details. In terms of Rule 3(a) of the said Rules, retail labelling requirements do not apply to packages containing more than 25 kilograms or 25 litres. As the subject goods are packed in 20 kg bags, they do not qualify for the exemption under Rule 3(a) and are consequently mandated to comply with the declaration requirements under Rule 6(1). Rule 2(k) of the Legal Metrology (Packaged Commodities) Rules, 2011 mandates declarations under Rule 6(1), such as Maximum Retail Price (MRP), date of manufacture and expiry, net quantity, manufacturer/importer name and address, usage instructions, and customer care details. Only packages exceeding 25 kilograms or 25 litres are exempt from these labelling requirements under Rule 3. In the present case, the subject goods are imported in 20 kg bags, which clearly fall within the purview of these legal requirements.

6.6 In accordance with General Interpretative Rule 1 (GIR 1) of the Customs Tariff, classification is to be determined based on the terms of the headings and any relevant Section or Chapter Notes. GIR 1 directs that the product must be classified according to its description at the four-digit level and relevant legal notes. In this case, the relevant heading is 2309, which covers "Preparations of a kind used in animal feeding." There are no restrictive notes that would

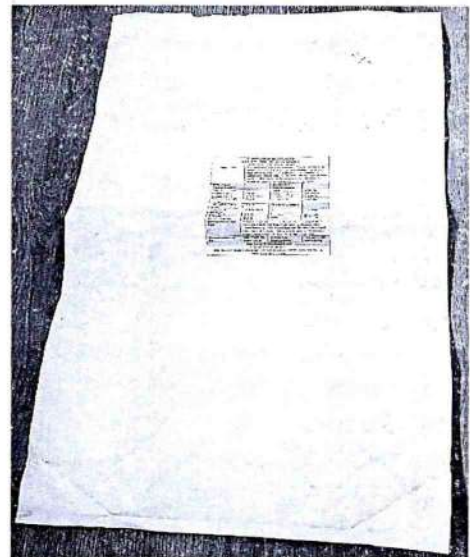


exclude pet food from this heading; on the contrary, the notes support its inclusion. The goods in question—nutritionally balanced pet food—clearly fall within the ambit of this heading.

6.7 Once the appropriate four-digit heading is determined, General Interpretative Rule 6 (GIR 6) governs classification at the subheading and tariff item levels. GIR 6 provides that classification must be made by comparing subheadings at the same hierarchical level and that the principles of GIRs 1 to 5 apply mutatis mutandis. Under Heading 2309, the relevant subheadings for comparison are 230910 and 230990. At the eight-digit level, the competing tariff items are 23091000 (dog or cat food, put up for retail sale) and 23099010 (compounded animal feed).

6.8 The Applicant has submitted product labels under Exhibits 2(a) to 2(m), affixed to each 20 kg pack, which disclose detailed consumer-facing information such as composition, analytical constituents (e.g., protein, fat, fiber), feeding guidelines, instructions for use, batch number, expiry date, and the names and addresses of the manufacturer and importer. Paragraph A.5 of the Applicant's submission further reveals that the nutritional content is varied across products based on specific pet demographics. These features clearly satisfy the criteria outlined in the HSN Explanatory Notes for classification under Subheading 230910—specifically, that the goods are nutritionally complete, packaged for retail consumption, and carry essential consumer information. Additionally, in paragraph A-14 of its submission, the applicant has furnished the following sample copy of the label appearing on the bulk packaging of the subject goods.

PUPPY SMALL & MEDIUM BREED 28/18 NET QTY 20KG- BULK PACKAGING			
Composition:	Dehydrated chicken protein, maize, white rice, peas, chicken fat, hydrolyzed chicken protein, dried beet pulp, flax seed, minerals, salmon oil, dried brewer's yeast, dried chicory (a natural source of FOS and inulin), MOS & beta glucans, coconut oil, dried turmeric, dried basil, dried ginger.		
Analytical Constituents		Analytical Constituents	
Crude Protein	28 %	Additives	(Per kg)
Crude Fat	18 %	Vitamin A	15,000 IU
Crude Fibre	3.5 % Max	Vitamin D 3	1,500 IU
Inorganic Matter	7.0 % Max	Vitamin E	100 mg
Moisture	9.0 %	Trace Elements	
Calcium	1.0 %	Iron	50.0mg
Phosphorous	0.8 %	Copper	10.0 mg
		Zinc	60.0 mg
Instructions for Use	Keep the product in a dry and cool place and be sure the food bag is properly closed after each feeding. The feed has an 18-months shelf life. Give the extruded pellets dry, and ensure that fresh water is available for your pet.		
Manufactured By	See print on packaging	Batch No Expiry date	See print on packaging
Imported & Marketed By			
Orange Pet Nutrition Gat No 47, Opp Holy High School, Next to BASF, 412216 Pune, Maharashtra, India			



6.9 In terms of the General Interpretative Rules, GIR 1 requires classification to be determined according to the terms of the headings and relevant legal notes. The goods clearly fall under Heading 2309 as they are preparations of a kind used in animal feeding. GIR 6 further mandates that classification at subheading levels must apply the same interpretative principles as GIR 1 and be confined to comparison of subheadings at the same level. Between 23091000 and 23099010, the former is both product-specific (dog and cat food) and packaging-specific (put up for retail sale), whereas the latter is a residual category intended for bulk animal feed, such as cattle or poultry feed, typically lacking retail-oriented presentation.

6.10 The applicant's submission that classification under the Customs Tariff must be based solely on the physical form and condition of the goods at the time of import, without consideration of their intended use, presents an incomplete interpretation of the legal framework governing tariff classification. While it is correct that, in principle, classification is to be determined on the basis of the goods in the condition as imported, this does not preclude a contextual examination of the packaging, labelling, and presentation—especially in cases where the tariff heading itself contains terms such as "put up for retail sale," which inherently involve an assessment of intended purpose and presentation.

6.11 Contrary to the applicant's assertion, classification under CTH 2309.10.00 specifically depends on whether the goods are "*put up for retail sale*", a phrase that has been consistently interpreted—as requiring an analysis of not only the packaging size but also the labelling, consumer-facing information, and intended market. The HSN Explanatory notes to Heading 2309 expressly clarifies that pet food falling under subheading 2309.10 must be in a form and package suitable for direct sale to the retail consumer, with accompanying declarations such as instructions for use, expiry date, and manufacturer/importer details. Therefore, where the product is packaged in a form that includes these details—regardless of whether MRP is printed—the objective indicators of retail packaging are clearly present.

6.12 Furthermore, the applicant's own submission reveals that the goods are fully formulated, dry pet food intended for direct feeding to dogs and cats, without any requirement for further processing. This strongly suggests that the product, even in 20 kg packs, is *retail-ready* and not a raw or intermediate input. It is incorrect to suggest that only goods bearing an MRP label or those in small-sized packs can be regarded as "put up for retail sale." The Legal Metrology (Packaged Commodities) Rules, 2011, under Rule 2(k) and Rule 6(1), define and prescribe the characteristics of retail packages, and any package not exceeding 25 kg is presumed to be for retail sale unless otherwise proven. The applicant has not produced any statutory exemption or factual evidence showing that the 20 kg packs are legally precluded from being sold to consumers in the same form.

6.13 Moreover, contextual intent, such as whether the goods are meant for direct consumer use, is a relevant and permissible consideration for classification under headings that incorporate such qualifying terms. In this regard, the applicant's claim that customs has relied on "post-import use" mischaracterizes the argument. The classification is not based on what the importer intends to do after clearance, but rather on whether the goods, in their imported form—size, labelling, and completeness—are *objectively suited for retail sale*. The very existence of detailed product labels containing nutritional information, feeding instructions, batch numbers, expiry dates, and manufacturer/importer details—as submitted by the applicant in Exhibits 2(a) to 2(m)—establishes that the goods are intended and suitable for retail sale.



6.14 I find that the label marked on the package itself reads as: "Keep the product in a dry and cool place and be sure the food bag is properly closed after each feeding. The feed has an 18-month shelf life...". This declaration unequivocally establishes that the package is capable of functioning as a "retail pack," as it is suitable for direct sale and use without the necessity of repacking into smaller units, while retaining its declared shelf life of 18 months. In view thereof, the absence of an MRP on the package does not, by itself, preclude it from being regarded as a retail pack. Accordingly, the applicant's contention that the package cannot be treated as a retail pack merely due to the absence of an MRP is found to be devoid of merit and is not maintainable in law.

6.15 I am accordingly, of the view that, the applicant's attempt to exclude classification under CTH 2309.10.00 by narrowly interpreting the phrase "put up for retail sale" as requiring an MRP or smaller packaging lacks both statutory and interpretive support. The proper approach, consistent with General Interpretative Rules 1 and 6, read with the HSN Explanatory Notes and the Legal Metrology Rules, requires that the goods be classified under Tariff Item 2309.10.00, given their packaging, completeness, and presentation as ready-to-consume pet food suitable for direct sale to the end consumer, will prevail.

6.16 The legal principle of "generalia specialibus non derogant" (the general does not override the specific) is applicable here. The Supreme Court in *CCEx v. Wockhardt Life Sciences Ltd.* [2012 (277) E.L.T. 299 (S.C.)] has affirmed that where a product clearly falls under a specific heading, classification under a general heading is impermissible. Applying this principle, classification under 23091000 is warranted.

6.17 The Applicant's reliance on decisions such as *Dunlop India Ltd.* [1983 (13) E.L.T. 1566 (SC)], *Carrier Aircon Ltd.* [2006 (199) E.L.T. 577 (SC)], and *Hemant Subhas Teke* [2024 (3) TMI 297 (Bom.)] is noted. These rulings affirm the principle that classification is based on the condition of goods at the time of import. However, that condition includes not only physical form but also packaging, labelling, and presentation. The 20 kg packs imported by the Applicant are fully formulated, ready-to-feed pet food, bearing consumer-facing declarations such as nutritional composition, feeding instructions, expiry date, batch number, and manufacturer/importer details. These objective features align with the HSN Explanatory Notes to Heading 2309 and clearly indicate goods "put up for retail sale." The absence of MRP does not detract from this status, especially as the packs fall below the 25 kg exemption threshold under Rule 3(a) of the Legal Metrology (Packaged Commodities) Rules, 2011, and comply with Rule 6(1) labelling requirements.

6.18 The Applicant's interpretation of "put up for retail sale" exclusively through the lens of domestic labelling rules is misplaced. While Rules 2(k) and 6(1) of the Legal Metrology Rules provide guidance, the phrase must be interpreted in accordance with the Harmonized System framework, which emphasizes suitability for direct sale to the consumer rather than compliance with every local labelling formality. The cited *Midas Fertchem* decision is factually distinguishable, as it involved fertilizers lacking consumer declarations and concerned excise exemption, not customs classification. Similarly, CBEC Circular No. 7/88-CX.3 relates to central excise and does not override classification principles under the Customs Tariff where packaging and presentation are legally relevant.

6.19 Therefore, I find that the Applicant's 20 kg packs meet both legal and factual criteria for classification under CTH 23091000. They are complete, consumer-ready pet food bearing detailed declarations, and fall within the statutory scope of "put up for retail sale." Classification



under 23099010, a residual entry for bulk or institutional feed, would be both factually inaccurate and legally unsustainable.

6.20 In view of the foregoing discussions, I find that the correct classification of the imported nutritionally balanced dog and cat feed in 20 kg bags is under CTH 23091000 – "Dog or cat food, put up for retail sale," attracting Basic Customs Duty at applicable rate.

7. Based on the foregoing analysis and findings, the goods in question are appropriately classifiable under Heading 2309 of the First Schedule to the Customs Tariff Act, 1975, which covers "Residues and waste from the food industries; prepared animal fodder". It will find place more specifically under Tariff Item 23091000, which pertains to "Dog or cat food, put up for retail sale."

8. I rule accordingly.

Prabhat K Rameshwaram
4/7/24

(Prabhat K Rameshwaram)
Customs Authority for Advance Rulings,
Mumbai



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

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