athena LAW ASSOCIATES

Athena Knowledge Sharing: AKS | 2021 | 7

HSN CLASSIFICATION: FORTIFIED RICE KERNELS (FRK)

Short Discussion on You Tube: https://youtu.be/_a3UHSkMuk8

ADVANCE RULING MISLEAD THE INDUSTRY AND SHOWN INCORRECT PATH

KNOCKING ON THE DOORS OF GOVERNMENT & GST COUNCIL IS REQUIRED

1. Manufacturers of FRK in the entire industry were classifying the FRK under Chapter Heading 1006 taxable to GST @ 0% (unbranded Rice) & 5% (branded Rice).
2. The Ld. Authority of Advance Ruling (AAR) and Appellate AAR of Rajasthan in the matter of ***JVS Foods*** has held that FRK is not classifiable under Chapter Heading 1006 and classified the FRK under residuary Chapter Heading 1904 taxable to GST @18%.
3. With this an anomaly has arisen among the stake holders i.e. FRK Manufacturers in the industry, FSSAI, FFRC, customers of FRK and the GST investigation authorities, on HSN classification of FRK.
4. As per our detailed analysis FRK is correctly classifiable under Chapter Heading 1103 and GST @ 0% (unbranded Fortified Rice Pellets) and 5% (branded Fortified Rice Pellets).
5. Fitment Committee of GST Council is also clear that fortified staple foods shall fall under Chapter 10 & 11 [As can be seen from their list of goods put forth before GST Council].
6. Chapter Note 4 to Chapter 19 of the Customs Tariff Act relied upon by both the authorities clearly specify that for the purposes of heading 1904, the expression 'otherwise prepared' means prepared or processed to an extent beyond that provided for in the headings of, or Notes to, Chapter 10 or 11.
7. Both, AAR and AAAR has analyzed Chapter Heading 1006 and not found it appropriate for FRK. However, with due respect to parties of Advance Ruling, no discussion has been done on Chapter 11 by either of the side in entire Advance Ruling proceedings. Thus,

unfortunately Chapter 11 has not been discussed in entire Advance Ruling Proceedings and erroneous conclusion has been drawn.

8. FRK is classifiable more appropriately under Chapter Heading 1103, thus, it would be clearly outside the scope of Chapter Heading 1904.

9. Unfortunately, FFRC setup by FSSAI has also issued a guideline to Industry for applying HSN Code 1904 based on Advance Ruling in the matter of JVS Foods.

10. Athena Law Associates and Archana Jain & Co. jointly put an effort and filed the Representation before CBIC, GST Council and Finance Ministry to issue a clarification on the correct classification of FRK under Chapter Heading 1103 for the benefit of the industry and public at large who are the consumers of FRK.

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