

**APPELLATE AUTHORITY FOR ADVANCE RULING**  
**CHHATTISGARH**

3<sup>RD</sup> & 4<sup>TH</sup> FLOOR, VANIJYIK KAR (GST) BHAWAN, SECTOR-19,  
NAVA RAIPUR ATAL NAGAR, (C.G.) 492002

**PROCEEDINGS OF THE APPELLATE AUTHORITY FOR ADVANCE**  
**RULING U/s 101 OF THE CHHATTISGARH GOODS AND SERVICES**  
**TAX ACT, 2017**

**BEFORE THE BENCH OF**

- (1) Shri Chandra Prakash Goyal, Member  
(2) Shri Rajat Bansal, Member

Order No. /STC/CG/AAAR/01/2023

Dated 26/04/2024

Name & Address of the Appellant M/s Brindavan Agrotech Private Limited, DSC  
Unit No-318, Second Floor, DLF South Court  
Building, Saket, South Delhi, 110017

GSTIN/User ID 22720000041000AR1

Order of AAR under Appeal STC AAR 10/2022 dated 20.02.2023  
before AAAR

**PROCEEDINGS**

[Under Section 101 of the Central Goods & Services Tax Act, 2017 and  
Chhattisgarh Goods & Services Tax Act, 2017]

1. At the outset, we would like to make it clear that the provisions of the Central Goods & Services Tax Act, 2017 (here-in-after referred to as the "CGST Act") & the Chhattisgarh Goods & Services Tax Act, 2017 (here-in-after referred to as the "SGST Act" or "CGGST Act") are mirror images of each other except for certain specific provisions. Therefore, unless a specific mention is made, a reference to the CGST Act would mean a reference to the similar provisions under the CGGST Act and vice versa. Further, the expression 'GST Act' would be a common reference to both CGST Act and CGGST Act.

2. The present appeal dated 21.03.2023 has been filed under Section 100 of the CGGST Act, 2017.





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3. Brief Facts of the case:-

3.1 The Appellant is a private limited company which is planning to start manufacturing and sale of a product namely pellets of blended fortified rice flour which is also commonly known as "Fortified Rice Kernels" (hereinafter referred as "product"/ "FRK") in the common trade parlance.

3.2 Accordingly, the appellant had applied for advance ruling on 23.11.2022 before AAR, Chhattisgarh on the following issues:-

- (i) What is the HSN classification of Fortified Rice Kernels (FRK)?
- (ii) What is the applicable rate of GST on supply of the said Products?

4. AAR Ruling :-

The Authority of Advance Ruling (hereinafter referred as "AAR") vide Order No. *STC/AAR/10/2022 dated 20.02.2023* held as under:

*"Fortified Rice Kernels (FRK) proposed to be manufactured by the applicant M/s. Brindavan Agrotech Private Limited, DSC Unit no. 318, Second Floor, DLF South Court Building, Saket, South Delhi 110017, an unregistered unit having User ID- 222200000100ART merits classification under chapter subheading 19049000, attracting GST at 18% [9% CGST + 9% SGST] or (18% IGST) as the case may be."*

5. Grounds of Appeal :-

5.1 Aggrieved by the Order of AAR, the appellant has filed this appeal dated 21.03.2023 under Section 100 of the CGST Act, 2017, on the following grounds:-

(i) It can be concluded from the chapter notes under Chapter 10 of the Customs Tariff Act and explanatory notes as issued by World Customs Organization, milling of rice up to the stage of processing of paddy to obtain rice is covered under Chapter 10 and the said milled rice shall be classifiable under CTH 1006. Further, the product obtained by any further specified processing, carried out on such milled rice is classifiable under Chapter 11.

(ii) Further, if rice flour used in fortification process contains starch more than 45%; ash content less than 1.6 % and if the rice flour passes through a woven metal wire cloth sieve with an aperture of 315 microns, then, in light of the Chapter Note 2(A) and 2(B) of Custom Tariff Act, Rice Flour (i.e., product of Rice) falls under Chapter 11 under CTH 1102. The test lab report from the





authorised laboratories confirms that our product met the parameters of Chapter heading 1102.

(iii) The quantity of vitamins and minerals which are to be added in rice flour to prepare FRK as per FSSAI Regulations is very small and is merely 0.37% in our case, as per test reports. Therefore, in our view, Rice flour with added minerals and vitamins in small quantities are the product from milling of Rice classifiable under Chapter Heading 1102.

(iv) Chapter heading 1103 covers the cereal pellets. Explanatory Notes [as issued by World Customs Organization] provides as under –

*"Pellets are products from milling of cereals of this Chapter which have been agglomerated either directly by compression or by the addition of a binder in a proportion not exceeding 3% by weight (See Note 1 to Section II). The heading does not cover pelletised residues derived from the milling of cereals (Chapter 23)"*

In our case, the extruder machine uses only 0.5% or less binder for converting Rice into FRK. In light of the above, the pellets of blended Fortified Rice Flour which are also commonly known as 'Fortified Rice Kernel (FRK)' fall under Chapter Heading 1103 Customs Tariff Act.

(v) It is to note that the entire process of manufacturing FRK as detailed above is well covered within the parameters provided under the headings & sub-headings of Chapter 11. Further, Chapter Note 4 to Chapter 19 also is very clear & unambiguous terms provides that for the purposes of heading 1904, the expression otherwise prepared would mean processed beyond the parameters provided under Chapter 11. It is further submitted that explanatory notes to Chapter Heading 19.04 [as issued by World Customs Organisation] clearly provides that this heading does not cover cereal grains merely worked or treated by the processes specified in Chapter 10 or Chapter 11. Hence, FRK being worked or treated by the processes specified in Chapter 11 and not beyond the said specified process of Chapter 11, cannot not be at all classifiable under Chapter Heading 1904.

(vi) Thus, pellets of blended fortified rice flour which are commonly known as Fortified Rice Kernels (FRK) falling under Chapter Heading 1103 are subject to GST as under:

(a) Taxable at the rate of 5% GST under Entry Number 56 of Schedule I of Notification No. 1/2017-Central Tax (Rate), dated 28.06.2017, if pre-packaged and labelled, or

(b) Exempted under Entry Number 75 of Notification No. 2/2017- Central Tax (Rate), dated 28.06.2017, if not pre-packaged and labelled.





(vii) The Ld. Authority has completely ruled out the said submissions of the Appellant by a mere bald statement that the processes carried out by the Appellant are a post milling activity and therefore will not be included in Chapter 11. It is to note that the Ld. Authority has not given any cogent reason as to why the processes carried out by the Appellant are different from those provided under the said Chapter 11.

(viii) The Ld. Authority has relied upon the recommendation made in the 45<sup>th</sup> GST Council Meeting wherein the Council had inter alia recommended the lowering of rate of GST from 18% to 5% on FRK supplied for schemes like ICDS, etc. It is submitted that the GST Council in the Agenda for the 45<sup>th</sup> Council meeting has only considered the proposal of fitment committee for reduction of tax rate and accepted the same. It is to note that there was no discussion whatsoever pertaining to the classification of the said product in the meeting or the agenda for the said meeting. Therefore, it cannot be considered that the GST Council has discussed or accepted any proposal with respect to classification of the said product. This reliance placed by the Ld. Authority on the said GST Council meeting & its agenda bears no relevance in the present case.

#### 6. Personal Hearing:-

6.1 Keeping with the established principles of natural justice, a virtual personal hearing in the matter was granted to the appellant on 21.02.2024. Accordingly, Shri. Brijesh Gupta, Director, Shri. Pawan Arora, Chartered Accountant & Smt. Kavita, Chartered Accountant the authorized representative of the appellant appeared and reiterated their contention as submitted in their application dated 21.03.2023. During the personal hearing following questions were asked in order to understand the case better:

Questions asked by members	Replies given by the appellant
When did the appellant started working?	Not yet in Chhattisgarh
Are you working in any other state also?	Yes in Uttar Pradesh but under different name and management.
What classification and tax rate are you using there in Uttar Pradesh?	Classification 1103 Tax Rate = 5%
Is there any SCN issued to your firm in UP on this subject?	Not in our knowledge
Did you apply for any Advance Ruling in UP?	No
Are you going to be sole manufacturer of Fortified Rice Kernels in Chhattisgarh?	Probably, Yes. There is nobody





	else in our knowledge.
Whom will you supply your product?	We will supply it to the Government.

6.2 Further, the appellant has also submitted a video of manufacturing process of FRK and a Certificate issued by Manufacturer of Machinery vide email dated 23.02.2024.

## 7. Discussion and Findings: -

7.1 Accordingly, after careful consideration of the case, ruling of the AAR, relevant rules, regulations and notifications there-under, various statutory guidelines having bearing on the issue in hand, raised by the appellant, we proceed to decide the case in accordance with the law. Further, in the present case we are not deciding any wider question but restricting our conclusion to the facts and circumstances which were filed for our consideration in the application.

7.2 Now, therefore, we have carefully gone through the submissions made by the appellant in his application as well as the submissions made at the time of personal hearing. The appellant has requested to set aside the order of the advance ruling on dated 21.02.2023 and to classify FRK under Chapter Heading 1103.

7.3 As regards to the classification, we would like to firstly go through the Note 2 of Chapter 11 of the Customs Tariff Act which read as under:-

*"2. (A) Products from the milling of the cereals listed in the table below fall in this Chapter if they have, by weight on the dry product*

*a) a starch content (determined by the modified Ewers polarimetric method) exceeding that indicated in column (2); and*

*b) an ash content (after deduction of any added minerals) not exceeding that indicated in column (3)*

*Otherwise, they fall in heading 2302. However, germ of cereals, whole, rolled, flaked or ground, is always classified in heading 1104*

*(B) Products falling in this Chapter under the above provisions shall be classified in heading 1101 or 1102 if the percentage passing through a woven metal wire cloth sieve with the aperture indicated in column (4) or (5) is not less, by weight, than that shown against the cereal concerned.*

*Otherwise, they fall in heading 1103 or 1104."*





7.4 On perusal of the above said Note 2, we find that to fulfil these conditions a product should be from the milling of Cereals so as to fall under chapter 11. Further, the Chapter heading of Chapter 11 itself reads as "Products of the milling industry: malt; starches; inulin; wheat gluten".

7.5 Rice Milling Process includes processes like paddy cleaning, paddy de-husking, paddy separation, rice whitening, rice polishing, rice grading, rice colour sorting, etc. Thus, the main aim of milling is to remove the rice from the husk. This is an admission of fact by the appellant that FRK is a product different from the traditional rice and to be used for blending in traditional rice. Further, as per the applicant the process to fortify rice consists of three main steps as mentioned under:-

- (a) Conversion of rice into rice flour.
- (b) Blending of rice flour and Vitamins-Minerals premix.
- (c) Extrusion of mixture in shape of rice to form pellets of blended fortified rice flour having the same composition as of rice with addition of Vitamins-Minerals premix.

7.6 In our view, the product at the end of first step, as mentioned above, if done by using milling process is covered under Chapter 11 of Customs Tariff Act. Blending of Rice with vitamin-mineral premix and introduction of binder and extrusion machine are the processes which fall beyond Chapter 11. The Advance Ruling is appropriate in this regard and needs no interference.

7.7 Before dwelling into the issue, the Notification No. 39/2017- Central Tax (Rate), dated 18.10.2017 has to be examined carefully. For a clear perspective, the same is reproduced as under:-

*"In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the central tax rate of 2.5 per cent on intra-State supplies of goods, the description of which is specified in column (3) of the Table below, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2), subject to the condition specified in column (4) of the Table below, namely:-*

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description of Goods	Condition



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(1)	(2)	(3)	(4)
1.	19 or 21	Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government.	When the supplier of such food preparations produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory concerned to the effect that such food preparations have been distributed free to the economically weaker sections of the society under a programme duly approved by the Central Government or the State Government concerned, within a period of five months from the date of supply of such goods or within such further period as the jurisdictional commissioner of the Central tax or jurisdictional commissioner of the State tax, or jurisdictional officer of the Union Territory Tax as the case maybe, may allow in this regard.

7.8 The above notification stands amended vide Notification No. 11/2021-Central Tax (Rate), dated 30.09.2021, effective from 01.10.2021. Thus, 01.10.2021 onwards, the table of Notification No. 39/2017- Central Tax (Rate), dated 18.10.2017 as amended is as follows :

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description of Goods	Condition
(1)	(2)	(3)	(4)



1.	19 or 21	<p>(a) Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government.</p> <p>(b) Fortified Rice Kernel (Premix) supply for ICDS or similar scheme duly approved by the Central Government or any State Government.</p>	<p>When the supplier of such goods produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory concerned to the effect that such goods have been distributed free to the economically weaker sections of the society under a programme duly by the Central Government or the State Government concerned, within a period of five months from the date of supply of such goods or within such further period as the jurisdictional commissioner of the Central tax or jurisdictional commissioner of the State tax, or jurisdictional officer of the Union Territory Tax as the case maybe, may allow in this regard.</p>
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7.9 On perusal of the above, it can be clearly seen that the intention of the Government is to keep FRK under Chapter 19 of the Customs Tariff Act and not under Chapter 11 as per the contention of the noticee. The recommendation made in the 45<sup>th</sup> GST Council Meeting wherein the Council had inter alia recommended the lowering of rate of GST from 18% to 5% on FRK supplied for schemes like ICDS, etc., stands affirmed by the Notification No. 11/2021-C.T. (Rate), dated 30th September, 2021 in the official Gazette wherein "Tariff item, sub- heading, heading or Chapter" has been clearly mentioned. Further, once the Government, vide Notification, has clarified the classification there is no scope left for interpretation.

7.10 Further, to substantiate our view, the relevant extracts of Note 4 to Chapter 19 is reproduced as below:-

"4. 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"



11/10/23

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7.10 The above note comprehensively puts the process or preparation of rice which are beyond the scope of Chapter 10 or 11, to be included in Chapter heading 1904. While going through the submissions, it is clearly evident that normal rice has undergone specific mechanical and chemical processing resulting into FRK. This preparation/ process of FRK is way beyond the scope mandated under Chapter 10 or 11 of GST Tariff (i.e. husked, milled, polished, glazed, parboiled or broken) and is appropriately classifiable under Chapter 19. Therefore, though FRK is shaped in form of rice by the mechanized process but it is not rice grain in terms of Chapter 11.

7.12 In view of above, we arrive at the conclusion that the FRK manufactured by the appellant has been processed beyond the allowed limits of Chapter 11 (as discussed above) and is appropriately classifiable under Chapter 19 i.e. under Chapter sub-heading 1904 90 00 in terms of Chapter Note 4 of the said Chapter.

### Rulings

We find no infirmity in the Order dated 20.02.2023 passed by the AAR regarding classification of FRK. Further, the appellant is entitled to take the benefit of Notification No. 39/2017- Central Tax (Rate), dated 18-10-2017, as amended by Notification No. 11/2021- Central Tax (Rate), dated 30-9-2021, subject to fulfilment of the conditions stipulated under the said Notification.

Chandra Prakash Goyal  
(Member)

Chhattisgarh Appellate Authority

Rajat Bansal  
(Member)

Chhattisgarh Appellate Authority

Order No. /STC/CG/AAAR/01/2023

Dated - 26/04/2024

Copy to :-

- (1) The appellant
- (2) The AAR, Chhattisgarh
- (3) The Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
- (4) The Commissioner of State Tax, Chhattisgarh.
- (5) Office copy.



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MEMBER  
APPELLATE AUTHORITY FOR  
ADVANCE RULING CHHATTISGARH