


GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHIRAM ROAD, AHMEDABAD:380009	
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ADVANCE RULING (APPEAL) NO. GUJ/GAAR/APPEAL/2025/01
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/17)

Date : 22.01.2025

Name and address of the appellant	:	M/s. Ramdev Food Products Pvt. Ltd., Spice World, Sarkhej-Bavla Highway, Changodar, Ahmedabad- 382 213.
GSTIN of the appellant	:	24AABCR2887G1ZB
Jurisdiction Office	:	Office of the Assistant Commissioner of State Tax, Unit-11, Division-1, Range-3, Ahmedabad.
Advance Ruling No. and Date	:	GUJ/GAAR/R/29/2021 dated 19.7.2021
Date of appeal	:	27.08.2021
Date of Personal Hearing	:	08.11.2024
Present for the appellant	:	Shri Hardik Bhatt, (Senior Manager)

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017' and 'GGST Act, 2017') are *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. The present appeal has been filed under section 100 of the CGST Act, 2017 and the GGST Act, 2017 by M/s. Ramdev Food Products Pvt. Ltd., Spice World, Sarkhej-Bavla Highway, Changodar, Ahmedabad- 382 213 [hereinafter referred to as 'appellant'] against the Advance Ruling No. GUJ/GAAR/R/29/2021 dated 19.7.2021, passed by the Gujarat Authority for Advance Ruling [GAAR].

3. The facts briefly are that the appellant is engaged in the business of manufacture and supply of the below mentioned ten instant mix flours *viz*

Dalwada instant mix flour	Pizza instant mix flour
Dahiwada instant mix flour	Handvo instant mix flour
Idli instant mix flour	Gota instant mix flour + chutney powder
Dhokla instant mix flour	Methi Gota instant mix flour + kadhi powder
Dhosa instant mix flour	Khaman instant mix flour + masala pack



which as per the appellant are not in 'ready to eat' but in 'ready to cook' form under their registered brand name.

4. Before the GAAR, the appellant submitted that the below mentioned process is undertaken for manufacturing & selling the above products, viz:

- that they purchase food grains and pulses from vendors.
- that such food grains/pulses are fumigated and cleaned for removal of wastage.
- that food grains/pulses are then grinded and converted into flour.
- that flour is sieved for removal of impurities.
- that flour is then mixed with other ancillary ingredients such as salt, spices, etc. The proportion of flour in most of the instant mixes is ranging from 70% to 90%.
- that flour mix is then subjected to quality inspection and testing.
- that flour mix is thereafter packaged and stored for dispatch.

5. The appellant, before the GAAR also submitted the table showing constituent components of instant mix flours viz:

Sr. No.	Product Name	(A) Dried Leguminous Vegetable Flours				(B) Rice & Wheat Flours				Total Flours (A+B) (%)	(C) Additives		(D) Spices		Total (A+B+C+D) (%)
		Bengal Gram (Chana Dal) (%)	Black Gram (Udad Dal) (%)	Green Gram (Moong Dal) /Red Gram (Toor Dal)%	Total (%)	Rice Flour (%)	Refined Wheat Flour (%)	Wheat Flour (%)	Total (%)		Additives (%)	Name of Additives	Spices (%)	Name of Spices	
1	Gota Instant Mix Flour 400 gm (including chutney powder of 40 gm)	66.60			66.60				0.00	66.60	25.60	Sugar, Iodised Salt, Raising agent (Sodium bicarbonate INS 500(ii)), Acidity regulator (Citric acid INS 330)	7.80	Chilli Powder, Garam Masala Powder, Black Pepper Crushed, Coriander Crushed, Ajwain, Fennel	100.00
1A	Chutney Powder 40 gm											Crushed Sugar, Iodised Salt, Acidity regulator (Citric acid INS 330)		Amchur Powder, Chilli Powder, Cumin Powder, Coriander Powder	
2	Khaman Instant Mix Flour 400 gm (including masala pack of 15 gm)	88.95			88.95				0.00	88.95	11.05	Iodised Salt, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	Nil	N.A.	100.00
2A	Masala Pack 15 gm											Raising agent (Sodium bicarbonate INS 500(ii))			
3	Dalwada Instant Mix Flour 400 gm			92.00	92.00				0.00	92.00	7.25	Iodised Salt, Raising agent (Sodium bicarbonate INS 500(ii)), Acidity regulator (Citric acid INS 330)	0.75	Compounded Asafoetida, Cumin	100.00



4	Dahiwada Instant Mix Flour 400 gm		85.00	8.50	93.50			0.00	93.50	6.50	Iodised Salt, Raising agent (Sodium bicarbonate INS 500(ii)), Acidity regulator (Citric acid INS 330)	Nil	N.A.	100.0 0	
5	Idli Instant Mix Flour 400 gm		27.00		27.00	66.00		66.00	93.00	7.00	Iodised Salt, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	Nil	N.A.	100.0 0	
6	Dhokla Instant Mix Flour 400 gm	15.00	12.00		27.00	60.50		60.50	87.50	12.50	Sugar, Iodised Salt, Raising agent (Sodium bicarbonate INS 500(ii)), Acidity regulator (Citric acid INS 330)	Nil	N.A.	100.0 0	
7	Dhosa Instant Mix Flour 400 gm		20.00		20.00	59.00	15.50	74.50	94.50	5.50	Iodised Salt, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	Nil	N.A.	100.0 0	
8	Pizza Instant Mix Flour 400 gm				0.00		75.50	75.50	75.50	24.50	Hydrogenated Vegetable Oil, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	Nil	N.A.	100.0 0	
9	Methi Gota Instant Mix Flour 400 gm (including kadhli powder of 40 gm)	70.75			70.75			0.00	70.75	22.00	Iodised Salt, Acidity regulator (Citric acid INS 330), Sugar, Raising agent (Sodium bicarbonate INS 500(ii))	7.25	Dry Fenugreek Leaves (Kasuri Methi), Coriander Crushed, Black Pepper Crushed, Turmeric Powder, Chilli Powder, Compounded Asafoetida, Garam Masala Powder, Ajwain	100.0 0	
9A	Kadhi Powder 40 gm										Crushed Sugar, Iodised Salt, Hydrogenated Vegetable Oil, Acidity regulator (Citric acid INS 330)		White Chilli Powder, Mustard Seed, Turmeric Powder, Fresh Curry Leaves, Compounded Asafoetida		
10	Handvo Instant Mix Flour 400 gm	15.00	8.00	15.00	38.00	33.00		8.00	41.00	79.00	19.00	Sugar, Iodised Salt, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	2.00	Chilli Powder, Turmeric Powder	100.0 0

6. The manufacturing process adopted was provided in the form of a flow chart reproduced at para 4 of the impugned ruling.



7. The appellant further submitted that the instant flour mix retained its identity as flour and therefore is classifiable under heading 1101, 1102 or 1106 as the case may be based on the dominant flour component.

8. In view of the foregoing, the appellant raised the following question before the GAAR viz:

- a) *What is the applicable rate of tax under the GST Acts on supply of instant mix flours for gota, khaman, dalwada, dahiwada, idli, dhokla, dhosa, pizza, methi gota and handvo?*
- b) *What is the applicable rate of tax under the GST Acts on supply of instant mix flour for gota/methi gota along with chutney powder/kadhi chutney powder?*
- c) *What is the applicable rate of tax under the GST Acts on supply of khaman along with masala pack?*

9. Vide the aforementioned impugned order dated 19.7.2021, the GAAR ruled as follows viz:

Ruling

- a) *The subject 10 goods merit classification at IISN. 2106 90 attracting 18% GST (9% CGST+ 9% SGST) as per Sl. No. 23 of Schedule-III to the Notification No.01/2017-Central Tax (Rate) dated 28-6-17.*
- b) *The mixed supply of Instant mix flour of Gota/Methi Gota with Chutney powder/Kadi Chutney powder shall be treated as supply of Instant Gota Mix Flour/Instant Methi Gota Mix Flour respectively (falling under IISN 2106 90) on which the GST liability will be 18%(9% CGST + 9% SGST).*
- c) *The mixed supply of Instant mix flour of Khaman and masala pack shall be treated as supply of Instant Mix Flour of Khaman (falling under IISN 2106 90) on which the GST liability will be 18% (9% CGST + 9% SGST).*

10. For arriving at the aforementioned ruling, the GAAR, gave the below mentioned findings viz:

- the reliance on VAT Determination order and the case laws cited by the applicant pertaining to VAT regime does not hold ground since GST classification is based on IISN which was not the case with the Schedule-I of the Gujarat Value Added Tax Act, 2003.
- that as far as instant mix flours of Khaman, Gota, Dalwada, Dahiwada and Methi Gota is concerned, inspection revealed that each of the packet is marked 'Instant Mix';
- the proportion of spices and additives contained in the above products ranges from 5% to 33.4%; that the products contain spices and additives in different proportions not mentioned in the Chapter Heading 11.06 or the relevant Explanatory Notes of IISN; that this is not the case of addition of very small amounts of additives;
- that in terms of explanatory notes of IISN in respect of heading 1101 & 1102, flours which have been further processed or had other substances added with a view to their use as food preparations are excluded; that if other substances (other than specified substances) are added to the flours with a view to use as 'food preparations', then the same gets excluded from the heading 1101 or 1102;



- that products being supplied by the applicant contain spices and additives apart from flour of dried leguminous vegetables, rice and wheat, in different proportions;
- that the difference between idli/dhosa instant mixes and idli/dhosa batters is understood from the images of idli/dhosa batters, reproduced in the impugned ruling; that instant mix of idli/dhosa are not idli/dhosa batters and therefore does not get covered under entry 1102;
- that heading 2106 is not confined to processed or semi processed food, cooked or semi cooked food, preserved food and ready to eat food;
- that gotas/methi gotas and chutney powder/kadhi chutney powder supply is not naturally bundled and the supply is for a single price; that the supply of Khaman instant mix flour with masala pack is not naturally bundled and the supply is for a single price & hence these supplies fall under mixed supply.

11. Feeling aggrieved, the appellant is before us *i.e.* Gujarat Appellate Authority for Advance Ruling [GAAAR] raising the following averments *viz*

- that the instant flour mix retained its identity as flour & therefore it is classifiable under heading 1101, 1102 or 1106;
- that proportion of flour and additives in the instant mixes ranges from 92.20% to 100%;
- that there is no specific tariff heading under which instant flour mix can fall;
- that instant flour mix being a mixture of various products would fall under 1101, 1102 and 1106 in view of Rule 3(b) of the General Rules of Interpretation;
- that instant mix supplied with chutney, kadhi, are composite supply these being naturally bundled and hence is classifiable under the heading for the principal supply;
- that instant mix flour of idli/dhosa batter fall under specific entry 100A schedule I to notification No. 1/2017 leviable to GST @ 5%;
- that entry 23 of Schedule III of notification No. 1/2017-CT (R), is a residuary entry for food preparations; that to qualify as food preparation under HSN 2106, the product by itself should be for use for human consumption; that instant flour mix cannot be directly processed for use but they are first required to be mixed with water, oil, etc & thereafter it is processed for use;
- that the essential character of the instant flour mix is flour and not the additives added to it;
- that the major component of cost and price of the instant flour mix is flour and price of spices and additives is very negligible;
- that by adding water to idli & dhosa mix, these can be prepared as is being prepared from their batter; that therefore the distinction drawn by the AAR is too narrow;
- the ruling of the AAR holding the flour to be falling under entry 23 of schedule III of notification No. 1/2017-CT (R), is not correct since these cannot be straight away cooked for preparing food articles for human consumption;
- that AAR has erred in classifying instant mix on the grounds that it contains spices.

In view of the aforementioned averments, the appellant stated that the ten products as listed in paragraph 3 *supra* are liable to GST @ 5% [2.5% CGST & 2.5 % SGST].

12. Personal hearing in the matter was held on 08.11.2024 wherein Shri Hardik Bhatt, CA, appeared on behalf of the appellant. He reiterated the written submissions made in the appeal. During the course of personal hearing, the appellant submitted additional submissions raising the following averments *viz*



- that even though various ingredients are added to flour as additives, it has been clarified in circular No. 80/54/2018-GST dated 31.12.2018, that 'sattu', falls under IISN code 1106 & is leviable to GST @ 5%;
- that they would like to rely on the case of IOC¹, wherein the Hon'ble SC held that officers cannot argue the case against circular issued by the Board;
- that Idli, Dhosa, Khaman, Dahiwada and Dhokla are mixture of flours like Black Gram (Urad Dal) and/or Rice and/or Refined Wheat Flour and/or Bengal Gram (Chana Dal) and/or Green Gram (Moong Dal)" with addition of very small amount of "additives like iodized Salt and/or Sugar and/or Acidity regulator (Citric acid INS 330) and/or Raising agent (Sodium bicarbonate INS 500(ii)); that it does not contain any spices and hence should be covered as Flours under Chapter 11 & be leviable to GST @ 5%;
- that they would like to rely on the case of Satnam Overseas Limited²;
- that form of product is not determinative of its classification; that by adding water to idli/dhosa instant mix, batter can be prepared; that denying the benefit of entry 100A of schedule I in respect of GST @ 5%, would frustrate the purpose.
- the table showing constituent components of five (5) instant mix flours (without spices) is as under viz

Sr. No.	Name of Product	Name of Flours	Name of Additives	Flours + Additives (%)=(A)	Name of Spices	Spices (%)=(B)	Total % (C=A+B)
1	Idli Instant Mix Flour 400 gm	Black Gram (Urad Dal), Rice	Iodised Salt, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	100.00	N.A.	Nil	100.00
2	Dhosa Instant Mix Flour 400 gm	Black Gram (Urad Dal), Rice, Refined Wheat Flour	Iodised Salt, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	100.00	N.A.	Nil	100.00
3	Khaman Instant Mix Flour 400 gm (including masala pack of 15 gm)	Bengal Gram (Chana Dal)	Iodised Salt, Acidity regulator (Citric acid INS 330), Raising agent (Sodium bicarbonate INS 500(ii))	100.00	N.A.	Nil	100.00
3A	Masala Pack 15 gm		Raising agent (Sodium bicarbonate INS 500(ii))				
4	Dahiwada Instant Mix Flour 400 gm	Black Gram (Urad Dal), Green Gram (Moong Dal)	Iodised Salt, Raising agent (Sodium bicarbonate INS 500(ii)), Acidity regulator (Citric acid INS 330)	100.00	N.A.	Nil	100.00
5	Dhokla Instant Mix Flour 400 gm	Bengal Gram (Chana Dal), Black Gram (Urad Dal), Rice	Sugar, Iodised Salt, Raising agent (Sodium bicarbonate INS 500(ii)), Acidity regulator (Citric acid INS 330)	100.00	N.A.	Nil	100.00

13. We have carefully gone through and considered the appeal filed by the appellant, their written/oral submissions and additional submissions made during the course of personal hearing and the impugned ruling dated 19.7.2021.

14. The issue involved in this case is regarding proper classification and determination of rate of tax in respect of the ten items listed in paragraph 3 above. As is already mentioned *supra*, GAAR has held that the

¹ MANU/SC/0142/2004

² MANU/SC/0419/2015



aforementioned products are classifiable under HSN 2106 90 (Others) attracting 18% GST (9% CGST and 9% SGST).

15. We find that the appellant in his averments has stated that the product would fall under HSN 1101, 1102 or 1106.

16. Before dwelling on to the issue, we would like to reproduce relevant portions of chapter heading, circular/clarification & notification for ease of reference viz

1101 00 00 WHEAT OR MESLIN FLOUR

1102 CEREAL FLOURS OTHER THAN THAT OF WHEAT OR MESLIN

1102 20 00-- Maize (corn) flour

1102 90 Other:

1102 90 10---Rye flour

1102 90 90---Other

Explanatory notes to HSN in respect of Headings 1101, 1102 and 1106 read as under:

11.01 Wheat or meslin flour

This heading covers wheat or meslin flour (i.e. the pulverised products obtained by milling the cereals of heading 10.01) which fulfil the requirements as to starch content and ash content set out in paragraph (A) of Chapter Note 2 (see General Explanatory Note) and comply with the criterion of passage through a standard sieve as required by paragraph (B) of that Note. Flours of this heading may be improved by the addition of very small quantities of mineral phosphates, anti-oxidants, emulsifiers, vitamins or prepared baking powders (self raising flour) Wheat flour may be further enriched by an addition of gluten, generally not exceeding 10%. The heading also covers swelling (pregelatinised) flours which have been heat treated to pregelatinise the starch. They are used for making preparations of heading 19.01, bakery improvers or animal feeds or in certain industries such as the textile or paper industries or in metallurgy (for the preparation of foundry core binders). Flours which have been further processed or had other substances added with a view to their use as food preparations are excluded (generally heading 19.01). This heading also excludes flours mixed with cocoa (heading 18.06 if they contain 40% or more by weight of cocoa calculated on a totally defatted basis, or heading 19.01, if less)

11.02 Cereal flours other than of wheat or meslin.

This heading covers flours (i.e. the pulverised products obtained by milling the cereals of chapter 10) other than flours of wheat or meslin. Products of the milling of rye, barley, oats, maize (corn) (including whole cobs ground with or without their husks) grain sorghum, rice or buckwheat are classified in this heading as flours if they fulfil the requirements as to starch content and ash content set out in paragraph (A) of Chapter Note 2 (see General Explanatory Note) and comply with the criterion of passage through a standard sieve as required by paragraph (B) of that Note. Flours of this heading may be improved by the addition of very small quantities of mineral phosphates, anti-oxidants, emulsifiers, vitamins or prepared baking powders (self raising flour). The heading also covers swelling (pregelatinised)

flours which have been heat-treated to pregelatinise the starch. They are used for making preparations of heading 19.01, bakery improvers or animal feeds or in certain industries such as the textile or paper industries or in metallurgy (for the preparation of foundry core binders). Flours which have been further processed or had other substances added with a view to their use as food preparations are excluded (generally heading 19.01). This heading also excludes flours mixed with cocoa (heading 18.06 if they contain 40% or more by weight of cocoa calculated on a totally defatted basis, or heading 19.01, if less).

11.06 - Flour, meal and powder of the dried leguminous vegetables of heading 07.13, of sago or of roots or tubers of heading 07.14 or of the products of Chapter 8.

1106.10 - Of the dried leguminous vegetables of heading 07.13

1106.20 - Of sago or of roots or tubers of heading 07.14

1106.30 - Of the products of Chapter 8

(A) Flour, meal and powder of the dried leguminous vegetables of heading 07.13.

This heading includes the flour, meal and powder made from peas, beans or lentils; they are mainly used for prepared soups or purées.

The heading does not cover :

(a) Non-defatted soya flour (heading 12.08).

(b) Locust bean flour (heading 12.12).

(c) Soups and broths (whether in liquid, solid or powder form), with a basis of vegetable flours or meals (heading 21.04).

(B) Flour, meal and powder of sago or of roots or tubers of heading 07.14.

These products are obtained by the simple grinding or grating of the pith of the sago palm or of the dried roots of the manioc, etc. Some of these products are often subjected to heat treatment in the course of manufacture to eliminate toxic substances; this treatment may entail pregelatinisation of the starch.

The heading does not cover starches obtained from these sources (it should be noted that the starch obtained from sago is sometimes called "sago flour"). These starches fall in heading 11.08 and can be distinguished from the flours of this heading, because flours, unlike starches, do not crackle when rubbed between the fingers. Pelletised flour, meal and powder of sago or of roots or tubers of heading 07.14 are also excluded (heading 07.14).

(C) Flour, meal and powder of the products of Chapter 8.

The principal fruits or nuts of Chapter 8 which are made into flours, meals or powders are chestnuts, almonds, dates, bananas, coconuts and tamarinds.

The heading also includes flour, meal and powder of peel of fruits.

However, the heading does not cover tamarind powder in packings for retail sale for prophylactic or therapeutic purposes (heading 30.04).

Products of this heading may be improved by the addition of very small amounts of anti-oxidants or emulsifiers.

The heading also excludes :

(a) Sago pith (heading 07.14).

(b) Prepared foodstuffs known as tapioca (heading 19.03).

CBIC circular No. 80/54/2018-GST dated 31.12.2018[relevant extracts]

3. Applicability of GST on Chhatua or Sattu:

3.1 Doubts have been raised regarding applicability of GST on Chhatua (Known as "Sattu" in Hindi Belt).

3.2 Chhatua or Sattu is a mixture of flour of ground pulses and cereals. HSN code 1106 includes the flour, meal and powder made from peas, beans or lentils (dried leguminous vegetables falling under 0713). Such flour improved by the addition of very small amounts of additives continues to be classified under HSN code 1106. If unbranded, it attracts Nil GST (S. No. 78 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017) and if branded and packed it attracts 5% GST (S. No. 59 of schedule I of notification No. 1/2017-Central Taxes (Rate) dated 28.06.2017).

17. The appellant's primary averment is that the essential character of instant mix is flour only and therefore they should fall under HSN 1101, 1102



or 1106 as the case may be and consequently be leviable to GST in terms of schedule I to notification No. 1/2017-CT (R) dated 28.6.2017 @ 5%. On going through para 2(A) of the explanatory notes of HSN for chapter 11, it is observed that the products from the milling of the cereals listed in the table (wheat and rye, barley, oats, maize and grain, sorghum, rice, buckwheat) fall in this chapter if they satisfy some characteristics. Further, in terms of para 2(B) of the explanatory notes of HSN for chapter 11, products falling in this chapter under the provisions of para 2(A) shall be classified in heading 11.01 or 11.02, if the percentage passing through a woven metal wire cloth sieve with the aperture of 315 micro meters (microns) / 500 micro meters (microns) is not less, by weight than that shown against the cereal concerned, otherwise, they fall in heading 11.03 or 11.04. It has also been *inter-alia* mentioned that this chapter includes products obtained by submitting raw materials of other chapters (dried leguminous vegetables, potatoes, fruit, etc.) to processes similar to those indicated in paragraph (1) or (2) mentioned therein. Thus, the products from the milling of the cereals, dried leguminous products etc. are covered in chapter 11 of the Customs Tariff Act, 1975.

18. It is the appellant's averment that instant mix flours of Khaman, Gota, Dalwada, Dahiwada and Methi Gota merit classification under HSN 1106. The explanatory note to chapter 1106 is already reproduced *supra*. However, it would be prudent to reproduce the chapter heading 1106 of Customs Tariff, for ease of understanding

Chapter Heading 1106 as per Customs Tariff:

1106 FLOUR, MEAL AND POWDER OF THE DRIED LEGUMINOUS VEGETABLES OF HEADING 0713, OF SAGO OR OF ROOTS OR TUBERS OF HEADING 0714 OR OF THE PRODUCTS OF CHAPTER 8:

1106 10 00- Of the dried leguminous vegetables of heading 0713

1106 20- Of sago or of roots or tubers of heading 0714:

1106 20 10--- Of sago

1106 20 20 --- Of manioc (cassava)

1106 20 90--- Of other roots and tubers

1106 30 - Of the products of Chapter 8:

1106 30 10--- Of tamarind

1106 30 20--- Of singoda

1106 30 30--- Mango flour

1106 30 90--- Other

Now, as is evident, chapter heading 11.06 covers "*Flour, Meal and Powder of the dried leguminous vegetables of Heading 0713, of sago or of roots or*



tubers of Heading 0714 or of the products of Chapter 8". As per Rule 1 of the General Rules for the Interpretation of Customs Tariff Act, 1975, for legal purposes, classification shall be determined according to the terms of the headings and any relative section of chapter notes. Thus, the classification of the product is required to be determined in accordance with the terms of the headings. As per chapter heading 1106, it covers Flour, Meal and Powder of the dried leguminous vegetables of Chapter Heading 07.13 and other specified products. As the products of the appellant contain other ingredients like Iodised salt, Acidity regulator (INS 330), Raising agent (INS 500(ii)) in different proportions, which are not mentioned in the chapter heading 11.06 or the relevant explanatory notes of HSN, we find that the said products are not covered under Chapter Heading 11.06.

19. The appellant has further stated that circular No. 80/54/2018-GST dated 31.12.2018 is applicable to five (5) instant mix flours viz. Idli, Dhosa, Khaman, Dahiwada and Dhokla which contains very small amount of additives and does not contain any spices. The circular is already reproduced *supra*. The CBIC has clarified in the aforesaid circular that the flour of ground pulses and cereals, improved by the addition of very small amounts of additives continues to be classified under HSN 1106. However, the said clarification is not applicable in the present case as the products being supplied by the appellant contain other ingredients like iodised salt, acidity regulator (INS 330), raising agent (INS 500(ii)) in different proportions which cannot be held to be in very small amounts, which was not the case with the 'Chhatua or Sattu'.

20. The appellant has further contended that instant mix of Idli, Dhokla, Dhosa and Handvo merit classification under HSN 1102 whereas Pizza Instant mix merits classification under HSN 1101. We find that the flours remain classified under chapter heading 1101 or 1102 even if the flour has been improved by the addition of very small quantities of specified substances. However, if substances (other than specified substances) are added to the flours with a view to use as 'food preparations', then the same gets excluded from the chapter heading 1101 or 11.02. A glance at paragraph 5, *supra*, which mentions the constituent components of the flours and other ingredients, depict that the various products supplied by the appellant, contain spices and other ingredients apart from flour of dried leguminous vegetables,



rice and wheat, in different proportions. The spices and other ingredients contained in these products include sugar, iodised salt, sodium bicarbonate INS 500(ii), citric acid 330, red chili powder, black pepper, coriander, ajwain, fennel, turmeric powder, mustard seed, compounded asafoetida, garam masala, etc.. These spices and ingredients are other than those substances mentioned in the explanatory notes of HSN for chapter heading 1101 or 1102 which could be added in very small quantities to improve or enrich the flours for the resultant product to still remain classified in those chapter headings. The proportion of spices and other ingredients contained in these products is already mentioned in the table supra in paragraph 5. It is also evident from the recipe submitted by the appellant that the spices and other ingredients have been added to the flours for their use as food preparations. The explanatory notes to HSN in respect of Heading 1101 and 1102, states that flours of this heading may be improved by the addition of very small quantities of mineral phosphates, anti-oxidants, emulsifiers, vitamins or prepared baking powders (self raising flour). Thus, in view of the explanatory notes of the HSN, Instant mix Idli, Dhokla, Dhosa, Handvo and Pizza are excluded from the Chapter Heading 1101 and 11.02.

21. The appellant also contended that Idli instant mix flour and Dhosa instant mix flour classifiable under Entry 100A of Schedule I. This averment of the appellant has already been dealt with in the impugned ruling. Nothing is produced before us, compelling us to interfere with the findings as far as this averment is concerned.

22. The next averment of the appellant is that under the VAT determination order, different varieties of flour have been held to be 'flours' falling under entry 12 in Schedule I to GVAT Act & that since there is no substantial change in schedule entries, classification and interpretation adopted needs to be followed. The applicant has also relied on the judgement in the case of West Coast Waterbase P Ltd and Samsung India Electronics P Ltd, *ibid*, to substantiate the averment. We note that the averment stands addressed in paragraph 15 of the impugned order dated 19.7.2021. Further we are in agreement with the said findings of GAAR.

23. The appellant has further relied on Rule 3(b) of the General Rules of Interpretation [GRI], to aver that the product would fall under chapter



heading 1102, 1101 or 1106. To substantiate this averment they have relied on the judgement in the case of *The Collector of Central Excise v/s Bakelite Hylam Ltd.* (1997) 10 SCC 350. We reproduce Rule 3(b) of the GRI, viz

3. 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 description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

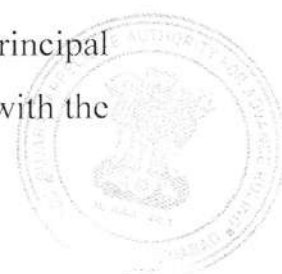
(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration

What Rule 3(b), *ibid*, encapsulates is that mixtures consisting of different material which cannot be classified by reference to 3(a) shall be classified as if they consisted of the material or component which gives them their essential character. The argument put forth is that as the essential character of the instant flour mixes is given by the Flour, so in terms of Rule 3(b) of the GRI, it would fall under chapter heading 1101, 1102 or 1106. The argument is not legally tenable owing to the fact that in the paragraphs above, we have already held that on account of the composition, etc. the product gets excluded from falling under chapter headings 1101, 1102 and 1106. Therefore, the question of relying on Rule 3(b) of the GRI to classify the goods based on the essential character, does not arise. It is owing to this finding, that the averment of the appellant that entry most beneficial to the appellant needs to be preferred, also stands rejected.

24. In view of the foregoing, we hold that none of the products of the appellant merit classification under Chapter 11 of the Customs Tariff Act, 1975 and specifically under Chapter Headings 1101, 1102 or 1106 of the Customs Tariff Act, 1975.

25. As far as the averment regarding classification of instant Gota mix supplied with chutney powder, Methi gota instant mix supplied with kadhi chutney powder and instant Khaman mix supplied with masala pack, is concerned, the appellant has stated that they are naturally bundled & hence supplied in conjunction with each other & the GST rate applicable to principal supply ie instant mix flour would be applicable. We are in agreement with the



findings of GAAR recorded in para 8.3 of the impugned ruling dated 19.7.2021 and hold that it is a mixed supply.

26. The appellant we find has also questioned the classification of the products in question by GAAR under IISN 2106 90, which covers "*Food Preparations not elsewhere specified or included*". The appellants further averment is that it can neither be consumed by human in the form they are sold & are not ready to eat products. We reproduce the IISN explanatory notes [relevant extracts] for the ease of understanding viz.

21.06 - Food preparations not elsewhere specified or included.

2106.10 - Protein concentrates and textured protein substances

2106.90 - Other

Provided that they are not covered by any other heading of the Nomenclature, this heading covers :

- (A) Preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk, etc.), for human consumption.
- (B) Preparations consisting wholly or partly of foodstuffs, used in the making of beverages or food preparations for human consumption. The heading includes preparations consisting of mixtures of chemicals (organic acids, calcium salts, etc.) with foodstuffs (flour, sugar, milk powder, etc.), for incorporation in food preparations either as ingredients or to improve some of their characteristics (appearance, keeping qualities, etc.) (see the General Explanatory Note to Chapter 38).

However, the heading does not cover enzymatic preparations containing foodstuffs (e.g., meat tenderisers consisting of a proteolytic enzyme with added dextrose or other foodstuffs). Such preparations fall in heading 35.07 provided that they are not covered by a more specific heading in the Nomenclature.

As is evident from the explanatory notes, it covers food preparations not elsewhere specified or included. Further of 21.06 covers the preparation for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk, etc.) for human consumption, and preparations consisting wholly or partly of foodstuffs, used in the making of beverages or food preparations for human consumption, are classifiable under Chapter Heading 21.06 of the CTA, 1975.

27. The appellant has already stated that his 10 products of mix flour / instant mix flour are preparations consisting wholly of foodstuffs viz. flours of leguminous vegetables and cereals as well as spices and condiments, and these products are used in the making of food preparations for human consumption. It is a fact that these products are preparations for use, after processing, such as cooking, dissolving or boiling in water, milk, etc., for human consumption. Thus, we are of the view that all the aforementioned 10 products of Mix flour / Instant Mix flour are appropriately classifiable under chapter heading 2106, more so since they are not mentioned under any other headings. Further, as



these products are not specifically mentioned under any specific Tariff Item of Chapter Heading 2106 of the CTA, 1975, these products are classifiable under the residuary entry i.e. Tariff Item 2106 90 as "Other".

28. The appellant has further also submitted that the Mix Flour / Instant Mix Flour is not a ready-to-eat food. In this regard, we observe that Chapter Heading 21.06 and specifically Tariff Item 2106 90 is not confined to processed or semi processed food, cooked or semi cooked food, preserved food and ready to eat food. In fact, any product which is a food preparation and which is not elsewhere specified or included in the CTA, 1975, gets covered under Chapter Heading 2106 of the CTA, 1975. Therefore, merely because the end consumer of the Instant Mix Flour is required to follow certain food preparation processes before such product(s) can be consumed, is no ground to take these products out of Chapter Heading 2106 of the CTA, 1975.


29. We agree with the findings and the ruling of the GAAR vide the impugned order dated 19.7.2021 in so far as classification of the ten products and the rate of GST is concerned. The Appellant, we find has not produced anything compelling us to interfere with the findings of the GAAR.

30. The aforementioned findings are also substantiated by the appellate advance ruling in the case of [a] Shri Dipakkumar Kantilal Chotai (Talod Gruh Udyog (No.GUJ/GAAAR/APPEAL/2021/17, dated 21.05.2021) [b] M/s. Kitchen Express Overseas Ltd (No. GUJ/GAAAR/APPEAL/2024/01, dated 29.05.2024 and [c] M/s Krishna Bhavan Foods and Sweets (No. TN/AAAR/02/2022, dated 13.01.2022.

31. In view of the above findings, we reject the appeal filed by appellant M/s. Ramdev Food Products Private Ltd. against Advance Ruling No. Guj/GAAR/R/29/2021 dated 19.7.2021, passed by the Gujarat Authority for Advance Ruling.


(Rajeev Topno)
Member (SGST)




(B V Siva Naga Kumari)
Member (CGST)

Place: Ahmedabad

Date: 22.01.2025