

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 49/ 2021

Dated 30-07-2021

Present:

1. Dr.M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri.Mashhood Ur RehmanFarooqui,
Joint Commissioner of Customs & Indirect Taxes. . . .Member (Central)

1.	Name and address of the applicant	M/s. Juzi Fruits Private Limited, No.473, Formed in Survey No.182, BegurHobli, Koramangala, Bengaluru-560 095.
2.	GSTIN or User ID	29AAECJ2878A1ZJ
3.	Date of filing of Form GST ARA-01	12-04-2021
4.	Represented by	Sri N.S. Arun Kumar, Accountant and Sri Guru Prasad Shenoy, Director
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Bangalore South GST Commissionerate, South Division 5, Bengaluru (Range BSD 5)
6.	Jurisdictional Authority - State	ACCT, LGSTO 17, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act & Rs.5,000-00 under SGST Act vide CIN HDFC21042900007298 dated 02-04-2021



ORDER UNDER SECTION 98(4) OF CGST ACT, 2017
AND UNDER SECTION 98(4) OF KGST ACT, 2017

M/s. Juzi Fruits Private Limited (called as the 'Applicant' hereafter)
No.473, Formed in Survey No.182, Begur Hobli, Koramangala, Bengaluru-
560095 having GSTIN 29AAECJ2878A1ZJ, have filed an application for Advance

Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017 in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Private Limited Company registered under the provisions of the Central Goods and Services Tax Act, 2017 as well as the Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively) is engaged in purchase and sale of fresh fruits-individually or mixtures of fruits in a bowl ready to eat, some packaging containing only fresh fruits and some with added dry fruits and nuts.

3. The applicant has sought advance ruling in respect of the following questions:

- a. *Appropriate HSN code applicable to supply of*
 - i. *Fruit bowl containing only cut fresh fruits (individually or mixture of different fruits).*
 - ii. *Fruit bowl containing both cut fresh fruits and dry fruits and nuts.*
- b. *GST tax rate applicable for each of the classified goods above?*
- c. *Eligibility to input tax credit of GST paid on plant and machinery and expenses relating to the business in case the end product is classified as belonging to 0% tax rate under GST?*

4. Admissibility of the application: The question is about “classification of any goods or services or both and hence is admissible under Section 97(2) (a) of CGST Act, 2017.

BRIEF FACTS OF THE CASE:

5. The applicant furnishes some facts relevant to the issue:

5.1 The Applicant states that they are engaged in the process of buying, processing and selling of various varieties of cut fresh/dry fruits and nuts ready for human consumption under specific brand name both directly to customers and other vendors.

5.2 Detailed operations are as under:

- a) Buying from the market fresh/dry fruits.
- b) Process involved in making the product ready for sale.
 - No preservatives are added to retain the quality of the product.
 - Purchased fresh/dry fruits are washed and cleaned in plain water.
 - Depending on the fruit, some of which are peeled and others without peeling are kept ready for packaging to be sold.



- Again depending on the size of the fruit some are cut into smaller pieces for packaging to be sold.
- The fresh fruits/dry fruits and nuts are kept in state of ready to eat.
- As part of various varieties of packing and depending on the customer preference the above said fresh/dry fruits are packaged into a container bowl, some with a single variety of fruit, or a mix of different varieties of fruits and nuts in a container bowl.
- Small process is conducted to remove the excess quantity of oxygen within the container bowl to extend the life of the product. After removing the excess quantity of oxygen the container bowl is sealed with transparent packaging.

5.3 The end packaging is supplied with a **brand name or trade name** for sale to customers and other vendors for resale.

6. Applicant's Interpretation of Law:

6.1 The applicant states that all the packaging is sold with only fresh fruits (individually or a mixture of different fruits) without any dry fruits in the container bowl is covered under Chapter 8 of customs tariff schedule and the same is reproduced under:

“Edible fruits and nuts; peel of citrus fruits or melons”

a) GST tax rate applicable- Nil

HSN	Description
0803	Bananas, including plantains, fresh or dried
0804	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh. Citrus fruits, such as oranges, Mandarins (including tangerines and satsumas); clementines, wilkings
0805	and similar citrus hybrids, grapefruit, including pomelos, Lemons (Citrus limon, citrus limonum) and limes (citrus aurantifolia, citrus latifolia), fresh
0806	Grapes, fresh
0807	Melons (including watermelons) and papaws(papayas), fresh
0808	Apples, pears and quinces, fresh
0809	Apricots, cherries, peaches(including nectarines), plums and
0810	sloes, fresh. Other fruit such as strawberries, raspberries, blackberries, mulberries and loganberries, black, white or red currants and gooseberries, cranberries, bilberries and other fruits of the genus vaccinium, kiwi fruit, durains, persimmons, pomegranates, tamarind, sapota (chico), custard-apple(ata), bore, lichi, fresh.
0814	Peel of citrus fruit or melons (including watermelons), fresh



6.2 All the packaging sold with addition of dry fruits and nuts along with fresh fruits in the packed container bowl are covered under the following heading

a) GST tax rate applicable 5% (CGST-2.5% and SGST-2.5%)

HSN	Description
0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter

6.3 Branding or not branding will not change the interpretation as no such condition is prevalent in the listing.

PERSONAL HEARING: / PROCEEDINGS HELD ON 30-06-2021

7. Sri N.S. Arun Kumar, Accountant and Sri Guru Prasad Shenoy, Director appeared for personal hearing proceedings held on 30-06-2021 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and KGST Act, 2017 are in *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 would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by applicant and his authorized representatives during the hearing. We have also considered the issues involved on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law.

9.1 The Applicant is a Private Limited Company engaged in sale of varieties of cut fresh fruits/dry fruits and nuts without adding any preservatives/additives and without undergoing any process, sold in sealed bowl which is ready for human consumption. The applicant is selling cut fresh fruits/dry fruits and nuts in sealed bowl under specific brand name "juzi-Eat fruits, Stay happy".

9.2 The applicant is using the trademark "juzi-Eat fruits, Stay happy" which has been registered in the name of C.R.K GIDA Technologies India Private Limited.



9.3 The 'Chapter 8' of GST tariff deals with edible fruit and nuts; peel of citrus fruit or melons. Schedule I of Notification No. 1/2017 dated: 28.06.2017(central tax rate) deals with goods taxable at 2.5% under CGST Act 2017. Entry number 59 of the above said notification is reproduced below:

Sl. No	Chapter/ Heading / Sub-heading / Tariff item	Description of Goods
59	1106	Meal and powder of the dried leguminous vegetables of heading 0713 (pulses) [other than guar meal 1106 10 10 and guar gum refined split 1106 10 90], of sago or of roots or tubers of heading 0714 or of the products of Chapter 8, put up in unit container and bearing a registered brand name

Explanation: – For the purposes of this notification,

- (i) The phrase "unit container" means a package, whether large or small (for example, tin, can, box, jar, bottle, bag, or carton, drum, barrel, or canister) designed to hold a predetermined quantity or number, which is indicated on such package.

9.4 The Notification No. 1/2017(central tax rate) dated: 28.06.2017 was amended vide Notification No. 27/2017(Central tax rate) dated: 22.09.2017 and the relevant portion of the said notification is reproduced below:

(A) in Schedule I-2.5%,-

(i) against serial numbers 11, 13, 25, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 and 59, in column (3), for the words "put up in unit container and bearing a registered brand name", the words, brackets and letters "put up in unit container and,-

(a) bearing a registered brand name; or

(b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or any enforceable right in respect of such brand name has been voluntarily foregone, subject to the conditions as in the ANNEXURE]", shall be substituted

(G) in the Explanation, for clause (ii), the following shall be substituted, namely: -

"(ii)(a) The phrase "brand name" means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.

(b) The phrase "registered brand name" means,-

- (A) a brand registered as on the 15th May 2017 under the Trade Marks Act, 1999. irrespective of whether or not the brand is subsequently deregistered;
- (B) a brand registered as on the 15th May 2017 under the Copyright Act, 1957(14 of 1957);
- (C) a brand registered as on the 15th May 2017 under any law for the time being in force in any other country.”;

8.5 Since the applicant is selling cut fruits in a sealed bowl under a brand name, the same is covered under entry no.59 of Schedule I of Notification No.1/2017 – Central Tax (Rate) dated 28.06.2017 vide HSN 1106 and is liable to tax @ 2.5% under CGST Act and 2.5% under the SGST Act, 2017.

8.6 Regarding the question in 1(ii), i.e. the tax rate on the fruit bowl containing both cut fresh fruits and dry fruits and nuts, the same is verified and since they are forming a single contract for supply of both goods and if the same are supplied for a single price, they would be covered under “mixed supply”.

Mixed supply is defined in section 2(74) of the CGST Act, 2017 and the same reads as under:

“(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.- A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;”

8.7 Further, section 8 of the CGST Act reads as under:

“8. Tax liability on composite and mixed supplies.-

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

8.8 Having regard to this, the mixed supply of fruits and dry fruits and nuts would be considered as the supply of dry fruits or nuts, whichever is taxable



at a higher rate of tax and the tax rate applicable to that supply of dry fruit or nut would be the tax rate of the entire value of mixed supply of fruits and nuts.

9. Regarding the question in 1(a)(ii), it is seen that the applicant is supplying both cut fresh fruits and dry fruits and nuts separately and invoicing the same as separate line items. In the instant case, the applicant has informed that the customer is having the choice of choosing the dry fruits or nuts and it is not compulsory to choose any one. Hence the value of the fruit bowl is nothing but the sum of the separate supplies of fresh fruits and dry fruits and nuts. Hence the tax rate applicable is that which are applicable to the fruits, dry fruits and nuts separately as they are separate supplies.

9.1 But in case, the applicant does not give the choice of choosing the dry fruits and nuts to be accompanied and sells the fresh fruits with dry fruits and nuts as a single package, then the same would amount to a mixed supply and is treated as the supply of dry fruits or nuts. Since the nature of dry fruits and nuts is not provided by the applicant, the tax rate applicable to the dry fruits or nuts would be the tax rate applicable to the entire package.

9.2 The above supply would not amount to a composite supply as the two supplies are not naturally bundled.

10. Regarding the second question, the GST tax rate applicable to exclusive supply of fresh fruits is already discussed above. Regarding the dry fruits and nuts, since the applicant has not provided the details of which dry fruits and nuts are supplied, the same cannot be answered.

11. Regarding the third question, section 17(2) of the CGST Act, 2017 bars/restricts the taxable person from availing the input tax credit on the inputs and input services relatable to the supply of exempted goods. Section 17(2) reads as under:

"17. Apportionment of credit and blocked credits.-

(1) ...

(2) *Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies."*

11.1 Hence when the outward supply of goods is exempted, the taxable person is not eligible to claim the input tax credit to the extent relatable to the exempted supplies. But in the case of the applicant, since the goods are held



to be taxable, the provision of section 17(2) is not applicable. Hence the person is eligible to claim input tax credit on the taxes paid on the inward supplies of taxable goods and services.

12. In view of the foregoing, we rule as follows

RULING

1. (a) (i) Supply of sealed fruit bowl containing only cut fresh fruits without addition of any preservatives or additives which are sold under brand name is covered under entry no.59 of Schedule I of Notification No.1/2017 - Central Tax (Rate) dated 28.06.2017 Vide HSN 1106 and is liable to tax @ 2.5% under CGST Act and 2.5% under the SGST Act, 2017.

(ii) The Fruit bowl containing both cut fresh fruits and dry fruits and nuts is taxable at rate applicable to the supply of dry fruits and nuts.

(b) As already discussed, the tax rate applicable on dry fruits and nuts cannot be provided as the exact nature of the dry fruit or nut is not provided.

2. The applicant is eligible for input tax credit on the tax paid on the inward supplies of inputs and input services involved in the supply which is taxable.



(Dr. M.P. Ravi Prasad)

**Member
MEMBER**

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Place : Bengaluru,

Date : 30-07-2021



(Mashhood Ur Rehman Farooqui)

**Member
MEMBER**

Karnataka Advance Ruling Authority
Bengaluru - 560 009

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, Bangalore South GST Commissionerate, South Division-005, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-17, Bengaluru.
5. Office Folder.