

**AUTHORITY FOR ADVANCE RULING  
TAMILNADU ADVANCE RULING AUTHORITY  
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6  
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE  
GOODS AND SERVICES TAX ACT, 2017.**

**Members present are:**

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,  
Office of the Commissioner of GST & Central Excise, Chennai-34
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member (FAC),  
Enforcement / Inter-State Investigation Cell, Chennai-6.

**ORDER No. 7/AAR/2019 DATED 22.01.2019**

GSTIN Number, if any / User id		331800000367ARR
Legal Name of Applicant		M/s. Subramani Sumathi
Registered Address/Address provided while obtaining user id		No.4, Kappalpolu Street, Old Washermenpet, Chennai - 600 021.
Details of Application		GST-ARA-01 Application Sl.No. 23/2018 dated 22.05.2018
Concerned Officer		State: The Assistant Commissioner (ST), Royapuram Assessment Circle  Centre: Chennai North, Division: Royapuram
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Manufacturing – Maida Vadam/Papad
B	Description (in Brief)	Manufacturer of Maida Papad made out of ingredients such as Wheat Flavour, Added Sugar and Vanaspathi adding Edible Salt and Soda Salt by proper mixture of the above and cut the same in desirable shapes and dried in Oven.
Issue/s on which advance ruling required		The applicable HSN Code and the Rate of Tax for Vadams made of Maida.
Question(s) on which advance ruling is required		The category of product Vadam/Papad made-up of Maida falls under the classification of 1905.

**Note : Any appeal against the advance ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated**

**At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.**

M/s. Subramani Sumathi doing business at No.4, Kappalpolu Street, Old Washermenpet, Chennai - 600 021. (Hereinafter called the Applicant) is an Unregistered person under the GST Act 2017. They have filed an Application seeking Advance Ruling under Section 97 of CGST Act, 2017, TNGST Act, 2017 and IGST Act, 2017 read with Rule 104 of CGST Rules 2017 and TNGST Rule 2017 on the following question:

‘What is the rate of tax for the vadams made of maida and what is the HSN Code’

The Applicant has submitted a copy of Challan evidencing payment of application fees of Rs.5, 000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2. The Applicant has stated that the Maida papad is made with ingredients such as Wheat Flour, Added Sugar (10%) and Vanaspathi (2%) for better crispness. Edible Oil and Soda Salt added for taste and texture; Proper mixture of the above is made and the same is cut in desirable shapes and dried in oven. These products are packed in as 1/2Kg, 1Kg, and also as 10Kg Packs depending on the local market requirement. The Applicant has stated that this product cannot be consumed as such and it should be fried in oil and some masala has to be added in order to make the product eatable. The product is similar to vadam and papad.; they intend making Vadams using machinery. Traditionally, the vadams are dried only in sunlight, but the Applicant intended by using Gas Oven to get better volume of product. In this stage of manufacturing process, this product is not

ready to consume and are needed to oil fry before consumption. These are the basic features of the any Vadam/Papad. They have requested to classify their product Vadam into Papad under the classification of 1905.

3.1 The Applicant was personally heard. They stated that the items are made of maida, salt, bicarbonate. They stated that the items are at present being sundried and in future they intend to use stove /oven. At the time of hearing, it was informed that the query/activity has to be clearly specified, as both manufacturing processes are different. The Applicant was requested to submit further clarification on the manufacturing activities along with related photographs.

3.2 The Applicant submitted connected sale records/Photographs of the product and that obtained on frying and also case studies in support of the argument held during the final personal hearing. They stated that the items are dried in oven and have baking soda for preservative, which can last for 6 months. But it is to be fried in oil for eating. It is sold as "Maida Papad". They submitted that it is similar to T.T.K. 'Fryums', which is a papad.

3.2 The Applicant in their written submission stated that the manufacturing is done by mixing the material in dough and drying/heating the same in oven (and not sun drying). There is no change in the raw material used in the manufacture. As the law does not speak of any specific process of manufacturing to be undertaken, for the purpose of classification, the manufacturing process of the maida papad should not have any impact. They contended that the exemption is granted for few handmade products, but the notification itself specifically mentions that "Hand made products" i.e. (Handmade Musical Instruments) (Item No.143 in CGST RATE NOTIFICATION 2/2017 dated 28.6.2017). But, there is no reference to hand made or machine made or sundried or machine heated for papads.

The Maida Papad is not ready to eat and it can be consumed only after being fried, the classification of the same as papad gets fortified. The exemption under CGST Notification No.2/2017 dated 28.6.2017 in item No.96 specially notified about "Papad, by whatever name it is known, except when served for consumption". The maida papad is to be classified as papad on the characteristics of Papad. The Applicant has further stated that their product satisfies the general characteristics of papad as detailed below.

<b>General characteristics</b>	<b>Whether Maida Papad satisfy all these charters tics.</b>
Papad, as understood in common of commercial parlance, is a thin, flat, disc shaped wafer-like product.	Yes
A part of afternoon meals	Yes
Papad can either be fried, or cooked in dry heat.	Can only be fried in oil
Life span : Short	Yes

3.3 The Applicant has stated that similar study was made by CESTAT in M/s. T.T.K. Pharma Limited Vs Collector of Central Excise in Order No. E/369/92-D arising in Appeal No. E/2556/91-D. In this case, the assessee, M/s. T.T.K. Pharma Limited are manufacturing of "Fryums" which were it was stated that they cannot be equated to "Namkeen" as they are ready to eat snacks but are similar to the popularly known as Papad which can be consumed only after processing, like frying. Hon'ble CESTAT has stated that "Commissioner has given clear finding that the item is covered by the description in Sl.No.5 of Notification No.5/99 dated 28.2.1999. He has seen the process of manufacture and found them to be akin to 'papad' as the same is to be consumed after fry and it fits into the various items in Sl. No.5".

4. The issue to be decided before us is the rate of tax applicable to the product of the Applicant and the applicable HSN Code. From the various submissions of the Applicant, it is evident that the product is made out of dough of maida as main ingredient along with preservatives. The mixed dough is cut into desirable shapes and dried in oven. The Applicant uses machinery for making the same. The products are sold by the Applicant in retail packing which have s shelf life of around 6 months as they have added preservatives are not fully cooked and are not ready to eat. On purchase byte consumer, they are to be fried in edible oil before consumption. It is seen from the samples and photographs produced during the hearing, that the items are indeed edible only after frying in oil which is not done by the Applicant but those who purchase it.

Therefore, the short point to be decided is whether the product in question is 'Papad' falling under Ch.1905 or a 'namkeen' falling under Ch. 2106.

5.1 In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, sub-heading, heading and chapter shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods. The analysis of the relevant chapter heads are as under:

Chapter 1905 of Customs Tariff states:

*1905 - BREAD, PASTRY, CAKES, BISCUITS AND OTHER BAKERS' WARES, WHETHER OR NOT CONTAINING COCOA ; COMMUNION WAFERS, EMPTY CACHETS OF A KIND SUITABLE FOR PHARMACEUTICAL USE, SEALING WAFERS, RICE PAPER AND similar products*

*1905 05 40 -Papad*

Chapter heading 21 of Customs Act covers "Miscellaneous edible preparations"

Chapter Note 6 of Chapter 21 states as under:

*6. Tariff item 2106 90 99 includes sweet meats commonly known as "Misthans" or "Mithai" or called by any other name. They also include products commonly known as "Namkeens", "mixtures", "Bhujia", "Chabena" or called by any other name. Such products remain classified in these sub- headings irrespective of the nature of their ingredients*

*2106- Food preparation not elsewhere specified or included*

*2106 90 99- other*

It is seen that Chapter 21 only covers edible preparations and "Namkeens" which are ready to eat are covered under the same. In the instant case, Maida vadam/papads are made of Maida, Sugar and Vanaspathi , Edible Salt, preservatives and dried in oven. They become edible only after frying in oil which is done by the ultimate consumer and the Applicant only supplies the dried/semi - cooked version of it. Hence, they are not covered under Chapter 21. Papad is specifically specified under 1905 05 40 and papad are preparations of various flours or lentils which are dried, traditionally in the sun or made by machinery in commercial scale. They are not edible as such and the final consumer has to fry in oil before making them edible. This is the case in respect of the goods supplied by the Applicant too. Therefore, the product is to be classified under 1905 05 40.

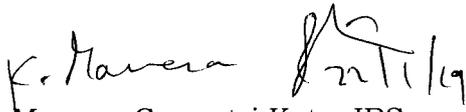
5.2 Sl no 96 of Notification No. 02/2017 -CT (Rate) dt 28.06.2017 as amended and Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017

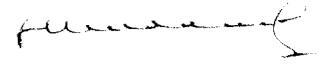
exempts " Pappad, by whatever name it is known, except when served for consumption " from CGST and SGST respectively.

6. In view of the above, we rule as under:

### **RULING**

The Applicants product namely "Maida Vadam/Papad" is classifiable under '19050540' and is exempted from CGST and SGST vide Sl no 96 of Notification No. 02/2017 -CT (Rate) dt 28.06.2017 as amended and Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 respectively.

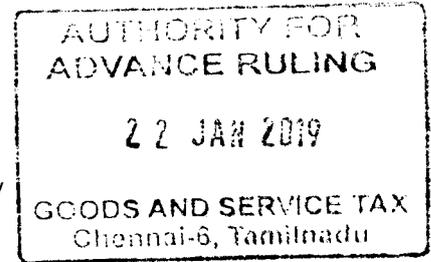
  
Ms. Manasa Gangotri Kata, IRS  
Member

  
Shri. S.Vijayakumar, M.Sc.,  
Member (FAC)

To

M/s. Subramani Sumathi,  
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Chennai - 600 021.

/ By Speed Post with Ack . Due /



Copy Submitted to:

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Ezhilagam, Chepauk, Chennai-5.
2. The Principal Chief Commissioner of GST & Central Excise,  
No. 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Commissioner of GST & C.Ex.,  
Central Revenue Building,  
No.4, Lal Bahadur Shastri Road, Bibikulam,  
Madurai-625002
4. The Assistant Commissioner (ST) ,  
Royapuram Assessment Circle,  
No. 19 & 20 Kummalamman Koil Street,  
Tondiarpet,  
Chennai - 600 081.
5. Master File/ Spare-2