

**TAMILNADU ADVANCE RULING AUTHORITY**  
**INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO 32,**  
**5<sup>TH</sup> FLOOR, ROOM NO 503, ELEPHANT GATE BRIDGE ROAD,**  
**CHENNAI-600 003**  
**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, Additional Commissioner/Member,  
Office of the Commissioner of GST & Central Excise, Chennai.

And

2. Thiru KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST) / Member  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

**ORDER No. 22 /ARA/2020 Dated: 04 .05 .2020**

|  |                        |  |
|--|------------------------|--|
| GSTIN Number, if any / User id   |                        | 33AANFG4672P1ZR  |
| Legal Name of Applicant  |                        | GOURMET POPCORNICA LLP   |
| Registered Address / Address provided while obtaining user id                            |                        | No.15/8, Baliah Avenue, Mylapore, Chennai-600006   |
| Details of Application   |                        | GST ARA – 001 Application SI.No. 33<br>Dated: 26.08.2019   |
| Concerned Officer  |                        | Centre : Chennai-North ; Division: Mylapore<br>State : Assistant Commissioner(ST)<br>Royapettah Assessment Circle  |
| Nature of activity(s) (proposed / present) in respect of which advance ruling sought for |                        |  |
| A  | Category               | Manufacturing  |
| B  | Description (in brief) | The applicant is engaged in processing popcorn Maize and selling the same as pre-mix ready to cook pop-corn.   |
| Issue/s on which advance ruling required   |                        | Classification of goods  |
| Question(s) on which advance ruling is required  |                        | 1. What would be the accurate HSN code and consequently, the rate of GST applicable on pre-mix popcorn maize packed with edible oil and salt? Whether the same can be classified under HSN Heading 2008 and whether the same shall be chargeable to tax at the rate of 12%<br>2. If so, whether the said rate of Goods and Services Tax rate of 12% is applicable retrospectively with effect from 1 <sup>st</sup> July 2017 |

**Note: Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub-Section (1) of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed 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.**

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M/s GOURMET POPCORNICA LLP, No.15/8, Baliah Avenue, Mylapore, Chennai-600006 (hereinafter referred as the applicant) is a limited liability partnership firm, registered under the GST Act 2017 vide GSTIN No. 33AANFG4672P1ZR. The Applicant has sought Advance Ruling on the following question:

- i. What would be the accurate HSN code and consequently, the rate off GST applicable on pre-mix popcorn maize packed with edible oil and salt? Whether the same can be classified under HSN Heading2008 and whether the same shall be chargeable to tax at the rate of 12%.
- ii. If so, whether the said rate of Goods and Services Tax rate of 12% is applicable retrospectively with effect from 1<sup>st</sup> July 2017.

The applicant 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.

2.1 The applicant have stated that they are engaged in the business of processing, packaging of maize corn together with commodities such as flavoring, seasoning. The applicant is primarily engaged in importing/procuring popcorn maize which undergoes fumigation and cleaning and other related processes. This processed popcorn maize is sold along with edible oil and salt and this mixture is then commercially sold as pre-mix ready to cook popcorn. They have stated that they primarily deal with supply of premium popcorn maize which comprises of Maize(corn), Edible oil and flavor salt, all packed together in pouches of carried

sizes. The applicant is classifying the pre-mix popcorn packets under HSN 2106 9909 and charging GST at the rate of 18%.

2.2 The applicant has made reference to HSN 2106 and 2008. They have reiterated that the product being dealt with is a mixture of the products mentioned in HSN 2106 and 2008. Namely popcorn maize is mixed with oil and flavor salt and sold and marketed to customers as a pop-corn pre-mix under the brand name registered with the applicant. They have stated that maize is a cereal plant that yields large grains (corn or sweet corn).; Maize is a leafy stalk whose kernels have seeds inside.; It is an angiosperm, which means that its seeds are enclosed inside a fruit or shell.; In the processing of maize, these seeds are shaken loose and dried to essentially make them durable and transportable. They have stated that considering the general understanding of the classification of maize as a cereal and how the maize cereals are grown, the maize can be considered to be essentially a part of a plant which is dislodged in the regular process of harvesting the crop. The popcorn maize is nothing but a plant and the same are grown in fields. It is the kernel of maize, which is used as sweet corn or popcorn.

2.3 HSN 2008 clearly provides for "other edible parts of plants otherwise prepared or preserved" and their product pop-corn pre-mix is essentially maize corn kernel which is part of a plant. They have also stated that maize corn kernel is prepared by way of applying the oil and salt seasoning premix along with items such as beta carotene and turmeric. This results in a manufactured end product that is commercially sold as a pop-corn premix. In view of the aforesaid facts, the applicant is of the view that the nature and extent of activity undertaken by them would be manufacture of pop-corn pre mix, however the basic component is a part of a plant and this would merit appropriate classification under HSN 2008 and attract GST at 12%. They have also made reference to the ruling issued by Maharashtra AAR in the case of M/s SHAH NANJI NAGSI EXPORTS PRIVATE LIMITED, wherein it is ruled that the pre-mix popcorn falls under the HSN code 2008 19 90 and attracts GST@12%. The applicant has also stated that they should be entitled to a retrospective classification under Chapter 2008 and the tax so paid in excess should be refunded which would in turn be passed to their customers.

3. The applicant was given an opportunity to be personally heard on 26.09.2019. The applicant appeared before the authority and stated that the product is Maize corn which they are importing after fumigation and processing at

low temperature and humidity. They undertook to submit detailed manufacturing process with the details of ingredients for each of the varieties of pre-mix. The main ingredients in all are oil and salt and preservatives apart from maize corn. They stated that there is a Central Excise ruling in respect of a different company where pre-mix was classified under HSN 2008. They stated that they have been classifying their product under HSN 2106 since 2015. They also stated that they will submit the required documents along with FSSAI for each product in 2 weeks.

4. 1 As undertook during the Personal Hearing, the applicant filed the following additional submissions on 18.10.2019.

i. List of end products dealt by the company

| Sl.No | Product Description           |
|-------|-------------------------------|
| 1     | Gold Label Salted Mix         |
| 2     | Gold/Silver Label Regular Mix |
| 3     | Platinum Label Salted Mix     |
| 4     | Jumbo Mushroom Regular Mix    |
| 5     | Gold Label Corn(S)            |
| 6     | Gold Label Corn(R)            |
| 7     | Popping Oil & Salt Mix        |
| 8     | Popping Oil                   |
| 9     | Organic Corn Salted Mix       |
| 10    | Caramel Glaze Premium         |
| 11    | Caramel Glaze Regular         |
| 12    | Silver Label Salted Mix       |

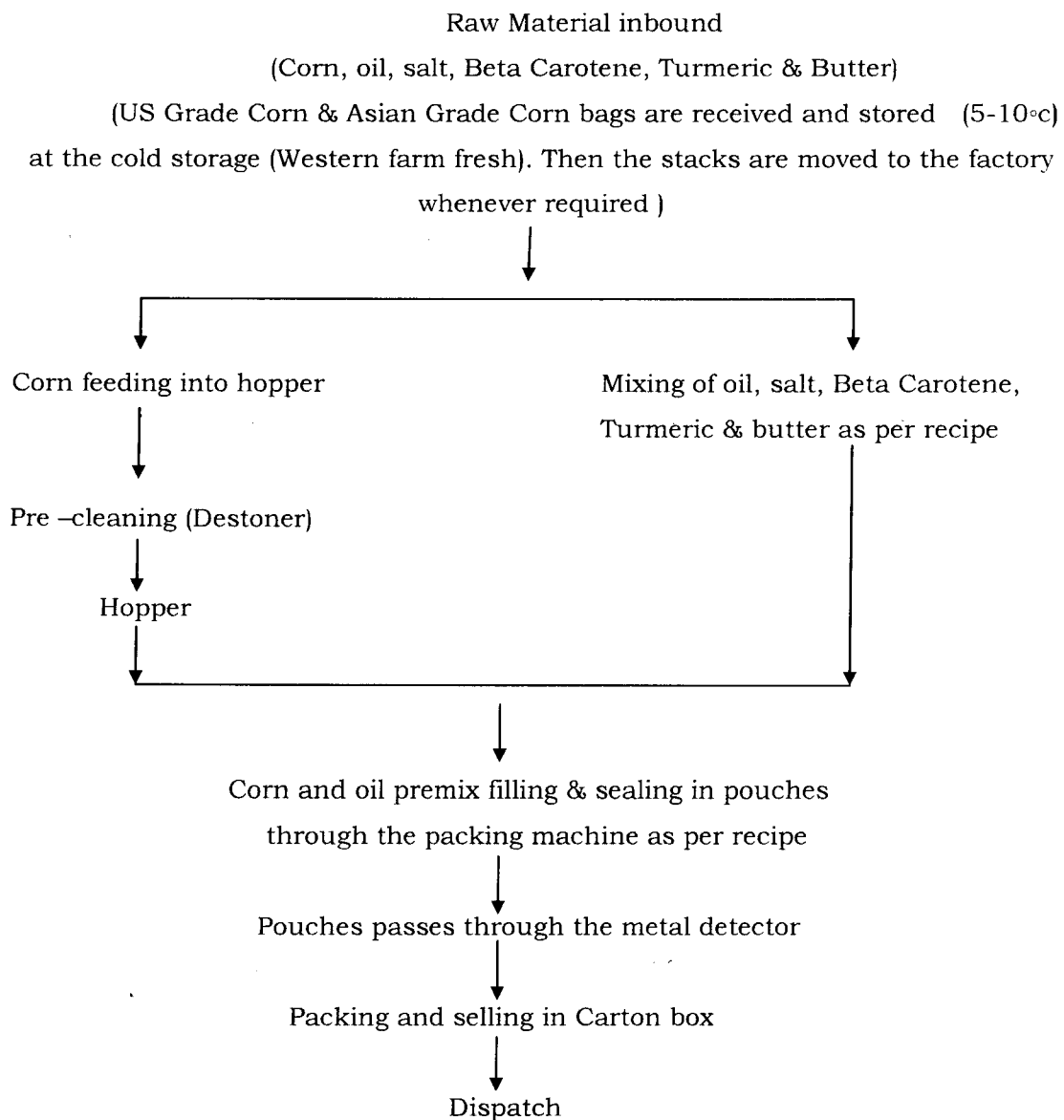
ii. Products on which revised GST rate of 12% is sought :

| Sl.No | Product Description           | Prevailing rate used by the company HSN 2106 | Revised rate sought by the company HSN 2008 |
|-------|-------------------------------|--|---|
| 1     | Gold Label Salted Mix         | 18   | 12  |
| 2     | Gold/Silver Label Regular Mix | 18   | 12  |
| 3     | Platinum Label Salted Mix     | 18   | 12  |
| 4     | Jumbo Mushroom Regular Mix    | 18   | 12  |
| 5     | Organic Corn Salted Mix       | 18   | 12  |

|   |                         |    |    |
|---|-------------------------|----|----|
| 6 | Silver Label Salted Mix | 18 | 12 |
|---|-------------------------|----|----|

iii. FSSAI License with product details- Under License Number 10015042001884 holds license as 'Manufacturer' in respect of the product 'Maize/Corn' with the name of Food Item(s)-'Gold Label Salted Mix, Gold Label Regular Mix, Platinum Label Regular Mix, Platinum Label Salted Mix, Jumbo Mushroom Regular Mix, Jumbo Mushroom Salted Mix, Caramel Glaze Regular, Popping Oil Mix, Inox Muchos Butter Flavour, Inox Muchos Salted Sensation all falling under the Food Category 15.1

iv. Process of manufacturing for all end products



v. The applicant also submitted photocopies of all finished products in packet container.

5.1 The state jurisdictional officer in their letter Rc.669/2019/A4 dated 20.09.2019 submitted that there is no pending proceedings on the issue raised in the ARA application of the applicant.

5.2 The applicant is under the administrative control of Central Tax. The said jurisdictional authority was addressed to report if there are any pending proceedings in the applicant's case on the issues raised by the applicant in the ARA application and for comments on the issues raised. The said authority did not furnish any report and also has not furnished any comments. Hence, it is construed that there is no proceedings pending in the case of the applicant on the questions seeking Advance ruling before us.

6. We have carefully considered the submissions made by the applicant in the advance ruling application and the additional submissions. It is seen that the product is popcorn premix of various flavours which is essentially maize corn kernels with addition the oil and salt and seasoning such as beta carotene and turmeric and various other flavours. The product is called 'Gold Label Salted Mix', 'Gold/Silver Label Regular Mix', 'Platinum Label Salted Mix', 'Jumbo Mushroom Regular Mix', 'Organic Corn Salted Mix', and 'Silver Label Salted Mix'. It is seen from the packaging that they are 'specifically packed for popcorn vending machines. Not for retail sale'. The Ingredients mentioned on the packaging are: Corn, RBD Plamolien oil, Iodised Salt and some of them have added flavours such as Butter Flavour, Turmeric Powder, Natural Carotenoids, natural food colours etc.

We find the applicant has filed the application seeking ruling on whether their product shall be classifiable under HSN 2008 and accordingly, leviable to GST @ 12%. It is also stated that they have been classifying the pre-mix popcorn packets under HSN 2106 9099 and has been discharging GST @18%.

7.1 Under GST, the applicable rates of CGST are notified by Notification No. 01/2017-C.T. (Rate) dated 28.06.2017 and in terms of explanation (iii) and (IV) to the said Notification,

*(iii) "Tariff item", "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 (51 of 1975).*

*(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the*

*General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.*

Thus for the purposes of classification under GST, the First Schedule to Customs Tariff Act is only applicable. From the submissions, the competing headings for the product under consideration are CTH 2008 and CTH 2106.

7.2 The relevant Customs Tariff item and the related Chapter/Section notes along with the Explanatory Notes of HSN are examined as under:

**Customs Tariff for Chapter 20 states:**

**Preparations of vegetables, fruit, nuts or other parts of plants**

**Customs Tariff for CTH 2008:**

|             |   |
|-------------|---|
| <b>2008</b> | <b>FRUIT, NUTS AND OTHER EDIBLE PARTS OF PLANTS, OTHERWISE PREPARED OR PRESERVED, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER OR SPIRIT, NOT ELSEWHERE SPECIFIED OR INCLUDED</b> |
|             | - <i>Nuts, ground-nuts and other seeds, whether or not mixed together :</i>   |
| 2008 11 00  | -- Ground-nuts  |
| 2008 19     | -- <i>Other, including mixtures:</i>  |
| 2008 19 10  | --- Cashew nut, roasted, salted or roasted and salted   |
| 2008 19 20  | --- Other roasted nuts and seeds  |
| 2008 19 30  | --- Other nuts, otherwise prepared or preserved   |
| 2008 19 40  | --- Other roasted and fried vegetable products  |
| 2008 19 90  | --- Other   |
| 2008 20 00  | - Pineapples  |
| 2008 30     | - <i>Citrus fruit :</i>   |
| 2008 30 10  | --- Orange  |
| 2008 30 90  | --- Other   |
| 2008 40 00  | - Pears   |
| 2008 50 00  | - Apricots  |
| 2008 60 00  | - Cherries  |
| 2008 70 00  | - Peaches, including nectarines   |
| 2008 80 00  | - Strawberries  |
|             | - <i>Other, including mixtures other than those of sub-heading 2008 19 :</i>  |
| 2008 91 00  | -- Palm hearts  |
| 2008 93 00  | -- Cranberries ( <i>Vaccinium macrocarpon</i> , <i>Vaccinium oxycoccos</i> <i>Vaccinium vitis-idaea</i> )   |
| 2008 97 00  | -- Mixtures   |
| 2008 99     | -- <i>Other:</i>  |
|             | --- <i>Squash :</i>   |
| 2008 99 11  | ---- Mango  |
| 2008 99 12  | ---- Lemon  |
| 2008 99 13  | ---- Orange   |
| 2008 99 14  | ---- Pineapple  |
| 2008 99 19  | ---- Other  |
|             | --- <i>Other :</i>  |
| 2008 99 91  | ---- Fruit cocktail   |
| 2008 99 92  | ---- Grapes   |
| 2008 99 93  | ---- Apples   |
| 2008 99 94  | ---- Guava  |
| 2008 99 99  | ---- Other  |

**Explanatory Notes to Chapter 20 states:**

**GENERAL**

This Chapter includes :

- (6) Vegetables, fruit, nuts and other edible parts of plants prepared or preserved by other processes not provided for in Chapter 7, 8 or 11 or elsewhere in the Nomenclature.

**Explanatory Notes to CTH 2008 states:**

This heading covers fruit, nuts and other edible parts of plants, whether whole, in pieces or crushed, including mixtures thereof, prepared or preserved otherwise than by any of the processes specified in other Chapters or in the preceding headings of this Chapter.

It includes, *inter alia* :

The products of this heading may be sweetened with synthetic sweetening agents (e.g., sorbitol) instead of sugar. Other substances (e.g., starch) may be added to the products of this heading, provided that they do not alter the essential character of fruit, nuts or other edible parts of plants.

The products of this heading are generally put up in cans, jars or airtight containers, or in casks, barrels or similar containers.

7.3 Chapter 20 covers 'Preparations of vegetables, fruit, nuts or other parts of plants. As per Explanatory Notes to Chapter 20 covers vegetables, fruit, nuts and other edible parts of plant prepared r preserved not provided for in Chapter 7, 8 and 11. It is seen that these processes in Chapter 7, 8, and 11 include freezing, steaming, boiling, dried ,provisionally preserved and milling. Therefore, any edible part of plant such as seeds ,which is preserved in any other process than these is classifiable under Chapter 20. Explanatory Notes to chapter 2008 states that fruits, nuts and other edible parts of plants prepared or preserved in processes other than the above ones. Other substances (e.g. starch) may be added but the essential character of the edible part of the plant should remain unaltered.

In the instant case, the product are corn kernels or seeds (edible parts of the maize plant) which are cleaned, destonned to which oil, salt and various spice and flavour mixes are added before being packed together. . It is seen from the packaging that they are ' specifically packed for popcorn vending machines. Not for retail sale'. The Ingredients mentioned on the packaging are: Corn, RBD Plamolien oil, Iodised Salt and some of them have added flavours such as Butter Flavour,



Turmeric Powder, Natural Carotenoids, natural food colours etc. The corn kernels are only cleaned and flavors added. They do not undergo any of the processes of Chapter 7, 8 or 11. This product is essentially corn kernels to which oils salt and various spices, and flavours are added. But the essential nature of the product is still the corn kernels which are the seeds of the maize plant. If heated, these corn kernels will become popcorn with the added flavours. As per explanatory notes, as long as the essential nature is retained, the edible parts of plants are classifiable under CTH 2008. In this case, the products are seeds. Therefore, corn kernels /seeds with added oils and spices are classifiable under CTH 20081990.

7.4 Customs Tariff for 2106 covers Food Preparations not elsewhere specified.

**Explanatory Notes to CTH 2106 states:**

The heading further excludes :

(a) Preparations made from fruit, nuts or other edible parts of plants of heading 20.08, provided that the essential character of the preparations is given by such fruit, nuts or other edible parts of plants (heading 20.08).

Those food preparations not specified elsewhere in the Tariff and preparation for use either directly or after processing for human consumption are categorized in this head. It is also stated in the HSN notes that those preparations made from edible parts of plants of heading 2008 are excluded from this heading. Therefore, the product in question is covered under CTH 20081990 and not under CTH 2106.

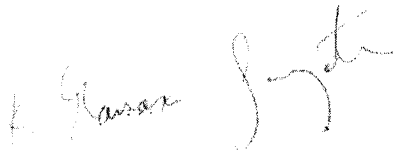
8. On the applicable rate of tax, the product in hand is classified under CTH 20081990 and is liable to CGST @6% as per Sl No 40 of Schedule II of Notification No. 01/2017-C.T. (Rate) dated 28.06.2017 and SGST @6% as per Sl No 40 of Schedule II of Notification No. II (2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017. This rate effective from 1<sup>st</sup> July 2017 and there has been no change since then.

10. In view of the foregoing, we rule as under

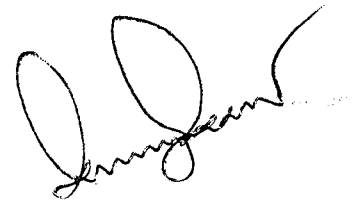
**RULING**

1. The pre-mix popcorn maize(corn kernels) packed with edible oil and salt supplied by the applicant is classified under CTH 20081990

2. The applicable the rate of tax is CGST @6% as per Sl No 40 of Schedule II of Notification No. 01/2017-C.T. (Rate) dated 28.06.2017 and SGST @6% as per Sl No 40 of Schedule II of Notification No. II (2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 with effect from 1.7.2017.



Ms. Manasa Gangotri Kata, IRS  
Member, CGST



Shri Kurinji Selvaan V.S.  
Member, TNGST

To

GOURMET POPCORNICA LLP  
No.15/8, Baliah Avenue,  
Mylapore,  
Chennai-600006

//By RPAD//

Copy submitted to :-

1. The Principal Chief Commissioner of CGST & Central Excise,  
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam,  
Chennai - 600 034.
2. The Additional Chief Secretary / Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & C.Ex., Chennai North Commissionerate.  
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam,  
Chennai - 600 034.
4. The Assistant Commissioner (ST), Royapettah Assessment circle,  
46, Pasumpon Muthuramalingam Salai, R. A Puram,  
Chennai- 600 028.
5. Master File / spare - 1.