



C.M.A(MD)No.556 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2026

CORAM:

**THE HON'BLE MR JUSTICE N.ANAND VENKATESH
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

**C.M.A(MD)No.556 of 2024
and
C.M.P.(MD).No.7152 of 2024**

The Commissioner of Customs,
Customs House,
New Harbur Estate,
Tuticorin,
Tamil Nadu-628 004.

... Appellant

Vs.

M/s.Radiance Enterprises,
No.27, 5th North Telephone Colony,
Madhavaram Milk Colony,
Chennai-600 051,
Tamil Nadu.

... Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 28KA of the Customs Act, 1962, to allow the appeal and set aside the impugned order passed by the learned Customs Authority for Advance Ruling in CAAR/Mum/ARC.26/2024, dated 22.02.2024.



C.M.A(MD)No.556 of 2024

For Appellant : Mr.N.Dilipkumar

For Respondent : No Appearance

J U D G M E N T

**(Judgment of the Court was delivered by
N.ANAND VENKATESH, J.)**

The appeal has been filed under Section 28 KA of the Customs Act 1962 challenging the order passed in Advance Ruling Number dated 22.02.2024.

2. Notice was ordered to the respondent and notice has also been served on the respondent and though the name of the respondent is printed in the cause list, there is no appearance either in person or through counsel.

3. The following substantial questions of law arises in this appeal:



C.M.A(MD)No.556 of 2024

“(i) Whether the impugned order passed by the Advance Ruling Authority is bad in law for violating the restriction imposed under clause (b) of the proviso to subsection (2) of section 28-I of “The Customs Act, 1962” in the light of the judgment delivered by the apex court in confirming the tribunal order in Krishna & Co., Vs. Commr. Of C.E., cus., & S.T., Bolpur 2015(321) E.L.T.530 (Tri.-Kolkata) & 2015 (321) E.L.T.A205 (S.C.)?”

(ii) Whether provisionally processed areca nuts proposed to be imported by the respondent will fall under the classification prescribed under Chapter heading 8 – Edible fruit and nuts; peel of citrus fruit or melons more particularly heading 080280 – Areca nuts; under the several subheadings of 0803 8010, 0802 8020, 0802 8030 and 0802 8090 respectfully describing areca nut as whole, split, ground, and other and particularly when the Chapter notes specifically provide that the said Chapter will include dried nuts as well, even after rehydration and other treatment for the purpose of additional preservation or stabilization like by way of moderate heat treatment, etc., and also for the purpose of improving and maintaining their appearance like by way of adding vegetable oils, small quantities of glucose syrup for the purpose of retaining the character of dried nut or it will fall under



C.M.A(MD)No.556 of 2024

Chapter 0812-Fruits and nuts provisionally preserved but unsuitable in that state for immediate consumption more particularly sub-heading under 0812 9090 – other under the Customs Tariff Act.?”

4. We heard the learned Senior Standing counsel appearing on behalf of the appellant and carefully considered the materials available on record.

5. The main issue that is involved in the present case is as to whether the provisionally preserved Arecanut that was proposed to be imported by the respondent will fall under 0812 or 0802.

6. The learned Senior Standing counsel brought to our notice the judgment of the Apex Court in ***S.Krishna & Co v. Commissioner of Central Excise, Customs and Service Tax*** reported in **2015 (321) ELT A205(SC)**, which in turn confirmed the order passed in ***S.Krishna & Co v. Commissioner of Central Excise, Customs and Service Tax*** reported in **2015 (321) ELT 530(Tri-Kolkata)**. The relevant portions in the order passed by the Tribunal are extracted hereunder:



C.M.A(MD)No.556 of 2024

WEB COPY

“14. The Id. Advocate has submitted that in this case split betel nuts are preserved by Sulphur Dioxide which is class II preservative and requires various processing after the goods were imported to make them suitable for human consumption and therefore being unsuitable in that state for immediate consumption they are correctly classifiable under chapter 0812. As against this we find that the various test reports mentioned as under :-

Plant Quarantine Lidianatory in its report dated 3-12-2012, and 27-11-2012 reported that recommended for release (for consumption purpose only)

Central Food laboratory in its report dated 10-12-2012 mentioned that "SO₂ present within limit approved for nuts and opined the sample is found not adulterated in respect of tests mentioned above". Further against a specific query by the department 27-1-2014 clarified that "conclusively the product was declared safe food". On the basis of food safety parameters under its rules and regulations, 2011. However, on the opinion whether "Fit for human consumption, cannot be written as the Food Safety and Standards Act, 2006 defined in its class Section 31zz-that "unsafe food" means an article of food whose nature, substance or quality is so affected as to render it injurious to health or vice versa hence the product could not be certified as safe food as per Section 3(q) of the F.S.S.Act 2006 in which "Safe food means assurance that food is acceptable for human consumption according to its intended use. These reports have not been challenged by the Id. Advocate. We find from the above reports that the sample of the imported goods are not suitable for immediate consumption and therefore they would merit classification under CTH



C.M.A(MD)No.556 of 2024

WEB COPY

080280 and not under CTH 0812.

15. It is the contention of the Id. Advocate that whether an item is classifiable under two headings, as per provisions of Rule 3 of General Rules for interpretation of the First Schedule ie. Import Tariff, they shall be classified under the heading which occurs last in numerical order. In this regard, it is noticed that Rule 3 is applicable in case where the materials or substances are contained in mixed or composite goods whereas in the present case the imported goods are not consumed in mixture.

16. Ld. Advocate submitted that as per clarification of the HS on the web Zollameter (at page 73 of the paper book), it is clearly mentioned that provisionally preserved Betel Nut is classifiable in Heading 0812 of the HSN. After going through the copy of the clarification, we find that the items unsuitable in that state for human consumption are not covered under the Heading 0812. Further on going through the harmonized commodity description and coding system which is a guidelining to determine the scope and content of the harmonized system sub-headings, it is noticed that the product classifiable under chapter heading 081290 are

081210 Cherries

081290 Other

“provided they remain unsuitable for immediate consumption in that state. Such products are used mainly in food industry (manufacture of jam, preparation of candied fruits etc.). The products most commonly presented in this state are Cherries, Strawberries. Oranges, Citrons Apricots and Greengages. They are usually packed in casks, trays or open-lath type containers. As against this, the imported goods are not



C.M.A(MD)No.556 of 2024

WEB COPY

presented in packed casks, trays etc.”

7. It is clear from the above that insofar as provisionally preserved Arecanut that was proposed to be imported by the respondent will only fall under tariff item No.0802 and not under 0812. The substantial questions of law framed by this Court are answered accordingly in favour of the department and the Civil Miscellaneous Appeal stands allowed. No costs. Consequently connected Miscellaneous Petition is closed.

[N.A.V., J.]

[K.K.R.K., J.]

27.03.2026

NCC :Yes/No

Index :Yes/No

TSG

To

The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court, Madurai.



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C.M.A(MD)No.556 of 2024

N. ANAND VENKATESH,J.

AND

K.K.RAMAKRISHNAN,J.

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C.M.A(MD)No.556 of 2024

27.03.2026