CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. III

Customs Appeal No. 87080 of 2016

(Arising out of Order-in-Appeal No. 321 (Gr.A-F)/2016(JNCH/A-II dated 18.07.2016 passed by the Commissioner of Customs (Appeals-II), Mumbai-II)

Godavari Udyog **.....Appellant**
M-4, MIDC, Kupwad,
Sangli 416 436.

Versus

Principal Commissioner of Customs – NS I **.....Respondent**
Jawaharlal Nehru Custom House, Nhava Sheva,
Navi Mumbai 400 707.

APPEARANCE:

Shri Sanjay Singhal, Advocate for the Appellant
Shri L.B. D'Coasta, Authorised Representative for the Respondent

CORAM: **HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 17.04.2026
Date of Decision: 27.04.2026

FINAL ORDER NO. 85581/2026

PER: P. ANJANI KUMAR

M/s. Godavari Udyog[1] imported goods described as "Food Seasoning Material for Snack Foods" classifying the same under Customs Tariff Item[2] 3302 10 10 of the Customs Tariff Act, 1975 and filed a Bill of Entry dated 18.06.2015. On the basis of the test report given by Deputy Chief Chemist, Revenue sought to reclassify the goods under CTI 2103 90 40 and accordingly issued a show cause notice dated 24.11.2015 which was confirmed in order-in-original dated 21.12.2015. The original authority imposed a fine of Rs.1,75,000/- in lieu of confiscation and a penalty of Rs.25,000/- on the appellant.

2. On appeal filed by the appellant, learned Commissioner of Customs (Appeals), Mumbai-II upheld the order-in-original.

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1. **the appellant**
2. **CTI**

3. Shri Sanjay Singhal, learned counsel for the appellant submits that the health certificate issued at the foreign port indicated the ingredients of the impugned goods as follows:

> "a. Food Seasoning Material for Snack Food-SAI 380.001
> Ingredients Salt, Onion Powder, Sugar, Wheat Flour, Maltodextrin, Garlic Powder, Lactic Acid, Natural Herbs (Parsley Flakes, Spearmint Powder) Hydrolyzed Vegetable Protein, Natural Onion Flavour Natural Yogurt Flavour.
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> b. Food Seasoning Material for Snack Food-SAI 090.001
> Ingredients A dehydrated blend of Whey, Partially Hydrogenated Soyabean Oil, Maltodextrin, Salt, Citric Acid, Lactic Acid, Natural Food Colour E160a, Oleoresin Paprika, Nattural Food Colour Tumeric Extract E100, Paprika Powder, nature Identical Flavour.
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> c. Food Seasoning Material for Snack Food-SAI 058.002)
> Ingredients Maltodextrin, Salt, Dehydrated Garlic, Dextrose, Encapsulated Black Pepper, Cumin, Red Chili Nature Identical Flavouring, Natural Paprika Oleoresin, Tricalcium Phospate."

4. The Deputy Chief Chemist reported as under:

> "a. Dy CC Lab No. 250 dated 9.7.2015 (SAI 380.001) – The sample is in the form of Yellowish Powder with grayish particulars having Spearmint Flavour. It is a food preparation containing Salt, Carbohydrate, Proteineous matter, Maltodextrin, flavouring Agent and additive. It is free from Alcohol. (Annexure D)
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> b. Dy CC Lab Lab No. 251 dated 9.7.2015 (SA1090.001) - The sample is in the form of Orange coloured Powder. It is a food preparation containing Salt, Maltodextrin, Proteineous matter, Fatty Matter, favouring Agent & additives. It is free from Alcohol. (Annexure E)
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> c. Dy CC Lab No. 252 dated 9.7.2015 (SA1058.002) - The sample is in the form of Orange Coloured Powder having spicy odour. It is a food preparation containing Salt, Maltodextrin, Carbohydrate, Proteineous matter, inorganic phosphate, flavouring Agent and additive. It is free from Alcohol."

5. The learned counsel further submits that the impugned order ignores the HSN Explanatory Notes to Customs Tariff Heading 3302 which covers the goods containing one or more odoriferous substances combined with added diluents or carriers such as vegetable oil, dextrose or starch. The finding of the appellate authority that the goods of Heading 3301 are not present in the goods is incorrect as the list of the goods appended to Chapter 33 include paprika, parsley and spearmint. He further submits that in terms of Rule 2(b) of the General Rules of Interpretation[3], reference to mixtures indicate combination of that material with other substances. Rule 3(b) of GRI prescribes that mixtures have to be classified as per the component which gives them the essential character. In the impugned case, odoriferous substances like paprika, parsley and spearmint give the impugned goods the essential character. He relies on the following decisions:

(i) **Symrise Pvt. Ltd.** vs. **Commissioner of Customs, Chennai**[4]

(ii) **Commissioner of Customs** vs. **International Flavours and Frangrances India Pvt. Ltd.**[5]

6. Shri L.B. D'Coasta, learned authorised representative for Revenue reiterates the findings of the impugned order and submits that the appeal may be dismissed.

7. Heard both sides and perused the records.

8. We find that as per HSN, Heading 3302 refers to mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as taw materials in industry; other preparations based on odoriferous substances, of a kind

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3. GRI
4. 2023 (6) TMI 1258 – CESTAT CHENNAI
5. 2023 (11) TMI 483 – CESTAT CHENNAI

used for the manufacture of beverages. The appellant submits that the impugned goods are used for snack preparations for snacks.

9. We find that the ingredients of the impugned goods include parsley and spearmint which are the essential oils, resinoids oils listed in the annexure to Heading 3302. We also find that it contains paprika, an extracted oleoresins.

10. Learned counsel for the appellant submits that the original authority and the appellate authority have misread the Explanatory Notes to mean that the odoriferous substances should be predominant in the mixtures which does not seem to be a correct appreciation of the provisions which only refer to provisions of one or more such odoriferous materials.

11. We find that the impugned order while extracting the provisions of Heading 3302 wrongly observes as under:

> "On this basis, the Original Authority with the help of the Chapter Note/ Section Note and the HSN of both the rival entries, and as well as the definition of Seasonings from Wikipedia has reached a finding that it in order that the item to be classified under 33.02, has to have an odoriferous substance as its main constituent. Such a substance has to be isolated from substances or to synthetic aromatics of items classifiable under heading 33.01. The presence of salt in the preparation suggests that the item is used for saline seasoning and further the presence of other items as observed in the test report suggests that the goods cannot be included in the only for substances falling under 3302."

12. In view of the above, we find that the appellate authority has not correctly appreciated the principles of classification as far as the impugned goods are concerned.

13. The coordinate Bench of this Tribunal at Chennai in the case of **Symrise Pvt. Ltd.** examined a similar issue and held as follows:

"14.1 A scrutiny of the above Tariff Items and HSN Notes thereon clearly indicates that the imported product is not meant to be directly used for human consumption. It is said to be for industrial use, for making food flavours and to impart a tomato profile. The products that are classifiable under Chapter Heading 2106 mostly consist of food and edible preparations which are meant to be used either directly or after processing such as cooking, dissolving or boiling in milk or water or other liquids, for human consumption. As per the HSN Notes, the said heading excludes mixture of odoriferous substances, which can be either natural or synthetic or mixed or both, which are used as raw materials in the perfumery, food or drink industries.

14.2 The appellant's submission is that the subject goods consists of various odoriferous substances and what is imported i.e., the tomato flavour, is of synthetic origin, which makes it classifiable under CTH 3302 1010. The Ld. adjudicating authority has relied on Chapter Note 2 to Chapter 33 of the Customs Tariff Act, 1975, which states that "odoriferous substances" in Chapter Heading 3302 refers only to substances of Chapter Heading 3301 to odoriferous constituents isolated from those substances or to synthetic aromatics, and also referred to the HSN, which states that the goods which qualify for classification under Chapter Heading 3302 should be mixtures, whether or not combined with a diluent or carrier or containing alcohol, of products of other Chapters (e.g., spices) with one or more odoriferous substances (essential oils, resinoids, extracted oleoresins or synthetic aromatics), provided these substances form the basis of the mixture. Thus, the Ld. adjudicating authority has ruled out the classification of tomato dry flavour basing on the above HSN to CTH 3302, stating that none of the ingredients listed under the HSN form the basis for the imported tomato dry flavour other than natural tomato powder, which does not fall under the list of principle essential oils, resinoids and extracted oleoresins of CTH 3301.

14.3 However, we find that the odoriferous substances can be of synthetic origin, which fact is omitted to be noted by the Ld. adjudicating authority. The appellant

has been arguing that the tomato flavour is of synthetic origin though it may contain some natural odoriferous substances and it cannot be directly or indirectly used in food preparations. In this regard, the appellant has also put forth that it is not necessary that it should be made of essential oil, resinoid or oleoresin alone to merit classification under Chapter Heading 3302 and that in any case, the product contains garlic oil, which is an oleoresin.

15.1 A closer study indicates that the item which is imported is of synthetic origin and consists of odoriferous substances, which is an industrial raw material for making food flavours and the same cannot be directly used in any food preparations for human consumption.

15.2 It is also noticed that the Tribunal, Mumbai in the case of M/s. Britco Foods Company Ltd. v. Commissioner of Central Excise, Pune [2001 (127) E.L.T. 73 (Tri. - Mumbai)], relied upon by the appellant, has categorically held that the Chapter Heading 2106 excludes preparations of food or drink industry based on odoriferous substances from that heading and put them under Chapter Heading 3302, and the above judgement has been maintained by the Hon'ble Supreme Court as reported in 2007 (213) E.L.T. 490 (S.C.).

15.3 Thus, Chapter Heading 3302 covers both natural and/or synthetic mixtures of odoriferous substances."

14. In view of the above, we find that the impugned order is not sustainable and is, therefore, set aside. The appeal is, accordingly, allowed.

(Order pronounced on **27.04.2026**)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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