CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. I

Customs Appeal No. 40433 of 2025

(Arising out of Order-in-Appeal SEAPORT C.Cus.II No. 64/2025 dated 08.01.2025 passed by the Commissioner of Customs (Appeals-II), No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

Commissioner of Customs **...Appellant**
Chennai II Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

Versus

M/s. Guru Krupa Traders **...Respondent**
Flat No. 302, Shri Harpal Singh
Ninak Ashtvinayak Apartment,
Nari Road, Kalpana Nagar,
Nagpur,
Maharashtra – 440 026.

APPEARANCE:

For the Appellant : Ms. O.M. Reena, Authorised Representative
For the Respondent : Mr. B. Satish Sundar, Advocate

CORAM:
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 41119 / 2026

DATE OF HEARING : 07.05.2026
DATE OF DECISION : 28.10.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal has been filed by the Revenue assailing Order-in-Appeal No. Seaport C.Cus.II No.64/2025 dated 08.01.2025, whereby the learned Commissioner (Appeals-II), Chennai, set aside Order-in-Original No.106410/2024 dated 24.04.2024 passed by the Additional

Commissioner of Customs, Group I. The controversy in the present appeal relates principally to the classification of the goods imported by the respondent and declared as "Betel Nut Product Known as Supari (Unflavoured Supari)". While the respondent declared the goods under CTH 2106 90 30, the adjudicating authority classified the same under CTH 0802 80 20, as split areca nuts. The Revenue contends that the learned Commissioner (Appeals) erred in accepting the classification under Chapter 21 notwithstanding the physical examination of the goods and the CRCL reports describing the samples as split pieces of betel nuts. The respondent filed four Bills of Entry bearing Nos. 7666971, 7666975, 7666976 and 7666978, all dated 27.02.2022, covering approximately 432.08 MTs of goods declared as "Betel Nut Product Known as Supari (Unflavoured Supari)" and classified under CTH 2106 90 30. The consignments were subjected to examination and representative samples were drawn and forwarded for testing. The CRCL reports recorded the samples as being in the form of split pieces of betel nuts, not fully dehusked and containing fibre, and further recorded that the samples did not contain lime, katha or tobacco. Proceedings were thereafter initiated proposing, inter alia, rejection of the declared classification and reclassification of the goods under CTH 0802 80 20, redetermination of assessable value, consequential reassessment of duty and confiscation under Section 111(d),

111(m) and 111(o) of the Customs Act,1962 and penalties under Section 112/114AA of the Customs Act, 1962.

1.1 The Ld. Additional Commissioner of Customs, Group I, *vide* Order-in-Original No.106410/2024 dated 24.04.2024, confirmed the proposals and imposed, inter alia, redemption fine of Rs.2 crores, penalty of Rs.1 crore under Section 112(a), penalty of Rs.50 lakhs under Section 114AA and penalty of Rs.4 lakhs under Section 117 of the Customs Act, 1962.On appeal, the learned Commissioner (Appeals), relying principally upon Supplementary Note 2 to Chapter 21and the judicial decisions relied upon by the respondent, set aside the adjudication order and accepted classification under CTH 2106 90 30. Aggrieved by the said order, the Revenue preferred an appeal before this Tribunal, and hence the present appeal.

1.2 The issues examined in this order are listed in the index below: -

Sl.Nos.	Topic
1.	Facts of the case
2.	Submissions of the Revenue
3.	Submissions of the Respondent
4.	Discussion and Findings
5	Burden of Proof in Classification Dispute
6	Evidentiary Value of the FSSAI Report *vis-à-vis* the CRCL Report
7	Moisture Content: Distinction between Dried and Roasted Areca Nuts
8	Discussion on Classification of the Subject Goods
9	Relevance of the HSN Explanatory Notes
10	Whether the Impugned Goods Constitute a Food Preparation
11	Common Parlance, GRI 1 and the Specific Tariff Entry for “Supari”
12	Specific entry *vis-à-vis* general/residuary entry
13	Relevance and Applicability of the Judicial Precedents Relied upon by the Revenue

14	Whether the impugned goods are eligible for benefit of concessional rate of BCD, based on the COO Certificate as per FTA?
15	Whether the valuation done by the respondents in relation to the subject goods is in accordance with law?
16	Whether consequent confiscation and penalty proceedings are sustainable
17	Conclusion
18	Order

Submissions of the Revenue

2. The Ld. Authorized Representative, Smt. O.M. Reena, appearing on behalf of the Revenue reiterated the grounds of appeal and submitted that the learned Commissioner (Appeals) had erred in setting aside the Order-in-Original and accepting the classification of the impugned goods under CTI 2106 90 30.

2.1 She has submitted that the advance ruling relied upon by the learned Commissioner (Appeals), particularly in the case of M/s. Isha Exim, was rendered in respect of another importer and, in terms of Section 28J of the Customs Act, 1962, was not binding upon the respondent. It was therefore contended that the said advance ruling could not have been relied upon for determining the classification of the goods imported by the respondent.

2.2 She further argued that the goods were physically examined in the presence of DRI officers and the CRCL reports categorically recorded that the samples were in the form of split pieces of betel nuts, not fully de-husked and containing

fibre, and did not contain lime, katha, tobacco or any additives/flavouring material.

2.3 The Ld. AR submitted that, for classification under CTI 2106 90 30, the goods must, in the first instance, constitute a food preparation and, secondly, must not be specified or included elsewhere in the Customs Tariff. According to her, the impugned goods were merely dehusked and dried areca nuts in split form and did not constitute a food preparation. Since the goods were specifically identifiable as split areca nuts, they were appropriately classifiable under CTI 0802 80 20.

2.4 She further submitted that Chapter Note 3 to Chapter 8 recognises that dried fruit or dried nuts may undergo certain processes while retaining their character as dried fruit/nuts. Since the impugned goods continued to retain their essential character as areca nuts, their classification under Chapter 8 was warranted.

2.5 She placed reliance upon Rule 1 of the General Rules for Interpretation and submitted that classification was required to be determined on the basis of the terms of the headings and the relevant Section and Chapter Notes. Since the goods were specifically covered as areca nut splits under

CTI 0802 80 20, resort to the residuary heading 2106 was not justified. In support of the above contention, she relied upon the decisions in *Crane Betel Nut Powder Works v. CCE - 2007 (210) E.L.T. 171 (SC)* and *S.T. Enterprises v. CC -2021 (378) E.L.T. 514 (Tri. - Chennai).*

2.6 She further submitted that the incorrect declaration of the goods under CTI 2106 90 30 enabled the respondent to avail the benefit of exemption Notification and to circumvent the restrictions applicable to import of areca nuts, thereby rendering the goods liable to consequential duty, confiscation and penalties.

2.7 She accordingly submitted that the impugned Order-in-Appeal was contrary to the evidence on record, the statutory provisions and the settled judicial position and prayed that the same be set aside and the Order-in-Original be restored.

Respondent's submissions

3. The Ld. Counsel for the respondent supported the impugned order. It was submitted that the goods had been examined by an FSSAI-authorized laboratory and certified as conforming to the standards prescribed for "Betel Nut Product Known as Supari (Unflavored Supari)" under the applicable

Food Safety and Standards Regulations. Reliance was also placed upon the FSSAI NOC describing the product as "Betel Nut Product Known as Supari (Unflavored)".

3.1 The Ld. Counsel submitted that the CRCL examination was essentially a physical examination and that the CRCL report did not conclude that the goods were not "supari". It was submitted that the absence of lime, katha or tobacco was itself consistent with the definition of "betel nut product known as supari" under Supplementary Note 2 to Chapter 21.

3.2 The Ld. Counsel placed reliance on the decisions in the following cases, namely, *Shahnaz Commodities- (2023) 9 Centax 183 (Mad.), A.K. Impex- 2024 (4) TMI 85 - MADRAS HIGH COURT, Isha Exim- 2023 (12) TMI 920 - BOMBAY HIGH COURT (affirmed by SC - 2024 (12) TMI 849 - SC Order), Excellent Betel Nut Products- 2023 (5) TMI 668 - CESTAT MUMBAI, NBG International Private Limited - 2026 (3) TMI 1212 - BOMBAY HIGH COURT, Oliya Steel- 2026 (1) TMI 1018 - CESTAT KOLKATA, M/s N&N Traders (2024) 18 Centax 274 (Tri. - Del).*

3.3 Reliance was also placed upon the certificates of origin certificates issued by the Myanmar authorities, wherein

the goods were described as betel nut products known as supari and mentioned under HS Code 21069030. It was stressed that same has not been disputed or challenged by the revenue in the manner known to law. The Ld. Counsel placed reliance on the decisions in the case of M/s. Ruby Overseas Versus Commissioner of Customs, Chennai- Final Order Nos : 41154 - 41157/2025 dated October 17, 2025.

3.4 The Ld. Counsel further relied upon the subsequent Order-in-Original No.116366/2025 dated 28.10.2025 passed by the same Commissionerate in respect of similar goods.

Discussion and Findings: -

4. We have carefully considered the rival submissions, perused the records of the case and examined the grounds of appeal and the impugned Order before us.The principal issue which arises for determination is whether the impugned goods, declared as "Betel Nut Product Known as Supari (Unflavoured Supari)", are classifiable under CTH 2106 90 30, as claimed by the respondent and accepted by the Commissioner (Appeals), or under CTH 0802 80 20 as split areca nuts, as contended by the Revenue.

BURDEN OF PROOF IN CLASSIFICATION DISPUTES: -

5. We find that as rightly declared by the Apex Court in a catena of judgments, it is trite law that in matters of classification of goods, the burden of proof rests on the shoulders of the Revenue. The Apex Court in *Union of India and Ors. v. Garware Nylons Limited (1996) 10 SCC 413* observed: -

> *"The burden of proof is on the taxing authorities to show that the particular case or item in question is taxable in the manner claimed by them. Mere assertion in that regard is of no avail. It has been held by this Court that there should be material to enter appropriate finding in that regard and the material may be either oral or documentary. It is for the taxing authority to lay evidence in that behalf even before the first adjudicating authority…".*

5.1 Further quoting para 35 of the judgment rendered by Apex Court in *Dunlop India Ltd. v. Union of India (1976) 2 SCC 241*, the Court held: -

> *"...When an article has, by all standards, a reasonable claim to be classified under an enumerated item in the Tariff Schedule, it will be against the very principle of classification to deny it the parentage and consign it to an orphanage of the residuary clause."*

5.2 Most recently, the Hon'ble Apex court in *Gastrade International v. Commissioner of Customs (2025) 8 SCC 342* at para 45 observes: -

> *"There cannot be any dispute to the proposition of law as noted by the High Court that the burden of proof as regards the classification of any goods of importation is upon the Revenue/Customs authority and the standard of proof in proceedings under the Tariff Act is not "beyond reasonable doubt". However, whether "preponderance of probability" can be the appropriate test for classification under the Customs Act would be required to be examined in the light of the "General Rules for the interpretation of this Schedule" as provided in the First Schedule – Import Tariff in Part 2 of the Tariff Act (hereinafter referred to as the "Rules")"*

5.3 It has been held in HPL Chemicals Ltd v. CC, Chandigarh, 2006 (197) ELT 324 (SC), as under: -

> *"29. This apart, classification of goods is a matter relating to chargeability and the burden of proof is squarely upon the Revenue. If the Department intends to classify the goods under a particular heading or sub-heading different from that claimed by the assessee, the Department has to adduce proper evidence and discharge the burden of proof. In the present case the said burden has not been discharged at all by the Revenue….."*

5.4 The said view has been consistently reiterated by the Hon'ble Apex Court as can be seen from the decision in *CC & CE, Amritsar v. D.L. Steels, 2022 (381) ELT 289 (SC)* wherein it was held that when the Revenue challenges the classification made by the assesses, the onus is on the Revenue to establish that the item in question falls in taxing category as claimed by them. The burden is on the Revenue to adduce proper evidence to show that the goods are classifiable under a different heading than that claimed by the Assessee. The recent decisions in *Hewlett Packard India Sales Pvt Ltd v CC (Import), Nhava Sheva, 2023 (383) ELT 241 (SC)* as well as *Gastrade International v CC, Kandla, 2025 (392) ELT 529 (SC)* also hold to the same effect.

5.5 We find that it is trite law that the burden of proof rests upon the Appellant-Revenue, which is required to discharge the same on the touchstone of the preponderance of probabilities. Having acknowledged this settled position, we now turn to the next limb of the arguments advanced by the

parties, namely, the application of the settled principles of law and rules of interpretation governing the resolution of classification disputes and appreciation of relied upon evidences, especially FSSAI reports and CRCL reports.

DISCUSSION IN RESPECT OF FINDINGS OF FSSAI REPORT *Vis-à-vis* CRCL REPORT FOR RESOLVING THE CLASSIFICATION DISPUTE : -

WHAT DO THE FSSAI AND CRCL REPORTS ACTUALLY ESTABLISH?

6. It is a settled principle that classification of goods under the Customs Tariff is required to be determined with reference to the nature, character and composition of the goods as presented for import, having regard to the terms of the relevant tariff headings and the applicable Section and Chapter Notes. In the present case, the examination proceedings and the CRCL test reports relied upon by the Revenue record that the goods were in the form of split pieces of betel nuts, including damaged, blemished and cracked nuts, and that certain nuts were not completely dehusked and retained fibres. The report further record that the goods did not contain lime, katha or tobacco. On the other hand, the Respondent has placed reliance upon the reports and clearance issued by the statutory authority, namely, the Food Safety and Standards Authority of India (FSSAI), wherein the

product has been described as “Betel Nut Product Known as Supari (Unflavoured Supari)” and it has been recorded that the sample conforms to the prescribed parameters for such product under the applicable standards framed under the Food Safety and Standards Regulations, 2011.In our considered view, the CRCL reports and the FSSAI reports cannot be regarded as mutually destructive. The two sets of reports operate in different fields and proceed from different parameters. Ordinarily, a CRCL report records the physical characteristics and composition of the sample with reference to the specific test parameters or queries placed before it by the Customs authorities. The FSSAI examination, on the other hand, is undertaken with reference to the statutory standards governing food products and involves an assessment against the prescribed quality and safety parameters. Consequently, while the FSSAI reports cannot, by themselves, be regarded as conclusive for determining classification under the Customs Tariff, equally, the CRCL reports cannot, merely by describing the goods as split betel nuts, be treated as conclusively establishing their classification under Chapter 8. The evidentiary value of the said reports has necessarily to be assessed in the context of the precise parameters examined, the nature of the goods as presented for import and, more importantly, the requirements of the competing tariff entries. We, therefore, consider that the question of classification

cannot be determined merely on the basis of the nomenclature employed in either of the reports. The same has to be resolved upon an independent and holistic appreciation of the entire evidentiary material, examined in the light of the language of the competing tariff entries and the applicable Section and Chapter Notes. It is in this backdrop that we proceed to examine the relevant test parameters and the applicability of the competing tariff entries.

6.1 Relevant extracts from FSSAI reports stand extracted below: –

Food Safety and Standards Authority of India (9) fssai
Ministry of Health & Family Welfare

NO OBJECTION CERTIFICATE FOR CLEARANCE OF IMPORTED FOOD

NOC No: NOC202200018066

Port of Entry/Location: Chennai Sea and ICD/Ennore Cargo Container Terminal

To,
The Deputy Commissioner of Customs /Asst.Commissioner of Customs
Tamilnadu

Food Article imported by: GURU KRUPA TRADERS

FSSA License No: NA

IGM Number: 2304764
Bill of Entry Number: 7666971
IECode: CNVPM3180K

Dated: Feb 27, 2022
CHA Name: LOTUS INTERNATIONAL SERVICES

Product	Sample ID	IGM Number	Import Purpose	Mode	Product(s) as per Bill of Entry	Exporting Country
BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI) [2 1069030]	2010220227C1HLGJ	2304764	Commercial	Sea	BETEL NUT PRODUCT KNO WN AS SUPARI (UNFLAVOUR ED SUPARI)	MYANMAR

This office has no objection if the product(s) mentioned above is released from this port as the result(s) of the inspection / analysis shows that the sample(s) conform to the specification(s) under the FSS Act 2006 and rules and regulations made thereunder.

This is for your information and necessary action please.

Remark: The sample conforms to the above tested parameters for BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI) in the standard laid down under 2.3.55 of food safety and standards (Food Products standards and Food additives) Regulations 2011

Date of issuance of NOC : 04/03/2022
This certificate is valid till-03/04/2022

(Name and seal of Authorized Officer)

C. Conclusion:

The sample conforms to the above tested parameters for BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI) in the standard laid down under 2.3.55 of food safety and standards (Food Products standards and Food additives) Regulations 2011

Place : Chennai
Date : 04-03-2022

For CVR Labs (P) Limited
SU. SUBASRI

Verified By : Parveen Banu **Authorised By :**

******* *END OF REPORT* *******

SMSLA

SMS LABS SERVICES PRIVATE LIMITED

FORM B
Report of Food Analyst/Authorised Signatory of recognized laboratory
Report No :20102202221SG45U

To,

M. Kannan
Authorised Officer
Food Safety And Standards Authority Of India,
Ministry Of Health & Family Welfare,
IInd Floor, Central Documentation Complex (south Wing),
Chennai Port Trust Building, Rajaji Salai, Chennai - 600001

I A.Kanagavel (Authorised Signatory of recognized laboratory) duly appointed under the provisional of food safety and standards Act, 2006 (34 of 2006); for SMS Labs Services Pvt Ltd,Chennai (FS22020096-02) Certified that , (name of the local areaname of the port) received from **Ennore Cargo Container Terminal** a sample of **BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI)** bearing Code Number and Serial Number **20102202221SG45U** of Designated Officer/Authorised Officer of **Chennai Sea area on 28/02/2022 (date of receipt of sample) for analysis.**

The condition of seals on the container and the outer covering of receipt was as follows :
Sample was enclosed in **POLYTHENE BAG.**

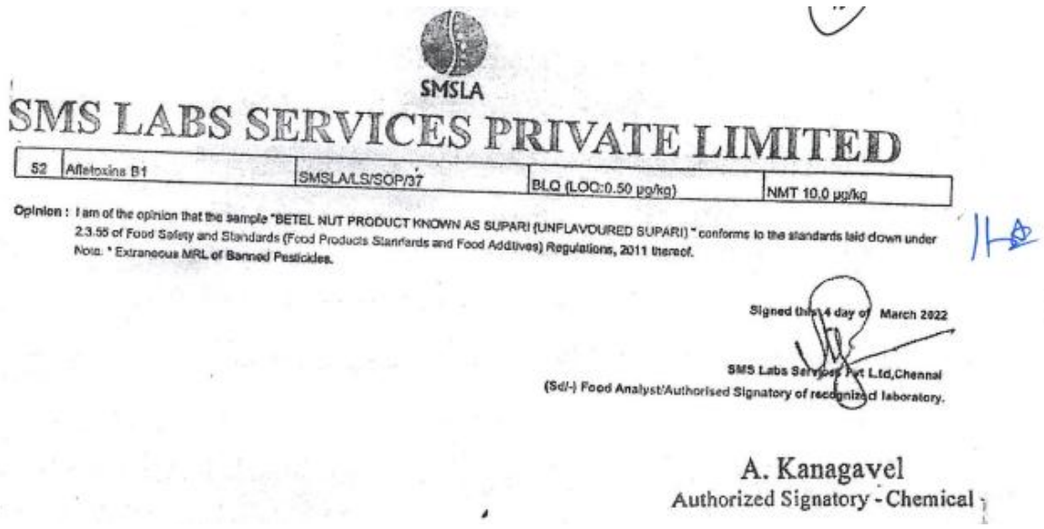
I found that the sample to be **SETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI)** (category of the sample) falling under Regulation **No. 2.3.55** of food safety and standards (food product & food additives) Regulations, 2011.

The sample **BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI)** was in a condition fit for analysis and has been analysed on **28/02/2022 to 04/03/2022** and the **results of its analysis is given below :**

Analysis Report

1. Sample Description	BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI)
2. Physical Appearance	SUPARI
3. Labeling Requirements	NIL

S No.	Quality Characteristics	Name of the Method of the test used	Results	2.3.55
1	Moisture	IS 965	6.24 g/100g	NMT 7.0 g/100g
2	Added Colouring Matter	FSSAI Manual 5	Absent	Absent
3	Flavour/Odour	SMSLA/FD/SOP/033	Characteristic flavour/odour	Characteristic
4	Damaged By Moulds and Insects	SMSLA/FD/SOP/041	Nil	NMT 3.0 g/100g
5	Insect Infestation	SMSLA/FD/SOP/022	Absent	Absent
6	Visible Molud	SMSLA/FD/SOP/022	Absent	Absent
7	Sulphite as SO2	AOAC 990.28	BLQ (LOQ:10.0 mg/kg)	NMT 1,000 mg/kg
8	Sorbic Acid	SMSLA/HC/SOP/16	BLQ (LOQ:10.0 mg/kg)	NMT 500 mg/kg
9	Benzoic Acid	SMSLA/HC/SOP/16	BLQ (LOQ:10.0 mg/kg)	NMT 800 mg/kg
10	Listeria monocytogenes	ISO: 11290 (Part 1)	Absent/25g	Absent/25g
11	Vibrio cholerae	ISO: 21872 (Part 1)	Absent/25g	Absent/25g
12	Enterobacteriacae	ISO: 21528 (Part 2)	<10 cfu/g	NMT 100 cfu/g
13	Aerobic Plate Count	ISO: 4833 (Part 1)	22000 cfu/g	NMT 40000 cfu/g



SMSLA

SMS LABS SERVICES PRIVATE LIMITED

52	Aflatoxins B1	SMSLA/LS/SOP/37	BLQ (LOQ:0.50 µg/kg)	NMT 10.0 µg/kg

Opinion : I am of the opinion that the sample "BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI) " conforms to the standards laid down under 2.3.55 of Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 thereof.
Note. * Extraneous MRL of Banned Pesticides.

Signed this 4 day of March 2022

SMS Labs Services Pvt Ltd,Chennai
(Sd/-) Food Analyst/Authorised Signatory of recognized laboratory.

A. Kanagavel
Authorized Signatory - Chemical

6.1 Further, at this stage, we find it apposite to refer to the decision of the Hon'ble Bombay High Court in *NBG International Private Limited v. Commissioner of Customs, 2026 (3) TMI 1212 – Bombay High Court; 2026:BHC-AS:13544 – DB*- relevant paras extracted in later paras. The issue before the Hon'ble High Court was, inter alia, whether the Customs authorities could disregard the FSSAI test reports and continue to detain the imported roasted areca nuts, and whether the seizure memo and the conditions imposed for provisional release, including furnishing of a bank guarantee and execution of a no-use bond, were legally sustainable. The Hon'ble High Court noted that the imported goods had been examined by the authorized officers and tested by the FSSAI laboratory, which had issued NOCs confirming conformity with the applicable standards. The Court held that, once a specialized statutory authority entrusted with the responsibility of ensuring food safety had examined the goods and certified them as conforming to the applicable standards

and fit for human consumption, there was no satisfactory basis for the Customs authorities to insist upon re-testing or to treat the consignments as not being roasted areca nuts merely on the basis of a subsequent CRCL report.

6.2 The aforesaid observations assume significance in the facts of the present case. The FSSAI report before us records that the imported goods conform to the characteristics of "Betel Nut Product Known as Supari (Unflavored Supari)". The goods were tested for parameters including moisture, contaminants, pesticide residues and microbiological parameters. The test parameters, test methods and test results are specifically set out in the report, and, upon such examination, the FSSAI issued the NOC. The physical appearance of the product has also been recorded as "Supari". We are conscious that the FSSAI report, by itself, cannot be regarded as determinative of classification under the Customs Tariff, which has to be independently determined in accordance with the relevant tariff entries and the applicable Section and Chapter Notes. At the same time, the said report constitutes relevant evidence regarding the identity, nature and characteristics of the goods as examined by the statutory authority competent to assess imported food articles against the prescribed standards. Its evidentiary value, therefore, cannot be discarded without assigning cogent reasons or

bringing on record material which would demonstrate that the findings recorded therein are incorrect, unreliable or otherwise unsustainable.

6.3 In the present case, we do not find any material on record to suggest that the FSSAI examination was deficient, that the test results were erroneous or that the NOC issued by the competent authority was subsequently withdrawn, modified or otherwise called into question. It is also not the case of the Revenue that the FSSAI officers had failed to properly examine the imported goods with reference to the correctness of the declaration and the applicable food safety standards before issuing the NOC for their release. We find it equally significant to examine what the CRCL report establishes and, more importantly, what it does not establish. No specific query appears to have been raised with the CRCL regarding the exact processes or composition or chemical parameters of the goods, or whether the goods could be regarded as "Betel Nut Product Known as Supari" or otherwise. The CRCL report, obtained at the instance of the Revenue during investigation, does not record a specific finding that the imported goods were not a Betel Nut Product Known as Supari. The report also does not appear to ascertain whether the goods were ripe or in raw form, or the nature and extent of the processes, if any, which the betel nuts had undergone

before assuming their imported form. No specific query was raised as to whether the goods constituted a preparation or otherwise, or whether they were fit for human consumption. The observations in the CRCL report, insofar as they relate to minimal damage and the goods being in split form, may describe certain physical characteristics of the samples; however, such observations, by themselves, do not satisfactorily establish that the goods could not be regarded as a "Betel Nut Product Known as Supari".

6.4 Thus, the evidentiary material placed before us presents a situation where the FSSAI, upon examination against specified parameters, has identified the product as "Betel Nut Product Known as Supari (Unflavored Supari)" and issued the requisite NOC, whereas the CRCL report, while recording certain physical characteristics of the goods, does not address several of the material questions which would be relevant for determining whether the goods fall within or outside the description relied upon by the Respondent. In these circumstances, we are unable to accept the proposition that the FSSAI report and NOC can simply be brushed aside on the basis of the CRCL report. If the Revenue sought to displace the findings of the specialized statutory authority, it was incumbent upon it to bring on record cogent material demonstrating why the findings recorded by the FSSAI could

not be accepted, or to obtain an appropriate examination on the specific parameters relevant to the issue in dispute. No such material or exercise is discernible from the record before us. We, therefore, find that the CRCL report, in its present form, does not furnish a sufficient evidentiary basis to disregard the FSSAI report and NOC or to conclude, merely from the goods being described as split betel nuts with some damage, that they were necessarily something other than "Betel Nut Product Known as Supari (Unflavoured Supari)". The question of classification must consequently be determined on an independent appreciation of the entire evidence, keeping in view the statutory tariff entries and the applicable principles of classification.

6.5 In the instant case, FSSAI report has confirmed that imported goods comply with the characteristics of betelnut Product known as Supari. It must be noted that goods were tested for parameters like Moisture, contaminants, pesticide residues, microbiological parameters. In fact, the tested parameters, test methods and test results are clearly mentioned in report and subsequent to test results, FSSAI has issued NOC. Physical appearance finds mentioned as "Supari'. In view of above, we find no justification or reason for revenue to hold imported goods to be something other than SUPARI

without re- examining or raising doubt in as far as credibility of FSSAI reports/NOC/test results.

6.6 It is not even the case of revenue that FSSAI officers have not fairly examined the imported goods ensuring correctness of declaration and safety of food articles and there after only issued NOC for release of imported goods. The issue of questioning the test results and NOCs issued by FSSAI without taking up the matter with concerned statutory authorities and making such harsh allegations against the respondent based on incomplete CRCL report is completely arbitrary. No where, it is coming out from investigation that FSSAI report has been challenged or perverse and at the same time, no queries were made to CRCL as to what is the exact composition, chemical parameters, classification of imported goods and query whether the subject goods are Betelnut products known as SUPARI or otherwise. CRCL report which was issued at the insistence of revenue during investigation also did not specify or come to finding that the imported goods are not Betelnut product known as SUPARI. They have not even ascertained whether the goods are ripe or in raw form or as to what all processes it underwent to come in its present form. No query was raised as to whether goods are preparation or otherwise or whether goods are fit for human consumption or not. CRCL test report, barring making

observation regarding minimal damage and split betelnut, have not been able to satisfactorily demonstrate as to how the imported goods are not BETELNUT product known as SUPARI. We find that it was not correct on the part of revenue to brush aside and question the wisdom of FSSAI reports, FSSAI itself being the statutory body recognized by legislature to certify food imports.

6.7 The relevant extract from decision of High Court of Bombay is extracted below for ready reference: -

> *"**16**. We are thus in agreement with the contentions as made on behalf of the Petitioner that once the FSSAI has cleared the imported goods as fit for human consumption, and also has specified the moisture content in the said test reports, then to question the wisdom of FSSAI, would not be an appropriate approach on the part of the Respondents, as the FSSAI itself being a statutory body is recognized under the Rules to certify the imports. It is not disputed on behalf of the Respondents that the FSSAI is acting under various rigorous provisions of the statute and also the stringent Rules and Regulations framed thereunder. Further, the Respondents have not been able to give any plausible or satisfactory explanation as to why re-testing/re-examination of the imported goods was sought to be done by the Respondents. Learned counsel for the Respondents has tried to canvass the argument that the imported goods are not fit for human consumption by placing reliance on the test reports issued by CRCL basis the observation by CRCL that some parts of the imported goods were damaged nuts and the damage was primarily on account of mould or insects. We are not in agreement with the aforesaid submission, considering the reports of the FSSAI.*****
>
> *The FSSAI reports cannot be disregarded, which was made available immediately after the samples of the imported goods were drawn for testing.*
>
> ***17**. A Division Bench of this Court in the case of Make Index Impex Vs. Union of India and others 2023-SCC OnLine-Bom-1678, of which one of us (G.S. Kulkarni, J.) was a member, in the context of import of Soya bean, which the Respondents had contended, was harmful for human consumption, has clearly held that once a clear stand is taken by the FSSAI that the Soya bean in question was in*

*no manner harmful for human consumption in whatever form and was in light of the requirements and parameters of FSSAI Rules, any contrary position could not be adopted by the Customs Department*****

***18**. Further, the Food Import Manual issued by FSSAI clearly specifies the steps to be taken insofar as laboratory analysis is concerned. It is only after this laboratory analysis is made, that a NOC is issued by the FSSAI and then on the basis thereof, the goods can be released. The relevant procedure for laboratory analysis is reproduced below :*
"iv) Laboratory Analysis :
a) The sample of the imported food product is forwarded to the notified laboratory that is auto selected randomly in the Food Import Clearance System (FISC);
b) The samples of imported Food sent by the Officer authorized by FSSAI are analyzed by the laboratory as per parameters defined in the FSS Act and the Regulations thereunder;
c) The laboratory shall complete the analysis and upload the test report in FICS in Form 2 of the FSS (Import) Regulations, 2017) within five days of receipt of the sample with conclusive opinion about the product tested as conforming or nonconforming.
d) For testing of food Import consignments through a transparent and expeditious process, NABL accredited laboratories have been notified by FSSAI throughout the country. These FSSAI notified laboratories are also utilized for testing of imported food consignments by the Authorized Officers of Customs Department. FSSAI has also notified 22 Referral labs other than the Primary labs, for re-testing of appeal samples of the Importers. The list of the food testing labs is available at https://www.fssai.gov.in/cms/food-laboratories.php."
(Emphasis supplied)
It is seen from the above procedure that insofar as laboratory analysis is concerned, the analysis and test reports are made by FSSAI within five days from the date of receipt of sample with conclusive opinion about the product tested as conforming or non-conforming. This goes on to show that the tests conducted by the FSSAI are of precise nature and high standards of testing are ensured and made applicable before clearing the food suitable for human consumption. In this view of the matter, we are of the opinion that any window for reclassification of the categorised goods, itself is not on a sound premise, in the facts and circumstance of the case.
Xxxxx
xxxxx
23**. There is another significant aspect which requires a mention. Considering that the imports in question are meant for human consumption, a note of caution needs to be sounded.* ***The FSSAI is under an onerous obligation to adhere to the strictest standards in the examination of imports, as its statutory obligation is of food safety and

> ***maintenance of the highest standards in that regard. Food safety also concerns quality of the food which includes its raw materials. There cannot be any compromise, whatsoever, on the quality of goods meant for human consumption, be it imports or domestic products****. It is not acceptable that any rejected or inferior quality goods are permitted to enter the country, thereby allowing dumping of cheap or sub-standard products. Hence, in a given situation irrespective of the adventure and the audacity of the importers to bring into the country, any sub-standard imports for human use and consumption, such imports should be dealt with iron hands. In a given situation, such imports would certainly achieve a colour of illegality. This needs to be the yardstick even for indigenous products or edibles or products that a human would consume.*
>
> ***24****. Thus, to* ***maintain the quality of imports of edible goods (raw or otherwise), is certainly an obligation of FSSAI to act with utmost care, precision and rigor, in certifying both imported and domestically manufactured food products, as the health of the nation equally lies in the hands of this 'specialized authority'. It cannot be countenanced that the Food Safety Standards, in any manner, are compromised and "we the people" are subjected to any inferior or sub-standard products. It is only when such highest standards are achieved, a successful march in attaining international standards on food safety and public health can be ensured****."*

6.8 We also find it apposite to place reliance on the decision of *M/s. Prenda Creations Pvt. Ltd. Ludhiana, M/s. Prenda Creations Pvt. Ltd. Ludhiana Versus Union of India &others.- 2026 (8) TMI 1298 - PUNJAB AND HARYANA HIGH COURT*, relevant extracts reproduced below -

> *"2. According to the petitioner-Company, the import of roasted areca nuts has taken place from Indonesia and the petitioner is willing to pay the Customs duty which is payable on it. The respondents, however, have taken the decision that the produce imported is not the 'roasted' areca nuts, rather its 'dried' areca nuts, which involves a different rate of duty. It is on account of this dispute that the imported goods are lying in the Customs bonded warehouse from November, 2024 onwards. The basis of the claim of the respondents is the test report obtained from the Central Revenue Control Laboratory, New Delhi, which is contained in Annexure P-2. The test report, for ready reference, is reproduced hereunder:*
> *"1. Lab No: CRCL/Food/08/4783(I)/dated: 17.01.2025Report date:03.02.2025*
> *2. Test Memo No: 1255337 Dated: 15.01.2025*

3. B/E No: 7252907 Dated :15.12.2025
*4. **Name Contac information of customer**: Superintendent CFS, OWPL, Ludhiana*
*5. **Description of sample**: Roasted Areca Nuts*
Report: The sample as received is in the form of brown coloured hard split nuts of irregular sizes and shapes, some nuts are partially burnt having smoky odor. It has the characteristics of Betel nut/Areca nut as per Regulation No.2.3.55 of Food Safety & Standards Regulation 2011 and IS 16962:2018. It is having following constants.

Sr.No.	Parameters	Test Method	Result
1.	Moisture % by mass	AOAC 934.06/fssai manual-dried fruits and vegetables -. 20.1	2.37
2.	Damaged Nuts % (damaged nuts include blemish or craked nuts, broken nuts, nuts not fully dehusked& those the pithy of which is black (% by mass)	FSSAI Manual/IS:16962 (Clause 3.5):2018	Nil
3.	Damaged by moulds & insects (% by mass)	9.97	
4.	Total Ash (% by mass) FSSAI Manual 2024	1.62	
5.	Aerocoline	--	Present
6.	Total Aflatoxin (ug/kg)	CRCL/SOP/16/1:2020	BDL
7.	Salmonella	IS 5887 (P-III) (See 1):2020	Absent
8.	Listeria Monocytogenes	IS: 14988 (P-I):2020	Absent
9	Vibrio Cholerae	IS: 5884 (P-V): 1976	Absent

1) Based on the above tested parameter sample u/r has the characteristics of dried areca/betel nut as per FSSAI Regulation 2011 and IS 16962:2018.
2) The percentage of total aflatoxins exceed the limit as per FSSAI standard.
3) On the basis of physical appearance, the sample u/r may not be considered as roasted areca/betel nut."
3. The petitioner contends that the test report essentially relies upon standards laid down under the Food Safety Standards Regulations, 2011, under the FSSAI manual, which mandates such report to be given by the Laboratory within a period of five days in respect of the food items tested. It is urged that the laboratory has itself laid down a Standard Operating System (SOP) for testing roasted areca nuts, which is contained in Annexure P-33 of the lead case. The specification and test method for areca nuts are clearly mentioned in the SOP, which is reproduced hereunder:

SOP for Testing of Parameter for Arecanut	Issue Date: 02/12/2024	Copy No.
Central Revenues Control Laboratory, New Delhi	Issue No. 01	
Doc. No. CRCl/Arecanut	Rev. No.	Page 1 of 17
	Rev. Date:	

Specification & Test method for Areca Nut (Roasted/Dried/Raw/Scented)			
S.NO	**Parameter**	**Specification/Limit**	**Test Method**
1.	Physical Appearance	Raw/Dried/Roasted Areca Nut	White/Pale Brown/ Brown/Dark Brown Coloured

2.	Moisture (% by mass)	7.0% (Max)	AOAC 934.06/FSSAI Manual-Dried Fruits and Vegetables -. 20.1
3.	Total Ash, (% by mass)	---	FSSAI Manual 2024
4.	Acid Insoluble Ash (% by mass)	---	FSSAI Manual
5.	Damaged Nuts % (damaged nuts include blemish or cracked nuts, broken nuts, nuts not fully dehusked& those the pith of which is black (% by mass)	12% (Max)	FSSAI Manual IS:16962 (Clause 3.5): 2018
6.	Damaged by moulds & insects (% by mass)	14% (Max)	
7.	Total Aflatoxin (ug/kg)	15 ug/kg (Max)	CRCL/SOP/16/1:2020
8.	Copper(Cu) (mg/kg)	30 mg/kg (Max)	AOAC 2015
9.	Cadmium (Cd) (mg/kg)	1.0 mg/kg (Max)	AOAC 2015
10.	Lead (Pb) (mg/kg)	2.5 mg/kg (Max)	AOAC 2015
11.	Tin (Sn) (mg/kg)	250 mg/kg (Max)	AOAC 2015
12.	Arsenic (As) (mg/kg)	1 mg/kg (Max)	AOAC 2015
13.	Mercury (Hg) (mg/kg)	1.0 mg/kg (Max)	AOAC 2015
14.	Total Plate Count (CFU/g)	10^5 CFU/g	IS: 5402(P-I):2021
14 a.	E. coli	Should be absent/25g	IS 5887 (P-I):1976
15.	Yeast & Mould Count	10^4 CFU/g	IS:5403:1999
16.	Salmonella	Should be absent/25g	IS 5887(P-III) (Sec 1):2020
17.	Listeria Monocytogenes	Should be absent/g	IS: 14988(P-I):2020
18.	S.aureus	10^2 CFU/g	IS 5887(P-II): 1976
19.	Enterobacteriaceae	10^3 CFU/g	ISO: 21528:2017 (Part -II)
20.	Vibrio Cholerae	Should be absent/25g	IS: 5887 (P-V): 1976
21.	Menthol	To be presented in scented supari	---
22.	Arecoline	To be present	---

Note:
(i) Sr.No 1 to 6 and 21 & 22 parameters tested when the query in test memo is whether the ***sample is roasted/dried/raw/scented.***
(ii) Sr.No 7 to 20 Parameters are tested when the query in test memo is whether the sample is ***fit for human consumption****.*
Confidential: Not to be photocopied without the permission of CRCL

Issued By
Chemical Examiner Gr-I
Approved by
Director (RL)"

4. When the test report relied upon by the respondent is examined on the touchstone of parameters laid down in the SOP, what is evident is that the conclusion of the laboratory that the sample of roasted areca nuts is actually not 'roasted' areca nuts, and rather 'dried' areca nuts, is based on the physical appearance of the product, and not any other scientific parameters determined for identifying the product as such.

5. Our attention has been invited to various documents and the affidavits of the respondents, which would go to show that on the basis of the physical appearance of the sample, its colour is found to be brown, which is usually the colour of roasted areca nuts. In addition to the test report extracted above, there are other reports, most of which are ultimately about the sample

being dried areca nuts based upon the physical appearance of the sample itself

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9. We may also take into consideration the stand of the revenue that the four consignments of areca nuts were released on personal bond, only because the issue therein was with regard to determination of country of origin, and the factum of imported goods being roasted areca nut not being disputed, deserves to be mentioned. We, however, find that in its reports, both in respect of the four consignments which have been released on personal bond and the other consignment, are similar inasmuch as the moisture content, which is the major determinative factor of the product in all such matters, is below 7%, which is within the permissible limit of moisture. The petitioner otherwise has placed on record the test report of a private laboratory as per which all the imported consignments are determined to be roasted areca nuts. The specific assertion made in para 26 of the writ petition, in this regard, remains unrebutted. In such circumstances we are of the view that when the report of Central Revenue Control Laboratory has based its conclusion only on physical appearance and not on any other scientific parameter, it would not be appropriate to allow the respondents to withhold the release of goods for years together, or call upon the petitioner to release such goods only on furnishing of bank guarantee."

6.9 We find that, in the instant case also, the allegations of the Appellant are required to be examined on the touchstone of the objective parameters laid down in the SOP, if any. What emerges from the record is that the conclusion sought to be drawn by the Revenue, namely, that the sample declared and identified as "Supari" by FSSAI officers after due statutory testing/examinations, in fact, not "Supari", does not emanate from the CRCL test report. It is evident from the record that the Revenue has not subjected the goods to the scientific parameters prescribed or otherwise considered relevant for identifying the product as such. It is significant that most of the parameters referred to above neither formed part of the test query nor find any

corresponding mention in the CRCL test results. This assumes significance when contrasted with the FSSAI test report, which is more comprehensive and records testing against as many as 52 parameters. Further, at places, even under the head of physical appearance, the product has been recorded as "Supari" by FSSAI Officers, while the analysis report specifically describes the product as "BETELNUT PRODUCT KNOWN AS SUPARI." The FSSAI report also clearly sets out the parameters tested, the test methods employed and the corresponding test results. We find that the said test results and methodologies have not been challenged by the Revenue, nor has any material been brought on record to demonstrate that the findings recorded therein are incorrect or unreliable. In contrast, the CRCL test report does not record any conclusive finding that the goods are not "SUPARI" or that they do not constitute a "Betel Nut Product Known as Supari." The report, therefore, cannot, in our considered view, be treated as conclusive for arriving at such a finding. The CRCL report, at best, records certain characteristics of the samples, but does not answer the material scientific or analytical questions necessary to establish that the goods, despite being identified by FSSAI as "Betel Nut Product Known as Supari," are not such a product. We, therefore, find that the evidentiary material relied upon by the Revenue does not satisfactorily establish the conclusion sought to be drawn by it that imported

goods are arecanut classifiable under Chapter 0802. The CRCL report, in the absence of examination of the relevant scientific parameters and in the absence of any specific finding that the goods are not "Betel Nut Product Known as Supari," cannot be regarded as sufficient to displace the detailed findings recorded in the FSSAI report. The latter, on the other hand, specifically sets out the test parameters, test methods and test results and identifies the product as **"BETELNUT PRODUCT KNOWN AS SUPARI."**

MOISTURE CONTENT AND DISTINCTION BETWEEN DRIED NUTS AND ROASTED NUTS: -

6.10 We further note that the goods, as evidenced from the FSSAI reports, are also distinguishable from raw areca nuts. The said reports record a moisture content of less than 7%. Such low moisture content, in the context of the goods in question, indicates that the moisture content has been substantially reduced through a process involving intense heating and not merely by a process of natural or ordinary sun drying. It is also pertinent to note that various decisions of the Hon'ble High Courts have recognized the distinction between "roasted" and "dried" areca nuts. In view of the clear findings recorded in the FSSAI reports, including the moisture content specified therein, we find it difficult to accept the contention of the Revenue that the subject goods are merely raw areca

nuts. The conclusion sought to be drawn by the Revenue on the basis of the CRCL test report, which admittedly does not record any test or finding with regard to the moisture content of the goods, does not, in our considered view, provide a sustainable basis for such a conclusion. Such a finding would also be contrary to the legal position emerging from the judicial pronouncements on the distinction between roasted and dried areca nuts. The issue has been considered in detail by the Hon'ble Madras High Court in *CC v. Shahnaz Commodities International Ltd., (2023) 9 Centax 183 (Madras),* which shall be adverted to in the later part of this order. At this juncture, it would also be apposite to refer to the decision of the jurisdictional High Court in *M/s. Unik Traders, represented by its Legal Heir Shri Asif H. Thara v. Commissioner of Customs, Chennai, 2025 (10) TMI 833 – Madras High Court;* Other Citation: *2025:MHC:2380*. The relevant extracts of the said decision are reproduced hereunder: -

> *"17. The First Bench of this Court, while disposing of W.A.Nos.3647 and 3648 of 2024 by a common judgment dated 04.3.2025, held as follows :*
>
> > *"15. Therefore, as per the parameters fixed by the Authority for Advance Rulings, if the* ***moisture content is between 10% and 15%, the same would be considered as a raw areca nut and anything below the said category would be considered as roasted areca nut. The said finding has attained finality. All the laboratory reports also state that the moisture content of the areca nuts is below 10%.*** *Therefore, we find no reason to interfere with the impugned order."*

18. ***The said common judgment of the First Bench of this Court was also subsequently confirmed by the Hon'ble Apex Court by dismissing the special leave petitions in S.L.P.(Civil) Nos.17655 & 17656 of 2025 filed by the Department by a common order dated 25.7.2025****.*

19. In view of the above, as a Single Judge, I am bound by the common judgment of the First Bench of this Court, which has categorically held that where the moisture content is below 10%, it would be considered as roasted areca nut. This view has been taken by various High Courts.

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30. Considering the facts and circumstances of this case and also considering the fact that the consignment that has been imported has a ***moisture content below 10% as per the law as it stands today, it can be considered only to be a roasted areca nut.*** *The goods that have been imported cannot be treated as prohibited goods since the relevant Notification dated 02.4.2025 has already been stayed by this Court. Under such circumstances, the goods cannot be permitted to lie in some godown since they will perish. In any case, already, 10 consignments have been released based on the same FSSAI report. This Court is of the considered view that no prejudice will be caused if the remaining consignments except two are also directed to be released, however, subject to conditions."*

6.11 The Revenue has strongly relied upon the fact that the Customs Tariff specifically provides for areca nuts under Chapter 8 and contains separate tariff entries covering areca nuts in whole, split and ground forms. There can be no dispute with the proposition that, where the goods, as presented for import, retain their character and identity as areca nuts, classification under the appropriate tariff entry of Chapter 8 would necessarily follow. However, the mere existence of a specific tariff entry for split areca nuts under Chapter 8 cannot, by itself, conclude every dispute relating to the classification of a betel nut product described as "Supari." The form in which

the goods are presented is undoubtedly a relevant consideration; however, it cannot be examined in isolation. The nature and extent of processing undertaken, the resultant characteristics of the goods, their identity and, where relevant, their commercial character, are also required to be considered while determining the appropriate classification. In the present case, the Respondent has placed reliance upon evidence indicating that the goods were imported and treated as a "Betel Nut Product Known as Unflavored Supari." The FSSAI reports relied upon by the Respondent constitute a relevant piece of evidence while examining the factual identity and characteristics of the imported product, though such reports, by themselves, cannot determine its classification under the Customs Tariff. The Respondent has placed considerable reliance upon the FSSAI reports and the Food Safety clearance. The Revenue, on the other hand, has contended that an authority functioning under the Food Safety and Standards Act cannot determine the classification of goods under the Customs Tariff. We agree with the Revenue to this limited extent. The FSSAI authorities do not exercise jurisdiction to determine the classification of goods under the Customs Tariff Act, 1975. Consequently, an FSSAI report or Food Safety clearance cannot be treated as conclusive on the question of tariff classification. Nevertheless, the fact that the FSSAI does not exercise jurisdiction over tariff classification

does not render its report irrelevant for the purpose of determining the factual identity and characteristics of the goods. A report issued by a competent statutory authority, upon examination of the imported goods and assessment thereof with reference to the standards applicable to a "Betel Nut Product Known as Supari," constitutes relevant evidence which is required to be duly considered. Its evidentiary value, however, has to be assessed along with the other material available on record. In our considered view, therefore, the appropriate approach is neither to treat the FSSAI report as determinative of tariff classification nor to disregard it merely on the ground that the FSSAI does not have jurisdiction to determine classification under the Customs Tariff. The FSSAI report is required to be considered as one relevant piece of evidence, along with the examination report, CRCL report, the nature and extent of processing undertaken on the goods, their characteristics as presented for import, and the applicable tariff entries and statutory Notes. Thus, while the fact that the goods are in split form is undoubtedly a relevant consideration, such form, by itself, cannot be regarded as conclusive of their classification where the competing claim is that, by reason of the processing undertaken and the resultant characteristics and identity of the goods, they answer the statutory description of a "Betel Nut Product Known as Supari." The classification must, therefore, be determined

upon a cumulative appreciation of the evidence on record and the applicable principles governing classification under the Customs Tariff.

DISCUSSION ON CLASSIFICATION OF THE SUBJECT GOODS: -

7. At the outset, it is necessary to reiterate that the classification of goods is required to be determined in accordance with the General Rules for the Interpretation of the Customs Tariff, the language of the relevant tariff entries, the applicable Section and Chapter Notes and, wherever relevant, the HSN Explanatory Notes. The competing tariff entries in the present case indicate that the legislature has consciously made distinct provisions for areca nuts, roasted nuts and a "Supari." Chapter 8 covers areca nuts, whether fresh or dried; Chapter 20 contains specific provisions in relation to roasted nuts; while Chapter 21 specifically provides for "Supari."

7.1 The question of classification must, therefore, be approached primarily with reference to the statutory description of the goods, read in the context of the relevant Chapter Notes and the nature and extent of processing undertaken on the goods. Before proceeding further, it would be appropriate to set out the relevant General Rules for Interpretation, the competing tariff entries, the applicable

Section and Chapter Notes and the relevant HSN Explanatory Notes, as these provisions constitute the statutory framework within which the classification of the subject goods is required to be determined. The relevant provisions are reproduced hereunder: -

(i) General rules for the interpretation of this Schedule

Classification of goods in this Schedule shall be governed by the following principles:
1. The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or, finished by virtue of this rule), presented unassembled or disassembled.
(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:
(a) the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
(b) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified, as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.
(c) when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.
(ii) Relevant entries under the Customs Tariff Act:

Chapter 8
Edible fruit and nuts; peel of citrus fruit or melons
NOTES

1. This Chapter does not cover inedible nuts or fruits.
2. Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.
*3. **Dried fruit** or **dried nuts** of this Chapter may be partially rehydrated, or treated for the **following purposes**:*

(a) for additional preservation or stabilization for example, by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate;

(b) to improve or maintain their appearance for example, by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried fruit or dried nuts.

*****

Tariff Item		***Description***	***Unit***	***Rate of Duty***	***Preferential Area Rate***
(1)		***(2)***	***(3)***	***(4)***	***(5)***
……		……	….	……	…….
0802		*Other nuts, fresh or dried, whether or not shelled or peeled*			
0802 80	***-***	***Areca nuts:***			
0802 80 10	*---*	*Whole*	*Kg.*	*100%*	*90%*
0802 80 20	***---***	***Split***	*Kg.*	*100%*	*90%*
0802 80 30	*---*	*Ground*	*Kg.*	*100%*	*90%*
0802 80 90	*---*	*Other*	*Kg.*	*100%*	*90%*
0802 90 00	*-*	*Other*	*Kg.*	*100%*	

Chapter 20
Preparations of vegetables, fruit, nuts or other parts of plants
Notes

1. This Chapter does not cover:
*(a) vegetables, fruit or **nuts, prepared or preserved by the processes specified in Chapter 7, 8 or 11**;*
(b) food preparations containing more than 20 by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16);

Tariff Item		***Description***	***Unit***	***Rate of Duty***	***Preferential Area Rate***
……		……	….	……	…….
2008		*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*			
	-	*Nuts, ground-nuts and other seeds, whether or not mixed together:*			
2008 11 00	*--*	*Ground-nuts*	*kg.*	*30%*	*-*

2008 19	*- - -*	*Other, including mixtures:*			
2008 19 10	*- - -*	*Cashew nut, roasted, salted or roasted and salted*	*kg.*	*241[45%]*	*-*
2008 19 20	***- - -***	***Other roasted nuts and seeds:***	***kg.***	***30%***	*-*
2008 19 30	*- - -*	*Other nuts, otherwise prepared or preserved*	*kg.*	*30%*	*-*
2008 19 40	*- - -*	*Other roasted and fried vegetable products*	*kg.*	*30%*	*-*
2008 19 90	*- - -*	*Other*	*kg.*	*30%*	*-*

Chapter 21

Supplementary Notes

*In this Chapter "**betel nut product known as Supari"** means any preparation containing betel nuts, but not containing any one or more of the following ingredients, namely: lime, katha (catechu) and tobacco whether or not containing any other ingredients, such as cardamom, copra or menthol.*

Tariff Item		***Description***	***Unit***	***Rate of Duty***	***Preferential Area Rate***
(1)		***(2)***	***(3)***	***(4)***	***(5)***
……		……	….	……	…….
2106		Food preparations not elsewhere specified or included			
2106 90 30	**- - -**	**Betel nut product known as "Supari"**	**kg.**	**[150%]**	-
…...	- - -	……..	…	……	-

(iii) Relevant portions of the HSN:

HSN Explanatory Notes:

Chapter 8

Edible fruit and nuts; peel of citrus fruit or melons

NOTES

1. This Chapter does not cover inedible nuts or fruits.

2. Chilled fruits and nuts are to be classified in the same headings as the corresponding fresh fruits and nuts.

*3. **Dried fruit or dried nuts** of this Chapter may be partially rehydrated, or treated for the **following purposes**:*

(a) for additional preservation or stabilization by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate);

(b) to improve or maintain their appearance by the addition of vegetable oil or small quantities of glucose syrup), provided that they retain the character of dried fruit or dried nuts

…

The Chapter further excludes:

(i) Fruit flour, meal and powder (heading 11.06).

(ii) Edible fruit and nuts and peel of melons or citrus fruit, prepared or preserved otherwise than as described above (Chapter 20).
(iii) Roasted fruit and nuts (e.g., chestnuts, almonds and figs), whether or not ground, generally used as coffee substitutes (heading 21.01)

Chapter 20
This Chapter includes:
(1) Vegetables, fruit, nuts and other edible parts of plants prepared or preserved by vinegar or acetic acid.
(2) Vegetables, fruit, nuts, fruit-peel and other parts of plants preserved by sugar.
(3) Jams, fruit jellies, marmalades, fruit or nut purées, fruit or nut pastes, obtained by cooking,
(4) Homogenised prepared or preserved vegetables and fruit.
(5) Fruit or vegetable juices, neither fermented nor containing added alcohol, or of an alcoholic strength by volume not exceeding 0.5 % vol.
(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.
….. It includes, inter alia:
(1) Almonds, ground-nuts, ***areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives***

Chapter 21
Miscellaneous edible preparations Notes*.*
1. This Chapter does not cover:
(a) Mixed vegetables of heading 07.12;
(b) Roasted coffee substitutes containing coffee in any proportion (heading 9.01);
(c) Flavoured tea (heading 9.02);
(d) Spices or other products of headings 9.04 to 09.10;
(e) Food preparations, other than the products described in heading 21.03 or 21.04, containing more than 20% by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16);
(f) Yeast put up as a medicament or other products of heading 30.03 or 30:04; or
(g) Prepared enzymes of heading 35.07.

2. Extracts of the substitutes referred to in Note 1 (b) above are to be classified in heading 21.01.
3. For the purposes of heading 21.04, the expression" homogenised composite food preparations" means preparations consisting of a finely homogenised mixture of two or more basic ingredients such as meal, fish, vegetables, fruit or nuts, put up for retail sale as infant food or for dietetic purposes, in containers of a net weight content not exceeding 250 g. For the application of this definition, no account is to be taken of small quantities of any ingredients which may be added to the mixture for seasoning, preservation or other purposes. Such preparations may contain a small quantity of visible pieces of ingredients."

7.2 We find from a perusal of the relevant Section Notes and Chapter Headings of the competing Tariff Headings of the Customs Tariff, 1975, as well as the relevant extracts of the Section Notes and Chapter Headings as given in the HSN Explanatory Notes reproduced supra, that: -

i. Edible fruits and nuts are covered under Chapter 08. The Chapter also contemplates dried fruits and nuts which may be partially rehydrated or subjected to processes intended, inter alia, for additional preservation or stabilisation, or for improving or maintaining their appearance, such as moderate heat treatment, sulphuring, or the addition of sorbic acid or potassium sorbate.

ii. While split areca nuts are specifically covered under Heading 0802, it is significant that Chapter 08 does not employ or specifically refer to the expressions “Supari” or “Betelnut”.

iii. An areca nut, even when subjected to the treatments contemplated under the relevant Chapter Note to Chapter 08, would continue to fall within Chapter 08.

iv. It is equally significant that processes such as roasting, or other specific processes which may be undertaken to convert areca nut into Supari or another betel nut product, are not specifically contemplated or enumerated in Chapter 08.

v. The HSN Explanatory Notes to Chapter 08 specifically exclude roasted nuts. This exclusion assumes significance while examining the distinction between goods which remain covered as areca nuts under Chapter 08 and goods which, by virtue of the process to

which they have been subjected, may fall for consideration under other Chapters of the Tariff.

vi. Chapter 20, inter alia, covers preparations of nuts; however, it does not cover nuts prepared or preserved by the processes specified in Chapter 08. This indicates that the scheme of the Tariff does not contemplate an absolute exclusion of all prepared or preserved nuts from Chapter 08. The precise nature of the process and the resultant character of the goods must, therefore, be examined with reference to the relevant Chapter Notes and tariff entries.

vii. Other roasted nuts are specifically covered under Chapter 20. The inclusion of roasted nuts under Chapter 20, read with the corresponding HSN Explanatory Notes, is therefore relevant while determining whether goods subjected to a roasting process continue to retain the identity of nuts covered by Chapter 08.

viii. The HSN Explanatory Notes to Chapter 20 specifically refer to areca (or betel) nuts and other nuts which are dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives. It is thus significant that, under Chapter 20, both roasted areca nuts as well as roasted betel nuts are expressly contemplated.In contrast, Chapter 08 specifically refers to “areca nuts” and does

not employ the expressions "betel nuts" or "Supari". This distinction in the language employed in the respective Chapters assumes significance in examining the competing classifications.

ix. We also note that the expression "roasting" has not been specifically defined in the relevant Chapter Note or in the HSN Explanatory Notes to Chapter 20. Nor do the said provisions expressly set out the parameters for distinguishing the process of roasting from that of drying. The absence of such a definition or parameters necessarily requires the nature and extent of the process undergone by the goods to be determined on the basis of the evidence available on record.

x. "Betel Nut Product Known as Supari" is specifically covered under Tariff Item 2106 90 30. The existence of a specific tariff entry for such product cannot be disregarded while examining the classification of goods which are claimed to answer the description of Supari.

xi. The relevant Supplementary Note to Chapter 21 provides that "Betel Nut Product Known as Supari" means any preparation containing betel nuts, but not containing any one or more of the specified ingredients, namely, lime, katha (catechu) and tobacco, whether or not containing any other ingredients such as cardamom, copra or menthol.

7.3 It is significant that the statutory definition principally stipulates that the product should constitute a preparation containing betel nuts, while excluding the specified ingredients, namely, lime, katha and tobacco. We further note that neither the relevant Chapter Note to Chapter 21 nor the HSN Explanatory Notes thereto prescribe any specific process which must necessarily be undertaken for a product to qualify as "Supari". Equally, no specific parameters are prescribed therein for determining whether an areca nut or betel nut has undergone a process so as to acquire the character of Supari. Thus, the Tariff, while specifically providing an entry for "Supari", does not, in the relevant statutory provisions, prescribe any exhaustive list of processes by which areca or betel nuts must necessarily be converted into Supari, nor does it prescribe any specific scientific or physical parameters which alone would determine whether a product answers that description. The competing provisions of Chapters 08, 20 and 21 must, therefore, be read harmoniously and in their proper statutory context. The mere fact that the goods contain areca or betel nut as their principal constituent cannot, by itself, conclude the classification. The material question is whether, having regard to the nature and extent of processing, the resultant characteristics and the evidence on record, the goods answer the specific statutory description

of “Supari”, or whether they continue to covered under identity of areca nuts falling under Chapter 08.

7.4 The Revenue has, however, not undertaken the necessary factual or technical enquiry for this purpose. No specific query appears to have been raised with the CRCL regarding the exact nature of the processing undergone by the goods. In particular, no opinion was sought as to whether the goods had merely been dried, subjected to moderate heat treatment, dehydrated, dry-roasted, oil-roasted or fat-roasted. Nor was any conclusive opinion obtained as to whether the goods were known as Supari, or whether they had acquired the character of a preparation. The CRCL report, therefore, does not answer the material questions necessary for determining the classification of the subject goods. The Revenue has also not produced any authentic technical or commercial literature identifying objective parameters distinguishing Supari from areca nut or betel nut. The expressions “Arecanut”, “Betelnut” and “Supari” are, in common and commercial usage, frequently employed interchangeably. Consequently, a mere assertion that Supari is necessarily a commodity commercially distinct from areca nut cannot, without supporting evidence, constitute a basis for rejecting the specific entry under which the goods are claimed to fall. At the same time, the question whether the goods are

commercially regarded as the same commodity is not, by itself, determinative of their classification. The legislature is competent to classify products separately for the purposes of taxation even where they may be commercially regarded as the same or substantially similar. Equally, the existence of separate entries does not dispense with the requirement of examining whether the goods answer the statutory description of a particular entry. Once the Tariff contains a specific and independent entry for a "Betel Nut Product Known as Supari", the Revenue cannot disregard that entry merely on the ground that the principal constituent of the product continues to be areca nut. The proper enquiry is whether the goods, having regard to their composition, processing and characteristics, answer the description of the specific entry. It is not open to the Revenue to bypass the statutory entry without first establishing, on the basis of objective evidence, that the goods do not answer that description.

7.5 The classification must also be consistent, as far as possible, with the HSN Explanatory Notes. The Hon'ble Supreme Court has repeatedly recognized the HSN Explanatory Notes as a safe and valuable guide in resolving disputes relating to tariff classification, including in *CCE v. Wood Craft Products Ltd., (1995) 3 SCC 454, CCE & Customs v. Phil Corpn. Ltd., (2008) 17 SCC 569, and LML Ltd. v.*

Commissioner of Customs, (2010) 10 SCC 503. The relevant statutory scheme also makes a clear distinction between drying and roasting. The Chapter Notes to Chapter 8 contemplate processes undertaken for the preservation or stabilization of dried nuts, including moderate heat treatment and other specified processes. On the other hand, Note 1(a) to Chapter 20 excludes nuts prepared or preserved by the processes specified in Chapters 7, 8 or 11. Roasting and drying are, therefore, treated as distinct processes for the purposes of classification. Any interpretation equating roasting with drying would substantially dilute the significance of the exclusion contained in Note 1(a) to Chapter 20. Where the Tariff specifically recognizes goods subjected to roasting separately from dried nuts, the precise nature and extent of the thermal treatment undergone by the goods assumes material importance. In the present case, the samples drawn immediately after import were reported to have a moisture content of 6%. The fact that the moisture content was less than 10% is not in dispute. However, the Revenue has not established the process by which such substantial reduction in moisture was achieved. The investigation does not disclose whether the reduction resulted from mere drying or from a more extensive thermal process such as roasting. This omission assumes significance because the distinction between moderate heat treatment for preservation and a

more intensive process of roasting may directly affect classification. In the absence of any technical evidence regarding the actual process undertaken, the conclusion that the goods are merely dried areca nuts cannot rest solely upon their visual examination, given their low moisture content or the detailed FSSAI reports. The terms "dry-roasting", "oil-roasting" and "fat-roasting", or the "processes mandated for a product called SUPARI", may not be specifically defined under the Customs Tariff Act, 1975. Nevertheless, such expressions are required to be understood in their ordinarily accepted technical and commercial sense. Roasting cannot automatically be equated with mere drying or moderate heat treatment intended for preservation. The Revenue was, therefore, required to establish the actual methods of the processes undertaken on the goods before excluding the possibility of their classification under the entries relating to roasted nuts or Supari.

WHETHER THE IMPUGNED GOODS CONSTITUTE A "FOOD PREPARATION": -

7.6 The Revenue has contended that classification under CTH 2106 90 30 is possible only where the goods constitute a "food preparation" and are not specified or included elsewhere in the Customs Tariff. We find that the tariff description, read with the relevant Supplementary Note

to Chapter 21, requires careful consideration. The expression employed therein is “Supari”, and the statutory description specifically covers a betel nut product known as Supari. The Revenue has contended that the expression “preparation containing betel nuts” necessarily postulates the presence of ingredients other than betel nuts and that, in the absence of any such additional ingredients, the goods cannot fall within Chapter 21. We are unable to accept the said proposition in such absolute terms. The statutory description itself contemplates a betel nut product with or without other ingredients. Therefore, the mere absence of ingredients such as flavoring agents or sweeteners, cannot, by itself, be determinative of the exclusion of the goods from Chapter 21. At the same time, due meaning and effect must necessarily be given to the expression “preparation” occurring in the statutory scheme. It cannot be held that every areca nut which has merely been cut or split would, by that fact alone, acquire the character of a preparation and consequently fall under Chapter 21 merely because it is intended for human consumption. The nature and extent of processing undertaken on the goods, therefore, assume significance. The question, consequently, is one to be determined on the basis of the facts and the applicable principles of tariff classification, namely, whether, having regard to the nature of the processing undertaken, the characteristics of the goods as presented for

import, and their established commercial identity, the goods have acquired the character of a “Supari”, or whether they continue to retain the essential identity of areca nuts falling within the specific tariff entries under Chapter 8.The expression “with or without other ingredients” cannot, therefore, be read in isolation so as to dispense with the requirement that the goods must answer the statutory description of a “Supari.” Equally, the absence of additional ingredients cannot, by itself, be treated as sufficient to conclude that the goods necessarily retain their identity as areca nuts under Chapter 8.The determination must ultimately turn upon the cumulative effect of the nature and extent of processing, objective parameters, the characteristics of the goods, and the evidence on record, considered in the light of the relevant tariff entries and the applicable statutory notes.

7.6.1 We further find that the issue involved is essentially interpretational in nature. The Revenue has not been able to place on record any clear or authoritative definition distinguishing Arecanut, Betelnut and SUPARI. As against this, according to the Revenue, the aforementioned SUPARI, not containing any other ingredient, would be appropriately covered under Chapter 08 of the Customs Tariff. Chapter 21 contains Supplementary Notes, of which Supplementary Note 2 reads as under, "In this Chapter “Betel

Nut" product known as "SUPARI" means any preparation containing Betel-Nuts, but not containing any one or more of the following ingredients, namely: Lime, Katha (catechu), and tobacco whether or not containing any other ingredients, such as Cardamom, Copra or menthol." The case of the Respondent is that the subject products are appropriately classifiable under CTH 2106 90 30, which reads as "Betel Nut Product Known as Supari". We also taken note of cited Advance Rulings, *viz*., Shahnaz Commodities International Pvt, Ltd., Isha Exim, A.K. Impex, Excellent Betel Nut. We find that the same deal with varieties of products, *viz*., Roasted Areca Nuts / Betel Nut, API Supari, Chikni Supari, Unflavored Supari, and Flavored Supari, Menthol Scented Supari, *etc*.. In the case of Unflavored Supari, the following processes are undertaken on raw dried betel nuts: removal of large impurities by labour; removal of small impurities by a de-stoner; metal detection/removal of metallic items, if any; garbling; polishing in a polishing machine; three-stage cutting; blowing of weightless particles in a blower; gravity separation by an automatic gravity separation machine; roasting in a fire-gas rotary roaster; metal detection by magnetic metal detectors; and packaging. In view of the aforesaid processes and the manner in which the product is commercially identified, it is clear that neither Unflavored Supari, as it is known in the market, nor Supplementary Note 2 to Chapter 21 mandates

the presence of any ingredient other than betel nut for a product to qualify as SUPARI. The Revenue's contention that the presence of some additional ingredient is mandatory for preparing SUPARI would, therefore, amount to importing words into the tariff entry which are not found therein and, in effect, rewriting or adding to the scope of Supplementary Note 2 to Chapter 21. Such an approach, if accepted, would run contrary to the settled principles governing the interpretation of taxing statutes and tariff entries.

7.6.2 We also take judicial notice of the observations contained in paragraph 25 of the judgment of the Hon'ble Supreme Court in *Chief Commissioner of Central Goods and Service Tax & Ors. v. M/s. Safari Retreats Private Ltd. & Ors.,* reported in *2024 (10) TMI 286 – Supreme Court,* wherein the Hon'ble Supreme Court reiterated the settled principles governing the interpretation of taxing statutes. It is a settled principle that a taxing statute must be read as it stands, with no additions and no subtractions on the basis of legislative intendment or otherwise. Where the language of a taxing provision is plain and unambiguous, the possibility that its application may lead to an inconvenient or even seemingly absurd consequence is not, by itself, a ground for departing from its plain meaning. It is for the legislature to address any such perceived deficiency or absurdity. A taxing provision

must, therefore, be construed strictly and in accordance with what is clearly expressed. The Court cannot import into the statute words which are not found therein, nor can it supply an omission on the assumption that such addition would better advance the legislative intent. Equally, a taxing provision cannot be interpreted on the basis of presumptions or assumptions. Where two constructions of a taxing provision are reasonably possible, the settled principle is that the construction favourable to the assessee is ordinarily to be preferred. There is, therefore, nothing inequitable in a taxpayer escaping a liability where the language employed by the legislature does not clearly impose such liability. It is also well settled that where a word or expression employed in a taxing statute has not been specifically defined therein, its meaning cannot ordinarily be imported from another statute which does not deal with a cognate subject. The meaning must, in the first instance, be gathered from the statute in which the expression occurs, read in its proper context and in accordance with the scheme of the legislation. Reference is also invited to the aforesaid principles reiterated by the Apex Court in *Commissioner of Central Excise, Raipur Versus M/s Sepco Electric Power Construction Corporation-2022 (7) TMI 524 - Supreme Court*, especially Para 8.3 wherein Apex Court quotes principles emanating from 5 judge Constitution Bench decision of the Hon’ble Supreme Court in Commissioner of

Customs (Import), Mumbai v. Dilip Kumar and Company, wherein, *inter alia,* it was observed that a taxing statute cannot be interpreted on the basis of presumptions or assumptions; and that the statute has to be interpreted in the light of what is clearly expressed. The Court further emphasized that where the language is plain and unambiguous, the plain meaning rule ordinarily leaves no scope for adding to or subtracting from the statutory language. The Constitution Bench further clarified that the principle that an ambiguous taxing provision is ordinarily construed in favor of the assessee. The principles emerging from the aforesaid decisions are of particular relevance in the present case. Where the legislature has employed the expression "Betel Nut Product Known as Supari" and has itself prescribed the scope of that expression through Supplementary Note 2 to Chapter 21, it would not be permissible to introduce an additional requirement, not expressly contained therein, that the product must necessarily contain an ingredient other than betel nut. Such an interpretation would amount to supplying words to the tariff entry or rewriting the statutory note, rather than interpreting the provision as enacted. The question before us, therefore, is not what the tariff provision ought to have provided, but what it actually provides. The classification must necessarily be determined on the basis of the language employed by the

legislature, read in its statutory context, and not by importing an additional condition on the basis of an assumption as to what the legislature may have intended to provide.

RELEVANCE OF COMMON PARLANCE, GRI 1 AND THE SPECIFIC TARIFF ENTRY FOR 'SUPARI': -

7.7 The Respondent has also argued and invoked the principle of common parlance, contending that the goods are commercially recognized and traded as "Supari". Where a tariff entry employs an expression which is not defined with complete technical precision, the commercial understanding and common parlance meaning may be relevant. However, common parlance cannot override an express and specific statutory description. The principle becomes relevant only after the nature of the goods and the scope of the competing tariff entries have been properly determined. In the present case, the expression "Supari" itself incorporates an element of commercial identity. Therefore, evidence regarding the manner in which the product is understood and recognised cannot be completely disregarded. It may be noted that the specific tariff entry for the item "SUPARI" must be given its due meaning and effect. **We find that the classification of "SUPARI" begins and ends at the first door of the GIR, i.e., GRI 1**, unless the Revenue places on record relevant and sufficient evidence to establish that the subject goods are not

"SUPARI". Accordingly, the impugned goods are classifiable under Heading 210690 in terms of Rule 1 itself, and we do not find any necessity to revert to the subsequent rules of interpretation.At this juncture, it is apposite to note that the Hon'ble Supreme Court, in the case of *Commissioner of Customs (Import) v. M/s. Welkin Foods*, reported as *2026 INSC 19,* has analyzed the entire gamut of fundamental concepts governing the classification of goods imported into India, including the General Rules for the Interpretation of the First Schedule—the Import Tariff—as well as the role of the HSN Explanatory Notes, and has observed as under: -

> *"35. The primary purpose of the GRIs is to establish mandatory boundaries for any classification inquiry, ensuring a structured, uniform, and predictable approach to classification.* ***It is essential not to treat these GRIs as a menu of options that can be invoked randomly, but rather as a legal framework that dictates a precise and sequential methodology for classifying all goods****.*
>
> *36. This Court has repeatedly reiterated that GRIs 1-4 must be applied sequentially. [See Commissioner of Central Excise, Nagpur v. Simplex Mills Co. Ltd., reported in (2005) 3 SCC 51 and Secure Meters Limited v. Commissioner of Customs, New Delhi, reported in (2015) 14 SCC 239].* ***GRI 1, which gives primacy to the headings and notes, is the non-negotiable starting point. GRI 2, which deals with incomplete, unassembled or composite goods or mixtures, often acts as an extension of GRI 1, by deeming the headings to include incomplete/unassembled goods or mixtures or combinations of a material or substance. GRI 3 is only invoked when the application of GRI 1 and/or GRI 2 results in a good being prima facie classifiable under two or more competing headings. GRI 3 exists solely to resolve this tie. GRI 4, the rule of last resort, is mutually exclusive to GRI 3 and is only invoked if GRI 1 and 2 have failed to find even one possible heading for the good.*** *To illustrate, let us take the analogy of "locked doorways":*
>
> *a. Classification begins and, in most cases, ends at the first door: GRI 1.*
>
> *b. If, upon applying GRI 1 and/or GRI 2, the result is a tie between two or more headings, the key to the GRI 3 door is*

granted to find the tie-breaker. Further, once the door to GRI 3 is unlocked, the subsequent doors to GRI 3(b) and GRI 3(c) are also unlocked in a sequential manner, i.e., the door to GRI 3(b) unlocks only when the dispute is not resolved through application of GRI 3(a), and similarly door to GRI 3(c) unlocks only when the dispute is not resolved through application of GRI 3(b)

c. If, upon applying GRI 1 and/or GRI 2, the result seems to be that no heading applies at all, the key to the GRI 4 door is granted to find the "most akin" good."

7.8 The Revenue seeks to reject the classification declared by the Respondent and to reclassify the goods under CTI 0802 80 20. It is, therefore, incumbent upon the Revenue to establish that the goods answer the description of the proposed tariff entry and do not fall within the entry claimed by the Respondent. In the present case, the Revenue has alleged that the goods were in split form and retained certain physical characteristics of areca nuts. However, the Respondent has produced evidence indicating that the goods conform to the prescribed standards for a product known as unflavored Supari. In fact, no specific test query or test result has been brought on record to demonstrate that the subject goods are not a "Betel Nut Product Known as Supari." The Revenue has primarily relied upon the absence of any ingredient other than betel nut and the fact that the goods were found in split form. In our view, these factors, though relevant, cannot conclusively determine the classification without examining the entire statutory description of the

competing entries. The absence of flavoring material or any other ingredient does not, by itself, establish that the goods could not constitute unflavored Supari, particularly when the relevant statutory description itself contemplates a betel nut product which may not necessarily contain such ingredients. On the facts of the present case, we find that the Revenue has not produced sufficient material to establish that, notwithstanding the FSSAI certification, the goods were merely raw or unfinished areca nuts and were incapable of falling within the description of a "Supari."

7.9 We also take judicial notice of DGFT Notification No. 57/2015-2020 dated 14.02.2023 concerning the amendment in the import policy and policy conditions relating to ITC (HS) Code 080280 of Chapter 08 and ITC (HS) Code 2106 90 30 of Chapter 21 of ITC (HS), 2022, Schedule-I (Import Policy). By the said Notification, the import policy in respect of Supari under ITC (HS) 21069030 was revised from "Free" to "Prohibited". The relevant ITC (HS) Code is 21069030 and the corresponding description is "Betel Nut Product Known as Supari." We also take note of the subsequent issuance of Notification No. 02/2025-26 dated 02.04.2025 by the Directorate General of Foreign Trade concerning the import policy applicable to roasted areca nuts. While such subsequent policy clarification cannot, by itself,

determine the classification of the subject goods under the Customs Tariff, it does indicate that the classification and treatment of processed and roasted areca nuts have required consideration and clarification at the highest departmental level. This further underscores the need for an objective and evidence-based examination of the nature, extent and effect of the processing undergone by the goods before determining their classification under the competing tariff entries.In the facts and circumstances of the present case, and having regard to the evidence discussed hereinabove, we find that the Revenue has failed to place sufficient and cogent material on record to establish that the subject goods do not answer the description of "Supari."

SPECIFIC ENTRY *vis-à-vis* GENERAL / RESIDUAL ENTRIES: -

8. We have already held that the classification of "SUPARI" begins and ends at the first door of the GIR, i.e., GRI 1, unless the Revenue places on record relevant and sufficient evidence to establish that the subject goods do not answer the description of "SUPARI." It is further well settled that, where two competing entries are otherwise attracted, the **more specific description is ordinarily to be preferred over the general description, consistent with the principle embodied in Rule 3(a) of the General Rules for the Interpretation of the Tariff**. The decisive enquiry in the

present case is, therefore, not whether areca nut, betel nut and Supari are commercially identical or distinct in the abstract. The question is whether, having regard to the nature of the goods, the processing actually undertaken and the statutory descriptions contained in the competing entries, the Revenue has established that the goods do not answer the specific description of a "Betel Nut Product Known as Supari." On the evidence available on record, we find that the Revenue has failed to discharge this burden. The CRCL report does not conclusively establish the nature of the processing undergone by the goods; no objective parameters have been placed on record to distinguish the subject goods from Supari; and the Revenue has not undertaken the requisite technical enquiry to establish that the goods underwent only such processes as would necessarily retain them within the scope of Chapter 8. Accordingly, the classification proposed by the Revenue cannot be sustained merely on the premise that areca nut constitutes the principal constituent of the subject goods. The specific statutory entry for "Supari", the distinction maintained under the Tariff between drying and roasting, the relevant HSN Explanatory Notes, and the inconclusive nature of the technical evidence relied upon by the Revenue are all relevant considerations which must be given due effect. Equally, the FSSAI report, which has been disregarded by the Revenue without any cogent material demonstrating the incorrectness

or unreliability of its findings, cannot be brushed aside while appreciating the evidence as a whole. Upon a cumulative consideration of the statutory scheme, the relevant tariff entries and notes, the HSN Explanatory Notes, and the evidence available on record, we find that the Revenue has not established that the subject goods fall within CTI 0802 80 20 or that they do not answer the specific statutory description of "Supari." The classification proposed by the Revenue is, therefore, not sustainable. The classification has to be determined both according to the terms of the Headings and according to the provisions of the rules unless, a particular Heading or Note excludes the application of rules other than Rule 1. However, if there is no such clear indication emanating from the headings or notes as to the precise classification of the goods, then classification has to be determined both according to the terms of the Headings and according to the provisions of the rules, in the sequential manner as elaborated in the Judgement in Welkin Foods case *supra.*

9. We find it apposite to place reliance upon the judgment of the jurisdictional High Court in Commissioner of Customs v. Shahnaz Commodities International Ltd., (2023) 9 Centax 183 (Madras). The relevant extracts from the said judgment are reproduced hereunder: -

"8. Relevance of Common Parlance Test vis-à-vis Specific Tariff Entry in determining Classification:

A perusal of the relevant entries under CTH 08, 20 and 21 would show that while CTH 08 is meant to cover areca nut whole, split, grounded including dried nuts subject to the process of drying which is by way of additional preservation or stabilization by moderate heat treatment, sulphuring, the addition of sorbic acid or potassium sorbate, Chapter 20 covers roasted nuts. ***Apparently, legislature has for the purpose of classification treated drying and roasting as processes which are distinct/different and importantly, relevant in determining whether the nuts would fall under CTH 0802 or under 2008****. The submission of the learned counsel for the appellant that* ***roasted areca nut is in common parlance treated as areca nut, in other words, by the process of roasting a different commercial commodity does not emerge*** *and thus, keeping in view the restrictive language employed in Chapter 2008 viz., exclusion of items covered under CTH 8, the roasted areca nut would fall under CTH 0802, is misplaced.* ***The said submission that the products that are commercially the same, must be classified under one heading, overlooks the fact that legislature is competent to classify differently or make a distinction even though the products in question are not commercially different. I****n this regard, it may be useful to rely on the decision of the Hon'ble Supreme Court in case of* ***Sterling Foods v. State of Karnataka, reported in (1986) 3 SCC 469 = 1986 (26) E.L.T. 3 (S.C.)*** *wherein, while dealing with the question, whether prawns, shrimps and lobsters locally purchased for export after subject to the process of cutting their heads and tails, peeling, deveining, cleaning, freezing and exporting was eligible to claim the benefit as a sale in the course of export under sub section (3) to Section 5. It was found that the benefit ought to be extended as prawns/lobsters even after being subject to the above processes* ***do not lose their identity, but commercially remain the same****. Importantly, an argument was advanced on the basis of the entries in the Schedule to the Karnataka Act and the amendments made thereto particularly in relation to classification of Shrimps, Prawns and Lobsters to suggest that* ***enumeration of Items in different entries in the Tariff Schedule is by itself indicative of the fact that they are commercially different****. However, the said contention was rejected by the Hon'ble Supreme Court in the following decisions, the relevant portion of which are extracted below: Sterling Foods v. State of Karnataka, (1986) 3 SCC 469=1986 (26) E.L.T. 3 (S.C.):*

"8. This conclusion on principle was not disputed by the High Court in its judgment and the High Court conceded that ***even after processing such as cutting of heads and tails, peeling, deveining, cleaning and freezing, shrimps, prawns and lobsters subjected to such processing continued in common parlance to be called "shrimps, prawns and lobsters".*** *But the High Court took the view that Entry 13-a after the amendment effected in it with retrospective effect from September 1, 1978, made a distinction between raw shrimps, prawns and lobsters and processed or frozen shrimps, prawns and lobsters. In view of this distinction made in entry 13-a, if was not possible to hold that processed or frozen shrimps, prawns and lobsters were the same commodity as raw shrimps, prawns and lobsters****. The argument was that when the State legislature***

itself made a distinction between these categories of commodities by making purchases of one category amenable to sales tax under Entry 13-a and leaving out of the scope of taxation under Entry 13-a the other category, how could it be said that both these categories represent the same commodity and there is no difference in character and identity between the two. This argument, we are afraid, is not well founded. *It is based on a total misapprehension in regard to the true object and intendment of entry 13-a and it erroneously seeks to project that entry in the interpretation and application of Section 5 sub-section (3) of the Central Sales Tax Act.* ***In fact Entry 13-a as amended, supports the argument that even processed or frozen shrimps, prawns and lobsters are known commercially and in the trade as "shrimps, prawns and lobsters"****. It is because Entry 13-a as it stood prior to its amendment, would have, on the plain natural meaning of the expression "shrimps, prawns and lobsters", included processed and frozen shrimps, prawns and lobsters, that it became necessary for the State legislature to amend Entry 13-a with retrospective effect so as to exclude from the scope and ambit of that entry processed or frozen shrimps, prawns and lobsters. Now when the State legislature excluded processed or frozen shrimps, prawns and lobsters from the ambit and coverage of Entry 13-a, its object obviously was that the last purchases of processed or frozen shrimps, prawns and lobsters in the State should not be exigible to State sales tax under Entry 13-a.* ***The state legislature was not at all concerned with the question as to whether processed or frozen shrimps, prawns and lobsters are commercially the same commodity as raw shrimps, prawns and lobsters or are a different commodity and merely because the State legislature made a distinction between the two for the purpose of determining exigibility to State sales tax, it cannot be said that in commercial parlance or according to popular sense, processed or frozen shrimps, prawns and lobsters are recognised as different commodity distinct from raw shrimps, prawns and lobsters.*** *The question whether raw shrimps, prawns and lobsters after suffering processing* ***retain their original character or identity or become a new commodity has to be determined not on the basis of a distinction made by the State legislature for the purpose of exigibility to State sales tax because even where the commodity is the same in the eyes of the persons dealing in it the State legislature may make a classification for determining liability to sales tax****. This question, for the purpose of the Central Sales Tax Act, has to be determined on the basis of* ***what is commonly known or recognised in commercial parlance. If in commercial parlance and according to what is understood in the trade by the dealer and the consumer, processed or frozen shrimps, prawns and lobsters retain their original character and identity as shrimps, prawns and lobsters and do not become a new distinct commodity and are as much "shrimps, prawns and lobsters"****, as raw shrimps, prawns and lobsters, sub-section (3) of Section 5 of the Central Sales Tax Act would be attracted and if with a view to fulfilling the existing contracts for export, the assessee purchases raw shrimps, prawns and lobsters and processes and freezes them, such purchases of raw shrimps, prawns and lobsters*

would be deemed to be in course of export so as to be exempt from liability to State sales tax."
(emphasis supplied)

9. From a reading of the above judgment, it is clear that the Hon'ble Supreme Court had held that the legislature while classifying shrimps, prawns and lobsters and treating it differently/separately from frozen shrimps, prawns lobsters by placing it under different entries, has unconcerned as to whether the two products are commercially same. ***This is, in view of the fact that legislature was competent to classify the products separately/differently even though they are commercially one and the same. Thus, the question of examining whether arecanut/betel nut and roasted areca nut are commercially the same or otherwise, is an enquiry which is alien in determining the classification which ought to be made on the basis of the Tariff entries. Once legislature has chosen/provided for separate and independent entry under the Tariff for roasted areca nut, it is no longer necessary nor open to examine whether roasted areca nut is commercially the same as areca nut or whether the process of roasting results in emergence of a commercially new/different commodity having a different name, character and use. It really does not matter whether roasting of betel nut results in emergence of a new commodity for even if it does not, it is still open to the legislature to classify the product differently. Once the legislature has classified roasted betel/arecanut under a separate entry, it is not open to the Revenue to discard/abandon the entries in the Tariff while examining/determining the classification of the product.***

10. Relevance of HSN Explanatory Notes in determining classification under CTH Secondly, there is considerable force in the submission of the learned counsel for the respondents that the classification as far as possible must be in conformity and in consonance with the HSN Explanatory Notes. ***Perusal of HSN Explanatory Notes would leave no room for doubt that "roasted areca nut" has been treated as falling under Chapter 20****. The relevant portion of HSN Explanatory notes is extracted hereunder for better appreciation:*
It includes, inter alia:
(1) Almonds, ground-nuts, areca (or betel) nuts and other nuts, dry-roasted, oil-roasted or fat-roasted, whether or not containing or coated with vegetable oil, salt, flavours, spices or other additives

10.1 To appreciate the relevance of HSN Notes in determining classification, it may be relevant to refer to the following judgments of the Hon'ble Supreme Court:
(i) CCE & Customs v. Phil Corpn. Ltd.,(2008) 17 SCC 569 = 2008 (223) E.L.T. 9 (SC):

> *"30. In a number of cases, this Court has clearly enunciated that HSN is a safe guide for the purpose of deciding issues of classification. In the present case, the HSN Explanatory Notes to Chapter 20 categorically state that the products in question are so included in*

Chapter 20. The HSN Explanatory Notes to Chapter 20 also categorically state that its products are excluded from Chapter 8 as they fall in Chapter 20. In this view of the matter, the classification of the products in question has to be made under Chapter 20."
(Emphasis Supplied)

(ii) LML Ltd. v. Commr. of Customs, (2010) 10 SCC 503 = 2010 (258) E.L.T. 321 (SC)/[2010] 1 taxmann.com 333 (SC):

*"13. In **CCE v. Wood Craft Products Ltd. [(1995) 3 SCC 454]** it was held by this Court that as expressly stated in the Statement of Objects and Reasons of the Central Excise Tariff Act, 1985, the Central Excise Tariffs are based on the Harmonised System of Nomenclature (HSN) and the internationally accepted nomenclature was taken into account to reduce disputes on account of tariff classification. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the Harmonised System of Nomenclature (HSN).*
(Emphasis Supplied)

*10.2 The above judgments would show that HSN is a safe guide in resolving dispute relating to Tariff classification. **A perusal of HSN Explanatory Notes would show that Chapter 20 would cover roasted areca/betel nuts**. The AAR being in conformity with the HSN Explanatory Notes, which are treated to be a safe guide in matter of Tariff classification, is **yet another reason as to why it would not warrant interference.***

***11. Rule of Specific vis-a-vis General Entry in determining classification** - Process of Roasting of Betel nuts vis-a vis other process, such as, drying, boiling, etc.*
*Thirdly, it is trite law that whenever there is **specific entry, the same would prevail over general entry**. The said general principle is statutorily incorporated in General Rules of Interpretation, in particular, under Rule 3(a) of the General Rules of Interpretation, which reads as under:*

"3. When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:
(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods...."
(emphasis supplied)

*11.1 Now, applying the above test to the competing entries viz., CTH 080280 and CTH 2008 1920, we find that **while CTH 080280 covers areca nuts which are "fresh or dried whether or not shelled or pealed**",*

*chapter 2008 19 20 covers "other roasted nuts and seeds" which include **roasted areca nuts**. Importantly, Note 3 to Chapter 8 provides that dried nuts covered under the said Chapter are those which are partially rehydrated or treated for additional preservation or stabilization by moderate heat treatment, sulphuring, addition of sorbic acid or potassium sorbate. **Note 1 (a) to Chapter 20 expressly excludes nuts prepared or preserved by the "processes specified in Chapters 7, 8 or 11", while classifying roasted nuts and seeds. It is thus evident that roasting and drying are treated to be distinct for the purposes of classification under the Customs Tariff Heading. Any construction to the contrary would result in rendering Note 1 (a) to Chapter 20 which excludes the process specified in Chapter 8 of CTA, redundant.** While fresh or dried areca nuts are covered by 080280, roasted areca nuts are covered under 2008 19 20. Roasting is a process which has been treated to be distinct from drying and has been the basis for fixing the classification under Customs Tariff Heading under 2008 19 20.*

*11.3 We would think that CTH 2008 19 20 is a special entry covering nuts subject to the process of roasting, when contrasted with CTH 08 02 90 which covers dried nuts. **Having come to the conclusion that the classification of areca nut is made on the basis of the process which it is subject to with a distinction between dried and roasted nut being maintained**, we would think that CTH 2008 19 20 which covers roasted nuts including areca nut is a specific entry when contrasted with the entries/items covering nuts under CTH 08.*

*11.4 It is well established that when a **general law/entry and a special law/entry dealing with same aspect are in question, the rule adopted and applied is one of harmonious construction, whereby the general law to the extent dealt with by the special law, would yield to the Special Law/Entry. This principle finds its origins in the Latin maxim of generaliaspecialibus non derogant i.e. general law yields to special law should they operate in the same field on same subject**. The maxim generaliaspecialibus non derogant is dealt with in Vol. 44(1) of the 4th Edn. of Halsbury's Laws of England at Para 1300, as follows:*
"The principle descends clearly from decisions of the House of Lords in Seward v. Vera Cruz [(1884) LR 10 AC 59] and the Privy Council in Barker v. Edger [1898 AC 748)] and has been affirmed and put into effect on many occasions….

Corpus Juris Secundum, 82 C.J.S. Statutes 482 states:

when construing a general and a specific statute pertaining to the same topic, it is necessary to consider the statutes as consistent with one another and such statutes therefore should be harmonised, if possible, with the objective of giving effect to a consistent legislative policy. On the other hand, where a general statute and a specific statute relating to the same subject-matter cannot be reconciled, the special or specific statute ordinarily will control. The provision more specifically directed to the matter at issue prevails as an exception to or qualification of the provision which is more

general in nature, provided that the specific or special statute clearly includes the matter in controversy (Edmond v. United States [137 L Ed 2d 917], Warden v. Marrero [41 LEd 2d 383])."

*****

16. To sum up:
*(a) ****.*
*(b) Roasted betel/areca nut having been **specifically classified** under CTH 2008 19 20, the attempt to classify under CTH 08 02 80 would **fall foul of the settled rule of construction that specific entry would prevail over general entry**.*
*(c) **HSN explanatory notes is normally a safe guide** in determining classification under CTH. Roasted areca/betel nut having been mentioned in CTH 2008 19 20 under HSN, the impugned Ruling is in consonance with HSN classification.*
*(d) When there is **a specific entry covering a product/commodity, the test of common parlance is irrelevant in determining classification**."*

10. We find it apposite to place reliance upon the judgment of the *Allahabad High Court in Rawder Petroleum Pvt.Ltd vs UOI - (2025) 32 Centax 169*.The relevant extracts from the said judgment are reproduced hereunder:

"***32**. This Court in examining the classification of 'roasted areca nuts", finds that as a matter of fact, there is no definition of "roasted" given in the Custom Tariff Act. As far as Chapter 08 is concerned, it speaks of process like chilling or steaming, boiling, drying and provisionally preserving. **It is important to note that although, the said chapter contains the entry of areca nuts at "0802 80" and consists of whole, split, ground and other forms, but the description of these items has to be understood in the form it assumes after the process as mentioned under the said chapter is undertaken on them. That is to say, the end product obtained by the process mentioned in this chapter becomes significant for its classification.** It has been rightly held by the CAAR that there is a marked difference between the **processes of moderate heat treatment & dehydrating/drying** referred in chapter 8 and processes of **dry-roasting, oil-roasting and fat-roasting** referred in Chapter 20. Although, the **terms dry-roasting, oil roasting and fat roasting are also not defined in the Customs Tariff Act, 1975, however, these terms have to be understood in a commonly accepted sense**. Further, this court has **no hesitation in subscribing to the view of CARR that in common trade parlance,** "drying" is a method of food preservation by the removal of water content, whereas on the other hand, "**roasting" means the excess or very high heat treatment that produces fundamental chemical and physical changes in the structure and composition of the goods, bringing about**

***a charred physical appearance**. Therefore, while **drying is a moisture removal process involving methods such as dehydration, evaporation, etc., whereas roasting is a severe heat treatment process**. The end product changes with the degree of heat it is subjected at the time of processing.*

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***34**. This Court finds that **roasting is a process used for bringing in to existence roasted nuts and finds that the processes mentioned in chapter 8 do not cover roasting process.** Further, this court cannot be oblivious to the fact that roasting, as submitted by the importer by virtue of letter dated 04.06.2024 issued by ANL(S) Trading & services Pte Ltd., Singapore, is carried out using roasting ovens due to which betel nuts are roasted in the range of 150 degrees Celsius then cooled in room temperature and the cycle is **repeated until the moisture content is less than 6%.This clearly indicates that the roasting is much more than mild heat treatment. Even in the generally understood meaning of the terms, it is understood that roasting involves severe heat treatment and is different from moderate heat treatment as well as dehydration**. Thus, drying and roasting cannot be equated and both the process are diametrically different.*

35**. Additionally, this court finds that the Hon'ble High Court of Madras in its judgement on Civil Miscellaneous Appeal (CMA) No's 600/2023, No. 1206/2023 and No. 1750/2023, dated 01.08.2023, had upheld the classification of 'Roasted areca Nuts' under CTH 2008 19 20. **Further, this court takes Judicial notice of the recent development, wherein a Notification No. 02/2025-26 dated 02.04.2025 has been issued by the Department of Commerce, Directorate General of Foreign Trade, relating to "amendment in import policy and policy condition of Roasted Areca Nuts falling under ITC(HS) Code 2008 19 20 of chapter 20 of ITC(HS), 2022, Schedule-I(Import Policy). The effect of the said notification is that the import policy of 'roasted Areca nuts' falling under ITC (HS) Code 08028090 and 2008 19 20 stands revised from "free" to "prohibited" and a kind of clarification has been sought to be given by the department, that as far as the Tariff entry 2008 19 20 relating to other roasted nuts and seeds are concerned, "roasted areca nuts" are not covered as they are specifically covered under 08028090.

36**. In view of the aforesaid recent development, it can be **safely concluded that a doubt always existed in the mind of the department relating to the tariff entry of 'roasted areca nuts", otherwise there was no occasion nor any need for issuance of the recent notification dated 02.04.2025, wherein the department was compelled to clarify and specify in clear terms that 'roasted areca nuts' are not covered under ITC (HS) Code 2008 19 20 as they are specifically covered under 08028090.
xxx
xxx

***38**. As far as the second issue relating to whether the commodity imported by the importer/petitioner of the Writ Tax No. 71 of 2025 are "roasted areca nuts", so as to be classifiable under CTH 2008 19 20 or are merely dried areca nuts and could be classified under CTH 080280 is concerned, the **test reports gains prominence**. It is pertinent to mention herein that the commodity was imported on 06.11.2024 and samples were drawn from the said commodity from time to time. The test report drawn from the samples drawn from the commodity imported by the importer, along with the date of collection of samples and the testing, whether being in conformity with the existing guidelines or not, can be displayed in a tabular chart in the following manner:*

Sl. No.	Date of Collection of Sample	Date of Receiving of sample	Date of preparation of Report	Consonance with guidelines of 18/07/2017, report should be within 5 days	Moisture Content of Commodity	Testing agency
1.	18/11/2024	19/11/2024	22/11/2024	Yes	3.39%	First Lab, Gurgaon
2.	18/11/2024	27/11/2024	16/12/2024	No (sample received after 9 days)	7.09%	CRCL, New Delhi
3.	18/11/2024	19/11/2024	18/12/2024	Yes, Inference drawn that commodity is 'roasted areca nuts" and fit for Human consumption	3.9%	First Lab, Gurgaon
4.	17/01/2025 (In view of the directions of this court vide order dated 17.12.2024)	11/02/2025	24/02/2025	No (sample received after 25 days)	7.24%	CRCL, New Delhi

***41**. Further, this Court **cannot be oblivious of the fact that the import is governed by the Food Safety and Standards (Import) Regulations, 2017, wherein the regulations 9(9) and 9(10) specifically provides that in case**, if the test results of the first sample are adverse, then it is only the importer, who can make an Application for its Re-testing and only thereafter it could have been sent for Re-testing. However, in the present case, after sending the sample on 19/11/2024, the department on their own and without any reasons have sent another sample on 27/11/2024 to another laboratory after 5 days from receipt of report dated 22/11/2024 which dehors the provisions of the Regulations of 2017. **Even, the Guidelines dated 12/07/2022, issued by Food Safety Standards Authority of India, has been seemingly ignored, as although the said guidelines provide for compliance for time-limit for analysis of sample under clause 2(ii), to be of 5 days from the receipt of the sample in case of 'Import'**, however the department has flouted the said time-period as is apparent from the tabular chart incorporated herein above, wherein the samples are received by the testing center after 9 and 25 days respectively.*

***42**. There is no reasons forthcoming as to why and in what circumstances, the second samples were drawn by the department and that too without any application by the importer, as per the rules. No sustainable grounds have been made out by the department against the test-reports of First Lab, Gurgaon, nor any reasons have been forthcoming disputing the test results*

of the said First Lab, Gurgaon. ***This Court finds that the test-result obtained from First Lab for samples drawn by the department, immediately after its import, shows the moisture content of 'roasted areca nuts' to be 3.39%.*** *The said test-report has been obtained for a sample, which was collected on 18.11.2024 and was received in the testing agency on 19.11.2024 and most importantly, the report was prepared within 5 days of its receipt i.e on 22.11.2024. Seemingly, the said report, which is the earliest report, appears to be the most authentic report meeting the guidelines of the FSSA as well as the Customs Department and this court finds no plausible reasons for denying the benefit of the said earliest and/or first report to the importer."*

RELEVANCE OF CASE LAWS RELIED UPON BY THE REVENUE: -

11. We find it appropriate, at this stage, to deal with the case laws cited by the Appellant. We find that the Revenue has heavily relied upon the decisions in *Crane Betel Nut Powder Works v. Commissioner of Customs and Central Excise*, reported in *2007 (210) E.L.T. 171 (S.C.); S.T. Enterprises v. Commissioner of Customs,* reported in *2021 (378) E.L.T. 514 (Tri. – Chennai); Azam Laminators v. Commissioner of Central Excise,* reported in *2019 (367) E.L.T. A22; Commissioner of Central Excise v. ARS Company,* reported in (*2006) 206 E.L.T. 1027 (Tribunal);* and *Ayush Business Overseas v. Commissioner*, reported in *2021 (378) E.L.T. A142*. We also find considerable force in the reasoning adopted by the Hon'ble jurisdictional High Court in Commissioner v. Shahnaz Commodities International Pvt. Ltd., wherein it was held that the ratio of the decision of the Hon'ble Supreme Court in Crane Betel Nut Powder Works cannot be mechanically extended to a dispute arising under

the Customs Tariff merely because the product continues to retain the character of betel nut or areca nut after processing. The issue before the Hon'ble Supreme Court was whether the **processes undertaken on betel nut amounted to "manufacture" and resulted in the emergence of a new commodity,** whereas the present controversy concerns the classification of imported goods under competing entries of the Customs Tariff. **Once the Tariff contains a specific entry for a "Betel Nut Product Known as Supari" under Chapter 21, the classification must be determined with reference to the description of the goods, the relevant Chapter Notes and the Rules for Interpretation, and not by importing into the classification exercise the test of emergence of a new commodity developed in the context of manufacture under the Central Excise law.** It is well settled that a precedent is an authority only for what it actually decides and cannot be extended to a materially different statutory setting by a process of logical deduction. Consequently, the mere fact that the processing does not result in the loss of the original character of areca nut or betel nut would not, by itself, exclude the applicability of the specific entry relating to Supari, which, if otherwise attracted, would prevail over the general entry relating to nuts under Chapter 8.We find it apposite to reproduce the relevant findings of the Hon'ble High Court in this regard: -

> *"5. Mr. N. Dilip Kumar, learned counsel for the appellant would develop his arguments ***** In this regard, he would place reliance*

on the decision of the Apex Court in Crane Betel Nut Powder v. Commissioner of Customs and Central Excise, reported in 2007 (210) E.L.T. 171(S.C.) = [2007] 2007 taxmann.com 1403 (SC). The Apex Court, in this judgment has held that even when betel nut is cut into smaller pieces, adopting a process of adding essential or non-essential oils, menthol, sweetening agent etc., the same would not result in a new or distinct product, having any different character and resultantly, the classification would have to be only under Chapter 8 and not Chapter 21.

6. Apart from heavily relying on the above decision of the Apex Court, the learned Counsel for the Appellant would also refer to the decisions of the CESTAT Tribunal in ST Enterprises v. Commissioner of Customs, reported in 2021 (378) E.L.T. 514 (Tri. - Chennai), Azam Laminators v. Commissioner of Central Excise, reported in 2019 (367) E.L.T. A22 and Commissioner of Central Excise v. ARS Company, reported in (2006) 206 E.L.T. 1027 (Tribunal), where also it has been held that areca nuts, cut into pieces and thereafter treated it with oils, sugar etc. would not entitle a classification to be made under Chapter 8, but only under Chapter 21.

7. The Learned Counsel for the appellant would further state that the decision of the Tribunal in ARS and Company was also subsequently upheld by the Apex Court in the decision reported in 2015 (324) E.L.T. 619 (sic). The decision of the Apex Court in Ayush Business Overseas v. Commissioner, reported in 2021 (378) E.L.T. A142 is also relied on by the Learned Counsel for the Appellant. In the said decision, the Apex Court had ruled in favour of the revenue by holding that the classification of areca nuts would have to be under Chapter 8.

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10. The learned counsel for the appellant would also invite our specific attention to the decision of the Apex Court in Crane Betel Nut Powder Works v. Commissioner of Customs & Central Excise reported in (2007) 4 SCC 155 = 2007 (210) E.L.T. 171 (S.C.) = [2007] 2007 taxmann.com 1403 (SC) where the Hon'ble Supreme Court held, rejecting the contention of the Department, that the process of cutting betel nuts into smaller pieces and adding oils, whether essential or non-essential would not result in a new and distinct product, having a different character and use and that the end product retained its original character.

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***16.** The Learned Senior Counsel, Mr. Vijay Narayan would also state that there has been a **fundamental shift in the tax regime in view of Central Excise being replaced by Goods and Service Tax (GST), totally effacing the concept of manufacture** in the area of tax and the product, 'Menthol Scented Supari' also no longer coming*

under the purview of Central Excise Tariff Act, 1985, no duty is chargeable under the Act.

17. The Learned Senior Counsel would also contend that the reference to the HSN Explanatory Note to Chapter 8 was wholly misplaced as Rule (1) of the General Rule for Interpretation of Import Tariff makes it abundantly clear that for all legal purposes, classifications shall be determined according to the terms of the headings and any related Section or Chapter Notes. Therefore, the Senior counsel would primarily contend that ***when the subject product was specifically defined under Supplementary Note 2 to Chapter 21 of the Customs Tariff Act, 1975, the classification can only be under Chapter 21 and the reliance placed on HSN by the Appellant was totally unconnected and unwarranted as it was only relatable to Chapter 8 alone****. The Learned Senior counsel would further contend that the decision of the Apex Court in Crane Betel Nut Work's case as well as the decision of the Delhi High Court in Great Nuts Impex Pvt. Ltd.,* ***lost its precedential value because of a subsequent new scenario that has emerged, post the Finance (No. 2) Act, 2009 dated 9th August 2009 and also in view of the concept of 'manufacture' itself being of no consequence in the wake of the introduction of GST in 2017****.*

18. The Learned Senior counsel would place reliance on the decision of this Court in Commissioner of Customs v. M/s. Shahnaz Commodities International P. Ltd. and 2 others, rendered in CMA Nos. 600, 1206 and 1750 of 2023 = 2023 (386) E.L.T. 214 (Mad.) = (2023) 9 Centax 183 (Mad.), where a Division Bench of this Court, in and by a Common Judgment dated 1-8-2023, held ***that when there is a specific clause under Chapter 20, the classification cannot be made under Chapter 8.***

28(a). This Court in Commissioner of Customs v. M/s. Shahnaz Commodities International P. Ltd. and 2 others, has elaborately discussed the classification of roasted betel/areca nut and held that it would only be under Chapter 20 and not Chapter 8. This Court further held that ***the Common Parlance Test would be irrelevant in determining classification, when there is a specific entry covering a product.***

28(b). We are in ***agreement with the ratio laid down by the Division bench of this Court in the said case****. In the case on hand before us,* ***instead of Chapter 20, Chapter 21 would apply since Supplementary Note 2 under Chapter 21 specifically provides for 'supari' and would therefore prevail over the general entry for 'nuts' in Chapter 8.***

28(c). Consequently, the argument advanced by the Counsel for the Appellant that, to ***qualify for classification under Chapter 21, the product should have undergone a process by which it lost its***

original character of a betel nut or areca nut does not merit acceptance.

29. In the case before the Hon'ble Supreme Court in Crane Betel Nut Powder Work's case referred herein supra, the ***issue was relating to whether crushing of betel nut and adding ingredients to it would involve any 'manufacture' or not*** *and in that context it was held that the process of boiling, slicing etc. and adding flavours to the betel nut would not result in altering the nature and characteristics of the product and therefore the classification would have to be made under Chapter 8.*

30. According to the Learned Senior counsel for the respondents, ***post this judgment, two important subsequent factors have intervened.***

31. Firstly, ***vide Finance (No. 2) Act, 2009 dated 19th August, 2009, there has been an insertion of Note 6 in Chapter 21, which specifically relates to Tariff Item 2106 90 30 relating to 'supari'*** *and stating that the process of adding or mixing cardamom, copra, menthol, spices, sweetening agents or any such ingredients other than lime, katha (catechu) or tobacco to betel nut, in any form, shall not amount to "manufacture".* ***However, we are conscious of the fact that this amendment was only under the Central Excise Tariff Act and not the Customs Tariff Act.***

*32. Secondly, w****.e.f. 1-7-2017, the GST Act was introduced and the concept of taxation itself has undergone a change from 'manufacture' to 'supply'. The Supplementary Note 2 in Chapter 21 of CGST Tariff is also verbatim the same as Supplementary Note 2 under Chapter 21 of the Customs Tariff Act, 1975. This only exemplifies the intention of the legislature to have always treated 'supari' as a special entry and not as a betel nut under the general entry of 'nuts'.***

33. Though we find force in the submission of the Learned Counsel for the Appellant that the Customs Tariff Act still continues to employ the same phraseology that was available under the unamended Central Excise Tariff Act and that too when the Apex Court had dealt with the same issue, the ***ratio laid down by the Apex Court in Crane Betel Nut Powder Work's case would still hold the field and apply to the case on hand, we are unable to accept the said limb of argument, in view of our categorical finding that there being a specific entry for 'Supari' under Chapter 21 and it would take precedence over the general entry under Chapter 8, the question of applying the ratio laid down by the Apex Court would not even arise for the simple reason that the issue on hand is only revolving around classification of 'Supari' under Chapter 8 or Chapter 21*** *and the facts of the case before the Apex Court was entirely different and the issue was whether process*

involved in manufacture of sweetened betel nut pieces would result in a totally new product or not.

34(a). It is also to be borne in mind that both the statutory enactments viz., Central Excise Tariff Act and the Customs Tariff Act operate in different spheres. In so far as the Central Excise Tariff Act, it deals with goods that are manufactured inside the Country and the tariffs applicable to various categories and products. In that context, process or manufacture involved assumes significance.

34(b). However, under the Customs Tariff Act, the products are imported from foreign countries and therefore the significance attached to the ***concept of manufacture does not carry the same weightage as it does under the Central Excise Tariff Act.***

34(c). The Hon'ble Supreme Court in Crane Betel Nut Powder Work's case was dealing with an issue that ***arose only under the Central Excise Tariff Act and not the Customs Tariff Act. The amendments also have been incorporated only under the Central Excise Tariff Act, clarifying that the process of adding or mixing cardamom, copra, menthol etc. would not amount to manufacture etc****.*

34(d). As already discussed herein above, under the Customs Tariff Act, the question of manufacture loses its relevance since the Act deals only with the tariff applicable to the goods or products imported from outside the country, ***in an as is where is basis, or rather the product as imported in whatever form is the basis for levy of Customs Tariff.*** *Thus, the judgment of the Hon'ble Supreme Court in Crane Betel Nut Powder Work's case cannot be said to be a bar u/s. 28(i) of the Customs Act.*

35. Here we have already found that ***by inserting a specific tariff entry for 'Supari' under Chapter 21, the question of classifying it under Chapter 8 does not even arise, especially when this was neither the issue before the Apex Court*** *nor the basis on which the decision was rendered. It is also trite law that a decision is* ***only an authority for what is decided and it cannot be extended to something which has not been decided by applying the process of a logical deduction.***

35. In fact, in P.Rajendran v. Assistant Director, in Crl. O.P. No. 19880 of 2022 dated 14-9-2022, the Division Bench of this Court, in fact, one of us being a part of the Bench (Justice. RMT.TEEKAA RAMAN) held that "a case is only an authority for what it decides". As observed by Lord Halsbury in Quinn v. Leathem, reported in 1901 AC 495, quoted hereunder for easy reference :

> *"... that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the*

> *generality of the expressions which may be found there are not intended to be expositions of the whole law, but are governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides."*
>
> *35. (c) In Rajendra Singh v. State of U.P. & others, reported in (2007) 7 SCC 328, also the Apex Court approved the said position, by citing the above passage as well.* ***Thus viewed from these angles also, the ratio laid by the Apex Court in Crane Betel Nut Powder Work's case cannot be enlarged and read into the facts of the present case, under the guise of logical reasoning."***

11.1 Now, coming to the decision in Crane Betel Nut powder's case, there importantly, the question was whether the process of boiling and drying would constitute manufacture. However, in the instant case, the question is not as to whether the activity of SUPARI making would constitute manufacture, but whether in view of a separate entry for SUPARI, it is permissible to continue to classify the SUPARI under CTH 08 02 80 which covers fresh or dried areca nuts. We have already found that when there is a specific entry for SUPARI, the same cannot be classified under Chapter 8. The question as to whether the process involved in making SUPARI would constitute manufacture and whether a new product would emerge as a result of the above process are questions that are alien, while determining the classification of imported goods in terms of the Customs Tariff Headings. In view of the foregoing, reliance on the aforesaid judgment of the Hon'ble Supreme Court for resolving the present dispute concerning customs classification is misplaced, legally unsustainable, and devoid of logical relevance.

12. We are of the view that CTH 2106 90 30 is a specific entry insofar as it covers "SUPARI" and would, therefore, prevail over the general entry under Chapter 08, in view of the settled principle that a specific entry would prevail over a general entry. Reliance was sought to be placed by the learned counsel for the Revenue on the decision of the Tribunal in the case of S.T. Enterprises, which, upon being carried in Civil Appeals before the Hon'ble Supreme Court, came to be dismissed, to submit that the goods imported, viz. Supari, continue to remain areca nuts and are thus classifiable under Chapter 08.We find that reliance upon the aforesaid decision for determining the classification of Supari under the Customs Tariff Act is misplaced for the following reasons. First, in the said decision, the question that arose for consideration was whether the goods involved therein, viz. boiled betel nuts, would merit classification under CTH 2106 90 30 or CTH 0802 80 10. The case was not concerned with goods certified as Supari by a statutory authority such as the FSSAI. Secondly, while the present case concerns with the classification of "SUPARI". The process examined by the Tribunal in S.T. Enterprises was confined to boiling and drying. Significantly, none of the aforesaid processes was examined or tested by the Revenue authorities in the present case. The Revenue has also not been able to demonstrate, on the basis of objective

material, that the subject goods are not Supari, particularly when the FSSAI report has neither been challenged nor have the goods been subjected to testing with reference to the relevant parameters. The Revenue has not been able to place on record any clear or cogent material establishing the essential characteristics of areca nut as distinct from those of Supari. Nor has it been able to establish what, if any, ingredients other than areca nut are essential for a product to be described as Supari, or what specific processes are required to be undertaken on areca nut for it to acquire the character of Supari. Further, no material has been placed on record to explain the distinguishing physical characteristics, if any, between Supari and areca nut. In these circumstances, the classification of the goods under CTH 0802 80 10 in S.T. Enterprises cannot, in our view, be treated as a precedent for the question which arises for our consideration, namely, whether the subject goods, identified and certified as Supari, are classifiable under CTH 2106 90 30, particularly in the light of the FSSAI reports, the absence of testing of relevant parameters by the Revenue and the unchallenged FSSAI certification. The question which arises for determination in the present appeals was, in our considered view, never directly considered by the Tribunal in S.T. Enterprises. It is trite law that a decision is a precedent only for what it actually decides. The specific issue arising in the present case,

including the evidentiary significance of the FSSAI test results, the specific tariff entry for Supari, and the absence of testing of the relevant parameters by the Revenue, did not arise for consideration in S.T. Enterprises. Where a question has passed sub silentio, the decision may not have precedential value on that particular issue. A material difference in facts, or the presence of an additional fact, or the absence of a fact which was material to the determination in the earlier case, may have a bearing on the precedential value of such decision. In this regard, it may be useful to refer to the judgments of the Hon'ble Supreme Court in *Municipal Corpn. of Delhi v. Gurnam Kaur, (1989) 1 SCC 101 (para 11); Padma Sundara Rao v. State of T.N., (2002) 3 SCC 533 (para 9); State of Orissa v. Mohd. Illiyas, (2006) 1 SCC 275 (para 12);* and *Bhavnagar University v. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111 (para 59),* which elucidate the principle that a precedent must be understood in the context of the facts and the issue actually decided therein. It is thus clear from the aforesaid judgments that the decision of the Tribunal in S.T. Enterprises, affirmed by the Hon'ble Supreme Court, cannot be understood as laying down a general proposition governing the classification of all products described as Supari. The said decision cannot, therefore, be treated as determinative of the present dispute, which requires consideration of whether the subject goods merit classification under CTH 2106 90 30,

having regard, inter alia, to the specific tariff entry for Supari, the FSSAI reports and unchallenged Certificate of Origin certification, and the failure of the Revenue to test the relevant parameters or otherwise establish, by objective evidence, that the goods do not answer the statutory description of "Supari." In view of the same, the reliance on the judgment of the Hon'ble Supreme Court in the said case is misplaced and irrelevant. Reliance is also placed on decision of jurisdictional HC in the case of *2023 (8) TMI 492 - MADRAS HIGH COURT- The CC Chennai Versus M/s. Shahnaz Commodities International P. Ltd., M/s. Neena Enterprises, M/s. Universal Impex.* At the cost of repetition, and in order to enhance clarity, the relevant extract is reproduced below for ready reference: -

"11.6. We are of the view that CTH 20 08 is a specific entry insofar as it covers roasted nuts and would thus prevail over CTH 08, in view of the above ***settled rule that specific entry would prevail over general****. This is yet another reason, we would think that the conclusion of the Advance Rulings Authority does not warrant interference.*

12. Relevance of the judgment in S T Enterprises :
Having found that roasted areca / betel nuts ought to be classified under CTH 20, let us examine the order of the Tribunal in the case of ST Enterprises on which reliance was placed by the appellant to see, if it would have any relevance / bearing on the issue. Reliance was sought to be placed by the learned counsel for the Revenue on the decision of the Tribunal in the case of S.T.Enterprises which on being carried in Civil Appeals, which came to be dismissed, to submit that the goods imported viz., roasted areca nut/ betel nut continues to remain betel nut and thus classifiable under CTH 08. We find that reliance on the above decision to determine the classification of roasted betel / areca nut under the Customs Tariff Act is wholly misplaced for the following reasons:

*(a) In the above decision, the **question that arose for consideration was as to whether the goods involved therein viz., boiled betel nuts would merit classification under CTH 21069030 or CTH 08028010. It was not concerned with CTH 2008 19 20 which covers "roasted nuts".** The following extract of the order of the Tribunal, wherein the issue framed would make this clear:*

> *"9. The issue to be decided is whether the impugned goods merit classification under CTH 21069030 or CTH 08028010. According to appellants the raw betel nut obtained from tree has been subjected to boiling and made ready for human consumption. By process of cleaning and boiling the nuts, the moisture content is reduced and are longer fresh and dry nuts so as to fall under Chapter 8."*
>
> *(emphasis supplied)*

*(b) While in the present case, the issue is with reference to **classification of "roasted areca nuts"**. The process that was examined by the Tribunal in the case of S.T.Enterprise was **confined to boiling and drying**. Importantly, roasting was not one of the processes that was examined. The relevant portion would make this clear :*

*"12. ….Though several stages/ process are claimed to be done in the write up given by supplier, 17 during the argument the process undertaken was mainly **confined to boiling in water and drying in sun light**. It is argued that such processing of boiling is a stage of preparation in making "betel nut product". That therefore the goods would merit classification under CTH 21069030. Even if we assume that the impugned goods have undergone the stage of boiling or have been boiled in water and dried, we have to say that it **does not take away the essential character of the betel nut being "whole"."***
(emphasis supplied)

*(c) The competing entries that were examined in the above case were CTH 21069030 vis-a-vis CTH 08028010. In other words, the question that was being examined was, whether the goods in question would qualify as "preparation of betel nut" or "betel nut as mentioned in Chapter 8". The Court's attention was never drawn to CTH 20081920 which covers roasted nuts including areca/ betel nuts, inasmuch as the facts as set out by the Tribunal in its order **was not concerned with the process of roasting.** In this regard, the following portions of the order are relevant to extract hereunder:*
*"15. ……The appellants do not have a case that their goods contain cardamom, copra or menthol or any additives. Counsel for appellants has made much effort to contend that **after boiling though "whole" the betel nut becomes "betel nut product".** In our view, since betel nut has retained its character of being whole and it does not contain any other ingredients such as cardamom, copra or menthol, it cannot be said that impugned goods are "preparations containing betel nut" or "betel nut product/supari" so as to fall under tariff heading 21069030.*
……...

*20. The question is whether by **mere boiling and drying whole betel nut** it would merit classification under 21069030 so as to surpass the prohibition of import. Ld. counsel for appellants has relied upon Advance Rulings in the case of M/s.Excellent Betelnut and M/s. Oliya Steel Pvt. Ltd……..The process of preparation of the items proposed to be imported is given in detail and includes boiled supari which is nothing but **raw supari subject to boiling for 4 hours, removing the husk, boiling again for 2 hours, drying by hot air, sterilizing, sorting, polishing and packing**.*

……..

*21. In the case of A.R.S & Company Vs CCE Trichy the Chennai Bench of the Tribunal vide Final Order No.41961/2017 dated 29.08.2017 in 23 Appeal No.E/492/2009 followed the judgment of the Hon"ble Supreme Court in their own case reported in 2015 (324) ELT 30 (SC). The Tribunal held that process of **crushing betel nuts and sweetening the same with essential oils does not amount to manufacture**. We do not find any reason to deviate from the view taken by the Chennai Bench in following the decision of Hon'ble Apex Court. Though appellants herein contend that after the amendment by adding of Chapter Note 2 to Chapter 21 the position is changed, we do not think so. Even after such amendment, the position of law settled by the Hon'ble Apex Court in the case of M/s. Crane Betel Nut Powder Works (supra) would still be applicable. **The amendment relied upon by the appellants only clarified what 'supari' would be and as such would not be of much help in deciding the classification of impugned goods**. Moreover, it can be seen that the impugned products in the case of Crane Betel Nut Powder Works (supra) have undergone much more elaborate processes like cutting into different sizes; adding essential / non-essential oils, menthol, sweetening agents etc. **Even when the physical appearance undergoes a change, Apex Court held that the processes undertaken do not amount to manufacture**. Whereas, the processes undertaken in the instant case are less complex and simple like de-husking, cleaning, boiling and drying. For the reasons cited above, the processes cannot be held to be amounting to manufacture so as to necessitate the movement of goods from Chapter 8 to Chapter 21."*

(emphasis supplied)

*13. From the above extracts, it is clear that the **Court was not examining CTH 20081920 nor were the goods involved subject to the process of roasting**. The competing entries which were considered by the Hon'ble Supreme Court, were CTH 21069030 vis-a-vis CTH 08028010. In the circumstances, classification of goods under CTH 08028010 in the case referred above, cannot be treated as a precedent for the question that we are now required to resolve viz., whether roasted areca / betel nut is classifiable under CTH 2008 1920 for the following reasons:*

*(a) The **question which needs to be resolved in the present appeals, was never under consideration before the Tribunal**, which order stands affirmed by the Hon'ble Supreme Court. It is trite law that a decision is a precedent only for what it decides.*

*(b) Where a question passes **sub-silentio, then, it may have no precedential value.***

*(c) A **little difference or additional fact or absence of certain facts** can have a bearing on the precedential value.*

13.1. In this regard, it may be useful to refer to the following judgments, which would make the above position on precedents clear:
*(i) **Sub-Silentio - Value as a Precedent Municipal Corpn. of Delhi v. Gurnam Kaur , (1989) 1 SCC 101 at page 110**:*
***"11.** Pronouncements of law, which are not part of the ratio decidendi are classed as obiter dicta and are not authoritative. With all respect to the learned Judge who passed the order in Jamna Das case [Writ Petitions Nos. 981-82 of 1984] and to the learned Judge who agreed with him, we cannot concede that this Court is bound to follow it. It was delivered without argument, without reference to the relevant provisions of the Act conferring express power on the Municipal Corporation to direct removal of encroachments from any public place like pavements or public streets, and without any citation of authority. Accordingly, we do not propose to uphold the decision of the High Court because, it seems to us that it is wrong in principle and cannot be justified by the terms of the relevant provisions. A decision should be treated as given per incuriam when it is given in ignorance of the terms of a statute or of a rule having the force of a statute. So far as the order shows, no argument was addressed to the court on the question whether or not any direction could properly be made compelling the Municipal Corporation to construct a stall at the pitching site of a pavement squatter. Professor P.J. Fitzgerald, editor of the Salmond on Jurisprudence, 12th Edn. explains the concept of sub silentio at p. 153 in these words:*

A decision passes sub silentio, in the technical sense that has come to be attached to that phrase, when the particular point of law involved in the decision is not perceived by the court or present to its mind. The court may consciously decide in favour of one party because of point A, which it considers and pronounces upon. It may be shown, however, that logically the court should not have decided in favour of the particular party unless it also decided point B in his favour; but point B was not argued or considered by the court. In such circumstances, although point B was logically involved in the facts and although the case had a specific outcome, the decision is not an authority on point B. Point B is said to pass sub silentio.

***12.** In Gerard v. Worth of Paris Ltd. (k). [(1936) 2 All ER 905 (CA)] , the only point argued was on the question of priority of the claimant's debt, and, on this argument being heard, the court granted the order. No consideration was given to the question whether a garnishee order could properly be made on an account standing in the name of the liquidator. When, therefore, this very point was argued in a subsequent case before the Court of Appeal in Lancaster Motor Co. (London) Ltd. v. Bremith Ltd. [(1941) 1 KB 675] , the court held itself not bound by its previous decision. Sir Wilfrid Greene, M.R., said that he could not help thinking that the point now raised had been deliberately passed sub silentio by counsel in order that the point of substance might be decided. He went on to say that the*

point had to be decided by the earlier court before it could make the order which it did; nevertheless, since it was decided "without argument, without reference to the crucial words of the rule, and without any citation of authority", it was not binding and would not be followed. Precedents sub silentio and without argument are of no moment. This rule has ever since been followed. One of the chief reasons for the doctrine of precedent is that a matter that has once been fully argued and decided should not be allowed to be reopened. The weight accorded to dicta varies with the type of dictum. Mere casual expressions carry no weight at all. Not every passing expression of a judge, however eminent, can be treated as an ex cathedra statement, having the weight of authority."
(emphasis supplied)

13.2. ***Precedent only on the basis of Facts***
(a) Padma Sundara Rao v. State of T.N., (2002) 3 SCC 533:
"9. *Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington v. British Railways Board [(1972) 2 WLR 537 : 1972 AC 877 (HL) [Sub nom British Railways Board v. Herrington, (1972) 1 All ER 749 (HL)]] . Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases . "*
(emphasis supplied)
(b) State of Orissa v. Mohd. Illiyas, (2006) 1 SCC 275:
"12. *.....According to the well-settled theory of precedents, every decision contains three basic postulates :*
(i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts;
(ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and
(iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment....."
(emphasis supplied)

© Bhavnagar University v. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111:
" 59. *A decision, as is well known, is an authority for which it is decided and not what can logically be deduced therefrom. It is also well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. [See Ram Rakhi v. Union of India [AIR 2002 Del 458 (FB)] , Delhi Admn. (NCT of Delhi) v. Manohar Lal [(2002) 7 SCC 222, Haryana Financial Corpn. V. Jagdamba Oil Mills [(2002) 3 SCC 496and Nalini Mahajan (Dr) v. Director of Income Tax (Investigation) [(2002) 257 ITR 123 (Del)]"*
(emphasis supplied)

*13.3. It is **thus clear from the above judgments that the order of the Tribunal in S.T. Enterprises affirmed by the Hon'ble Supreme Court cannot be understood to be a precedent to the question, whether roasted areca / betel nut merit classification CTH 008 or CTH 2008 19 20.***

14. Relevance of judgment in the case of Crane Betel Nut Powder Works:

*Now, coming to the decision in Crane Betel Nut powder's case, there importantly, the question was **whether the process of boiling and drying would constitute manufacture**. However, in the instant case, the question is not as to whether the activity of roasting of betel nut would constitute manufacture, but **whether in view of a separate entry for roasted betel nut, it is permissible to continue to classify the roasted betel nut under CTH 08 02 80 which covers fresh or dried areca nuts**. We have already found that when there is a specific entry for roasted nut and HSN Explanatory notes specifically include roasted betel nuts under Chapter 20, the same cannot be classified under Chapter 8. **The question as to whether the process of roasting would constitute manufacture and whether a new product would emerge as a result of the above process are questions that are alien, while determining the classification in terms of the Customs Tariff Headings.** In view of the same, the reliance on the judgment of the Hon'ble Supreme Court in the said case is misplaced and irrelevant "*

13.1 The Ld. Advocate appearing for the respondent has also placed reliance on the recent decision of the Kolkata Bench of this Tribunal in *Commissioner of Customs (Preventive), Kolkata v. M/s. Oliya Steel Pvt. Ltd., 2026 (1) TMI 1018 – CESTAT Kolkata*. The issue before the Tribunal in the said case was whether imported goods declared as supari were classifiable under CTH 21069030 or under CTH 080280 as betel/areca nuts. After considering the nature and extent of processing undertaken on the imported goods, the applicable provisions of the Customs Tariff and the relevant judicial precedents, including those cited by revenue in the present dispute, the coordinate bench of this Tribunal held

that the goods in question were classifiable under CTH 21069030. The relevant extracts from the said decision are reproduced below for ready reference: -

"2.1 Examination of the goods pertaining to above 6 BS/E were conducted by the DRI in presence of Examiner and Superintendent of Customs, representative of CHA M/s. PDP International Pvt. Ltd., representative of ICD, and independent witnesses, wherein the goods, ***prima facie, appeared to be betel nuts, either whole or in split condition and not any preparation containing betel nuts***

****

4. We find that it is not disputed by the Revenue that the Betel Nuts have undergone processes, such as, boiling in water for four hours, removing the husk, drying by hot air, sterilizing, sorting, polishing, removal of large and small impurities, 3-stage cutting, roasting in fire etc. Therefore, the betel buts has lost its character as betel nuts after preparation. In that circumstances, the betel nuts has lost its character to the classified under Chapter 080280. The ld.Adjudicating Authority has rightly relied on the Advance Ruling holding that CTH 0802 covers only fresh and dried areca nuts/betel nuts, the items (i) API Supari, (ii) Chikni Supari, (iii) Unflavoured Supari, (iv) Flavoured Supari & (v) Boiled Supari termed as preparations of betel nuts.

5. ***Admittedly, in this case, when the betel nuts is boiled, then, it has lost its character, therefore, the betel nuts have been rightly classified under CTH 21069030.***

6. In view of this, we do not find any infirmity in the impugned order and the same is upheld.

7. In view of this, the appeal filed by the Revenue, deserves no merits. Accordingly, the same is dismissed."

13.2 We find that the ratio of the aforesaid decision by Kolkata Bench of this Tribunal, is equally applicable to the dispute before us. This is particularly so because the Revenue has not undertaken any investigation to ascertain the nature and extent of the processes undergone by the imported goods. Further, the CRCL report does not contain any specific finding that the goods, notwithstanding any specific processes undertaken or specific parameters tested, still retain the essential character of raw areca nuts. On the contrary, the

FSSAI report clearly indicates that the moisture content of the goods is less than 7% and identifies the goods as supari. In these circumstances, and in the absence of any cogent evidence adduced by the Revenue to establish that the imported goods retain the character of raw areca nuts, we find no justification to distinguish the ratio of the aforesaid decision from the facts of the present case.

14. Reliance is also placed on the decision of the Hon'ble High Court of Bombay in Isha Exim v. Union of India & Ors., reported in 2023 (12) TMI 920 – Bombay High Court, wherein the issue relating to the binding precedent of the decisions in S.T. Enterprises and Ayush Business Overseas was examined. In the said case, there was a categorical report on which reliance was placed by the Revenue. In the instant case, however, the CRCL report is inconclusive, as no relevant parameters were tested, while, at the same time, the FSSAI report is clear and categorical. We further find that the SLP filed by the Revenue against the said order was dismissed by the Hon'ble Supreme Court on 08.11.2024 in Union of India & Ors. v. Isha Exim, reported in 2024 (12) TMI 849. The relevant paragraphs of the judgment of the Division Bench of the Hon'ble High Court of Bombay are extracted below: -

> *"12. Even otherwise, the facts of S.T. Enterprises' case (supra) as stated in paras 2 and 3 of the said decision are also different and therefore even on facts same is distinguishable from the facts of the petitioner. In the case of S.T. Enterprises the revenue's case was that Areca nuts*

is a prohibited item for import as the CIF value of the goods was lesser than Rs. 251/- per Kg. Furthermore, in the case of S.T. Enterprises, there was a finding that as per report, "process" stated by the importer have not been undertaken to make the betel nut "product of betel nut" to merit classification under CTH 2106 which is not the case in the impugned proceedings before us. The CESTAT, Chennai Bench in para 11 observed that based on chemical examiner's report the betel nuts were not subjected to any processes. However, on the contrary report in the case of the petitioner before us certifies that processes were carried out on betel nut and therefore even on this count decision in the case of S.T. Enterprises is not applicable."

14.1 Further, the Respondent has brought to our notice OIO No. 116366/2025 dated 28.10.2025, involving a similar dispute relating to the classification of the goods. In particular, Table III of the said order contains the details of the examination reports, wherein the Shed Officers had clearly recorded that the goods were cut pieces of dried betel nuts and did not appear to have undergone any change in character. The goods were accordingly opined to be classifiable under Chapter 0802.In fact, the CRCL reports, as detailed in Table IV of the said order, also reported that the product under reference fell under Chapter 0802. The CRCL reports expressly recorded that the goods did not exhibit the characteristics of a processed food or prepared food product and were classifiable under Chapter 0802. It may be noted that, despite the aforesaid examination observations and CRCL test reports, the goods were cleared by the Customs officers .Further, at paragraph 22.9 of the said order, we find that the laboratory test reports issued by Doctor's Analytical

Laboratories Pvt. Ltd., Mumbai and ARDF, Mangalore, confirmed that the goods were cut/split raw areca nuts, without additives, and did not constitute a food preparation. The learned adjudicating authority, however, rejected the Revenue's contention regarding classification of the goods under Chapter 0802, as also its contentions relating to denial of the COO benefit and invocation of the extended period of limitation, and ultimately dropped the entire proceedings. We find that, although the findings recorded in the said order may not be treated as binding for the purpose of adjudicating the present case, they nevertheless assume relevance in appreciating the evidentiary position in the instant dispute. In the present case, the FSSAI report is clear and categorical in identifying the goods as "Supari". On the other hand, the CRCL report is silent as to whether the goods are not Supari. Neither have the requisite parameters been tested, nor has the CRCL expressed any opinion regarding the classification of the goods under Chapter 08.The Respondent's case, therefore, stands on a considerably stronger footing, particularly in view of the favorable FSSAI reports, the inconclusive nature of the CRCL report, and the failure to test the requisite parameters relevant to the classification of the goods.

Whether the impugned goods are eligible for the benefit of concessional BCD on the basis of the Certificate of Origin (COO) issued under the FTA?

15. The Ld. Advocate for the respondent, in its written submissions dated 18.05.2026, emphasised that the impugned goods are of Myanmar origin. The COO issued by the statutory authorities in Myanmar certifies that the impugned goods are "BETELNUT PRODUCT KNOWN AS SUPARI" and specifies the HS Code as 21069030. The said certificate has not been challenged in the manner known to law. The learned Advocate submitted that the Rules of Origin prescribe the procedure and mechanism for verification of the information and particulars furnished in the COO. Admittedly, neither the investigating agency nor the office of the appellant has undertaken any verification of the particulars mentioned in the COO, particularly the HS Code and the description of the goods. He further submitted that it is a settled principle of law that where an exemption is claimed on the basis of a certificate issued by a competent statutory authority, the benefit thereof cannot be denied, nor can the goods be treated as otherwise described or classified, merely on the basis of the opinion of the departmental authorities, without first questioning or discrediting the certificate in the manner prescribed by law.

Accordingly, the learned Advocate contended that the respondent's claim for concessional duty, founded on the valid COO which remains unchallenged, is legally sustainable and that the Commissioner of Customs (Appeals) was justified in allowing the benefit under the impugned order.

15.1 The Respondent has relied upon the Certificate of Origin and other documents describing the goods as a Betel nut product known as Supari. These documents, by themselves, do not determine the classification of the goods under the Indian Customs Tariff. However, the description consistently adopted in the commercial and statutory documentation may constitute a relevant circumstance in determining the commercial identity of the goods. Such evidence is required to be considered along with the physical and technical evidence available on record. As seen from the Show Cause Notice, it appears that the benefit of Notification No. 96/2008-Cus dated 13.08.2008, as amended, can be extended only when the eligible goods are properly declared. The case of the Revenue is that the importer had misdeclared the correct description of the goods and had consequently misclassified them. As reflected in Tables I to IV of SCN dated 21.09.2022, the importer had claimed the benefit of the SAPTA Notification on the basis of the Certificate of Origin. The charge of the Revenue is that the goods are not eligible for

exemption benefit on account of mis-classification and misdeclaration of description of imported goods and are also liable to confiscation under Section 111(o) of the Customs Act, 1962. It is, however, concerning to note that, except for merely quoting Section 111(o) in paragraphs 46, 47 and 48 of SCN, no specific allegation or finding emerging from the investigation, warranting confiscation of the goods under the said provision, finds mention in the Show Cause Notice. The issues relating to Sections 111(d) and 111(m) of the Customs Act, 1962, are dealt with separately in the subsequent paragraphs. In our considered view, where confiscation is proposed under Section 111(o), the Show Cause Notice must set out the factual foundation and the specific contravention alleged to have attracted the said provision. A mere reference to the statutory provision, without setting out the corresponding factual allegations and the manner in which the conditions prescribed therein are satisfied, cannot by itself constitute a sufficient basis for sustaining the proposed confiscation.

15.2 In this regard, we find considerable force in the decision of the Hon'ble Supreme Court in M/s. L.G. Electronics India Private Limited v. Commissioner of Customs, reported in 2025 (9) TMI 1175 – Supreme Court. The relevant extract

from the said judgment is reproduced below for ready reference:–

> *"19. We are afraid the Tribunal does not seem to be right in taking such view.*
>
> *20. Our attention was drawn to the Certificate of Origin which has been annexed and is a part of this Paper Book (Annexure A1).*
>
> *21. The original Certificate is at page 130 of the Paper Book.*
>
> *22. The Certificate reads thus:-*

12	*Declaration by the exporter*	*The undersigned hereby The**declares that the above details and statement are correct**, that all goods were produced in THE REPUBLIC OF KOREA and **that they comply with the origin requirements specified for these goods** in the KOREA-INDIA Comprehensive Economic Partnership Agreement for the goods exported to* *INDIA* *SEOUL Republic of Korea,* *MAR 08, 2019* *Place and date, signature of authroised signatory*
13	*Certification*	*It is hereby certified, **on the basis of control carried out, that the declaration by the exporter is correct**.* *Song Eui Jeong* *MAR. 08, 2019 PYEONGTAEK* ***CUSTOMS REPUBLIC OF KOREA*** *Place and date, signature and stamp of issuing authority*

> *23. **Clause 12 of this particular Certificate is with respect to declaration by the exporter and Clause 13 provides for the certification by the Customs Department. The information furnished vis-a-vis Clause 12 makes it very clear that the goods were imported and originated from the Republic of Korea**. At this stage, Mr. Bharathi would submit that if that be so then what was the good reason for the appellant – herein to state as against the clause 7 that the claim was made under entry 9102.92.*
>
> *24. We believe that while trying to bring the case within entry 9102 1900, the case of the appellant – importer was that what was imported were actually wrist watches and though there may be a particular device in the same, the same would not bring such goods within the ambit of 8517 62 90.*

25. Otherwise also, we see no lack of good faith or any dishonest intention to make a false representation before the authority concerned.

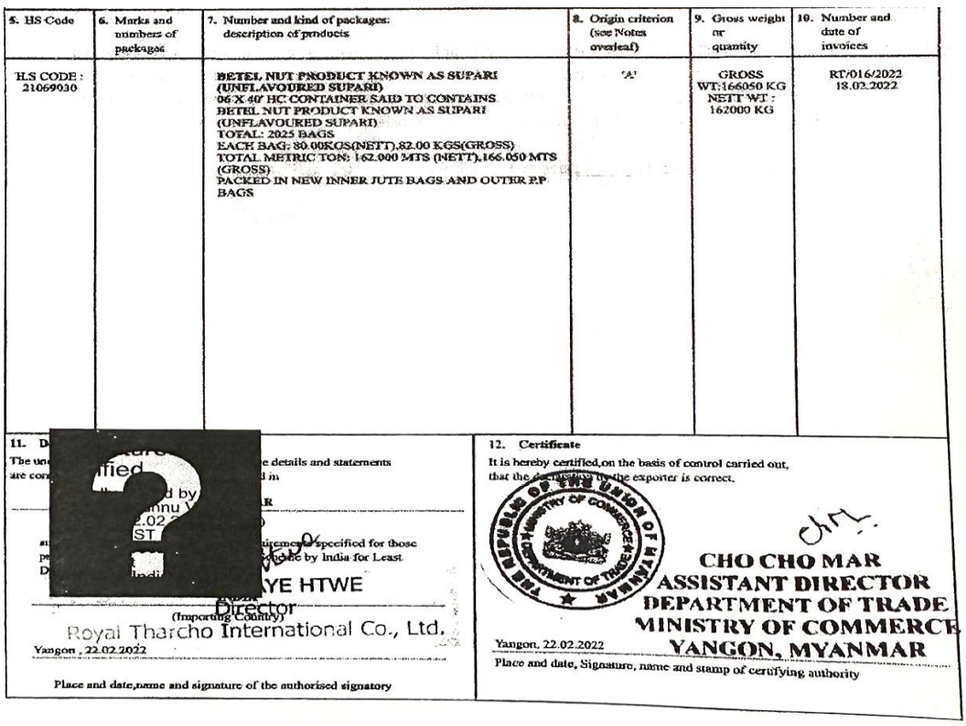
26. Even if they would have declared or shown as against Clause 7 the entry 8517 62 90, they would have been still entitled to the benefit of the Notification 151/2009.

27. At one point of time, we were inclined to remit the matter to the Tribunal for fresh consideration of the last argument of the learned counsel appearing for the appellant in so far as the applicability of the Notification 151/2009 is concerned.

28. However, having looked into the Original Certificate of Origin which is not disputed otherwise, we are convinced that the appellant is entitled to the benefit of the Notification 151/2009*.*
29. We clarify that we have not recorded any finding as regards the fine distinction between 9102 1900 vis-a-vis 8517 62 90.
30. In view of the aforesaid, these appeals succeed and are hereby allowed.
31. The impugned order passed by the Tribunal is set aside. Consequently, the order in original also set aside."

15.3 We are afraid that the contention of the Department that the importer is not eligible for exemption benefit under valid COO cannot be legally justified and also it is not correct or proper in seeking to invoke Section 111(o) without any substantive discussion or factual foundation in respect of the alleged contravention. We further find that the Certificate of Origin (COO) has neither been specifically challenged nor shown to have been cancelled, revised or otherwise invalidated in accordance with law. Our attention has been drawn to the Certificates of Origin produced by the

Respondent in respect of the relevant Bills of Entry.



5. HS Code	6. Marks and numbers of packages	7. Number and kind of packages; description of products	8. Origin criterion (see Notes overleaf)	9. Gross weight or quantity	10. Number and date of invoices
H.S CODE : 21069030		BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI) 06 X 40' HC CONTAINER SAID TO CONTAINS BETEL NUT PRODUCT KNOWN AS SUPARI (UNFLAVOURED SUPARI) TOTAL: 2025 BAGS EACH BAG: 80.00KGS(NETT),82.00 KGS(GROSS) TOTAL METRIC TON: 162.000 MTS (NETT),166.050 MTS (GROSS) PACKED IN NEW INNER JUTE BAGS AND OUTER PP BAGS	'A'	GROSS WT:166050 KG NETT WT : 162000 KG	RT/016/2022 18.02.2022

11. D
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YE HTWE
Director
(Importing Country)
Royal Tharcho International Co., Ltd.
Yangon , 22.02.2022
Place and date,name and signature of the authorised signatory

12. Certificate
It is hereby certified,on the basis of control carried out,
that the declaration by the exporter is correct.
THE REPUBLIC OF THE UNION OF MYANMAR MINISTRY OF COMMERCE DEPARTMENT OF TRADE
CHO CHO MAR
ASSISTANT DIRECTOR
DEPARTMENT OF TRADE
MINISTRY OF COMMERCE
YANGON, MYANMAR
Yangon, 22.02.2022
Place and date, Signature, name and stamp of certifying authority

15.4 The Certificate of Origin pertaining to the present dispute contains the particulars reproduced above. Box 11 of the said certificate pertains to the declaration by the exporter. The information furnished therein makes it clear that the exporter has declared that the particulars and statements furnished in the certificate are correct and that the goods comply with the origin requirements specified for those goods under the Duty-Free Tariff Preference Scheme for Least Developed Countries. Box 12, on the other hand, provides for certification by the Assistant Director, Department of Trade, Ministry of Commerce, Yangon, Myanmar, to the effect that, on the basis of the control carried out, the declaration made by the exporter is correct. Thus, the competent authorities in Myanmar have certified, on the basis of the control

undertaken, the correctness of the exporter's declaration. Further, the particulars furnished in Box 5 specify the HS Code as 21069030, while Box 6 describes the goods as "Betelnut Product known as SUPARI (Unflavoured Supari)". We are unable to appreciate the denial of the exemption benefit and the invocation of Section 111(o) of the Customs Act, 1962, by the Customs authorities in the absence of any substantive investigation into the alleged suppression, lack of bona fides, or dishonest intention on the part of the importer to make a false representation of particulars like HS code and description of imported goods before the notified foreign authority concerned. In the absence of any such investigation or finding, the denial of the exemption benefit and the invocation of Section 111(o), without establishing the factual basis for the applicability of the said provision, cannot be sustained. Having examined the Certificate of Origin, which has neither been disputed on any substantive ground nor shown to have been cancelled, withdrawn, or invalidated in accordance with law, we find that the respondent is entitled to the benefit of the relevant exemption notification, as claimed.

15.5 Further, we place reliance on the decision of the Coordinate Bench of this Tribunal in *Hyundai Motors India Ltd. v. Commissioner of Customs, Chennai,* reported in *2025 (6)*

TMI 608 – CESTAT Chennai. The relevant extracts from the said decision are reproduced below: -

> *"8.7 We find that the Government of India signed an Agreement on Trade in Goods Under the Framework Agreement of the 'Comprehensive Economic Co-operation between the Republic of India and the Association of Southeast Nations (ASEAN)' in the year 2009. A lot of thought has gone into framing the policy for the benefit of trade and industry in the participating Countries. As per the said international agreement preferential tariff treatment was agreed to be accorded by India in respect of imports of specified goods, provided certain conditions are fulfilled. One such condition was that the goods imported under a Trade Agreement are required to be covered under a Certificate of Origin issued by the Designated Authority of the exporting country. When the Rules of 2009 are comprehensive in nature and contain the complete operative mechanism on various substantive and procedural aspects for facilitating preferential tariff treatment for goods covered by AIFTA, the said Rules would have to be diligently followed before any concession is sought to be denied to goods, coming within the ambit of the Agreement.* ***Otherwise, the whole procedure set out in the 2009 Rules would be rendered redundant and it would upset the certainty of duty that had been notified by the agreement, for the benefit of trade and industry.***
>
> *8.8 When an importer produces a COO Certificate which covers the imported goods, it has to be considered as substantive and conclusive evidence of being goods as declared and duty concession as eligible should be allowed, in the normal course, as the concession originates from an international treaty entered between the contracting States of which India is a signatory. In case the concession is felt to be not eligible then the department has to take recourse to the provision of the Rules of 2009 and follow the procedure set out there in.* ***When the Customs Department of the importing Country does not take any action as provided for in Paras 7, 16 and 17 of Annexure III to the Rules of 2009 it cannot then question the concession from payment of duty as eligible as per the COO Certificate.*** *As per Para 7, in case the AIFTA Certificate of Origin is not accepted by the Customs Authority of the importing party it shall be returned to the Issuing Authority within a reasonable period but not exceeding two months, duly notifying the grounds for the denial of preferential tariff treatment.* ***As per para 16 the importing party may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof. In case of reasonable doubt as to the authenticity or accuracy of the document, the Customs Authority of the importing party may suspend provision of preferential tariff treatment while awaiting the result of verification. As per Para***

17 if the importing party is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, request verification visits to the exporting party*.*

8.9 In the present case Revenue has not demonstrated that they have taken any steps as required by paras 7, 16 and 17 of Annexure III ibid and have thereby wrongfully sought to deny the exemption. In its judgment in Noble Import Pvt Ltd. Vs Union of India [2017 (349) E.L.T. 44 (A.P.)], the Hon'ble Andhra High Court held as under;
"19. It is only after a retroactive check is conducted, and the concerned authorities are satisfied that the Certificate of Origin cannot be accepted, are they entitled, thereafter, to pass an adjudication order under the Customs Act. Without conducting a retroactive check, in terms of Clause 16(a) of Annexure-III to the 2009 Rules, it was not open to the 3rd respondent to pass an adjudicating order. The impugned orders dated 30-10-2015, passed even before conducting a retroactive check in terms of Clause 16(a), are without jurisdiction."

8.10 We find that ***Rule 5 of the CAROTAR*** *allows, the Principal Commissioner of Customs or the Commissioner of Customs, to disallow the claim of preferential rate of duty without further verification, for the reasons to be recorded in writing, where the importer* ***relinquishes the claim or the information and documents*** *furnished by the importer and available on record provide sufficient evidence to prove that goods do not meet the origin criteria prescribed in the respective Rules of Origin.* ***However, the present issue does not involve a dispute on the origin criteria, but only on the classification of the goods and is hence not applicable****.*

8.11 Thus, ***while the Customs department can after following the due process change the classification of the imported goods as per the domestic laws, it cannot deny "preferential rate of duty" (which has been defined under CAROTAR to mean rate at which customs duty is charged in accordance with a trade agreement), to the goods covered by a valid COO Certificate issued as per an international treaty obligation, that satisfies the conditions of a notification issued under Section 25 of the CA 1962, unless the classification had been challenged successfully as provided for in the Rules of 2009****. Hence the action taken by the AA in denying concessional rate of duty for the goods by rejecting the Country-of-Origin Certificate is untenable and merits to be set aside."*

15.6 We also take judicial notice of the decision of the Hon'ble High Court of Bombay in Commissioner of Customs, Airport Special Cargo, Mumbai v. Neelam Jewels, dated

25.06.2026, in Customs Appeal No. 24 of 2025. The relevant paragraphs of the said judgment are extracted below: -

> *"5. Having perused the impugned order of the CESTAT, we find absolutely no infirmity in the said Order. Firstly, once the Authorities in Thailand have confirmed that the authenticity of the Certificates of Origin and that they have been issued by the Department of Foreign Trade, Thailand,* ***the Indian Authorities cannot go behind that Certificate of Origin and deny the concessional rate of duty to the importers. If this was to be allowed, the entire sanctity of the "Interim Rules of Origin under Indo-Thai Free Trade Agreement" would be set at naught****. Once the Designated Authority in Thailand has issued the Certificate of Origin, and the same has been in fact authenticited by the said Authority, the Indian Authorities cannot embark upon an investigation to assail the said Certificate of Origin.* ***Once this is the case, any purported statement made by the importer under Section 108 of the Customs Act, 1962, can have no bearing on the authenticity of the Certificate of Origin****."*

15.7 In view of the foregoing discussion and the judicial precedents discussed above, we find that the denial of the concessional rate of duty and the proposed confiscation under Section 111(o) of the Customs Act, 1962, are unsustainable in the absence of adequate factual foundation and recourse to the prescribed verification mechanism. The Certificate of Origin, issued by the competent authorities of Myanmar and neither successfully challenged nor invalidated in accordance with law, supports the respondent's claim to preferential tariff treatment. Accordingly, we find no infirmity in extending the benefit of the relevant exemption notification to the impugned goods.

WHETHER THE VALUATION DONE BY THE RESPONDENTS IN RELATION TO THE SUBJECT GOODS IS IN ACCORDANCE WITH LAW?

16. Insofar as the question/issue of valuation is concerned, we find that this aspect is covered by the provisions contained in Section 14 of the Customs At as held by the Apex Court in the case of *Century Metal Recycling India Pvt.Ltd vs UOI - 2019 (367) ELT 3 9* and *M/s Vaibhav International Versus The Commissioner Of Customs City Customs -2026 (3) TMI 1695 KARNATAKA HIGH COURT* (Para 18.3). In the case on hand, if the subject goods are construed or treated as raw areca nuts, their valuation would have to take place under Section 14(2) of the Customs Act, 1962, wherein tariff values are fixed through a Notification issued by the Board; conversely, in view of our findings recorded herein before that the subject goods are Betelnut Product known as Supari, the government has not fixed the tariff values and therefore, it is essential to resort to the valuation mechanism under Section 14(1) of the Customs Act; further, since the valuation of the revenue rested on the classification under Chapter 08028020 which has been already been negatived by us supra, it is clear that the transaction value in terms of Section 14(1) has to be accepted, especially in the absence of any quarrel on the transaction value and consequently, having regard to the fact that the mandatory procedure in terms of Section 14 and Rule 12 as set out by the Apex Court having

not been followed, the transaction value declared by the respondent deserves to be accepted by holding that valuation proposed by the revenue in relation to the subject goods is contrary to law.

WHETHER CONSEQUENT CONFISCATION AND PENALTY PROCEEDINGS ARE SUSTAINABLE: -

17. Revenue contends that the goods imported by the respondent are, in substance, split areca nuts classifiable under CTH 0802 80 20. It is further contended that import of areca nuts falling under the said tariff entry is prohibited where the CIF value is below 251 per kg and, consequently, the goods, having been imported in contravention of the applicable import restriction, are liable to confiscation under Section 111(d) of the Customs Act, 1962. In view of our detailed findings hereinabove on the classification of the impugned goods, the very premise on which the alleged prohibition is founded does not survive. Consequently, the goods cannot be held to have been imported in contravention of any prohibition so as to attract Section 111(d) of the Customs Act, 1962. Accordingly, we find no infirmity in the order of the Commissioner (Appeals) setting aside the confiscation of the impugned goods under Section 111(d) of the Customs Act, 1962. The Revenue's challenge on this count, therefore, also fails

17.1 The issue of confiscation under Section 111(o) of the Customs Act, 1962, has been discussed in detail in Para 16. In view of the foregoing discussion and the judicial precedents cited above, we find that the proposed confiscation under the said provision is unsustainable in the absence of an adequate factual foundation or discussion in SCN and recourse to the prescribed verification mechanism. The Certificate of Origin, issued by the competent authorities of Myanmar and neither successfully challenged nor invalidated in accordance with law, supports the conclusion that the impugned goods are not liable to confiscation under Section 111(o) of the Customs Act, 1962. Further, in view of our findings on the classification of the impugned goods and the evidentiary value of the relied upon FSSAI and inconclusive CRCL reports, we find that the proposed confiscation under Section 111(m) of the Customs Act, 1962, is also unsustainable in the absence of relevant and cogent evidence establishing the essential ingredients necessary for invoking the said provision.

17.2 Inasmuch as we have, on merits, found that the respondent cannot be faulted for adopting the classification under CTH 21069030, the question of visiting the respondent with consequential liabilities such as interest, redemption fine or penalty does not arise.

CONCLUSION: -

18. The Constitution Bench of the Hon'ble Supreme Court in *E.P. Royappa v. State of Tamil Nadu & Anr.,* reported in AIR *1974 SC 555*, held that the burden of establishing mala fides is very heavy upon the person who alleges the same. Allegations of mala fides are often easier to make than to prove, and the seriousness of such allegations necessarily requires proof of a high order of credibility. In the present case, we find that such evidentiary foundation is lacking. We further take note of the judgment of the Hon'ble Supreme Court in *Angadi Chandranna v. Shankar & Ors., 2025 INSC 5321, Civil Appeal No. 5401 of 2025, decided on 22.04.2025,* wherein it has been observed that "It is well established that the contents in a document would prevail over any contrary oral evidence." In the present case, the FSSAI reports, issued by the competent statutory authority, are clear and categorical in identifying the goods as "Betel Nut Product Known as Supari (Unflavored Supari)". No material has been placed on record to demonstrate that the said reports are erroneous, unreliable, or otherwise liable to be discarded. In the absence of any cogent material to displace the evidentiary value of the said reports, we find no sufficient basis to interfere with the findings recorded by the learned Commissioner (Appeals). Accordingly, having regard to the clear and categorical reports issued by the FSSAI, read with the other

evidence available on record, we find that the impugned order passed by the learned Commissioner does not warrant any interference. Inasmuch as we have, on merits, found that the Respondent cannot be faulted for adopting the classification under CTI 2106 90 30 in respect of the goods declared as SUPARI, which have also been identified as SUPARI after detailed testing by the statutory authority, namely, the FSSAI, and the Revenue has failed to place sufficient and cogent documentary evidence to establish otherwise, no liability to pay differential duty can arise. Consequently, there can be no occasion to hold the impugned goods liable to confiscation or to impose the attendant detriments of interest, redemption fine or penalty. In view of the foregoing discussion and our findings recorded hereinabove, and having regard to the reasoning and conclusions contained in the impugned OIA dated 08.01.2025 passed by the Commissioner (Appeals), we find no infirmity therein warranting any interference.

19. Upon an overall consideration of the evidence and the rival submissions, we find that the learned Commissioner (Appeals) was justified in holding that the impugned goods could not be reclassified under CTI 0802 80 20 merely on the ground that they were found in split form and did not contain lime, katha or tobacco. The CRCL reports, being inconclusive on the material parameters relevant to the dispute, cannot,

by themselves, determine the tariff classification of the impugned goods. At the same time, while the FSSAI reports cannot be regarded as conclusive for the purpose of tariff classification, they constitute relevant and material evidence regarding the identity and description of the goods as a "Betel Nut Product Known as Supari (Unflavored Supari)". The said reports have not been shown to be erroneous, unreliable or otherwise liable to be discarded. In the absence of any cogent material to displace their evidentiary value, the same cannot be disregarded while determining the nature and character of the impugned goods. The Advance Ruling relied upon by the Respondent is admittedly not binding upon the Revenue in view of Section 28J of the Customs Act, 1962. However, the absence of statutory binding force does not render the reasoning contained therein irrelevant; the same may legitimately be considered as persuasive material, particularly where the factual and statutory issues involved bear similarity to those arising in the present proceedings. The precedents relied upon by the Revenue, including Crane Betel Nut Powder Works and S.T. Enterprises, are required to be understood and applied having regard to the facts, evidence and statutory provisions that fell for consideration in those cases. The ratio of a decision cannot be mechanically extended to every product described or commercially known as Supari, irrespective of the nature of the goods, the processes is

undertaken, the evidence available and the specific tariff entry sought to be applied.

20. In the facts and circumstances of the present case, we find that the Revenue has not brought on record sufficient and cogent evidence to establish that the impugned goods do not answer the description of "Betel Nut Product Known as Supari" under CTI 2106 90 30 so as to warrant their reclassification under CTI 0802 80 20. We, therefore, find no sufficient reason to interfere with the conclusion arrived at by the learned Commissioner (Appeals). Consequently, the appeal filed by the Revenue is devoid of merit and is liable to be dismissed. The same is accordingly dismissed.

ORDER

21. In view of the foregoing discussion, the appeal filed by the Revenue is dismissed. The Order-in-Appeal No. Seaport C.Cus.II No. 64/2025 dated 08.01.2025 passed by the Commissioner of Customs (Appeals-II), Chennai, is upheld, as no interference therewith being warranted.

(Order pronounced in open court on 28.10.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

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