



GOVERNMENT OF PAKISTAN
MODEL CUSTOMS COLLECTORATE OF APPRAISEMENT (EAST)
CUSTOM HOUSE, KARACHI



C.No.C-22/2016/KAPE/PCT/2016

Dated: 22.10.2016

PUBLIC NOTICE No. 09 /2016(A)

Subject: CLASSIFICATION RULING OF VARIOUS TYPES OF SOFT DRINKS

FACTS:

Model Customs Collectorate of (Preventive), Lahore forwarded a reference to the Classification Committee for determination of classification of 'Soft Drinks', imported from India by M/s Universal Enterprises, Lahore with five different brand names in retail sale packing, under declared PCT Code 2202.9000, claiming the benefit of SAFTA. The Collectorate changed the PCT Code of impugned goods in the light of Lab reports, ingredients printed on packing of the products, physical samples and Explanatory Notes to the H.S. Code. Importer, however, contested the classification of the following three out of the five imported product/ drinks. Hence, the matter was referred to the Classification Committee:

S. No.	Description	Declared PCT by the importer	Assessed PCT by the Collectorate
1.	Frooti	2202.9000	2202.1090
2.	Appy	2202.9000	2202.1090
3.	Appy Fizz	2202.9000	2202.1010

ISSUE:

2. Whether the soft drinks with brand name "Frooti, Appy and Appy Fizz" are appropriately classifiable under PCT Code 2202.9000, as claimed by the importer, or under PCT Code 2202.1090 and 2202.1010, as determined by the Collectorate or under any other relevant heading of First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff).?

PRODUCT ANALYSIS:

3. Ingredients printed on packings of these fruit juices reveal that the product 'Frooti' contains mango pulp 19%, sugar, acidity regulator (INS 330), anti-oxidant (INS 300), permitted synthetic food colour (INS 110) and added flavour of mango. The product 'Appy'

contains water, sugar, apple juice concentrate (2.1%), acidity regulator (INS 296), stabilizer (INS 440), anti-oxidant (INS 300), permitted natural colour (INS150d) and added flavour [natural identical flavouring substances (apple)], whereas; the product 'Apply Fizz' contains water, sugar, apple juice concentrate (2.86%), carbon dioxide (290), acidity regulator, permitted preservatives, anti-oxidants, permitted natural colour, and added flavour [natural identical flavouring substances (apple)].

4. Test reports of the products are reproduced as under:

Appv and Frooti: 'Non-aerated drink consisting upon apple and mango pulp dispersed in water, synthetic flavor of identical pulp and sweetening materials, food flavor, preservatives and other additives. They are light brown and yellow coloured liquids packed in plastic and paper bottles and tetra pack. Practically, they do not give qualitative test for alcohol and as such they may be considered as Non-Alcoholic fruit juices'

Appv Fizz: 'Aerated drink consisting upon carbonated water, sweetening agents, citric acid, flavours, natural food colour, preservatives, seasoning additives etc and synthetic apple flavor, brown, colorless or light brown in colour. Practically, they do not give qualitative test for alcohol and as such they may be considered as Non-Alcoholic fruit juices'

LAW AND ANALYSIS:

5. The matter was considered by the Classification Committee during its meeting held on 13th August, 2016. The representative of importer, Mr. Akhtar Ali Advocate contended that pulp is nectar and the presence of pulp (apple & mango) in the drinks excludes them from HS Code 2202.10 and the exclusion is based on Note (B) of the said heading, which is reproduced below:

(B) Other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09.

This group includes, inter alia:

(1) Tamarind nectar rendered ready for consumption as a beverage by the addition of water and sugar and straining.

(2) Certain other beverages ready for consumption, such as those with a basis of milk and cocoa.

6. He further contended juices classifiable in HS Code 2202.10 have only essences/extracts in them and not pulp. Moreover, the impugned products are also different from

the examples given at (A)(2) of Explanatory Notes to HS Code 2202.10, for example, lemonade, orangeade, cola, ordinary drinking water, sweetened or not, flavored with fruit juices or essences, or compound extracts, to which citric acid or tartaric acid are sometimes added and are correctly classifiable under HS Code 2202.90.

7. The Committee, in the light of Explanatory Notes, observed that the HS Code 22.02 covers, '**water, including mineral water and aerated water, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09**' while the sub heading 2202.10 covers '**waters, including mineral water and aerated water, containing added sugar or other sweetening matter or flavoured**' and sub-heading 2202.90 covers '**other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09**'. Whereas, HS Code 2201.10, at single dash level, covers "**Waters, including mineral waters, containing added sugar or other sweetening matter or flavoured**". This Heading is further divided into two three dash headings. The first three dash sub-heading 2202.1010 covers '**aerated waters**' and second sub-heading 2202.1090 covers '**others**'. Considering the above scheme of Explanatory Notes, the Committee observed that according to Note (A) of the ENs, HS 2202.10 includes, inter alia:

- (1) Sweetened or flavoured mineral waters (natural or artificial), and
- (2) Beverages such as lemonade, orangeade, cola, consisting of ordinary drinking water, sweetened or not, flavoured with fruit juices or essences, or compound extracts, to which citric acid or tartaric acid are sometimes added. They are often aerated with carbon dioxide gas, and are generally presented in bottles or other airtight containers.

And as per Note (B) of the ENs, HS 2202.90 includes, inter alia:

- (1) Tamarind nectar rendered ready for consumption as a beverage by the addition of water and sugar and straining and
- (2) Certain other beverages ready for consumption, such as those with a basis of milk and cocoa.

8. After considering the above scheme of ENs, the Committee observed that the products under the brand name of 'Appy' and 'Frooti', as per lab-test report and ingredients printed on the product, are prepared non- alcoholic non-aerated drinks of light brown and yellow in colour consisting of apple and mango pulp dispersed in water, synthetic flavor of identical

pulp / concentrate and sweetening materials, food flavor, preservatives and other additives. These products are, in fact, beverages consisting of ordinary sweetened drinking water flavoured with fruits juices or essence or compound extracts and falls within scope of Explanatory Note (A)(2) of the HS 22.02 and as detailed at para 7, are appropriately classifiable under PCT 2202.1090 for being non-aerated.

9. The other product with the Brand name of 'Appy Fizz' is a brown, colorless or light brown prepared non-alcoholic aerated drink consisting of carbonated water, sweetening agents, citric acid, flavours, natural food colour, preservatives, seasoning additives etc. with synthetic apple flavor. The Committee observed that the impugned product (Appy Fizz) is a carbonated / aerated drink with added sugar or sweetening matter and other flavours and therefore, comes within the scope of Explanatory Note (A) (2) of the HS 22.02 and as detailed at para 7 is appropriately classifiable under PCT 2202.1010 for being aerated.

10. Regarding the contention of the importers' view point that pulp is nectar and the presence of pulp (apple & mango) in the drinks excludes them from HS Code 2209.10, the same was analyzed in view of the Tariff scheme and ENs and it was observed that that HS code 2202.10 includes those products which are added with sugar, sweetening matter and flavours, whereas; EN (B)(1) to HS code 22.02 covers such products which are rendered ready for consumption as a beverage by the addition of water and sugar and require straining. As the impugned products are prepared drinks / juices with added sugar, sweetening matter and others flavours, ready for consumption/ use and neither requires any addition of water or sugar nor straining, the same falls outside the purview of HS code 2202.90. Regarding EN (B) (2) which includes 'certain other beverages ready for consumption' but those beverages are to be with a basis of milk and cocoa and similar beverages. The impugned products are water based and therefore, cannot be called similar to milk or cocoa based beverages, hence, the same shall be classifiable under HS code 2202.10 on the basis of their properties, ingredients and test reports.


HOLDING:

11. From the above discussion, committee is of the opinion that the products 'Appy (non-aerated) and Frooti (non-aerated) containing ingredients as mentioned in lab report and printed on the product are, in application of GRI 1, is correctly classifiable under PCT Code 2202.1090, whereas; the product 'Appy Fizz' (aerated drink) contains carbon-dioxide along with

other ingredients, as mentioned on its packing, and is also confirmed by the test report, therefore, the committee is of the opinion that the same is classifiable under PCT Code 2202.1010, in application of GRI 1.

12. The above Ruling is based upon the documents/ literature and samples provided by the applicant and shall be treated as annulled, if it is found, at any subsequent stage, that the same was obtained by providing incorrect, false, misleading or incomplete information by the applicant.

13. This Ruling is issued in terms of Chapter – II (Classification) of the CGO 12 / 2002 dated 15th June, 2002 and shall hold the field as far as present scheme of three dash national headings of 2202.1010 and 2202.1090 continues. Any appeal against this Ruling shall lie only with the Federal Board of Revenue under Rule 2 of Pakistan Rules to the General Rules for Interpretation.


(Muhammad Haris Ansari)
Additional Collector -II
Chairman Classification Committee

Distribution:

1. PS to Member (Customs), Federal Board of Revenue, Islamabad.
2. Chief Collector of Customs (Appraisalment-South), Custom House, Karachi.
3. Chief Collector of Customs (Enforcement-South), Custom House, Karachi.
4. Chief Collector of Customs (Central/North) Custom House, Lahore / Islamabad.
5. Director General, Intelligence & Investigation-FBR, Mauve Area-1, G-10/4, Islamabad.
6. Chief (Tariff), Customs Wing, Federal Board of Revenue, Islamabad.
7. Collector, MCC Appraisalment (West) / (Preventive), Custom House, Karachi.
8. Collector of Customs MCC, Port Mohammad Bin Qasim, Karachi.
9. M/s. Universal Enterprises, Green Building, Green Colony, Opp. DOCE Bakers, Qainchi Amer Sidhu, Lahore.
10. M/s Akhtar Ali and Associates, 3rd Floor, LCCI Building, Near China Chowk, Lahore.
11. Karachi Chamber of Commerce & Industry, Karachi.
12. Karachi Customs Agents Association, Custom House, Karachi.
13. Notice Board.
14. Master File.