



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

C. No. (1005) KAPE-DC(PCT)2015

Dated: 30 April, 2016

Public Notice No. 04/2016 (Classification)

Subject: **CLASSIFICATION OF PRODUCT 'JACKER POTATO CRISP'
IMPORTED BY M/s TRI -STAR INDUSTRIES (PVT.) LIMITED
FROM MALAYSIA**

FACTS:

M/s Tri-Star Industries (Pvt.) Ltd, Karachi, imported a consignment consisting of 'Jacker Potato Crisp' vide GD No. KAPW-HC-170303 dated 21st June, 2014 from Malaysia and sought release thereof claiming classification under PCT heading 2004.1000.

2. The Customs authorities classified the goods under PCT 1905.9000 on the ground that imported item is not frozen and is crisp savoury food product. The importer filed a Constitutional Petition No. D-3956 / 2014 before the Honorable High Court of Sindh disputing the proposed classification. The Honorable High Court, vide Order dated 25th August, 2015, directed to decide the classification dispute through Classification Committee. Pursuant to the Honourable High Court's above said orders, the clearance Collectorate forwarded the matter to Classification Committee after assessing the goods provisionally.

ISSUE:

3. Whether the imported 'Jacker Potato Crisp' is appropriately classified under HS Code 1905.9000 as proposed by the clearance Collectorate or under HS Code 2004.1000 as claimed or under any other relevant Heading of the First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff)?

PRODUCT ANALYSIS:

4. The importing Company has explained that the ingredients of the product are dehydrated potato, starch, dextrose, sugar, refined salt and palm oil etc. In manufacturing process, the ingredients are mixed in a mixer and the expanded mixed ingredients are then put in a mould to give it a desired oval like shape. The shaped up snacks are fried in oil at the temperature of 200 Celsius for 30 seconds. After frying stage, potato chips are flavored

through seasoning process with the sugar, salt and mono sodium glutamate. At the end of the trough, a wire mesh belt pulls out the hot chips. As the chip moves along the mesh conveyer belt, excess oil is drained off and the chips begin to cool. Cooling system temperature is 22 Celsius for 20 minutes. In second stage the potatoes chips are packed in paper tube with Aluminum foil inside, all food grade material with membrane foil, plastic lid outside and tin plate in the bottom. In addition a 'sealer' is needed to seal the lid (membrane foil top) on to the tube.

5. On analysis of manufacturing process, a question arises as to whether dried potatoes are first crushed and its flour is used or they are just cut into smaller pieces and then mixed with the other ingredients? The same was inquired from the manufacturer twice via email. The manufacture i.e. M/s Oriental foods industries SDN BHD replied via email on 4-4-2016, that the ingredients are applied on dried potatoes. As the reply did not serve the purpose, therefore, manufacturing process of similar / identical products i.e. Pringle was observed on YouTube and other literature was also consulted, which elucidates that the potato crisps are made from a batter composed of dehydrated potato flakes, maize or rice flour, starch, salt and the palm oil etc and the desired oval like shape can only be obtained through cutting of the sheets of the said batter. Finally, the product is achieved after undergoing through the process mentioned at para 4 above and put up for retail sale as a crisp savoury food.

LAW ANALYSIS

6. Classification under the First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff) is made in accordance with the General Rules for Interpretation (GRI). The Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System provide a guiding commentary on the scope of each heading and are authentic source of interpretation as per Rule 1 of Pakistan Rules to the GRI and are the official interpretation of the Harmonized System at the international level. GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

7. In view of the product analysis, as above, the Committee considered the classification of impugned product under following PCT headings:-

- 19.05 Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products.
- Other
- 20.04 Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 20.06.
- Potatoes
- 20.05 Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 20.06.
- Potatoes

8. According to ENs to Chapter 19 at page IV-19-1, this Chapter also covers bakery products and biscuits, even when not containing flour, starch or other cereal products. S. No. 15 of page IV-1905-3 of the ENs to HS 19.05 further provides that the crisp savoury food products, for example, those made from a dough based on flour, meal or powder of potatoes, or maize (corn) meal with the addition of a flavouring consisting of a mixture of cheese, monosodium glutamate and salt, fried in vegetable oil, ready for consumption, are classified under PCT Heading 19.05.

9. While discussing the classification under Chapter 20 of the First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff), the Committee observed that this Chapter does not cover vegetables, fruit or nuts, prepared or preserved by the processes specified in Chapter 7 [Note 1 (a) to Chapter 20]. It is pointed out that according to the scheme of nomenclature (HS) Chapter 7 covers chilled, frozen or dried (including dehydrated, evaporated or freeze-dried) potatoes [Page II-7-1 of the EN]. Chapter Note 3 of Chapter 20 further provides that Headings 20.01, 20.04 and 20.05 cover only those products of Chapter 7 which have been prepared or preserved by processes, other than those referred to in Note 1 (a).

HOLDING:

10. In the view of the above and on perusal of the relevant Chapter and Heading Notes and the related ENs, the committee arrived on the conclusion that impugned product falls outside the purview of the Chapter 20 of the First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff), in terms of Chapter Note 1(a) read with Chapter Note 3 to the

Chapter 20, as the basic and main ingredient of the product is dried (dehydrated) potato. Whereas; S. No. 15 of page IV-1905-3 of the ENs to HS 19.05 specifies that the ready for consumption 'crisp savoury food products', are classified under PCT Heading 19.05. Thus, the product 'Jacker Potato Crisp' is, in application of GRI 1, is appropriately classified under HS Code 1905.9000 which provides:

19.05	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products.
1905.9000	- Other

11. This Ruling is issued in terms of Chapter – II (Classification) of the CGO 12 / 2002 dated 15th June, 2002 and any appeal against this Ruling shall only lie with the Federal Board of Revenue under Rule 2 of Pakistan Rules to the General Rules for Interpretation.

12. The above ruling is based upon the documents / literature 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.



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

Distribution:

1. PS to Member (Customs), Federal Board of Revenue, Islamabad.
2. Chief Collector of Customs (Appraisal-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 of Customs Adjudication I & II, Customs House, Karachi.
8. Collector, MCC (Adj/Appeals), Lahore / Faisalabad / Rawalpindi / Peshawar / Quetta.
9. M/s Tri-Star Industries (Pvt.), F / 498, S.I.T.E., Karachi.
10. Karachi Chamber of Commerce & Industry, Karachi.
11. Karachi Customs Agents Association, Custom House, Karachi.
12. Notice Board.
13. Master File.