

Neutral Citation No. - 2025:AHC-LKO:33279-DB

**High Court of Judicature at Allahabad
(Lucknow)**

Reserved on 15.05.2025

Delivered on 30.05.2025

Court No. - 2

Case :- WRIT TAX No. - 71 of 2025

Petitioner :- M/S Rawder Petroleum Pvt Ltd. Thru. Director Mr. Shivendu Shukla

Respondent :- Union Of India Ministry Of Finance Thru. Deptt. Of Revenue North Block New Delhi And 2 Others

Counsel for Petitioner :- Ratnesh Chandra, Sankalp Mishra

Counsel for Respondent :- A.S.G.I., Anindya Shastri, Dipak Seth, Pawan Kumar Awasthi

Connected with

Case :- CUSTOM APPEAL No. - 3 of 2024

Appellant :- Commissioner Of Customs (Preventive) U.P. Lko.

Respondent :- M/S Rawder Petroleum Pvt. Ltd.

Counsel for Appellant :- Dheeraj Srivastava

Counsel for Respondent :- Ratnesh Chandra

With

Case :- CUSTOM APPEAL No. - 3 of 2025

Appellant :- Commissioner Of Customs (Preventive) U.P. And Uttarakhand, Lko.

Respondent :- M/S Auto Campus, Hyderabad, Telangana

Counsel for Appellant :- Dheeraj Srivastava

Hon'ble Rajan Roy, J.

Hon'ble Om Prakash Shukla, J.

(Per Om Prakash Shukla, J.)

- (1) Heard Sri Ratnesh Chandra assisted by Sri Sankalp Mishra, Sri Krantiveer Singh, learned counsel for the petitioner, Sri Paawan Awasthi, learned counsel for opposite party no.1 and Sri Dheeraj Srivastava, learned Senior Standing Counsel assisted by Sri Anindya Shastri, learned counsel appearing for Customs in Writ Tax No.71 of 2025, Sri Dheeraj Srivastava, learned

Senior Standing Counsel appearing for customs and Sri Ratnesh Chandra, learned counsel for the respondent in Custom Appeal No.3 of 2024 and Sri Dheeraj Srivastava, learned Senior Standing Counsel appearing for customs in Custom Appeal No.3 of 2025. None appears on behalf of the respondent in connected Custom Appeal No.3 of 2025.

- (2) Since, the core issue engaging the attention of this Court in Custom Appeals filed by the Department as well as the Writ Petition filed by the importer (M/s Rawder Petroleum Pvt. Ltd.) evolves from a common set of facts and circumstances relating to the custom tariff entry and the HSN code applicable to “roasted areca nuts” and their consequential import made in India, both the two Customs Appeal as well as the Writ Petition has been heard together and is being decided by this common Judgment.
- (3) Briefly stating, the claim of the importer/petitioner in Writ Tax No. 71 of 2025 (M/s Rawder Petroleum Pvt. Ltd. Vs Union of India) is premised on the fact that vide a letter dated 04/06/2024, they were informed by their overseas suppliers that the production and processing of ‘roasted areca nuts’ is carried out by husking of the raw betel/‘areca nuts’ and drying the same before being fed into roastery roasting oven, wherein it is roasted well beyond 100 degree Celsius in the range of 130-150 degrees using firewood/palm kernel based over of the seed roasting machine and the temperature of the same is around 600

degree Celsius. In view of the said process performed for brining into existence of ‘roasted areca nuts’, the petitioner applied for obtaining an ‘advance ruling’ in the form and manner provided for under Section 28H of the Customs Act, 1962. The said application was filed along with all the supporting documents, including the process-flow mentioned in letter dated 04/06/2024, wherein a reply was also filed by the department before the Custom Authority for Advance Ruling (Hereinafter to be referred as CAAR).

- (4) Apparently, the CAAR considering the claim of the importer, ruled that the ‘roasted areca nut’ obtained from the process-flow as mentioned in the letter dated 04/06/2024, would be falling under Chapter 20 of the Customs Tariff Act, 1975 vide an order dated 19th of September, 2024.
- (5) It is the case of the Importer that pursuant to the said advance ruling, they placed their orders to an Indonesian Company for supply of ‘roasted areca nuts’, which came to be dispatched vide bill dated 14/10/2024 and according to them the said nuts were put to shipment on 16/10/2024 after clearance from the customs authorities of Indonesia under HSN 2008 19 20 and the goods arrived in India under Bill or Entry dated 06/11/2024, which showed the port of submission to be ICD Panki, Kanpur.
- (6) In the intervening period, the department had preferred a Custom Appeal No.3 of 2024 under Section 28KA of the

Customs Act, 1962 challenging the advance ruling dated 19.09.2024 passed by the CAAR, before this Court on the ground that the proposed goods ('roasted areca nuts') had not been tested nor have been produced for examination/testing by the importer and secondly the department also disputed the very process of roasting of the 'roasted areca nuts', as, according to them, these areca nuts could have been only dried and it cannot be roasted at any time and in any case, if, it was to be roasted, the moisture content could not be reduced, so as to be considered 'roasted areca nuts' and chargeable to duties under Chapter 20 of the Customs Tariff Act, 1975 for and in place of 'dried areca nuts', which are chargeable under Chapter 8 of the Tariff Act.

- (7) The said appeals came to be filed by the department on or around 20.11.2024 and since by that time, the assessee had already imported the commodity, which, according to them, was 'roasted areca nuts' and according to the department was 'dried areca nuts', the department for determination of their true nature and character drew samples of the imported commodity and sent for testing to the laboratory, namely, M/s Fare Labs Pvt. Ltd. at Gurgaon. The said laboratory apparently seems to have submitted a preliminary report dated 22.11.2024 that the moisture content of the imported 'areca nut' was around 3.39% and subsequently, a detailed report was given on 18.12.2024, thereby giving a finding that the moisture content was 3.9% and

that the commodity was 'roasted areca nuts' & fit for human consumption. However, in the intervening period, the samples sent by the department for testing to the Central Revenue Control Laboratory (CRCL), New Delhi, submitted a report dated 16.12.2024 finding that the moisture content was 7.09% and the commodity was 'dry areca nuts' and not 'roasted areca nuts', which was not fit for human consumption.

- (8) While things stood thus, the petitioner armed with both the preliminary and final report of M/s Fare Labs Pvt. Ltd. at Gurgaon requested the department for releasing of their commodity vide their letter dated 20.12.2024 and 24.12.2024 claiming that the same was 'roasted areca nuts' and fit for human consumption. The petitioner also highlighted that huge demurrage charges was being levied by ICD Panki, Kanpur and they were suffering losses in business. However, the department relying on the Test Report dated 16.12.2024 of the Central Revenue Control Laboratory (CRCL) issued a letter dated 27.12.2024 to the importer, declaring that the imported commodity was 'dried areca nuts' in view of the said test report of the central laboratory conducted as per Regulation No. 2.33.55 of Food Safety & Standard Regulations, 2011. The said stand of the department was objected to by the importer vide their objection letter dated 03.01.2025 and 21.01.2025 and they also demanded the samples and test reports of the commodity imported to be provided to them.

(9) Apparently, the department refused to oblige the importer with the sealed samples and test memo taking shelter of section 144 of the Customs Act, 1962 and also vide the impugned letter dated 27.12.2024 observed that the goods imported were dried Betelnuts/Areca nuts as indicated by CRCL, New Delhi in its report dated 16.12.2024 instead of Roasted Areca Nuts and as such held that there was a mis-declaration/misclassification of the goods under Customs Act, for which necessary action was proposed, thus prompting the importer to file Writ Tax No.71 of 2025 for the following, amongst other, reliefs :-

- “i. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 27/12/2024 passed by the opposite Party No.3, a copy of which is contained under AnnexureNo1 of this writ petition.*
- ii. Issue a writ, order or direction in nature of mandamus commanding the opposite parties to immediately release the ‘roasted areca nut’ which the petitioner have imported vide bill of entry dated 06/11/2024. The copies of which are contained in an Annexure No. 17 to+ his writ petition. Without getting influenced with the Test Report dated 16/12/2024 of the CRCL, New Delhi or any other subsequent test reports.*
- iii. Issue a writ, order or direction in nature of mandamus commanding the opposite parties to make payment of warehousing or waive charges in respect of the goods which are not being released from 06/11/2024 till the actual date of release.*
- iv. Issue a writ, order or direction in nature of mandamus commanding the opposite parties*

to pay exemplary damages to the petitioner due to their unprofessional attitude in not releasing the imported commodity of the petitioner ie 'roasted areca nuts'.

- v. *issue a writ, order or direction in a nature of certiorari quashing the seizure memo dated 10/03/2025 passed by Custom Officer contained as Annexure-28 to this Writ Petition**

* *The said prayer was sought to be included by the importer vide their Application dated 02.05.2025.*

(10) At this juncture and for the sake of clarity, it would be profitable to note the prayer sought by the Appellant-Department in the connected Custom Appeal No 3 of 2024 (*Commissioner of Customs, Lucknow V/s M/s Rawder Petroleum Pvt. Ltd.*) filed under section 28KA of the Customs Act, 1962, against the Advance Ruling No. CAAR/DEL/RAWDER/55/2024 dated 19.09.2024 passed by the Customs Authority for Advance Ruling (CAAR), New Delhi. The department in the said Custom Appeal has sought for the following reliefs, amongst others:

- “ a. *Set aside the Advance Ruling No. CAAR/Del/Rawder/55/2024 dated 19.09.2024 passed by the CAAR, New Delhi;*
- b. *Hold that the goods described as “Roasted Area Nuts (Whole)”, “Roasted Area Nut (Split)” and “roasted Area Nut (Cut)” are classifiable under CTH 080280 of the Customs Tariff Act, 1975;*

c. Remand the matter back to CAAR to undertake a proper examination of the goods including laboratory testing of samples, process flow by foreign suppliers, before deciding the question of classification in the present case.”

- (11) This Court finds that the aforesaid Custom Appeal No. 3 of 2024 was admitted vide order dated 17.12.2024 and parties were as such directed to exchange the pleadings. Further, as an interim measure, it was also provided that the advance ruling in question will be treated as General Ruling regarding Roasted Areca Nuts and with regard to the products which the respondent proposes to import/export, it shall be open for the appellant to get the actual samples sought to be imported/exported by the respondents, tested, and if on such testing it is found that the goods are not actually Roasted Areca Nuts, then the Ruling will not be beneficial to the respondent. However, if it is found, otherwise, then, of course, the benefit of the ruling will be available to the respondent as per the impugned judgment, subject to the result of this appeal.
- (12) In the intervening period, another Customs Appeal bearing No. 3 of 2025 (Comm. Of Customs (Preventive) V/s M/s Auto Campus) came to be filed by the department, seeking similar reliefs, except that the advance ruling sought to be challenged in the appeal was Advance Ruling No. CAARMum/ARC/172,173,174,175,176/ Mumbai dated 10.12.2024 decided in favour of the Importer-M/s Auto Campus. Thus, these two

Appeals and the connected Writ Petition was heard together and reserved for Judgments.

- (13) Sri Dheeraj Srivastava, learned Senior Standing Counsel for the Custom Department has submitted that the CAAR has failed to exercise its power conferred upon it under section 28I(4) read with Section 28L of the Customs Act, 1962 relating to Advance Ruling and thus has erroneously classified the Areca Nuts under CTH 2008 19 20 without any empirical data, test or laboratory report, sample and without any independent inquiry/ investigation. It is the submission of the learned counsel that the Advance ruling is solely based on relying the process flow provided by the importer by a third party based in Singapore and not by the supplier from whom the areca nuts were actually imported from Indonesia. According to him, as per Note 3 of Chapter 08, dried fruits and nuts may also undergo treatments like moderate heat treatment, which has been undergone by the areca nuts imported by the importer and solely because these nuts were made to undergo heat treatment, as contended by the importer in the process flow, the classification of these nuts could not be made under Chapter 20 instead of Chapter 08. It has been vehemently argued that moderate heat has not been defined under the Customs Act or tariff so as to relate it with the intensity/degree of temperature and thus according to the learned Senior Standing Counsel for the department, the alleged roasted areca nuts imported by the importer having been merely

subjected to moderate heat treatment ought to have been classifiable under CTH 080280, especially when the reduction in moisture, arecoline and tannin content can be performed through boiling or sun drying and cannot be a distinguishable factor for classification under Chapter 20 as similar reductions occur during moderate heat treatment allowed under Chapter 08.

- (14) The learned Counsel had taken this Court to the Chapter Notes of Chapter 20 to show that it did not cover nuts prepared by the process as specified under chapter 8 and relied on the judgment of the Hon'ble Supreme Court in **Alladi Venkateshwarlu V/s Government of Andhra Pradesh : AIR 1978 SC 945** to contend that the process of roasting leads to charred physical appearance, which is not the case in the areca nuts imported by the importer. According to him, the nuts in question do not become charred in physical appearance after going through the process flow described by the importer. Further, he submitted that the explanatory notes to Chapter 20 of Harmonized System of Nomenclature (HSN) specify that goods classified thereunder are usually presented in airtight containers like cans or jars for long-term preservation, however, it is clear from the facts of the present case that the importer has imported the goods in bulk in Jumbo bags, which according to him did not even meet the packaging conditions specified for products under chapter 20. He has also highlighted that as per Rule 3(a)

of the General Rules for the interpretation of the Harmonized system, specific description should take precedence over general descriptions and as such since chapter 08 specifically covers areca nuts, including those subjected to moderate heat treatment, Chapter 20 should not be resorted to for classification as it covers a more general category of preserved nuts. The learned Counsel has also relied on the judgment of **M/s S.T Enterprises Vs Commissioner of Customs**, which although was delivered by CESTAT but was later affirmed by the Supreme Court in **2021 (378) ELT A 142(SC)**, wherein similar products as that of the importer was classified under CTH 080280 as they had been held to have been obtained by the process of boiling or moderate heat (like roasting).

- (15) Per contra, Shri Ratnesh Chandra, learned counsel appearing for the importer has submitted that the very essence and purpose of obtaining an advance ruling has been distorted by the department, which makes the Appeal vulnerable for dismissal. According to him, advance ruling means and refers to a written decision on any of the question preferred by an importer/exporter in his or her application in respect of any goods prior to its importation or exportation. It has been submitted by Mr. Chandra that prior to submission of application for advance ruling before the CAAR, the importer had inquired about the 'roasted areca nuts' and its production and processing, to which the overseas supplier had informed

that they carry out de-husking of the raw areca nuts and dry the same, before being fed into roastery roasting oven, wherein it is roasted well beyond 100 degree Celsius usually in the range of 135-150 degree Celsius, using firewood/palm kernel based oven. Thereafter the cooling process is undertaken in room temperature to check its moisture content and the said process is repeatedly performed until the water content of the areca nuts does not go beyond 6%. The aforesaid process as explained by the supplier vide a letter dated 04/06/2024 forms a part of record before this Court as well as the CAAR, New Delhi.

- (16) It has been submitted that the importer enamored with the aforesaid process explained by the overseas supplier had approached the CAAR for ascertaining as to under which heading/chapter of the Customs Tariff Act, 1975, the roasted areca nuts would be falling. According to Mr. Chandra, the CAAR after considering the contents of the Application as well as the reply submitted by the department and also considering the various precedents available for 'roasted areca nuts' returned a finding that roasted areca nuts fall under Custom Tariff Heading 2008, specifically under sub heading 2008 19 20 covering 'other roasted nuts' and seed of the First Schedule of the Custom Tariff Act, 1975. As a consequence of the said advance ruling, the importer placed their order for supply of 'roasted areca nuts' to an Indonesian company, which were dispatched to India vide bill dated 14.10.2024, wherein again

the custom authorities of Indonesia have found the areca nuts to be 'roasted areca nuts' and falling under HS 2008 19 20 and these goods have arrived in India under the Bill of Entry dated 06.11.2024, wherein the port of submission is shown to be ICD Panki Kanpur. It has been further contended by the learned counsel that the importer was having overseas buyers from USA and Malaysia and these areca nuts were meant for exporting them pursuant to order dated 25/09/2024 and 22/09/2024 placed by these countries with mandate of supplying within 90 and 60 days respectively.

- (17) According to Mr. Chandra, the department has filed the custom appeals based on a wrong analogy that 'areca nuts' can never be roasted and can only be dried. He submits that the present case is a classic case of mistaken identity, in as much as 'roasted areca nuts' is mistaken to be 'dried areca nuts' and is being made classifiable under chapter 8 of the Custom Tariff Act, 1975 instead of chapter 20 of the said Tariff Act. He further submits that the goods imported by the importer are 'roasted areca nuts' and falls under Chapter 20 (HS 2008 19 20) as has also been considered by the Madras High Court vide its order dated 01/08/2023 in the case of the **Commissioner Customs Vs Shehnaz commodity International Pvt. Ltd.** The learned Counsel would submit that there is a marked difference between the entries under CTH 08 and 20 as CTH 08 is meant for 'whole, split, grounded including dried nuts which are

subject to process of drying’, whereas CTH 20 covers ‘roasted nuts’. It is his submission that process of drying is different from roasting and as such they find place under different tariff entry and both are mutually exclusive to each other. Had the dried nuts included roasted nuts, there would have been no occasion for including any entries such as 2008 19 20 and that could have been covered under CTH 08. The learned counsel has strenuously argued that once the legislature has classified the ‘roasted nuts’ under 2008 19 20 for which a specified duty is incorporated, then under such circumstances, it is absolutely clear that there are areca nuts, which are roasted also and which when imported would have the specified duty. The learned counsel supporting the advance ruling in favour of the importer has cited the case of **STP Ltd. Vs Collector of Central Excise, Patna, (1998) 1 SCC 297**, to contend that although there is no confusion between ‘dry areca nuts’ and ‘roasted areca nuts’ in the first place, however, if it is even assumed that some confusion existed, the benefit of doubt in case of taxing statute always goes in the favour of the assessee/importer.

- (18) It has been further submitted by the learned Counsel for the importer that ‘areca roasted nuts’ were dispatched to India, vide bill dated 14.10.2024 and were put to shipment on 16.10.2024, after getting clearance from the Indonesian authorities. Subsequently, the importer filed the Bill of entry for this ‘roasted areca nuts’, which also mentions about the

phytosanitary certificate issued by the Government of Indonesia relating to health of plant qua its protection from pests, diseases and other health risks. According to the learned counsel, this certificate also testifies the chemical test conducted on the product and specifies its specifications and is issued by the Government of Indonesia, which all clearly certify that the product imported is ‘roasted areca nuts’ and not any other commodity. He further submits that “roasted areca nuts” is internationally recognized commodity and it cannot be confused with dried areca nuts, which is absolutely different in its specification and nature. He also submits that the importer was placed orders for supply of these imported ‘roasted areca nuts’ by overseas buyer vide order dated 22/09/2024 & 25/09/2024, which also is an additional ground in the favour of the importer as these areca nuts were meant to be exported to overseas buyers after processing.

- (19) The learned counsel further buttressing his ground that the Custom Appeal filed by the department is under a misconceived analogy that ‘roasted areca nuts’ also falls under chapter 8, which defines ‘dry areca nuts’ as both the commodity are one and the same, is not the correct position of fact as well as the law on the subject and as such he has stressed his reliance on an identical issue decided by the Hon’ble Madras High Court in the case of **M/s Universal Impex V/s Commissioner of Customs (Writ Petition No. 23836/2024, dated 22/11/2024)**.

According to him, the High Court of Madras records in the said judgment that the 'roasted areca nuts' have been imported from Indonesia, similarly as that of the importer in the present case and further that the advance ruling in that case has stated that if the moisture content is between 10 to 15% it would be considered as 'raw areca nuts' and where the content is below 10%, it would be considered as 'roasted areca nuts'. In the said judgment, the Ld Single Bench held that areca nuts having moisture content of less than 10% would be categorized as roasted areca nuts and the said findings have been confirmed in the Division Bench of that Court.

- (20) Completing the chain of events, Shri Chandra has submitted that before the filing of the custom Appeal by the department against the advance ruling, the 'roasted areca nuts' arrived at ICD Panki, Kanpur. Subsequently, the department collected sample of imported 'roasted areca nuts' on 18/11/2024 and sent to Fare Labs, wherein a preliminary report was prepared on 22/11/2024 showing that the moisture content in the said "roasted areca nuts" to be of 3.39%. It has been argued that there was no role of the importer in collecting the sample nor it was done in their presence or the presence of their representative or their CHA. It is his contention that Fare Lab was again approached on 18/11/2024, which again gave a report that the moisture contents of the imported commodity was 3.9% and that the said commodity was roasted areca nuts.

He says that the samples collected by the department were de hors the existing guidelines for retesting of samples issued by the government of India on 18.07.2017 & clarified by circular dated 27/07/2017, which in clear terms specify that in the first place, the samples should be drawn in the presence of the importer and after drawing the samples, the importer should be communicated of the test results and it is only in case the importer makes an application in writing within 10 days from the date of receipt of the test results, that the re-testing could be done. According to him, retesting is a right vested with the importer and cannot be misused by the department for its ulterior purposes and can be done only in case the reports are adverse to the importer in the first test. Elaborating further, the learned counsel has submitted that the said guidelines have also been further clarified by the food Safety and standards Authority of India vide its letter dated 12/07/2022, wherein it says that the food analyst, while examining any imported food item, should ensure that the report is available within five days from the receipt of the sample by the notified laboratory or referral laboratory, as the chemical composition of the commodity may change due to passage of time. He further submits that the said letter also says in as many words that in case sample is tested by any particular laboratory, then the referral should not be made to the same laboratory, whereas in the present case, the first test report is from M/s fare Labs and

the second test is from CRCL, New Delhi and the third test is again from CRCL, New Delhi. According to him, the third testing ought to have been from some other laboratory and not CRCL, New Delhi.

- (21) According to the learned Counsel, the department without any basis and relying upon the illegal CRCL report dated 10/03/2025, wherein the moisture content has been shown to be 7.09%, the customs authorities treated the same to be dry areca nuts and gave direction for seizure of the goods of the importer. It is vehemently argued by the Learned Counsel that the department is guilty of suppression of facts, as the department deliberately suppressed the factum of the test report of M/s fare Lab, which was in their favour and has been conducted much earlier to the order dated 17/12/2024 of this court directing for conducting the aforesaid third test. According to him, there was neither any need nor the law provided for re-testing of the commodity and as such both the 2nd and 3rd report of CRCL, New Delhi was void as it is in the teeth of the Guidelines dated 18/07/2007 and 12/07/2022. He further submits that basically the department is proceeding in the present matter under a wrong notion by comparing the specification of areca nuts as provided under the food Safety and standard Act and the Regulations framed therein to the “areca nuts’ provided and classified under chapter 8. He submits that the commodity imported by the importer is altogether a different commodity

from areca nuts as defined under FSSA and chapter 8 of the Customs Tariff Act. According to him, the commodity actually imported by the importer are “roasted areca nuts”, wherein the Hon’ble Madras High Court has held that the moisture content could be upto 10%. He submits that there is no specification provided of the “roasted areca nuts” in the FSSA regulations, which essentially deals with areca nuts only. Thus, he has prayed for release of the imported “roasted areca nuts” and as to the contention of the department that 6 months has lapsed, ever since these areca nuts were imported and as such were not fit for human consumption, it has been submitted by the learned counsel that the ‘roasted areca nuts’ can be released subject to the treatment of these nuts by ‘Gamma Irradiation process’, wherein the moulds and insect’s in nuts can be sterilized/ treated. He says that the said proposition of treatment has been laid down by the Bhaba Atomic Research Centre, Trombay, Mumbai and is a well-recognized process for treatments of areca nuts.

(22) Having perused the records and heard the learned counsels for the parties at length, this court finds that the hinge of the arguments of the parties and the point of determination for this court are twofold :-

- (i) Whether the ‘roasted areca nuts’ has been rightly classified under CTH 2008 19 20 by the CAAR.

- (ii) Whether the ‘areca nuts’ imported by the petitioner of the writ petition No. 71/2025 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.
- (23) The answer to the issue No.1 would decide the fate of both the Customs Appeal No. 3/2024 and 3/2025 filed by the department and the answer to issue No.2 would accordingly decide the writ petition No. 71/2025 filed by the importer/petitioner-(M/s Rawder Petroleum Pvt. Ltd.).
- (24) Firstly, it must be understood that the concept of Advance ruling was introduced in the taxation law, whether it be the Customs law or the GST or for that matter the Income tax, to bring a quietus to the uncertainty and ambiguity in tax implication on proposed transaction by an importer or exporter. It provides a mechanism for seeking a written decision from the competent authority relating to the tax liability involved in the proposed transaction. Advance ruling has been recognized as a vital tool for businesses engaged in export/import activities to understand the incidence of tax involved in the proposed transaction. Apparently, by obtaining an advance ruling, businesses can ensure correct classification, accurate valuation and consequent compliance with tax laws, which ultimately

would help them in taking an informed decision and also help them in avoiding future litigation.

(25) As far as the Customs Act is concerned, advance ruling was inserted as Chapter-VB to the Act in the year 1999. Section 28E(b) of the Customs Act, 1962 defines the expression ‘advance ruling’ as a written decision on any of the questions referred to in Section 28H raised by the importer/exporter in his application in respect of any goods prior to its importation or exportation. Section 28H(2) of the Customs Act provides for application for advance ruling and as such it contains a list of question on which the advance ruling can be sought and the list amongst others, says in Section 28H(2)(a) that advance ruling can be sought in respect of classification of goods under the Custom Tariff Act, 1975. Section 28I relates to the procedure on receipt of Application and section 28J significantly declares that the advance ruling pronounced by the Authority shall be binding only on –

- (a) On the applicant who had sought it;
- (b) In respect of any matter referred to in subsection (2) of section 28H;
- (c) On the Principal commissioner of customs or commissioner of Customs, and the customs authorities subordinate to him, in respect of the applicant.

- (26) Further, Section 28J(2) specifically provides that the advance ruling shall be binding, unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.
- (27) This Court finds that the ‘customs authority for advance ruling’ New Delhi, after noting the process-flow of the commodity proposed to be imported by the importer and taking into consideration of the material brought on record, has vide an order dated 12.09.2024 ruled that ‘roasted areca nuts’ both split and cut, falls under Custom Tariff heading 2008, specifically under sub-heading 2008 19 20 covering ‘other roasted nuts & seeds’ of the first schedule of the Custom Tariff Act, 1976. The CAAR, New Delhi, while arriving on the said ruling returned an elaborate finding, which may be profitably enumerated as herein below:

6. *I have taken into consideration of all the materials placed on record in respect of the subject goods including the submissions made by the applicant during the course of personal hearing. I have gone through the response from the Customs Port Commissionerate of Tuticorin, Tamil Nadu. I therefore proceed to decide the present application regarding classification of Roasted Areca Nut on the basis of the information on record as well as the existing legal framework having bearing on the classification of the roasted areca nut under the first schedule of the Customs Tariff Act, 1975.*

6.1 *I find that the concerned port commissionerate in their comments, placed reliance upon the Judgement / order passed by Tribunal in the matter of M/s S.T. Enterprises, the classification of boiled supari has been relied upon. I find that in*

the present case, the goods in question is Roasted Areca Nut / Betel Nut, which is totally different from the items as placed under reliance in the above said matter hence, the judgements / orders may not be applicable in the instant case.

6.2 *I note that the processes mentioned in Chapter 8 include chilling, steaming, boiling, drying and provisionally preserving. It does not specifically include the process of roasting. Here, it is important to understand the 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. The terms dry-roasting, oil-roasting and fat-roasting however are not defined in the Customs Tariff Act, 1975. Therefore, these terms have to be understood in a commonly accepted sense. The Hon'ble Apex Court in the case of Alladi Venkateswarlu v. Government of Andhra Pradesh 1978 AIR 945 held that "the commonly accepted sense of a term should prevail in construing the description of an article of food". In common trade parlance, "drying" is a method of food preservation by the removal of water content. 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, drying is a moisture removal process involving methods such as dehydration, evaporation, etc., whereas roasting is a severe heat treatment process".*

6.3 *I also note that Chapter 20 of the Tariff covers the Preparations of vegetables, fruits, nuts or other parts of plants. As per Chapter Note 1 (a) to Chapter 20, the Chapter does not cover vegetables, fruits or nuts prepared or preserved by the processes specified in Chapters 7, 8 or 11. Therefore, vegetable, fruit or nut products or preparations made other than by the processes specified in Chapters 7, 8 or 11 are classifiable in Chapter 20. The processes specified in Chapters 7, 8 or 11 mainly include freezing, steaming, boiling, drying, provisionally preserving and milling. Therefore, any vegetable, fruit, nut or*

edible parts of a plant which is prepared or preserved by any other process than these are liable to be classified under Chapter 20. Heading 2008 covers fruits, 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. Roasting is a process used or bringing in to existence roasted nuts and I find that the processes mentioned in chapter 8 do not cover roasting process.

- 6.4 *I also note on the submissions of the applicant that the Note 3 to Chapter 8 specifies certain treatments that could be carried out on the dried nuts for additional preservation or stabilization or to improve or maintain their appearance. The applicant in their application has declared that the objectives of the roasting are not as specified in the said note. Further, as per the above note, the processes that could be carried out are moderate heat treatment, sulphuring, and the addition of sorbic acid or potassium sorbate by the addition of vegetable oil or small quantities of glucose syrup. Roasting is different from all the processes mentioned above. Roasting, as submitted by the applicant, 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. Therefore, the impugned goods do not satisfy Note 3 to Chapter 8.*
- 6.5 *While examining the scope of CTH 2008, I find that as per HSN Explanatory Notes, heading 2008 covers fruit, nuts and other edible parts of plants, whether whole, in pieces or crushed, including mixtures thereof, prepared or preserved otherwise than by any of the processes specified in other Chapters or in the preceding headings of this Chapter, Specifying what is included in this heading, the explanatory note states that 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. Dry roasting, oil-roasting & fat-roasting, as a process are very much a part of chapter heading 2008 by virtue of HSN Explanatory Notes. It is also pertinent to observe that none of these processes are mentioned in the Chapter Note 3 to Chapter 8 of the Customs Tariff Act, 1975 as well as HSN Explanatory Notes to Chapter heading 0302.

6.6 *Moreover, it is, an established fact that in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Tariff Act. While delivering Phil Corporation Judgment Honourable Supreme Court has clearly spelt out importance of HSN Explanatory notes in deciding the matters of classification placing reliance on the judgment of Supreme Court in the case of Collector of Central Excise, Shillong v. Wood Craft Products Ltd. (1995) 3 SCC 454, Honourable Supreme Court in paragraph 12 of the said judgment observed as under:*

“Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted, nomenclature emerging from the HSN. This being the expressly acknowledged basis of the structure of the Central Excise Tariff in the Act and the tariff classification made therein, in case of any doubt the HSN is a safe guide for ascertaining the true meaning of any expression used in the Act.”

6.7 *Further, in the CAAR, Mumbai Ruling No. CAAR/Mumbai/ARC/39,40,41/2023 in the case of M/s. Universal Impex, the Authority has stated his findings and has ruled accordingly. “In view of the specific CTH 2008 19 20: Other roasted nuts & seeds in chapter 20 of the first schedule to The Customs Tariff, HSN Explanatory note to CTH 2008, various Supreme Court rulings upholding guiding value of the HSN Explanatory notes for deciding classification under Customs Tariff Act, 1975 and previously mentioned two Supreme Court judgments classifying roasted nuts which include almonds, betel nut and other nuts under*

chapter 20 by taking recourse to HSN explanatory note to Tariff Heading 2008, I rule that roasted betel nuts are correctly classifiable under the tariff item 2008 19 20 of chapter 20 of the first schedule of the Customs Tariff Act, 1975.”

6.8 *Also, the Honourable High Court of Madras in its recent 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 Betel Nuts under CTH 2008 19 20. The Honourable High Court went on to analyse the various aspects in determining classification and summed up that:*

- (a) Roasting is a process treated to be distinct from the process of boiling and drying, in fixing the classification in respect of betel/areca nut under CTH.*
- (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 are normally a safe guide in determining classification under CTH. Roasted areca / betel nut having been mentioned in CTH 2008 19 20 under HSN.*
- (d) When there is a specific entry covering a product/ commodity, the test of common parlance is irrelevant in determining classification.*
- (e) There is considerable force in the submission that the classification as far as possible must be in conformity and in consonance with the HSN Explanatory Notes.*

7. *I find that the issue, dealt with i.e. Classification of “Roasted Betel Nut” in the judgement of the Honourable High Court of Madras is similar in nature to that of the Impugned issue in this application and therefore is squarely, applicable*

to this case. On the basis of aforesaid orders of Hon'ble Courts and also earlier CAAR Rulings in the matter, I am of the view that the "Roasted Areca Nuts (Whole), Roasted Areca Nuts (Split) and Roasted Areca Nuts (Cut)" fall under Custom Tariff Heading 2008, specifically under Sub-heading 2008 19 20 covering "Other roasted nuts & seeds" of the First Schedule of the Customs Tariff Act, 1975.

8. *I rule accordingly."*

- (28) This Court finds that the CAAR, New Delhi has in no manner missed the woods for the tree and has addressed all the points meticulously, including the issues, which are presently being agitated by the department in the present Appeals. In the Appeal filed by the department, it has been submitted that the basis of classification of 'roasted areca nuts' is a letter dated 04.06.2024, explaining the phenomena/activity undertaken on these areca nuts. It has been contended by the department that the said letter has been issued by one M/s ANL(S) Trading & services Pte Ltd., Singapore, which according to them is a third party as the country of origin of the goods in question is Indonesia, for which they have relied on the Bill of entry filed by the importer. It has been contended by them that since the letter of process of roasting has not been issued by the owner of goods, the letter dated 04.06.2024, explaining the process of roasting is meaningless and cannot be the actual process undertaken on the imported goods. First & foremost, this court finds that the Bill of entry although speaks of country of origin as Indonesia, however the supplier details mentions the name of

ANL(S) Trading and services Pte Ltd, of Singapore, therefore apparently although the goods imported have been sourced from Indonesia, however the same has been supplied by ANL(S) Trading and Services Pte Ltd. and as such the argument raised by the department seems to be highly technical, which are merely recorded to be rejected. Further, it is seen that the Bill of entry contains the description of the commodity being imported as “roasted areca nuts”. In any case, it must be understood that the CAAR was examining the phenomena/activity explained and undertaken on the areca nuts in the said letter dated 04.06.2024, which were proposed to be imported and not actually imported, whether it was from Indonesia or from Singapore. It is one thing to say that the advance ruling was obtained for commodity “X” and the commodity actually imported was “Y”, in which case the advance ruling obtained for the commodity ‘X’ would not be applicable to the commodity ‘Y’, as the same would be change in fact and not binding on the parties as per Section 28J(2) of the customs Act. However, it is absolutely erroneous to say that the advance ruling obtained for commodity ‘X’ would not be applicable for actually imported commodity ‘X’ as in this case, the advance ruling would be binding between the parties as per Section 28J of the Customs Act.

- (29)** Pertinently, the department has mixed the concept of advance ruling, which relates to proposed import with the actual

importation of commodity by the importer. The department has sought to interdict the advance ruling on the ground that the commodity sought to be imported by the importer at the stage of advance ruling were not sent for independent testing or verification of the process, supporting documents, test reports etc. However, this court finds that such an argument by the department is completely alien to the concept of advance ruling. Section 28E(b) of the Customs Act inter-alia states that 'advance ruling' means a written decision on any of the questions referred to in Section 28H raised by the applicant in his application in respect of any goods prior to its importation or exportation. Further, Section 28I(2) of the said Act says that the authority may after examining the application and records called for, by order, either allow or reject the application and proviso appended to it says that the application for advance ruling has to be rejected in two situations (a) when the question raised in the application is already pending in the applicant's own case before any officer of customs or Appellate Authority or any court or (b) the question raised has already been decided by the Appellate Authority or any court. Similarly, section 28I(4) of the Act says that where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application. A conjoint reading of

these Sections 28I(2) & 28I(4), clearly demonstrates that 28I(4) envisages a situation wherein the advance ruling already decided in terms of section 28I(2) is sought to be reviewed, by examining further materials placed by the applicant or obtained by the Authority. No doubt, the advance ruling ought to be based on the materials brought on record of the advance ruling authority, however to say that advance ruling ought to be mandatorily based on the empirical data, test or laboratory report of a sample, at the stage of advance ruling, when these samples, may nor may not be even in existence for the purpose of export or import, is in aberration to the concept and scope of 'Advance ruling'. This court finds that at the stage of advance ruling, the process as explained by the importer/exporter on the commodity, to bring out a new commodity in existence is a vital tool in arriving at a decision for advance ruling on the tax liability, by making them classifiable under a particular CTH. As far as the present case is concerned, this court finds that although, it can be well argued by the department that the commodity, now imported as per the test reports are not 'roasted areca nuts', however it cannot be argued that since the advance ruling is not based on any testing or verification of the commodity sought to be imported at the stage of advance ruling is liable to be set-aside, merely because the advance ruling authority did not examine any test or laboratory report of the commodity sought to be imported/exported. It has to be

understood that at the stage of advance ruling, there is no actual commodity as everything is proposed and the CAAR is invited to give an advance ruling on the assumption that the process undertaken on the commodity proposed to be imported are identifiable in definite terms.

(30) This Court finds that the CAAR has examined the process-flow for bringing the ‘roasted areca nuts’ in existence and having been convinced on the facts as well as the prevailing law of the subject, has arrived at a just decision that ‘roasted areca nuts’ is to be classified under chapter 20 of the Customs Tariff Act. According to this court, the department is not disputing the process undertaken by the importer, but is rather questioning the end product obtained by the process undertaken by them. The department, apparently seems to be vaguely trying to build a case that “roasted areca nuts” obtained even by the process demonstrated by the importer, could not be classified under Chapter 20 and should be classified under chapter 08. Having said so, it becomes incumbent on this court to refer to the two competing entries. Chapter 8 of the customs Tariff cover goods described as ‘Edible fruit and nuts; peel or citrus fruit or melons’. The relevant Tariff item 0802 is set out below:

0802	Other nuts, fresh or dried, whether or not shelled or peeled
0802 11 00	- Almonds:
0802 12 00	- In Shell
	- Shelled
0802 21 00	- Hazalnuts or filberts 9Corylus sup.)
0802 22 00	- In Shell

0802 31 00	- Shelled
0802 32 00	- Walnuts
	- In Shell
	- Shelled
0802 41 00	- Chestnuts (Castanea spp.)
0802 42 00	- In Shell
	- Shelled
0802 51 00	- Pistachios
0802 52 00	- In Shell
	- Shelled
0802 61 00	- Macadamia nuts
0802 62 00	- In Shell
0802 70 00	- Shelled
0802 80	- Kola nuts (Cola Spp.)
0802 80 10	- Areca nuts
0802 80 20	- Whole
0802 80 30	- Split
0802 80 90	- Ground
0802 80 00	- Other
	- Other

(31) Chapter 20 of the Customs Tariff covers goods under the heading ‘preparation of vegetables, fruit, nuts or other part of plants’. The relevant Tariff Item is quoted below:

2008	Fruits, 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, groundnuts and other seeds, whether or not mixed together;
2008 11 00	- Ground Nuts
2008 19	- Other, including mixtures
2008 19 10	- Cashew nut, roasted, salted or roasted and salted
2008 19 20	- Other roasted nuts and seeds
2008 19 30	- Other nuts, otherwise prepared or preserved
2008 19 40	- Other roasted and fried vegetable products
2008 19 90	- other

(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.

- (33) Further, it also has to be understood that as per Note 1 (a) to Chapter 20, the Chapter does not cover vegetables, fruits or nuts prepared or preserved by the processes specified in Chapters 7, 8 or 11. Therefore, vegetable, fruit or nut products or preparations made other than by the processes specified in Chapters 8 like freezing, steaming, boiling, drying, provisionally preserving and milling etc. are liable to be classified under a different head, which is Chapter 20. It is easily verifiable that the Heading 2008 covers fruits, 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.
- (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.
- (37) As a sequel to the above discussion and in view of the CAAR findings, this Court holds that “roasted areca nuts’ have been rightly classified under Tariff Entry 2008 19 20. The grounds raised by the department in Custom Appeal No. 3 of 2024, challenging the advance ruling dated 19/09/2024 is unmerited and, as such, the same is, accordingly, **dismissed**. As a result of dismissal of Custom Appeal No. 3 of 2024, connected Custom Appeal No. 3 of 2025 also stands **dismissed** on similar terms.
- (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:

	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

(39) It has been contended by the learned counsel for the importer that there had been a gross violation of the guidelines dated 18/07/2017, issued by Central Board of Excise and Customs wherein it is clearly mentioned that the samples ought to be drawn in the presence of the importer for testing purposes. Further, in Clause 2(a) it is specifically provided that the test

reports if are adverse or otherwise shall be communicated to the importer and in clause 2(b) it further states that the importer can request the Additional Commissioner/Joint Commissioner of Custom for re-test. According to the learned Counsel, as per clause 2(c), when the Custom Officer provides the opportunity for second test, he must clearly indicate in writing where the second test can be carried out and such referral laboratory where desired re-testing facility exists and in clause 2(d) it provides that the sample should be marked as immediate for avoiding delays and most importantly, as per clause 2(e) it provided the presence of the importer at the time of drawing of samples, and the importer or representative should be present and certify the sample drawn. It is the contention of the learned counsel for the importer that although an elaborate and time-tested procedure existed for drawing of the samples and contained the rights and duties of the parties, however none of the guidelines has been followed by the department while drawing samples in the first instance or at the time, the samples were sent for re-testing to the CRCL, New Delhi. On the other hand, the learned counsel appearing for the department, although did not dispute the existence of the said guidelines nor it confirmed its compliance, however has contended that the same is merely directory and not mandatory and did not effect the issue raised in the present petition. No doubt the guidelines mentioned and relied upon herein above are directory, however

this court finds that the elaborate process mentioned for sample testing is in aid of the principle of natural Justice. In the present case, the very conduct of the department in drawing the samples behind the back of the importer and not providing them with the sealed samples and test memo by taking shelter of Section 144 of the Customs Act, 1962 cannot be countenanced. Further, the rules specifically provides the importer for applying for re-testing, in case they are not satisfied with the first test report, this court fails to understand as to how the department cannot be satisfied with any test report in the first place. The act of the department apparently seems to be motivated and suspicious, in not providing the impugned letter dated 27.12.2024 in the first instance and then not taking the importer in confidence while sending for re-testing, if at all re-testing was permissible by the state as per the rules.

- (40) Time and again, this Court has held that in a welfare state, the power and function of the executive should be above suspicion like the Caesar's wife. The State is expected to be impartial, unbiased and lead the way in adhering to legal and ethical standards. In the context of sample drawing for analysis and testing, the state should ensure that samples are collected and analysed according to established procedures, preserving their integrity and reliability. This includes drawing samples in a manner that avoids tampering, contamination, or alteration, and ensuring that the analytical methods used are valid and

reliable. Furthermore, the state must ensure that the Guidelines formulated is followed as the role and responsibility of the state is not of an adversarial litigator, but as an epitome of follower of law. The state cannot have the concession of not following the guidelines, which they themselves have formulated for proper administration, irrespective of whether it is mandatory or directory.

- (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.

(43) The lackadaisical attitude of the department in not following the established guidelines relating to drawing samples and sending for testing cannot be given concession to in any manner. Apparently, it seems the department

indiscriminately drew samples and sent to testing Centre at its own whims and wanted to keep the importer at bay during the pendency of the Appeal filed by them against the advance ruling, relating to classification of 'roasted areca nuts'. The act of the department in relying on a test report, which could not have been carried out in the first place, also seems to be ill-founded. Thus, the seizure of the commodity 'roasted areca nuts' apparently seems to be motivated and driven by malafide and cannot be allowed to be sustained.

- (44) For all the above reasons, Writ Tax No. 71 of 2025 deserves to be allowed, in the peculiar facts and circumstances of the present case. This Court while directing for the release of the commodity imported as 'roasted areca nuts' classified under CTH 2008 19 20 on usual compliances of the prevailing rules, hereby quashes the seizure memo dated 10/03/2025. It is made clear that this court has only dealt with the issue relating to classification of the 'roasted areca nuts' imported by the petitioner under CTH 2008 19 20 and has not expressed any opinion on the other avenues of the import or any issue not raised in these Appeal/petitions. Further, it is directed that since, these 'roasted areca nuts' had been imported some six months ago, the aforesaid direction for release, is subject to the condition that the importer provides for treatment of these roasted areca nuts by 'Gamma Irradiation process', wherein the moulds and insect's in nuts can be sterilized/ treated as per the

proposition of treatment laid down by the Bhaba Atomic research Centre, Trombay, Mumbai, to the complete satisfaction of the authority.

(45) As a priori, both, Custom Appeal No. 3 of 2024 and Custom Appeal No. 3 of 2025 fails and Writ Tax No. 71 of 2025 is **allowed** in the above terms.

(46) There shall be no order as to cost.

[Om Prakash Shukla, J.] [Rajan Roy, J.]

Order Date :- 30.05.2025

Saurabh

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 22223/2025

[Arising out of impugned final judgment and order dated 30-05-2025 in WT No. 71/2025 passed by the High Court of Judicature at Allahabad, Lucknow Bench]

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

M/S RAWDER PETROLEUM PVT LTD

Respondent(s)

FOR FOR EARLY HEARING APPLICATION ON IA 222635/2025 FOR PERMISSION TO APPEAR AND ARGUE IN PERSON ON IA 5665/2026

IA No. 222635/2025 - EARLY HEARING APPLICATION

IA No. 5665/2026 - PERMISSION TO APPEAR AND ARGUE IN PERSON

WITH

SLP(C) No. 22226-22263/2025 (XII)

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 192065/2025

IA No. 192065/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

Date : 05-05-2026 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ALOK ARADHE

For Petitioner(s) :Mr. S. Dwarkanath, A.S.G.
Mr. Abhyudey Kabra, Adv.
Mr. S. Vijay Aadithya, Adv.
Mr. Rajat Vaishnaw, Adv.
Mr. Mudit Bansal, Adv.
Mr. Gurmeet Singh Makker, AOR
Mr. Karan Lahiri, Adv.
Mr. Udai Khanna, Adv.
Mr. Raman Yadav, Adv.
Mr. Chitvan Singhal, Adv.

For Respondent(s) :Mr. Prakash Shah, Sr. Adv.
Mr. Rajat Mittal, AOR
Mr. Krishnanandh, Adv.
Mr. Aansh Desai, Adv.
Mr. Subham Kumar, Adv.
Ms. Akriti Anand, Adv.
Mr. Priyanshu, Adv.

Ms. Krati Agrawal, Adv.

Mr. Gaurav Khanna, AOR
Mr. Prateek Dwivedi, Adv.
Mr. Gautam Barnwal, Adv.
Ms. Sakshi Attri, Adv.

UPON hearing the counsel the Court made the following

O R D E R

SLP(C) No(s). 22223/2025

1. We had on an earlier occasion requested Mr. Dwarkanath, learned Additional Solicitor General to explore the ways by which the procedural problem about shifting of the goods to Gamma Irradiation facility could be undertaken.

2. Mr. Dwarkanath has taken instructions and has placed before us a method by which the process could be undertaken without compromising the safety and the powers of the customs authorities.

The procedure and the safeguards are as follows:

"1. The entire process including transportation, loading, unloading, handling, gamma irradiation treatment, supervision, insurance, contamination prevention, disposal of unsafe goods, and all statutory compliances shall be done entirely at the sole risk, responsibility and cost of M/s Rawder Petroleum Pvt. Ltd. The Customs Department shall not bear any financial, legal, environmental, public health or consequential liability arising from this exercise.

2. It is clarified that movement of goods for gamma irradiation shall not amount to clearance under Sections 45 and 47 of the Customs Act, 1962. The goods shall continue to remain under Customs control at all times and no commercial release, sale or transfer shall be allowed merely because the goods are being moved for treatment.

3. Before movement, a joint physical verification of the entire consignment should be carried out by Customs officers along with

warehouse authorities and other concerned authorities, wherever required. A proper panchnama should be prepared and complete details such as number of bags, total weight, package identification, visible fungal condition and sealing details should be recorded with photo.

4. The goods should be transported only to a Government-approved Gamma Irradiation facility recognized for food-grade sterilization and capable of carrying out treatment as per the process prescribed by Bhabha Atomic Research Centre (BARC), Trombay, Mumbai. The importer must submit the facility approval documents, irradiation licence, treatment protocol and emergency response details before permission is granted.

5. Transportation shall be allowed only in fully closed, leak-proof and contamination-resistant containers. After loading, the containers shall be secured with proper Customs Seal and the seal number shall be recorded in official documents. The seal shall remain intact until arrival at the irradiation facility and shall be opened only in the presence of designated Customs officers. Open transport shall not be permitted under any circumstances.

6. The importer shall arrange a valid comprehensive insurance policy covering the full value of the goods as well as risks during transit, including theft, accident, fire, damage, contamination and any public liability arising during transportation and treatment. In case of theft, accident or any loss during movement, the entire responsibility shall remain with the importer and the same shall be covered through such insurance without any liability upon the Customs Department.

7. Movement should be carried out under Customs escort and through GPS-monitored secured transportation. Continuous route tracking shall be maintained.

8. The importer should also execute an indemnity bond of value of the goods, full liability undertaking and furnish suitable bank guarantee or security covering duty, fine and

penalty if any as required by the Department.

9. At the irradiation facility, unloading, treatment and post-treatment sealing should be done in the presence of Customs deputed official under CCTV recording. After completion of irradiation, proper certification must be issued by the treatment facility and competent scientific authority confirming that moulds and insects have been properly sterilized or treated. After irradiation, fresh testing should be conducted by the competent notified laboratory ie. CRCL regarding contamination status and compliance with applicable standards. Gamma irradiation by itself does not give automatic right of clearance to the importer. Final release, re-export, confiscation or any further action shall remain subject to adjudication proceedings, Court orders and satisfaction of the competent authority. If after treatment the goods are still found unsafe, contaminated, prohibited or otherwise non-compliant, the importer shall be responsible for the consequences entirely at its own cost and risk."

3. While we affirm the decision of the High Court as regards classification of the goods in question, we keep the question of law open for being considered in an appropriate case.

4. Mr. Gaurav Khanna, learned counsel appearing on behalf of the respondent undertakes that his clients will ensure that the procedure as indicated hereinabove is implemented meticulously.

5. The concerned authorities shall ensure that the procedure and process, as indicated hereinabove will be completed within one month from today.

6. We also make it clear that the procedure prescribed hereinabove is in the facts and circumstances of the case and shall not be treated as a precedent.

7. With these directions, the Special Leave Petition stands

disposed of.

8. Pending application(s), if any, shall stand disposed of.

SLP(C) No. 22226-22263/2025

9. List on 19.05.2026.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
ASSISTANT REGISTRAR