



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



C. No. 195/KAPE/DC/PCT/2023

Dated: 20.03.2024

PUBLIC NOTICE No. 04/2024

Subject: CLASSIFICATION OF MULTI-VITAMINS/ NATURAL HEALTH PRODUCT/FOOD SUPPLEMENT” IMPORTED BY M/S BASE6 (PVT) LTD.

The Collectorate of Customs Allama Iqbal international Airport (AIIA), Lahore, forwarded a reference for determination of correct classification of product “Multi-Vitamins” imported by M/s Base6 (Pvt) Ltd.

FACTS:

2. Brief facts as reported by the referring Collectorate, the Collectorate of Customs Allama Iqbal international Airport (AIIA), Lahore are that M/s Base6 (Pvt) Ltd. imported consignments of “Multi-Vitamins/Natural Health product/food Supplement” under various GDs. The importer declared goods under HS code 3004.5090 instead of 2106.9090 supporting their contention with Drug Regulatory Authority of Pakistan (DRAP) clearance certificate. The Appraisal group is of the view that the imported multi-vitamins are food supplements having nutritional value and are required to be classified under PCT heading 2106.9090.

ISSUE:

3. Whether “Multi-Vitamins/Natural Health product/food Supplement” imported by M/s Base6 (Pvt) Ltd. is to be classified in PCT heading 3004.5090 or 2106.9090 or in any other PCT heading of Pakistan Customs Tariff?

PROCEEDINGS OF THE CLASSIFICATION COMMITTEE:

4. The meeting of the Classification Committee was convened on 03.12.2022, and 22.12.2023 in the conference room of Collectorate of Customs Appraisal (East) Customs House Karachi, which were attended by the representative of the importer, the referring Collectorate and the members of the Classification Committee. In-depth deliberations were held by the Classification Committee members with the representative from the referring Collectorate and the representative of the importer. The discussions considered chemical composition, ingredients, uses of the goods in question and the relevant provisions of law, as well as the General Rules of Interpretation for classifying goods.

The representative of the importer contested the assessment of goods under PCT heading 2106.9090 instead of PCT heading 3004.5090 on the following grounds:



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Mehmood ul Hasan Awan
General Secretary
Karachi Customs Agents Association

"(i) The products generally known as Natural Health Products as defined by Drug Regulatory Authority of Pakistan (DRAP) as Health Products vide its SRO 412 (1/2014 dated 2705.2014 defined at Sr. No. xxxi, xxxiv, xxxix relevant to Food Supplements, health related purposes and therapeutic claim for a health-related purpose, are misclassified in Chapter 21-Miscellaneous Preparations (HS Code 2106) of the Pakistan Custom Tariff (PCT). It is pertinent to mention here that the Health Products are required to be listed with DRAP and DRAP issued a Form-7 for each of these types of products with the DRAP proper enlistment number.

(ii) The Explanatory Notes to Chapter 21(WCO-Brussels), the relevant para in clause 16 is reproduced verbatim as below;

"Preparation often referred to as food supplements based upon extracts of plants, fruit concentrates, honey, fructose etc; and containing added vitamins and sometime minute quantities of iron compounds. These preparations are often put up in packaging with indications that they maintain general health or well-being. Similar preparations, however, intended for the prevention or treatment of diseases or ailments are excluded from Chapter 21 and put up in heading 30.03 or 30.04."

(iii) In accordance with the last 02 lines of Clause (16) of the Explanatory Notes i.e., "Similar preparations, however, intended for prevention or treatment of diseases or ailment are excluded (heading 3003 or 3004).

(iv) Additionally, despite the production of Clearance Certificate Computerized No.1063937507362 dated 09.05.2022 by DRAP confirming the impugned Natural Health Products as Drug instead Food Supplement merely denied by the referring Collectorate of Customs, AFU, AIIA, Lahore without exhausting the express provisions of Customs Tariff is not plausible in Customs laws in vogue.

(v) In this contest, it is worth mentioned that Food supplements / dietary supplements / health supplements / nutraceuticals, presented in pharmaceutical dosage form (tablets/capsules) for a health-related purpose are clearly differentiated from general food products by DRAP after the implementation of DRAP Act 2012 and SRO 412 on Health Products Enlistment Rules and comes under the category of health products with clearly mentioned "Health purpose on packaging of products".

(vi) As reported under para supra, it is quite evident that the Explanatory Notes clearly mention that food supplements are food products which contain ADDED vitamins and are not primarily vitamin products and also when they are intended for a health purpose such products are specifically Classified under PCT heading 30.03 or 30.04."

In contrast to the above, representative of the referring Collectorate submitted as follows;

(i) Explanatory Note 1(a) of Chapter 30 excludes foods supplement / nutritional preparation as under:-

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"Foods supplements & beverages (such as dietetic, diabetic or Fortified foods, food tonic beverages and mineral waters), other than nutritional preparations for intravenous administration (Section IV)"

(ii) The Explanatory Notes to heading 30.03 provides that:

Further, this heading excludes preparations often referred to as food supplements containing vitamins or minerals which are usually put up for the purpose of maintaining health or well-being, or to improve athletic performance, or to prevent possible nutritional deficiencies or correct sub-optimal levels of nutrients. These products, which may be in liquid, powder or similar forms, are generally classified in heading 21.06 or Chapter 22.

(iii) The Explanatory Notes to heading 30.04 also provides that:

Further, this heading excludes preparations often referred to as food supplements containing vitamins or minerals which are usually put up for the purpose of maintaining health or well-being or to improve athletic performance. or to prevent possible nutritional deficiencies or correct sub-optimal levels of nutrients These products, which may be in liquid, powder, capsule, tablet, or similar forms are generally classified in heading 21.06 or Chapter 22.

(iv) The Explanatory Note to heading 21.06 includes the products as referred in Note (14) & (16) as under:

(14) Products consisting of a mixture of plants or parts of plants (including seeds or fruits) of different species or consisting of plants or parts of plants (including seed or fruits) of a single or of different species mixed with other substances such as one or more plant extracts, which are not consumed as such, but which are of a kind used for making herbal infusion or herbal " teas", (e.g. those having laxative, purgative, diuretic or carminative properties), including products which are claimed to offer relief or contribute to general health and well-being

(16) preparations, often referred to as food supplements or dietary supplements, consisting of, or based on, one or more vitamins, minerals, amino acids, concentrates extracts, isolates or the like of substances found within foods, or synthetic versions of such substances, put up as a supplement to the normal diet. It includes such products whether or not also containing sweeteners, colors, flavours, odoriferous substances, carriers, fillers, stabilizers or other technical aids. Such products are often put up in packaging with indications that they maintain general health or well-being, improve athletic performance, prevent possible nutritional deficiencies or correct sub-optimal levels of nutrients."

6. The Collectorate also referred to the classification ruling already issued on the identical products vide Public Notice No. 18/2015 dated 19.12.2015 in support of their stance.

LAW AND ANALYSIS:

7. The classification under First Schedule to the Customs Act, 1969 (Pakistan Customs Tariff) is made in accordance with the General Rules of Interpretation (GRI). As per GRI-I, the classification of goods shall be determined according to the terms of the headings and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI-I and if the headings or legal notes do not otherwise require, the remaining GRIs may then be applied. 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 at the international level. In instant case, the Classification Committee has relied on Rule 1 & 3.

PRODUCT ANALYSIS:

As per literature provided by the representative of the importer imported items such as "RxOmega-3, Coenzyme Q10, Oseomove, ultimate Multi-Probiotic, etc." have been reviewed in detail. Detailed scrutiny of above-mentioned goods reveal that all of these items are Products consisting of a mixture of plants or parts of plants of different species or consisting of plants or parts of a single or of different species mixed with other substances such as one or more plant extracts, which are not consumed as such, but which are of a kind used for making herbal infusion or herbal teas, which are claimed to offer relief or contribute to general health and well-being. These products are sold to supplement general wellbeing of humans.

HOLDING:

7. The Classification Committee has gone through the arguments and documents put forth and also considered the relevant provisions of law dealing with the HS Classification. The referring Collectorate is of the opinion that the impugned goods declared as 'Natural Health Products' been incorrectly classified under PCT heading 3004.5090 @ CD 11% and are appropriately classifiable under PCT 2106.9090 @CD 20% "Food / Dietary Supplements".

8. As regards, the PCT heading and Tariff Structure, the same are as detailed hereunder;

"2106. Food Supplements not elsewhere specified or included.

-Other

2106.9090--- Other

The claimed HS Code "3004.5090 IS reproduced hereunder:

"3004-Medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packing for retail sale."

-Other. containing vitamin or other products of 29.36

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3004.5090--Other

9. The classification of any imported goods is determined under General Rules of Interpretation. The Committee considered Rule 1 & 3, the Rule 3 operative in the instant case is reproduced as under:

"Rule 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 affected as follows:

(a) The heading which provides more 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 3(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 3(a) or 3(b), they shall be classified under the heading which occurs in last numerical order among those which equally merit consideration"

19/13/2010
The Committee observed that the classification of goods is to be determined according to the terms of the headings, Explanatory Notes to Chapter 21 and Chapter 30. Furthermore, product analysis revealed that the imported goods do not consist of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses; rather, they are of a kind claimed to offer relief or contribute to general health and well-being. These products are sold to supplement the general well-being of humans. In view of the foregoing, the imported goods are appropriately classifiable under PCT heading 2106.

11. The ruling is issued in terms of Chapter-II (Classification) of the CGO 12/2002 dated 15.06.2002 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 of Interpretation.

12. The above ruling is based on the documents including literature provided to the Classification Committee 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.

-Sd-

(Amjad Aman)

Additional Collector
Chairman Classification Committee

Copy for information to:

1. Member (Customs-Policy), Federal Board of Revenue, Islamabad.
2. Member (Customs-Operations), Federal Board of Revenue, Islamabad.
3. Member (Customs-Legal & Accounting), Federal Board of Revenue, Islamabad.
4. Member (FATE), Federal Board of Revenue, Islamabad.
5. The Chairman, Customs Appellate Tribunal, Karachi.
6. The Chief Collector of Customs (Appraisalment) South, Custom House, Karachi.
7. The Chief Collector of Customs (Enforcement) South, Custom House, Karachi.
8. The Chief Collector of Customs (Exports), Custom House, Karachi.
9. The Chief Collector of Customs (Appraisalment) Central, Custom House, Lahore.
10. The Chief Collector of Customs (Enforcement) Central, Custom House, Lahore.
11. The Chief Collector of Customs (North), Custom House, Islamabad.
12. The Chief Collector of Customs (Khyber Pakhtunkhwa), Custom house, Peshawar.
13. The Chief Collector of Customs (Baluchistan), Custom House, Quetta.
14. The Collector, CoC Appraisalment (East), Custom House, Karachi.
15. The Collector, CoC Appraisalment (West), Custom House, Karachi.
16. The Collector, CoC (PMBQ), Karachi.
17. The Collector, CoC (SAPT), Karachi.
18. The Collector, CoC (AIIA) Allama Iqbal International Airport, Lahore.
19. The Collector, Collectorate of Customs (Adjudication I & II), Custom House, Karachi.
20. The Director, Reforms and Automation (R&A), Custom House, Karachi.
21. The Director (Reforms & Automation), Custom House, Karachi.
22. The Karachi Chamber of Commerce & Industry, Karachi.
23. The Federation of Pakistan Chambers of Commerce and Industry, Karachi.
24. The Karachi Customs Agents Association, Karachi.
25. M/s Base 6 (Private Limited), H No. 216-E, Cavalry ground, Cantt. Lahore.
26. Notice Board.



25/3/2024

19/3/2024
(Amjad Aman)
Additional Collector

Chairman Classification Committee

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Mehmood ul Hasan Awan
General Secretary
Karachi Customs Agents Association