# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## BANGALORE

REGIONAL BENCH - COURT NO. 1

**Customs Appeal No. 600 of 2009**

(Arising out of Order-in-Appeal No. 79/2009 CUS -B- dated 31/07/2009 passed by CC(Appeals), Bangalore)

**Commissioner of Customs**
**BANGALORE-CUS**
C.R. BUILDING,QUEENS ROAD,
P.B.NO. 5400,
BANGALORE - 560001
KARNATAKA

Appellant(s)

*VERSUS*

**TRIMETA COMMODITIES PVT LTD.**
N0-910, BARTON COURT, M,G. ROAD,
BANGALORE

Respondent(s)

**Appearance:**

Shri S. Devarajan, Dy. Commissioner(AR) — For the Appellant

None — For the Respondent

**CORAM:**
**HON'BLE MR. P.K. CHOUDHARY, JUDICIAL MEMBER**
**HON'BLE MR. P. ANJANI KUMAR, TECHNICAL MEMBER**

**Final Order No. 20265 / 2020**

Date of Hearing: 02/03/2020
Date of Decision: 02/03/2020

**Per : P. ANJANI KUMAR**

None for the respondent.

2. Department contends that in view of Sl.No.119 of the Notification No.21/2002-Cus dt. 01/03/2002, the flavours used by the respondents are of a kind used for the manufacture of beverages; of an alcoholic strength by volume exceeding 0.5% volume, determined at 20 degrees centigrade and therefore not eligible for exemption.

3. We find that the learned Commissioner(Appeals) in the impugned order has discussed the issue at length and has come to the conclusion that the respondents are right in claiming so. He has also considered the report of Central Food Laboratory (CFTRI), Mysore which stated that the flavor conforms to the general standards as laid down for an article of food under PFA Act, 1954 and Rules made there under. We also notice that the words mentioned in the notification are "of a kind used for the manfacutre of beverages". The use of word "used" indicates such alcoholic preparations should not only be capable of being used in the manufacture of beverages but also should be used in the manufacture of beverages. The fact that the respondents have used the impugned items as flavours only in the manufacture of ice cream is not disputed, as far as the facts are concerned.

4. In view of the above, we do not find any merit in the appeal of the Revenue. Appeal is dismissed.

(Order was pronounced and dictated
in Open Court on **02/03/2020**)

**(P.K. CHOUDHARY)**
**JUDICIAL MEMBER**

**(P. ANJANI KUMAR)**
**TECHNICAL MEMBER**

Raja...