

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH - COURT No. III

Customs Appeal No. 42791 of 2014

(Arising out of Order-in-Appeal No.C.Cus.1704/2014 dated 18.09.2014 passed by Commissioner of Customs (Appeals), 60, Rajaji Salai, Custom House, Chennai-600 001)

Commissioner of Customs

Import Commissionerate,
Chennai II Commissionerate,
Custom House,
Chennai 600 001.

.... Appellant

VERSUS

**M/s.Adyar Ananda Bhavan
Sweets & Snacks,**

No.9, Fourth Street,
Parameswari Nagar, Adyar,
Chennai-600 020.

... Respondent

APPEARANCE :

Ms. O.M. Reena, Authorized Representative for the Appellant
None for the Respondent

CORAM :

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)**

FINAL ORDER No.40542/2025

**DATE OF HEARING : 27.01.2025
DATE OF DECISION : 28.05.2025**

Per: Shri P. Dinesha

By this appeal, the Revenue is aggrieved by the Order-in-Appeal No.1704/2014 dated 18.09.2014 of the First Appellate Authority, who decided the classification of the goods viz. Namkeen System HWF 2412 (Heat Wave Frying System) imported by the respondent-assessee in favour of the assessee, thereby reversing the classification adopted by the Original Authority vide OIO No.20800/2013 dt. 23.04.2013.

2. Facts as could be gathered from the Order-in-Original as well as the Order-in-Appeal are that the assessee had filed a Bill of Entry dt. 05.09.2011 upon import of Namkeen System/Heat Wave Frying System which was classified under CTH 84388020 as 'other machinery'. The same was assessed to Basic Customs Duty (BCD) at 5% under Notification No.21/2002-Cus Sl.No.563 and CVD at 10% under Notification No.2/2008-CE Sl.No.No.62, apart from Special CVD at 4% under Notification No.19/2006. The Original Authority appears to have enquired from the product information from the supplier website, but however, as we could see at para-2 of the OIO, the product remains

as a frying system per se. Not accepting the claim of the importer as regards the classification, SCN dated 08.06.2012 was issued to which it appears that the assessee filed its submission justifying its classification. The SCN also proposed to reject the classification declared by the importer and proposing to classify the same under CTH 84198120. The Original Authority having considered the reply, however, chose to confirm the classification as proposed in the SCN and vide the OIO No.20800/2013 dated 23.04.2013 demanded the differential duty. Against the said demand, the respondent-assessee having approached the First Appellate Authority who vide OIA No.1704/2014 dated 18.09.2014 accepted the assessee's claim by setting aside the classification, the present appeal has been filed before us.

3. From the order sheet notings, we find that there has been no representations on any of the hearing dates fixed for final hearing before us; neither do we find any request for adjournment nor any written submission filed on behalf of the respondent. Hence, we proceed to decide the appeal on merits after hearing the Departmental Representative for the Appellant-Revenue.

4. Heard Smt. O.M. Reena, Ld. Additional Commissioner for the Appellant, we have perused the orders of both the lower authorities. The only question that crops up for our consideration is, “whether the First Appellate Authority is justified in upholding the classification declared by the respondent ?”

5. The Nomenclatures/features of the machine in question as found in the product catalogue has been extracted in the Order-in-Appeal. Further at para 6.3 of the OIO it has been observed by the Original Authority that the imported machine is a machine for industrial preparation/production or manufacture (processing) of various food items and that the literature on “Namkeen snacks description” indicates that the Namkeen System, which is the product under dispute, is the most automated frying system for industrial purposes. From the foregoing , the fact which is clear is that the machine in question is meant for frying only and hence, as observed by the First Appellate Authority, CTH 84198120 refers to ‘other kitchen machines’, whereas there is a specific entry for fryers at CTH 84198110, which has been conveniently ignored by the Original Authority. Admittedly, the machinery in question is

meant for production at commercial level, whereas the entry at CTH 84198120 refers to 'Kitchen machines' only.

6. In view of the above discussions, we do not find any infirmity in the impugned Order-in-Appeal as regards the classification is concerned and hence, we do not find any merit or any reasons in the appeal filed by the Revenue. Resultantly, we dismiss the appeal.

(Order pronounced in open court on 28.05.2025)

(M. AJIT KUMAR)
Member (Technical)

(P. DINESHA)
Member (Judicial)