



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद  
 OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,  
 चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road  
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
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DIN – 20250571MN000000AEA6

क	फ़ाइल संख्या FILE NO.	S/49-315/CUS/AHD/2023-24
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-026-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
	दिनांक DATE	08.05.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order – In – Original No. 02/DC/ICD-SND/2023-24, dated 08.09.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	08.05.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Innovative Cuisine Private Limited, Block No. 512, Karjan – Vemardi Road, Opp. Cosmo Film, Village – Kandari, Taluka – Karjan, Vadodara – 391210

1	ग्रह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods imported on baggage
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां, यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application.

	If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हजार रूपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(द)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-	
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or	
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



**Order-In-Appeal**

M/s. Innovative Cuisine Private Limited, Block No. 512, Karjan – Vemardi Road, Opp. Cosmo Film, Village – Kandari, Taluka – Karjan, Vadodara – 391210 (hereinafter referred to as 'the Appellant') have filed the present appeal challenging the Order-In-Original No. 02/DC/ICD-SND/2023-24, dated 08.09.2023 (hereinafter referred to as 'the impugned order') passed by Deputy Commissioner, Customs, ICD – Sanand, (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the Appellant have filed Shipping Bill No. 3381536, dated 22.08.2023 through Customs Broker, M/s. Jasvant B. Shah for export of various goods consisting of 26 items as per Invoice No. 311/2023-24, dated 22.08.2023, factory stuffed in Container No. MSWU0073359 weighing 19457.760 Kgs., having total FOB value of Rs. 32,33,651/-. The Shipping Bill was selected by RMS for examination and assessment *inter-alia*, with following RMS Instructions:

*"Export of onion is dutiable as per The Second Schedule – Export Tariff read with Notification No. 47/2023 and 48/2023 Cus dated 19.08.2023. Please assess carefully as to whether appropriate duty is paid. Also verify eligibility of export benefits on dutiable goods claimed if any. Goods subject to export duty are ineligible for duty credit under RoDTEP scheme as per Notification No. 76/2021-Customs (NT) dated 23.09.2021."*

2.1 On the basis of RMS interdiction, subject Shipping Bill was taken up for verification of self-assessment as per the compliance requirements suggested by RMS with regard to relevant particulars having bearing on correct assessment of export goods. In the shipping bill, Items at Sl. No.1 to 24 description of goods were declared as "Frozen (IQF) Vegetables & Fruits Packed in Laminated Pouches".

2.2 It was observed that the declaration in the Shipping Bill w.r.t. goods at Item No. 15 depicted the following details and claim of export benefits:

“Frozen (IQF) Vegetables & Fruits Packed in Laminated Pouches”									
Sl. No.	Qty. Kg.	RITC	Reward Item	Description	Unit Price / Kgs.	FOB (FC) USD	FOB (INR)	IGST Pmt. Status	Exp. Inv. No. & Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
15	367.200	07108090	Yes	Red Onion (Trimmed & Cut) As Inv.	2.01593	740.25	60848.55	LUT	311/2023-24 22.08.2023
DBK Sl. No.		DBK Rate %	DBK Amt. INR	RODTEP claimed INR	Container No.		Packing		Port of Discharge
(11)		(12)		(13)	(14)		(15)		(16)
0710B		0.15	91.27	477.36	MSWU-007335 (0) 40 FT.		45 CARTONS		MELBOUENE

It was observed that the goods entered for export at Item No. 15 in the Shipping Bill is "Red Onion (Trimmed & Cut)".

*A.12*

2.3 The amendments to the Second Schedule to the Customs Tariff Act, 1975 introduced vide CBIC Notification No.47/2023-Cus dated 19.08.2023 pertains to the imposition of export duty on Onions. Consequently, in terms of the Second Schedule to the Customs Tariff Act, 1975, goods of description "Onions" are liable to payment of export duty @ 40% vide Notification No. 48/2023-Cus, dated 19.08.2023. It was observed that in the Shipping Bill filed by the Appellant and self-assessed under Section 17 of the Customs Act, 1962, the export duty has not been levied or paid in respect of Onions at Item level 15. Accordingly, the following appraising / assessment query w.r.t. Item No. 15 of the Shipping Bill was raised and communicated to the Appellant through the query mechanism in ICES:

"ITEM SR. NO. 15 RED ONION (TRIMMED & CUT) –

- (1) EXPORT OF ONION IS DUTIABLE. NOTFN. NO. 48/2023-CUS DT. 19.08.2022.
- (2) ONIONS CLASSIFIED UNDER 070310. PL. JUSTIFY CLASSIFICATION UNDER CTH 07108090"

2.4 The Appellant vide their written reply dated 25.08.2023 with reference to the query raised in respect of Item No.15 under dispute in the Shipping Bill has contended *inter alia*, that:

- The product has been correctly declared as "frozen (IOP) vegetables & fruits packed in laminated pouches - Red Onion (Trimmed & Cut);
- The Notification No. 48/2023-Cus referred to in the query covers only goods of description "Onions within the Tariff item 0703 10, whereas Tariff Item 0710 covers "Vegetables (uncooked or Cooked by Steaming or Boiling in Water) Frozen.";
- The intention of the GOI is to cover Onions under TI 0703 which covers Onions, Shallots, Garlic, Leeks and Other Alliaceous Vegetables, Fresh or Chilled;
- To state the process undertaken before exporting, Onions procured from farmers are peeled, washed in water, passed on a conveyor on a chamber where cold air is passing through at high speed during which process the onions get frozen individually, then packed and removed from the factory at -18°C

Based on the submissions, the Appellant further requested for permission to export the cargo by (i) resorting to provisional assessment or (ii) by changing classification to 0703 on payment of export duty under protest. It was also requested that considering the protest lodged, a Speaking Order may be issued in the matter.

2.5 Based on the reply, the Appellant was permitted to amend the Shipping Bill and clear the export cargo on payment of export duty applicable to item No.15 in question. Accordingly, the Appellant had paid the applicable export duty of Rs. 24,340 @ 40% on an assessable value of Rs. 60,848.55 vide Challan No.1221/28.08.2023 after changing the classification of the export item No.15 to CTH 0703 10 19 and consequently, order permitting clearance and loading of the goods for exportation under Section 51 of the

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Customs Act, 1962 was granted to the goods covered under Shipping Bill No.3381536 on 29.08.2023.

2.6. The Adjudicating Authority, vide the impugned order, has passed order as detailed below:

- i. He has rejected the classification of "Red Onion (Trimmed & Cut)" declared as "Frozen (IQF) Vegetables & Fruits Packed in Laminated Pouches" under CTH 07108090 appearing at item level 15 of the Shipping Bill No. 3381536, dated 22.08.2023 and re-classified the same under Customs Tariff Heading No. 07031019 of the First Schedule to the Customs Tariff Act, 1975;
- ii. He has ordered that the said export goods viz., 367.200 Kgs. of Red Onion (Trimmed & Cut) valued at Rs. 60,848.55 are liable to assessment by charging export duty payable in terms of entries at Sl. No. 1 of Notification No. 48/2023-Cus, dated 19.08.2023. Consequently, he appropriated the export duty of Rs. 24,340/- already paid by the Appellant towards the said short levy vide Challan No. 1221, dated 28.08.2023, after vacating the protest lodged vide their letter dated 23.08.2023;
- iii. He has ordered for recovery of ineligible RODTEP duty credit amounting to Rs. 477.36 allowed in respect of item level 15 of the Shipping Bill No. 3381536, dated 22.08.2023 along with interest under Section 28 AA of the Customs Act, 1962 from the Appellant in terms of Notification No. 76/2021-Cus (NT), dated 23.09.2021, as amended;

3. Being aggrieved with the impugned order passed by the Adjudicating Authority, the Appellant have filed the present appeal. They have, inter-alia raised various contentions and filed detailed submissions as given below in support of their claims:

- That the Learned Deputy Commissioner of Customs is relying inter alia on Chapter Note 2 which reads as "In headings 0709, 0710, 0711 and 0712 the word "vegetables" includes edible mushrooms, truffles, olives, marrows, pumpkins, aborigines, sweet corn (*Zea mays* var. *saccharide*), fruits of the genus *Capsicum* or of the genus *Pimento*, fennel, parsley, chervil, tarragon, cress and sweet marjoram (*Majorana hortensis* or *Organum majorana*)." which is interpreted as does not include in headings 0709, 07.10, 0711 and 0712 any alliaceous vegetables i.e. vegetables that belong to the plant family which include onions, shallots, leeks and garlic;
- That the adjudicating authority has deliberately taken a very narrow reading and subsequent interpretation of this note;
- That the items listed in the Chapter note are NOT vegetables and the intention of the note is to give items that are not vegetables an inclusion in the said chapter;
- That the note uses the word "includes". This would mean that it will ALSO include the following. It does not mean that it will include ONLY items listed;

*Al*



- In addition, the adjudicating authority missed out on understanding that the items "includes' are NOT VEGETABLES but items other than vegetables;
- Any interpretation to limit this chapter note would be going against the intention of the note. The note is not restricting but permits inclusion of non-vegetables;
- There is also no additional note to say "only" "to exclusion of" etc;
- A reading of the headings is as below:

- 0703 onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled;
- 0709 other vegetables, fresh or chilled;
- 0710 Vegetables (uncooked or cooked by steaming or boiling in water), frozen;
- 0711 Vegetables provisionally preserved, but unsuitable in that state for immediate consumption;
- 0712 Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared;

- 0701 to 0709 all have a notation since it reads as "other vegetables" and by virtue of the note all the items listed in the note get included here;

**0710 clearly uses "frozen";**

- There is no ambiguity or dispute in the mind of the adjudicating authority that their items is frozen. The fact is accepted by Customs. They have no confusion on the same;

- A reading of heading 0703 uses FRESH or CHILLD;

- The adjudicating authority has very conveniently remained silent on Fresh or Chilled and also made no mention of the same;

- The FOB value of our export is @ Rs 166/- per kg. Normal price in the market of Onions as covered under 0703 during that period was @ Rs 40/- per kg. The FOB value plus export duty would have worked out to @ Rs 56/- as against our declared FOB of @ Rs 166/- per kg. The product is processed; frozen and needs continuous temperature-controlled conditions. The proposition of classifying our product under 0703 defies all logic;

Personal hearing in the matter was held on 30.04.2025. Shri Nirav Shah, International Mktg – Manager; Shri Samir Shah, Director @ JB Shah – JBS Group; Shri Pankil Khatri, Executive; Shri Dharmendra Jani, JB Shah – JBS Group, appeared for hearing on behalf of the Appellant. They had reiterated the submissions made at the time of filing of appeal.

5. I have carefully gone through the appeal memorandum as well as records of the case and the submissions made by the Appellant during the course of hearing.. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority rejecting the classification of "Red Onion (Trimmed & Cut)" described as "Frozen (IQF) Vegetables & Fruits Packed in Laminated Pouches" under CTH 07108090 appearing at Sl. No. 15 of the Shipping Bill No. 3381536, dated

*A.1/-*

22.08.2023 and re-classifying the same under CTH 07031019, in the facts and circumstances of the case, is legal and proper or otherwise.

5.1 Being aggrieved, the Appellant has filed the present appeal on 03.11.2023. In the Form C.A.-1, the date of communication of the Order-In-Original dated 08.09.2023 has been shown as 12.09.2023. Therefore, the appeal has been filed within normal period of 60 days, as stipulated under Section 128 (1) of the Customs Act, 1962. Further, the Appellant has paid the entire duty, thereby fulfilling the requirement of pre-deposit of filing the appeal as envisaged under the Section 129 E of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeal has been admitted and being taken up for disposal on merits.

6. It has been contended by the Appellant that the adjudicating authority has very conveniently remained silent on the words "Fresh or Chilled" mentioned in the description of CTH 0703 and also made no mention of the same. It is observed that the adjudicating authority has classified the goods entered for export at Sl. No. 15 of the Shipping Bill No. 3381536, dated 22.08.2023 under CTH 07031019. The relevant Tariff Heading are reproduced as under: -

0703		<i>Onions, Shallots, Garlic, Leeks and Other Alliaceous Vegetables, Fresh or Chilled</i>
070310	-	<i>Onions and shallots;</i>
	---	<i>Onions;</i>
0703 10 11	---	<i>Rose Onion</i>
0703 10 19	---	<i>Other</i>
0703 10 20	---	<i>Shallots</i>
0703 20 00	-	<i>Garlic</i>
0703 90 00	-	<i>Leeks and other alliaceous vegetables</i>



6.1 On perusal of the impugned order, it is observed that the adjudicating authority has overlooked the crucial aspect while reclassifying the goods under CTH 07031019 that the exported goods were, in fact, frozen. A plain reading of Tariff Heading 0703 reveals that it specifically pertains to "Onions, Shallots, Garlic, Leeks, and Other Alliaceous Vegetables" that are either fresh or chilled, whereas, the Tariff Heading 0710 explicitly covers "Vegetables (uncooked or cooked by steaming or boiling water), frozen." In view of the above distinction, it logically follows that frozen vegetables would fall under Tariff Heading 0710, rather than 0703.

*Ah*



6.2 It has been further contended that their product is processed; frozen and needs continuous temperature - controlled conditions. Hence, the proposition of classifying their product under 0703 defies all logic. In this regard, it is relevant to refer to the Tariff Headings 0710, as claimed by the Appellant, which is reproduced below for ease of reference:

0710		<i>Vegetables (uncooked or cooked by steaming or boiling in water), frozen</i>
0710 10 00	-	<i>Potatoes</i>
	-	<i>Leguminous vegetables, shelled or unshelled</i>
0710 21 00	--	<i>Peas (Pisum sativum)</i>
0710 22 00	--	<i>Beans (Vigna spp., Phaseolus spp.)</i>
0710 29 00	--	<i>Other</i>
0710 30 00	-	<i>Spinach, New Zealand spinach and orache spinach (garden spinach).</i>
0710 40 00	-	<i>Sweet Corn</i>
0710 80	-	<i>Other vegetables</i>
0710 80 10	---	<i>Terragon</i>
0710 80 90	---	<i>Other</i>
0710 90 00	-	<i>Mixtures of vegetables</i>

6.3 Further, for better understanding of the term "chilled" and "frozen", it is relevant to refer to the HSN General Explanatory Notes of Chapter 7, which is reproduced below for ease of reference:

"The term "chilled" means that the temperature of a product has been reduced, generally to around 0°C, without the product being frozen. However, some products, such as potatoes, may be considered to be chilled when their temperature has been reduced and maintained at + 10°C"

"The expression "frozen" means that the product has been cooled to below the product's freezing point until it is frozen throughout."

6.4 On plain reading of the above, it clearly emerges that the "Vegetables (Uncooked or Cooked) by Steaming or Boiling in Water, Frozen" would be covered under the Tariff heading 0710.

7. Now, the critical question which arises is whether "Onion" can be considered a "vegetable" within the meaning of the description of goods, specifically "Vegetables (uncooked or cooked by steaming or boiling in water), frozen," as defined

A.12

under Tariff Heading 0710. In this regard, it is pertinent to examine the definition of "Onion" as provided in various dictionaries, which is as under:-

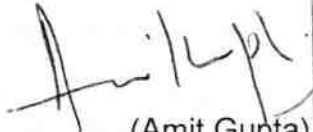
*"In Wikipedia - An onion (Allium cepa L., from Latin cepa meaning "onion"), also known as the bulb onion or common onion, is a vegetable that is the most widely cultivated species of the genus Allium. The shallot is a botanical variety of the onion which was classified as a separate species until 2011. The onion's close relatives include garlic, scallion, leek, and chives."*

*"In the New Oxford Dictionary of English, the word "onion" refers to a round vegetable with many layers inside, typically having a brown, red, or white skin. It's a vegetable with a strong smell and taste."*

7.1 On perusal of the definition of "Onion" in various dictionaries, it becomes unequivocally clear that an onion is, in fact, a vegetable. However, the adjudicating authority in the impugned order has taken a divergent view, reasoning that since onions are separately classified under a specific heading under 7301 10, they should not be categorized under the broader and residual heading of "vegetables." I find that the findings of the adjudicating authority is not proper and legally sustainable on this count inasmuch as the Tariff Heading 0703 specifically covers "Onions, Shallots, Garlic, Leeks and Other Alliaceous Vegetables, Fresh or Chilled". However, in the present case, the goods in question, i.e., "Red Onion (Trimmed & Cut)" exported by the Appellant, were frozen and this fact has not been disputed by the adjudicating authority. Further, I find that the Invoice No. 311/2023-24, dated 22.08.2023 explicitly describes the impugned goods as "FROZEN (IQF) VEGETABLES & FRUITS PACKED IN LAMINATED POUCHES." In view of the above facts, I am of the considered view that the exported goods, described as "Red Onion (Trimmed & Cut)" under the category of "Frozen (IQF) Vegetables & Fruits Packed in Laminated Pouches," is correctly classifiable under CTH 07108090 of the First Schedule to the Customs Tariff Act, 1975 inasmuch as this classification aligns with the product's characteristics and the applicable Tariff Heading.


8. In view of discussion made above, the impugned order is legally not sustainable and is liable to be set aside.

9. Accordingly, I set aside the impugned order and allow the appeal filed by the Appellant with consequential relief, if any, in accordance with law.

  
(Amit Gupta)  
Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-315/CUS/AHD/2023-24

Date: 08.05.2025

सत्यापित/ATTESTED  
  
अधीक्षक/SUPERINTENDENT  
सीमा शुल्क (अपील), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD.



By Registered post A.D

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To,  
M/s. Innovative Cuisine Private Limited,  
Block No. 512, Karjan – Vemardi Road,  
Opp. Cosmo Film,  
Village – Kandari,  
Taluka – Karjan,  
Vadodara – 391210

Shri Jasvant B. Shah  
Custom Broker  
Visharad Complex,  
B/h. Old High Court,  
Navrangpura,  
Ahmedabad – 380 009



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
3. The Deputy Commissioner, Customs, ICD – Sanand, Ahmedabad.
4. Guard File.



