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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS

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15 January 2025

CUSTOMS MEMORANDUM CIRCULAR

NO. 16 - 2025

TO : ASSISTANT COMMISSIONER
ALL DEPUTY COMMISSIONERS
ALL DIRECTORS AND DIVISION CHIEFS
ALL DISTRICT AND SUB-PORT COLLECTORS
ALL OTHERS CONCERNED

SUBJECT : TARIFF CLASSIFICATION DISPUTE RULING

This has reference to the herein attached Tariff Commission Circular Dispute Ruling (TCC DR) No. 24-010 issued on 07 January 2025 pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as Customs Modernization and Tariff Act, on the shipment of "Peach Flavour ING 0223NGL," from Singapore consigned to Actron Industries, Incorporated, (Import Entry/ Customs Reference No. C-238454-24, MICP), the dispositive portion of which states that:

"WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2024 MFN Rate	2024 ATIGA Rate*
Peach Flavour ING 0223NGL	3302.10.30	1% <i>ad valorem</i>	Zero

*Subject to submission of CO Form D, Electronic Certificate of Origin (e-Form D), or Origin Declaration by Approved Exporter

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt thereof.

For strict compliance.

BIENVENIDO Y. RUBIO
Commissioner



JAN 27 2025



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REPUBLIC OF THE PHILIPPINES
TARIFF COMMISSION

RE: REQUEST FOR TARIFF CLASSIFICATION
DISPUTE RULING ON "PEACH FLAVOUR ING
0223NGL", CONSIGNED TO ACTRON
INDUSTRIES, INCORPORATED

TCC (DR) NO. 24-010

(Import Entry/Customs Reference No. C-238454-
24, BOC-MICP)

Issued on: 07 January 2025

TARIFF CLASSIFICATION DISPUTE RULING

Before this Commission is a request for a Tariff Classification Dispute Ruling (TCDR), pursuant to Paragraph 2 of Section 1100 of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA), on the shipment of Peach Flavour ING 0223NGL, imported by Actron Industries, Incorporated (Importer/Consignee) from Singapore. The request of the Importer/Consignee for a TCDR was accepted by this Commission on 04 September 2024.

The shipment of said subject article, declared under ASEAN Harmonised Tariff Nomenclature (AHTN) 2022 subheading 3302.10.90, with an ASEAN Free Trade Area (AFTA) [or ASEAN Trade in Goods Agreement (ATIGA)] rate of duty of zero, was processed under Import Entry/Customs Reference No. C-238454-24 at the Bureau of Customs (BOC) - Manila International Container Port (MICP). The BOC contested the declared heading and reclassified subject article under AHTN 2022 subheading 2106.90.99, with a Most Favoured Nation (MFN) rate of duty of 7% *ad valorem*.

Hence, this request for a TCDR.

Pursuant to Section 7.3 of Commission Order No. 2018-01, this Commission requested the concerned BOC District Collector on 14 October 2024 for comments on the request for a TCDR on Peach Flavour ING 0223NGL. Section 7.4 of the said Commission Order states that within 10 working days from the receipt of the notice and the records of the case, the BOC may file a comment or submit any additional explanation or documents to justify its findings. However, to this date, the Commission has not received any response from the BOC, hence, it proceeded to evaluate the classification of subject article based on the submissions received from the Importer/Consignee.

In the evaluation of disputes on tariff classification, Section 8 of Commission Order No. 2018-01 provides that this Commission, if it deems necessary, shall conduct a hearing to clarify the facts necessary to resolve the pending disputes in tariff classification. In the present case, however, this Commission found that the submissions of the Importer/Consignee were sufficient to make a correct determination on the tariff classification of subject article. A hearing, therefore, is no longer necessary.

After due examination of the submitted Certificate of Product Registration (CPR) from the Food and Drug Administration (FDA), certificate of composition, safety data sheet, certification on the product's intended use/application, manufacturing process flowchart, photograph of the packaging, and Certificate of Origin (CO) Form D, it is established that subject article is a flavouring preparation in the form of a colorless to light-yellow liquid. It is composed of propylene glycol and synthetic aromatics (ethyl acetate, isoamyl acetate, delta dodecalactone, delta decalactone, gamma undecalactone, gamma decalactone, linalool, and acetaldehyde). Packed in 25-kg (net weight) high-density polyethylene (HDPE) containers, subject article is used as an ingredient in the manufacture of candies, ice cream, and confectionery products.

The Importer/Consignee declared subject article under heading 33.02 of the AHTN 2022, which covers *mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages, and specifically under subheading 3302.10.90. The said subheading covers the preparations*

described in the heading text, of a kind used in the food and drinks industries, other than those used in the manufacture of alcoholic beverages and other than those containing alcohol¹. That is to say, subheading 3302.10.90 only covers preparations containing alcohol.

On the other hand, the BOC classified subject article under heading 21.06 of the AHTN 2022 which covers *food preparations not elsewhere specified or included*, and specifically under the residual subheading for the heading, *i.e.*, subheading 2106.90.99, as it considered subject article as a food preparation other than the products identified in the preceding subheadings of heading 21.06.

The Commission agrees with the Importer/Consignee and the BOC that headings 33.02 and 21.06 merit consideration in classifying subject article since it is a preparation intended to be used as an ingredient in food products. However, as clearly indicated in the heading text, heading 21.06 should only be considered when classifying food preparations that are not covered by any other heading of the AHTN 2022.

To elaborate, the pertinent Harmonized System (HS) Explanatory Notes (EN) to heading 21.06 state that:

“Provided that they are not covered by any other heading of the Nomenclature, this heading covers :

- (A) *Preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk, etc.), for human consumption.*
- (B) *Preparations consisting wholly or partly of foodstuffs, used in the making of beverages or food preparations for human consumption. The heading includes preparations consisting of mixtures of chemicals (organic acids, calcium salts, etc.) with foodstuffs (flour, sugar, milk powder, etc.), for incorporation in food preparations either as ingredients or to improve some of their characteristics (appearance, keeping qualities, etc.) (see the General Explanatory Note to Chapter 38).*

XXX”

On the other hand, heading 33.02, the heading chosen by the Importer/Consignee in declaring the classification of subject article, falls under Chapter 33 of the AHTN 2022 which covers *essential oils and resinoids; perfumery, cosmetic or toilet preparations*. Note 2 to this Chapter states that:

“2.- The expression “odoriferous substances” in heading 33.02 refers only to the substances of heading 33.01, to odoriferous constituents isolated from those substances or to synthetic aromatics.”

Furthermore, the HS EN to heading 33.02 provides that:

“This heading covers the following mixtures provided they are of a kind used as raw materials in the perfumery, food or drink industries (e.g., in confectionery, food or drink flavourings) or in other industries (e.g., soap-making): [emphasis added]

XXX

- (6) ***Mixtures of one or more odoriferous substances (essential oils, resinoids, extracted oleoresins or synthetic aromatics) combined with added diluents or carriers such as vegetable oil, dextrose or starch. [emphasis added]***

XXX”

Based on the Commission’s evaluation, subject article is a flavouring preparation based on odoriferous substances (*i.e.*, synthetic aromatics), with added diluent or carrier (*i.e.*, propylene glycol), not containing alcohol (*i.e.*, with reference to the term “alcohol” within the meaning of the AHTN 2022 subheadings under heading 33.02), and used in the food industry (*i.e.*, as an ingredient in the manufacture of candies, ice cream, and confectionery products). Thus, it is appropriately covered under heading 33.02 of the AHTN 2022.

¹ Based on the discussion in the 14th Meeting of the ASEAN Technical Sub-Working Group on Classification (TSWGC) held on 23-28 July 2024 in Singapore, the term “alcohol”, as used in the AHTN 2022 subheadings under heading 33.02, refers to the low molecular weight alcohols (e.g., ethyl alcohol and isopropyl alcohol) used as an intoxicating agent in alcoholic beverages.

In view of the information received from the Importer/Consignee, and the clarifications provided by the afore-cited Chapter Note, HS EN, and the relevant discussions during the 14th Meeting of the ASEAN TSWG, subject article is properly classified under AHTN 2022 subheading 3302.10.30 by virtue of Rules 1 and 6 of the General Rules for the Interpretation (GRI) of the HS (Section 1610 of the CMTA).

WHEREFORE, premises considered, subject article is hereby classified as follows:

Product	AHTN 2022 Code	2024 MFN Rate	2024 ATIGA Rate*
Peach Flavour ING 0223NGL	3302.10.30	1% <i>ad valorem</i>	Zero

* Subject to submission of CO Form D, Electronic Certificate of Origin (e-Form D), or Origin Declaration by Approved Exporter

This is for compliance by the BOC pursuant to Section 1100 of the CMTA.

So Ordered.

FOR THE COMMISSION

 Digitally signed

MARILOU P. MENDOZA
Chairperson

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