NEUTRAL CITATION
2026:GUJHC:7035-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/TAX APPEAL NO. 598 of 2022
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2020
In R/TAX APPEAL NO. 598 of 2022

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STATE OF GUJARAT THROUGH THE COMMISSIONER OF COMMERCIAL TAX
Versus
M/S GUJARAT FLAVOURS PVT. LTD.

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Appearance:
MS TANUSHREE SHRIMAL, AGP for the Appellant(s) No. 1
MR UCHIT N SHETH(7336) for the Opponent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 28/01/2026
ORAL ORDER
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. The present appeal emanates from judgement and order dated 28.09.2018 passed by the Gujarat Value Added Tax Tribunal, Ahmedabad (for short "the Tribunal") in First Appeal No.16 of 2011.

2. The following substantial questions of law are proposed in the present appeal:

(i) Whether "Mint Orange 2022" can be termed as an aromatic chemical and compound product, strictly meant for industrial usage?

(ii) Whether "Mint Orange 2022" shall be levied tax as per the Residuary Entry 87 of Schedule 11 of the Gujarat Value Added Tax Act, 2003 or as one falling under the Serial

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list of Number 226 of the Industrial Input under Entry 42A of the Schedule II of the Gujarat Value Added Tax Act, 2003?

(iii) Whether the Tribunal has properly considered the determination on advance ruling?

3. Learned AGP Ms.Shrimal has submitted that the opponent had sought an advance ruling on the "Mint Orange 2022" and the Commissioner of Commercial Tax (Legal), Gujarat state, Ahmedabad on 24.08.2011, had ruled it as a Residuary Good and, therefore, falling under Schedule-II, Residuary Entry-87 of the Gujarat Value Added Tax Act, 2003 taxable at the rate of 12.5% tax and 2.5% additional tax from 01.04.2008 onwards. She has submitted that it was the claim of the opponent that the said product would fall under Entry 226 of Schedule-II Entry 42A as an industrial input and the product has to be termed as an "aromatic chemical and compound" and the product in question is nothing but the mixture of odoriferous substance of aromatic chemical and compound and is used for various industrial purposes like pharma, beverages, cosmetics, ice-cream etc., therefore, it was claimed that determination on advance ruling was improper and

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on basis of misinterpretation. Thus, it is urged that the substantial questions of law may be answered in favour of the Revenue.

4. Learned AGP has submitted that the order passed by the Tribunal is not in consonance with the objectives of law and the product is wrongly considered as falling under Sr. No.226 of list if Industrial input under Entry 42A of Schedule II of the Gujarat Value Added Tax Act, 2003. It is submitted that the contention raised by the appellant has not been considered in its true spirit and the interpretation is not applied accordingly. It is further submitted that Entry 42A of Schedule II specifies industrial inputs, which are notified by the Government in official Gazettee, Ultra Marine Blue or other products mentioned in the judgment of the Tribunal are notified by specific entry as industrial products however, the Tribunal has not mentioned any entry of the notification. She has submitted that Entry 42A of the Schedule II, as mentioned relates to aromatic chemicals and compound and the present product has been considered as chemical and therefore, the product in question will fall in the Entry 87. She has further submitted that the Tribunal ought to have considered the domestic use of the product in question. Thus, she has

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urged that the impugned judgement passed by the Tribunal may be quashed and set aside.

5. Per contra, learned advocate Mr.Sheth has submitted that the judgement and order passed by the Tribunal may not be interfered with in wake of the fact that the documentary evidence produced by the respondent-Company before the Tribunal more particularly, certificates are not doubted by the Revenue and hence, they are precisely placed reliance upon by the Tribunal and accordingly, held in favour of the respondent-Company.

6. We have heard the learned advocates appearing for the respective parties at length and also perused the documents, as pointed out by them.

7. The facts, which are established from the findings recorded by the Tribunal as well as the pleadings, are that the authority, while assailing the advance ruling against the respondent-Company, had placed reliance on the documentary evidence and the certificates, which are not doubted by the Revenue Department either before the Tribunal or before this Court. The only reason assigned before the Tribunal as well as before this Court by the appellant is that the

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Mint Orange 2022, is an "aromatic chemical and compound" to be used in the industrial purposes.

8. Controverting the aforesaid argument advanced by the appellant before the Tribunal and before this Court, the respondent-Company had produced the laboratory reports of ANA Laboratories dated 10.12.2008 and also the certificate dated 06.09.2011, wherein it is specifically declared that the "*Industrial Flavours are mainly custom made for specific industries like Confectionary, Soft drinks, Ice Cream etc. Generally Industrial Flavours are seldom used by housewives.*"

9. We may at this stage incorporate the findings recorded by the Tribunal, which are as under:

> *"8. Considering the above submissions, facts and circumstances of case, certificate issued by the competent institute, notification of different States, Chapter IV of Central Excise Tariff Act entry 3302 and ingredients of "Mint Orange 2022", it appears that there is no doubt and dispute than the product in question, namely, "Mint Orange 2022" is nothing but an industrial input which has sufficient space to be accommodated in entry 226 of aromatic chemical and compound of entry 42A of Schedule II of GVAT Act. Considering the submission of Mr.Sheth at length, we are of the view that in light of the decision of Hon'ble Supreme Court of India in the case of Mayuri Yeast India Pvt Ltd. V/s. State of U.P. and Another 14 VST 259 (S.C.), when specific entry is capable to accommodate the product in specific entry, then it cannot be classified in a residuary entry, therefore, the decision of Determination Authority has no legs to stand. We are of the view that while determining such product under*

the scheme of Act under Section 80 of GVAT Act, the Determination Authority at least should go through the ingredients and utility of the product before arriving at such decision that somewhere it is used by household utility, it cease to be an industrial input in nothing but the shallow and narrow approach of Determination Authority, therefore, it is held that "Mint Orange 2022" is having the ingredients of aromatic chemical and compound, therefore, it falls under entry 226 as aromatic chemical and compound in the list of industrial input-42A of Schedule II of GVAT Act, 2003."

10. Thus, in view of the documentary evidence, which were presented before the Tribunal and not doubted by the appellant, the Tribunal has categorically held that the ingredients of Mint Orange 2022 are nothing but an industrial input which has sufficient space to be accommodated in entry 226 of aromatic chemical and compound of entry 42A of Schedule II of Gujarat Value Added Tax Act, 2003.

11. The Tribunal has also placed reliance on the judgement of the Apex Court in the case of *Mayuri Yeast India Private Limited Vs. State of Uttar Pradesh and Anr.*, (2008) 5 S.C.C. 680. The Apex Court, while dealing with the classification of goods entry chemical, scope of yeast has held as under:

"34. It is now a well settled principle of law that in interpreting different entries, attempts shall be made to find out as to whether the same answers the description of the contents of the basic entry and

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only in the event it is not possible to do so, recourse to the residuary entry should be taken by way of last resort.

35. The interpretation of the entry which fell for consideration before the Kerala High Court ex facie speaks purely of organism and not of the man-made chemical. It does not speak of an organic chemical.

36. The entry in question, however, is of wide import. It takes within its purview chemicals of all kinds. It does not make any distinction between an inorganic chemical and an organic chemical. The dictionary meanings of the terms which have been noticed by Kerala High Court as also the Gujarat High Court may not be of much relevance in the aforementioned context, although they act as a good guide. Yeast may answer both chemical as also fungi…. … …

37. The meaning of the word of used in an item in a fiscal statute must be considered having regard to the intention of the maker thereof. The court shall, for the said purpose, put itself in the chair of the legislature. It would presume the legislation to be reasonable.

38. The Executive Act of issuing a notification is a legislative action. The authorities are supposed to know the meaning of the word used therein

39. Yeast, admittedly, has a chemical composition. It has a chemical formula. It was accepted to be a chemical by the assessing authority for a long time. It not only takes within its sweep as to what it would be, but what it can be or what it does.

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56. We, therefore, are of the opinion that if there is a conflict between two entries one leading to an opinion that it comes within the purview of the tariff entry and another the residuary entry, the former should be preferred."

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12. The Apex Court has held that if there is a conflict between two entries one leading to an opinion that it comes within the purview of the tariff entry and another the residuary entry, the former should be preferred.

13. In the instant case, Mint Orange 2022, cannot be classified as a residuary entry, since the same can be satisfactorily accommodated in Entry 226 of Aromatic Chemical and Compound of Entry 42A of Schedule – II of Gujarat Value Added Tax Act, 2003 looking at its composition as a mixture of odiferous substance of aromatic chemical and is used as industrial input in different products like pharma, beverages, cosmetics, ice-cream etc.

14. Thus, in view of the judgement of the Apex Court and since the appellant are not disputing the documentary evidence, we are not inclined to entertain the present appeal as no question of law much less the substantial question of law arise in the appeal.

15. In light of the foregoing observations, the present appeal stands dismissed.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(PRANAV TRIVEDI, J)

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