

SUMMARY OF APPEAL DECISION

APPEAL NO. TRK (K) 5-2008

FACTS

1. The Appellant is a private limited company incorporated on 5 May 2006. The Appellant imports health food product Mixed Millet Powder with American Ginseng from USA. The Appellant applied for a Customs Ruling under section 10B Customs Act 1967. The Director General of Customs decided in Customs Ruling dated 26 January 2008 that Food Preparation, Mixed Millet Powder with American Ginseng is classified under tariff code 2106.90 990 which is subject to import duty of 15%. The reason for the Customs Ruling is stated as follows: According to the label, the product is a daily energy drink. This product does not fulfill the requirement of a food supplement because there is no statement on the product label stating that it is for maintaining general health. As the product cannot be classified under any sub-head, therefore it is more suitable to be classified under the last sub-head which is 2106.90 990 for FOOD PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED; Other; Other; Other.

The decision is based on GIR 1 and GIR 6.

2. The Appellant was aggrieved with the decision of the Director General of Customs and filed a Notice of Appeal at the Customs Appeal Tribunal on 15 May 2008.

ISSUE

The ground of appeal is that the product should be classified under tariff code 2106.90 800 because the documents and label submitted by the Appellant for the Customs

Ruling were incorrect. According to the Appellant, the mistake was made by the exporter. As an example, the words use as food Supplement for General Health are not printed on the label. The Appellant submitted a new label for the product together with the Notice of Appeal.

(After the appeal was filed the parties negotiated for settlement as provided under section 141P Customs Act 1967. As a result of the negotiation for settlement, the Appellant withdrew the appeal)

DECISION

The appeal is dismissed.

10 June 2008