GST APPELLATE TRIBUNAL
STATE BENCH, RAJKOT

Appeal Nos. APL/179/RJK/2026 to APL/185/RJK/2026

(arising out of Order-in-Appeal No. RAJ-CGST-000-APP-380 to 386-2024 dated 26.12.2024 passed by the Commissioner (Appeals), CGST & Central Excise, Rajkot)

Commissioner of CGST & Central Excise, Rajkot … Appellant (Revenue)

versus

M/s. Babu Lime Pvt. Ltd. (GSTIN 24AAECB7873K1ZB) … Respondent

CORAM:

Hon'ble Pramod Kumar Rai, Member(Judicial)

Hon'ble Kishori Lal, Member (Technical)

Date of hearing: 07.10.2026

Date of pronouncement: 05.11.2026

Appearances:

Shri D. J. Kothari, Authorised Representative, for the Appellant (Revenue);

Shri M. H. Patil with Shri Viraj Reshamwala, Advocate(s), for the Respondent.

ORDER

1. These seven appeals have been filed by the Revenue under Section 112(3), read with Section 112(4), of the Central Goods and Services Tax Act, 2017 ("the CGST Act") and the corresponding provisions of the Gujarat Goods and Services Tax Act, 2017 ("the GGST Act"), pursuant to the authorisation issued by the Commissioner of CGST & Central Excise, Rajkot. They are directed against the common Order-in-Appeal No. RAJ-CGST-000-APP-380 to 386-2024 dated 26.12.2024 ("the impugned order"), by which the Commissioner (Appeals), CGST & Central Excise, Rajkot, set aside Order-in-Original No. 10/JC(PS)/GST/2024-25 dated 27.11.2024 ("the order-in-original") passed by the Joint Commissioner, CGST & Central Excise, Rajkot ("the adjudicating authority"). The appeals relate to the financial years 2017-18 to 2023-24, arise out of a single show cause notice and raise a common question of classification of a product called *chuna* (lime). They were heard together and are disposed of by this common order.

Facts

2. The respondent, M/s. Babu Lime Pvt. Ltd., manufactures and supplies *chuna* (lime) in two forms, a slurry and a paste, under the brand names "Babu", "Jay Sardar", "Raja Baba" and "Deluxe". The slurry is sold in small pouches of about 4 to 5 grams. The respondent does not itself manufacture slaked lime. It purchases slaked lime powder of about 90% purity from suppliers who obtain it by calcining limestone into quicklime and then hydrating the quicklime with water. It is not in dispute that the slaked lime so purchased is classifiable under tariff item 2522 20 00. On the facts recorded in the panchnama and in the statements of the respondent's Director, which are not in dispute, the two products are made as follows:

   (a) *Slurry*: slaked lime is mixed with precipitated calcium carbonate and water; the slurry is filtered, a small quantity of glycerin is added, and the product is checked in the laboratory before packing.

   (b) *Paste*: slaked lime is mixed with calcite powder (ground calcium carbonate) and water. No glycerin is used in the paste.

3. The respondent has been classifying *chuna* (lime), in both forms, under tariff item 2522 20 00 (slaked lime) and paying GST at the rate of 5%.

4. Following a search on 14.09.2021 and subsequent statements recorded under Section 70 of the CGST Act and the GGST Act, the Revenue issued a show cause notice dated 30.08.2023 ("the SCN") under Section 74(1) of the CGST Act to the respondent, proposing classification of the product in question under Chapter 21, demanding differential tax with interest and proposing imposition of penalty. Through the SCN, the Revenue sought to classify the product as a "food preparation not elsewhere specified or included" under tariff item 2106 90 99, which attracts GST at the rate of 18% under the relevant rate notifications. The SCN, in paragraphs 20 and 21, alleges that (i) by reason of Note 1 to Chapter 25, goods obtained by mixing slaked lime with water, precipitated calcium carbonate and glycerin cannot be termed as slaked lime of tariff item 2522 20 00; and (ii) since the goods are marketed as a food additive under an FSSAI licence, they are "food preparations not elsewhere specified", classifiable under tariff item 2106 90 99 by applying Rule 3(b) of the General Rules of Interpretation. The Revenue did draw a sample of the product at the time of the search, but did not get it tested by any laboratory. It is the stand of the Revenue that no testing is required as the respondent has admitted the fact of mixing slaked lime with water, precipitated calcium carbonate or calcite powder, and glycerin.

5. The rate of tax for the product in question is dependent on its classification. During the period in dispute, goods of tariff item 2522 20 00 attracted GST at 5% (2.5% CGST and 2.5% SGST, or 5% IGST) under Serial No. 131 of Schedule I to Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 and the corresponding notifications under

the GGST Act and the IGST Act, whereas goods of tariff item 2106 90 99 attracted GST at 18% (9% CGST and 9% SGST, or 18% IGST) under Serial No. 23 of Schedule III thereto. There is no dispute about the rate applicable to either tariff item. The only question is one of classification under the First Schedule to the Customs Tariff Act, 1975, as adopted for the purposes of GST by way of Explanations (iii) and (iv) to Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 and the corresponding notifications under the GGST Act and the IGST Act.

6. The respondent describes the precipitated calcium carbonate and the calcite powder as fillers, the glycerin as a soothing agent and the water as a diluent. The goods in question are used only in small quantities, for application on betel leaf (*pan*) and for mixing with *supari* (areca nut) and tobacco. The respondent's distributors stated during the investigation that the goods have no other use. The SCN records that the goods are marketed as a food additive under a licence issued under the Food Safety and Standards Act, 2006, and this fact is not disputed by the respondent.

7. The adjudicating authority confirmed the proposed classification under tariff item 2106 90 99 along with the consequential demand of differential tax under Section 74(1), with interest under Section 50(1), and imposed an equal penalty. It held, in substance, that the goods, being a mixture, stand excluded from Chapter 25 by Note 1; that the mixing rendered them particularly suitable for a specific use; and that, being a "food additive", they are a food preparation classifiable under heading 2106 by applying Rule 3(b) of the General Rules of Interpretation. It discarded the test reports produced by the respondent on the ground that the samples tested had not been drawn in conjunction with the Department.

8. On appeal, the Commissioner (Appeals) set aside the order-in-original and classified the goods under tariff item 2522 20 00. He held, in substance, that:

   (a) Under Note 1 to Chapter 25, only processing beyond that mentioned in the heading takes a product out of the Chapter, and heading 2522 mentions no process;

   (b) The purchased slaked lime is itself only about 90% pure, and yet is classified by the suppliers under tariff item 2522 20 00;

   (c) The Note to Chapter 25 shows that there is no bar to mixing minerals;

   (d) In *Commissioner of Customs & Central Excise v. 20 Microns Ltd.*, 2015 (324) E.L.T. 14 (S.C.), the Supreme Court held that, where the context so requires, the exclusion in the Chapter Note does not take a product out of Chapter 25;

   (e) The reports of L.D. College of Engineering, Ahmedabad (certificates dated 27.10.2021 and 07/10.10.2023), the Department of Chemistry, Saurashtra University, Rajkot (30.09.2023) and Analytical & Environmental Services,

Vadodara (17.10.2023) show that the goods remain slaked lime, whereas the Department did not get its own samples tested;

(f) Slaked lime is the active ingredient of both products, the other ingredients being fillers, a diluent and a soothing agent, and the decisions in *Panama Chemical Works*, 1992 (62) E.L.T. 241 (M.P.) and *Dabur India Ltd.*, 1994 (71) E.L.T. 1069 (Tri.) support classification by the active ingredient; and

(g) *Chuna*, which cannot be consumed by itself and is used only with pan, supari and tobacco, is not a "food preparation"; Supplementary Notes to Chapter 21 and CBEC Circular No. 205/39/96-CX dated 30.04.1996 support that view; and Rules 3(a), 3(b), 3(c) and 4 of the General Rules of Interpretation all point to heading 2522.

The demand, interest and penalty were accordingly set aside. Aggrieved, the Revenue is in appeal before us.

Submissions of the Revenue

9. The learned Authorised Representative for the Revenue supported the grounds of appeal and, after the hearing, filed a synopsis of submissions. The Revenue's case is that the goods, being admittedly obtained by mixing purchased slaked lime with calcium carbonate, glycerin and water, are excluded from Chapter 25 by Note 1 to that Chapter, and that they are food preparations of heading 2106. The submissions of the Revenue are summarised as follows:

(a) Under Rule 1 of GIR, classification is determined by the terms of the headings and the relative Section and Chapter Notes, which apply to GST by Explanations (iii) and (iv) to Notification No. 1/2017-Central Tax (Rate). Chapter Note 1 of Chapter 25 confines the headings of the Chapter to products in the crude state or subjected to the listed mechanical or physical processes, and excludes products roasted, calcined, obtained by mixing, or processed beyond that mentioned in the heading.

(b) The respondent admittedly mixes purchased slaked lime with water, precipitated calcium carbonate or calcite, and glycerin in fixed brand-wise proportions. "Obtained by mixing" is an independent exclusion, and the first appellate authority erred in holding that only processing beyond that mentioned in the heading is excluded. The anti-dusting proviso confirms the narrow scope of the Note. The 10% impurity in the purchased lime is not an admixture of goods of other Chapters, and the General Explanatory Note to Chapter 25 was misread.

(c) 20 Microns Ltd. (SC) does not help the respondent because the context there lay in the heading itself ("Kaolin and other kaolinic clays, whether or not calcined"), whereas heading 2522 has no words such as "whether or not mixed". The Revenue accepts that heading 2522 contemplates calcination and hydration. Reliance is also placed on 20 Microns Ltd. v. Commissioner, 2016 (335) E.L.T. 51 (Tri.-Chennai). Panama Chemical Works and Dabur India chose between two Chapters where no Note excluded the claimed heading.

(d) The goods are food preparations of heading 2106, covered by Supplementary Note 5(b) and (c) to Chapter 21 (an inclusive list), the HSN Explanatory Note to 21.06, and Note 1(b) to Chapter 38. The respondent holds an FSSAI licence for "food additives and their preparations", its Director stated that all its products are food additives, and the product is sold only for incorporation into pan, supari and tobacco. Reliance is placed on Ajinomoto India (P) Ltd., 2024 (4) TMI 46-CESTAT Chennai. The Revenue stands by 2106 90 99 and does not press 2106 90 70.

(e) Once Note 1 removes heading 2522 under General Rule 1, General Rules 2(b), 3 and 4 do not arise.

(f) The test reports relate to chemistry and not to the legal effect of mixing; they were obtained on samples chosen by the respondent; and they show that the product conforms to no grade of hydrated lime. Composition and process are admitted, and admitted facts need not be proved. Commercial parlance cannot override a Chapter Note, and the classification adopted by other manufacturers creates no estoppel. The decisions relied upon by the respondent are calcination and purity cases and do not concern lime deliberately mixed with goods of other Chapters.

Submissions of the Respondent

10. The learned Advocate for the respondent supported the impugned order and filed written submissions along with a compilation and a synopsis. The respondent's case is that the goods are made by simple physical mixing, without any chemical reaction and without any new product emerging, and that they remain slaked lime classifiable under tariff item 2522 20 00. The submissions of the respondent are summarised as follows:

(a) The respondent does not dispute that the General Rules, the Section and Chapter Notes and the Explanatory Notes govern classification. Under General Rule 1, the terms of the heading come first, and heading 2522 covers "slaked lime" by name, whereas heading 2106 is residuary. It cannot be the legislative intention to mention a product in a heading and then exclude it by a Chapter Note (Deepak Agro Solution Ltd., 2008 (227) E.L.T. 52 (S.C.); Ganesh International, 2004 (169) E.L.T. 284 (Tri.)).

(b) Note 1 begins with the words "except where their context otherwise requires". The Revenue itself accepts that quicklime and slaked lime, which are products of calcination and hydration, fall in heading 2522.

(c) The expert reports show that the goods are made by simple physical mixing, with no chemical reaction and without any new compound emerging, and that the product remains slaked lime. The major added ingredient is water, and adding water to lime is itself slaking. In the paste, the only other ingredient is calcite, itself a Chapter 25 mineral. The additives are fillers, a diluent and a soothing agent. The active ingredient governs classification (Panama Chemical Works; Dabur India Ltd.; Khandelwal Drug Agencies, 2017 (5) G.S.T.L. 242 (Raj.)).

(d) Heading 2106 is a residuary entry. A specific heading is to be preferred over a generic heading. By the principle of ejusdem generis, goods in 2106 90 99 must take colour from the other goods in the heading, such as those in Supplementary Notes 5 and 6. Chuna is not eaten as such and is only an ingredient used with pan, supari and tobacco. A food additive is, under Section 3 of the Food Safety and Standards Act, 2006, distinct from food. CBEC Circular No. 205/39/96-CX dated 30.04.1996 and the test reports support this.

(e) The Department drew a sample but did not get it tested and has produced no technical opinion. The burden of proof of classification is on the Department. Expert opinion and commercial parlance support the respondent, and the affidavits of suppliers, traders and users show that the goods are known as chuna and not as a food preparation.

(f) Without prejudice, Section 74 could not have been invoked because the respondent regularly filed its returns disclosing the classification and rate, and there was no suppression.

Analysis and Findings

11. We have carefully considered the record, the oral submissions advanced at the hearing, and the written submissions and synopses filed by both sides thereafter. No decision of a court or tribunal dealing with the classification of the goods in question has been brought to our notice.

12. The rate of GST on goods is notified under Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Notification No. 1/2017-Integrated Tax (Rate) of the same date, and the corresponding notification under the GGST Act. Each of these notifications contains the following Explanations, numbered (iii) and (iv):

> *(iii) "Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and Chapter as*

specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

13. The classification of the goods is, therefore, to be determined by the headings, sub-headings and tariff items of the First Schedule to the Customs Tariff Act, 1975, read with the General Rules and the Section and Chapter Notes. Rule 1 of the GIR reads:

> *1. The titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:*

14. The Customs Tariff is aligned with the Harmonized Commodity Description and Coding System ("HSN") of the World Customs Organization. The HSN Explanatory Notes, though not part of the statute, are a safe and authoritative guide to the interpretation of the Tariff where the Indian entry follows the HSN (*L.M.L. Ltd. v. Commissioner of Customs*, 2010 (258) E.L.T. 321 (S.C.); *Commissioner of Customs & Central Excise, Goa v. Phil Corporation Ltd.*, 2008 (223) E.L.T. 9 (S.C.); *Collector of Central Excise, Shillong v. Wood Craft Products Ltd.*, 1995 (77) E.L.T. 23 (S.C.)).

The competing entries

15. The competing entries, with the relevant Notes, are as follows. In Chapter 21 (Miscellaneous edible preparations):

Tariff item	Description of goods	Remarks
2106	**Food preparations not elsewhere specified or included**	
2106 10 00	- Protein concentrates and textured protein substances	
2106 90	**- Other:**	
	--- Soft drink concentrates:	
2106 90 11	---- Sharbat	
2106 90 19	---- Other	
2106 90 20	--- Pan masala	
2106 90 30	--- Betel nut product known as "Supari"	

Tariff item	Description of goods	Remarks
2106 90 40	--- Sugar-syrups containing added flavouring or colouring matter, not elsewhere specified or included; lactose syrup; glucose syrup and malto dextrine syrup	
2106 90 50	--- Compound preparations for making non-alcoholic beverages	
2106 90 60	--- Food flavouring material	
2106 90 70	--- Churna for pan	
2106 90 80	--- Custard powder	
	--- Other:	
2106 90 91	---- Diabetic foods	
2106 90 92	---- Sterilized or pasteurized millstone	
2106 90 99	**---- Other**	***Tariff item claimed by the Revenue (Appellant)***

Supplementary Notes 5 and 6 to Chapter 21 read:

> *5. Heading 2106 (except tariff items 2106 90 20 and 2106 90 30), inter alia, includes:*
>
> *(a) protein concentrates and textured protein substances;*
>
> *(b) preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption;*
>
> *(c) preparations consisting wholly or partly of foodstuffs, used in the making of beverages of food preparations for human consumption;*
>
> *(d) powders for table creams, jellies, ice-creams and similar preparations, whether or not sweetened;*
>
> *(e) flavouring powders for making beverages, whether or not sweetened;*
>
> *(f) preparations consisting of tea or coffee and milk powder, sugar and any other added ingredients;*
>
> *(g) preparations (for example, tablets) consisting of saccharin and foodstuff, such as lactose, used for sweetening purposes;*
>
> *(h) pre-cooked rice, cooked either fully or partially and their dehydrates; and*
>
> *(i) preparations for lemonades or other beverages, consisting, for example, of flavoured or coloured syrups, syrup flavoured with an added concentrated extract, syrup flavoured with fruit juices and concentrated fruit juice with added ingredients.*

6. Tariff item 2106 90 99 includes sweet meats commonly known as "Misthans" or "Mithai" or called by any other name. They also include products commonly known as "Namkeens", "mixtures", "Bhujia", "Chabena" or called by any other name. Such products remain classified in these sub-headings irrespective of the nature of their ingredients.

In Chapter 25 (Salt; sulphur; earths and stone; plastering materials, lime and cement):

Tariff item	Description of goods	Remarks
2522	**Quicklime, slaked lime and hydraulic lime, other than calcium oxide and hydroxide of heading 2825**	
2522 10 00	- Quicklime	
2522 20 00	**- Slaked lime**	***Tariff item claimed by the Respondent***
2522 30 00	- Hydraulic lime	

Note 1 to Chapter 25 reads:

1. Except where their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter cover only products which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallization), but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading.

The products of this Chapter may contain an added anti-dusting agent, provided that such addition does not render the product particularly suitable for specific use rather than for general use.

The relevant HSN Explanatory Notes

16. The HSN Explanatory Note to Chapter 25 reads, in so far as relevant:

As provided in Note 1, this Chapter covers, except where the context otherwise requires, mineral products only in the crude state or washed (including washing with chemical substances to eliminate impurities provided that the structure of the product itself is not changed), crushed, ground, powdered, levigated, sifted, screened or concentrated by flotation, magnetic separation or other mechanical or physical processes (not including crystallisation). The products of this Chapter may also be heated to remove moisture or impurities or for other purposes, provided that the heat treatment does not modify their chemical or crystalline structures. However, other heat treatments (e.g.,

roasting, fusion or calcination) are not allowed, unless specifically permitted by the heading text. …

The products of this Chapter may contain an added anti-dusting agent, provided that such addition does not render the product particularly suitable for specific use rather than for general use. Minerals which have been otherwise processed (e.g., purified by re-crystallisation, obtained by mixing minerals falling in the same or different headings of this Chapter, made up into articles by shaping, carving, etc.) generally fall in later Chapters (for example, Chapter 28 or 68).

In certain cases, however, the headings:

(1) Refer to goods which by their nature must have been subjected to a process not provided for by Note 1 to this Chapter. Examples include pure sodium chloride (heading 25.01), certain forms of refined sulphur (heading 25.03), chamotte earth (heading 25.08), plasters (heading 25.20), quicklime (heading 25.22) and hydraulic cements (heading 25.23).

(2) Specify conditions or processes which are admissible in those cases in addition to those allowed generally under Note 1 to this Chapter. …

17. The HSN Explanatory Note to heading 21.06 opens as follows:

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).

Whether Note 1 to Chapter 25 excludes the goods from heading 2522

18. The Revenue's appeal rests almost entirely on Note 1 to Chapter 25. The fact of mixing is admitted by both parties. The Revenue reads "obtained by mixing" as an independent exclusion. Even on the Revenue's reading, every limb of the exclusion (roasting, calcination, mixing and further processing) is subject to the opening words of the Note: "Except where their context or Note 4 to this Chapter otherwise requires". The Revenue rightly insists that the Note is part of the statute and must be given full effect. The same

is true of its opening words. The exclusion and the exception must be read together, and the exclusion operates only where the context of the heading does not otherwise require.

19. The effect of the opening words was considered by the Supreme Court in *Commissioner of Customs & Central Excise v. 20 Microns Ltd.*, 2015 (324) E.L.T. 14 (S.C.), in relation to calcined china clay. Contrasting the earlier Note 2 to Chapter 25, which had no words of exception, with the Note introduced in 1990, the Court held:

> *10. In the aforesaid Note, after mentioning the products, there is again an exclusion clause which excludes the products that have been roasted, calcined or obtained by mixing. Calcination was excluded there as well. However, when this Head Note is contrasted with Head Note 2 which was introduced in the year 1990, we find significant addition of words in the beginning of the said Note which are "except where the context otherwise requires". Therefore, the exclusion of calcination would not apply in respect of those products where the context otherwise includes calcination. ... Therefore, it follows from the above that the context here requires such a product to remain included under Chapter 25.05 even when it is calcined. ...*
>
> *13. From the aforesaid discussion, it becomes clear that merely because the product of assessee, i.e., China Clay is calcined, it would not put it out of Chapter Heading 25.05.*

20. The Revenue contends that in *20 Microns* case the context lay in the express words of the entry ("Kaolin and other kaolinic clays, whether or not calcined"), and that heading 2522 contains no words such as "whether or not mixed". We are unable to accept that the context contemplated by Note 1 can arise only from express words describing a process. Three considerations lead us to that conclusion.

    (a) First, the Revenue itself accepts, in its synopsis, that heading 2522 contemplates calcination and hydration, and that quicklime and slaked lime fall in that heading although calcination is one of the processes excluded by Note 1. Heading 2522 contains no words such as "whether or not calcined" or "whether or not hydrated". The context that keeps quicklime and slaked lime within the heading therefore arises from the nature of the goods named in the heading, and not from any express words of process.

    (b) Secondly, the HSN General Explanatory Note to Chapter 25, extracted in paragraph 16 above, expressly recognises that certain headings *"refer to goods which by their nature must have been subjected to a process not provided for by Note 1 to this Chapter"*, and names quicklime of heading 25.22 as an example. The HSN thus confirms that the context exception is engaged by the nature of the goods named, and that heading 25.22 is a case in point.

    (c) Thirdly, the decisions cited before us, namely *Bhadradri Minerals Pvt. Ltd.*, 2015 (324) E.L.T. 395 (Tri.-Bang.); *Jindal Stainless (Hisar) Ltd.*, 2020-TIOL-

1366-CESTAT-DEL; *P.K. Exim*, CESTAT Final Order No. A/12326/2021 dated 31.08.2021; and *Viraj Profiles Ltd. v. Commissioner of Customs (Preventive)*, (2024) 17 Centax 292 (Tri.-Bom.), against which the Revenue's appeals were dismissed by the Supreme Court in (2024) 17 Centax 293 (S.C.), consistently hold that lime remains in Chapter 25 notwithstanding Note 1. The Revenue is right that these were calcination and purity cases. But they confirm that the context of a heading in Chapter 25 displaces Note 1 in respect of processes inherent in the goods that the heading names.

21. The question then is what heading 2522, and tariff item 2522 20 00 in particular, contemplates. Slaked lime, the very article named in tariff item 2522 20 00, is produced by bringing quicklime and water together. If the bringing together of lime and water were by itself sufficient to attract the exclusion for products "obtained by mixing", slaked lime would stand excluded from the very heading that names it. Note 1 cannot be read to produce that result. The addition of further water to slaked lime, to bring it to the consistency of a slurry or a paste, and the addition of fillers without any chemical reaction, do not change the character of its active ingredient, i.e., slaked lime, which the heading itself contemplates.

22. It follows that the test is not whether any mixing has taken place, since in the case of slaked lime some mixing is inherent, but whether the goods, as obtained, remain the "slaked lime" named in the heading, or whether what has been added has produced a different article. That is how we understand the approach of the Supreme Court in *20 Microns* case, where the question was whether calcined kaolin remained the kaolin named in the entry. It is also the approach of the Supreme Court in *HPL Chemicals Ltd. v. Commissioner of Central Excise*, 2006 (197) E.L.T. 324 (S.C.), a case under Chapter 25 itself, in which denatured salt containing 53.6% sodium chloride, obtained as a residue of chemical processing, was held to fall under heading 25.01. The Court held that the essential character of the goods was derived from the sodium chloride.

23. The Revenue has not got the product tested. However, there is no dispute between the parties as to the constitution of the product: both sides agree on how it is manufactured and what its ingredients are. That the mixing is physical and that slaked lime is the active ingredient are admitted facts. Water is a major constituent and acts as a carrier and diluent. Calcite powder and precipitated calcium carbonate are added as fillers. Glycerin is added in a very small quantity for a soothing effect, because slaked lime, which is the active ingredient, is not an edible product per se. In small quantities, with the addition of these minor ingredients, it is used in pan or chewing tobacco as a food additive. Therefore, on the admitted facts on record, we find that the goods remain slaked lime, for the following reasons:

(a) The process is simple physical blending at ambient conditions, without heating, cooling or any chemical reaction, and no new compound emerges. This is recorded in the certificate dated 27.10.2021 of the Head of the Chemical Engineering Department, L.D. College of Engineering, Ahmedabad, and is not disputed by the Revenue, whose answer is that a chemical reaction is not required for Note 1 to apply (synopsis, para 19).

(b) Apart from water, the additions are calcium carbonate (calcite powder in the paste, which is primarily ground calcium carbonate, and precipitated calcium carbonate in the slurry) and, in the slurry alone, a small quantity of glycerin. The respondent describes the calcium carbonate as a filler and the glycerin as a soothing agent. The Revenue's synopsis itself records that description (para 7), and the Revenue has placed no material to show that either performs any other function.

(c) No new article with a distinct name, character or use emerges. The goods are made, sold, bought and used as *chuna*, that is, lime.

(d) The reports on record show that the goods do not conform to any grade of hydrated lime under IS 1540, which prescribes grades of lime for chemical industries (see *Viraj Profiles*, para 16). The Revenue reads this as showing that the goods are a diluted, formulated mixture. In our view, non-conformity with such grades only confirms that the goods are not purified calcium hydroxide; it does not show that they have ceased to be slaked lime of heading 2522. Purified calcium hydroxide falls in heading 2825 as a pure inorganic chemical, and is excluded from heading 2522 by the very terms of that heading.

(e) The relevant question is which constituent gives the goods the character for which they are made, sold and used. It should also be noted that the product in question is used for its active ingredient 'slaked lime' itself. People who use the product in the market, use it as *Chuna* (lime). On the Revenue's own case (synopsis, para 23, relying on para 10.1 of the impugned order), *chuna* is used in pan to release alkaloids from areca nut and to modify flavour, texture and mouthfeel. That is the function of lime. There is no material on record, and it is not the Revenue's case, that the calcium carbonate filler or the glycerin performs that function. In *HPL Chemicals*, the essential character of goods containing 53.6% sodium chloride was held to be that of salt. The essential character of the goods in the present case is that of slaked lime, notwithstanding that, by weight, the water and the filler together exceed it.

24. The anti-dusting proviso in the second paragraph of Note 1 does not, in our view, advance the Revenue's case. It is a permissive provision, allowing an anti-dusting agent to be added to any product of the Chapter subject to the stated condition. It does not

purport to enumerate exhaustively what a product may contain where the context of a heading otherwise requires, and it does not cut down the opening words of the first paragraph. Its condition, that the addition must not render the product particularly suitable for a specific use, attaches to the anti-dusting agent, and admittedly no anti-dusting agent is used here.

25. For these reasons, we hold that the goods are not excluded from heading 2522 by Note 1 to Chapter 25. They are slaked lime, classifiable under tariff item 2522 20 00, which names slaked lime at the eight-digit level.

Whether the goods can be called food preparations of heading 2106

26. Our answer to the first question is sufficient to dispose of these appeals, because heading 2106 covers only food preparations "not elsewhere specified or included". The Explanatory Note to heading 21.06 makes the same point at the outset: the heading covers the preparations described in it "provided that they are not covered by any other heading of the Nomenclature". Goods covered by heading 2522 are specified elsewhere, and cannot be consigned to heading 2106.

27. In *HPL Chemicals* (paras 32 & 33), the Supreme Court, after referring to *Bharat Forge and Press Industries (P) Ltd. v. Collector of Central Excise*, 1990 (1) SCC 532 and *Dunlop India Ltd. v. Union of India*, 1976 (2) SCC 241, held that where goods are covered by a specific heading, they cannot be classified under a heading framed for goods "not elsewhere specified or included" at all. The Court quoted with approval the following observation in *Dunlop India*:

> *When an article has, by all standards a reasonable claim to be classified under an enumerated item in the Tariff Schedule, it will be against the very principle of classification to deny it the parentage and consign it to an orphanage of the residuary clause.*

Heading 2106, like heading 38.23 in *HPL Chemicals*, is framed for goods "not elsewhere specified or included". It yields to any heading that covers the goods. Heading 2522 does.

28. Since the Revenue pressed heading 2106 at length, we also record our view that, independently of heading 2522, the goods are not shown to be "food preparations". Supplementary Note 5 to Chapter 21 is inclusive. The words "inter alia" widen the heading, but they do not dispense with its core requirement that the goods be a food preparation. The Revenue has specifically relied on clauses (b) and (c) of Supplementary Note 5, which we take in turn:

(a) Clause (b) covers preparations for use "either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption". *Chuna* is not consumed directly. Nor is it consumed after being subjected to processes such as cooking, dissolving or boiling in water, milk or

other liquids. It is applied in small quantities to betel leaf, or mixed with areca nut and tobacco. That is the use of an ingredient in the making of something else, and not the processing of the preparation itself for consumption. Thus, the goods in question are not covered by clause (b).

(b) Clause (c) covers preparations "consisting wholly or partly of foodstuffs, used in the making of beverages of food preparations for human consumption". The clause requires a foodstuff component and its use in the making of beverages. The constituents of the goods are slaked lime, calcium carbonate, water and, in the slurry, a small quantity of glycerin. In the show cause notice, the Revenue itself treated precipitated calcium carbonate and glycerin as chemicals of Chapters 28 and 29. None of its components is a foodstuff, nor is the product a preparation used in the beverage industry. The learned Authorised Representative for the Revenue contended that calcium carbonate is "dietary calcium" and glycerol a "caloric food ingredient", but the contention is unsupported by any technical evidence and is contrary to the report of Analytical & Environmental Services, Vadodara, which describes the goods as an inorganic substance without balanced nutrients. A small quantity of glycerin, added to the slurry as a soothing agent and absent altogether from the paste, cannot convert lime into a preparation of foodstuffs. In fact, clause (B) of the HSN Explanatory Note to heading 21.06, extracted in paragraph 17 above, gives an illustrative list of foodstuffs, such as flour, sugar and milk powder, for incorporation in food preparations. None of the components of the product in question bears any similarity to such foodstuffs. Thus, the goods in question are not covered by clause (c) either.

29. The structure of the Tariff points the same way. Pan masala and supari, which are preparations, have their own tariff items (2106 90 20 and 2106 90 30). Their other ingredients, when sold separately, are classified in their own Chapters: betel nuts in Chapter 8, katha in Chapter 14 and tobacco in Chapter 24. Supplementary Notes 1 and 2 to Chapter 21 name lime as one such ingredient. That lime becomes an ingredient of a preparation of heading 2106 does not make lime itself a preparation of heading 2106.

30. Supplementary Note 6, which concerns tariff item 2106 90 99 specifically, lists sweetmeats, namkeens, mixtures, bhujia and chabena, all of which are ready-to-eat articles of food. We are conscious that the inclusive list does not exhaust the residuary item, and that the rule of *ejusdem generis* must be applied with caution and not pushed too far (*Siddeshwari Cotton Mills (P) Ltd. v. Union of India*, 1989 (39) E.L.T. 498 (S.C.)). We do not hold that tariff item 2106 90 99 is confined to the articles listed. But the heading, the Supplementary Notes and the Explanatory Note all describe articles

that are themselves food, consumed as such or after preparation, or preparations of foodstuffs. *Chuna* bears no resemblance to that class.

31. The show cause notice rested the classification under heading 2106 essentially on the respondent's FSSAI licence and its description of the goods as a "food additive". A licence issued under a regulatory statute enacted for a different purpose does not determine classification under the Customs Tariff, and definitions in such a statute cannot be mechanically imported into it. But the point cuts against the Revenue, whose case under heading 2106 rests on the licence. Since both sides referred to the definitions in Section 3(1) of the Food Safety and Standards Act, 2006, we extract them:

> *(j) "Food" means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (zk), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances:*
>
> *Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;*
>
> *(k) "food additive" means any substance not normally consumed as a food by itself or used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food but does not include "contaminants" or substances added to food for maintaining or improving nutritional qualities;*

32. Thus, under that Act, "food" is any substance, whether processed, partially processed or unprocessed, which is intended for human consumption. The regulatory category on which the Revenue relies, "food additive", is defined as a substance "not normally consumed as a food by itself or used as a typical ingredient of the food". That description, far from showing that the goods are a food preparation, is consistent with the respondent's case. Even under that Act, therefore, the products in question are a food additive and not food itself, and a food additive cannot be equated with food. The respondent's obligation to obtain a licence, and to have its products tested under FSSAI

requirements, reflects regulatory compliance. The FSSAI licence does not support classification under heading 2106.

33. Note 1(b) to Chapter 38, relied upon by the Revenue, provides that Chapter 38 does not cover "mixtures of chemicals with foodstuffs or other substances with nutritive value, of a kind used in the preparation of human foodstuffs (generally, heading 2106)". This is an exclusionary Note for Chapter 38. It does not by itself bring the goods in question into heading 2106, and its premise, a mixture of chemicals with foodstuffs or with substances of nutritive value, has not been established for the reasons given in paragraph 28(b) above. Neither party contends that the goods fall in Chapter 38. In view of this conclusion, it is unnecessary to decide the respondent's objection that this contention travels beyond the show cause notice.

34. The Revenue also contends that the goods are "preparations" because they are made by deliberately combining several ingredients to a brand recipe, and are filtered, laboratory-checked and packed. That the goods are prepared by a process is not in doubt. But heading 2106 does not cover every article that is prepared; it covers food preparations, and that question has been answered above.

35. We therefore hold that the goods are not covered under heading 2106 or under tariff item 2106 90 99.

Application of the General Rules of Interpretation: Rules 2(b), 3 and 4

36. The Revenue contends that, once Note 1 removes heading 2522, Rules 2(b), 3 and 4 should not be looked into. The premise of that contention fails in view of our finding in paragraphs 18 to 25 above on the applicability of Note 1 to Chapter 25. We note, however, that the show cause notice (para 21) and the order-in-original themselves classified the goods under heading 2106 "by applying Rule 3(b)". Rule 3(b) applies only to goods which are, prima facie, classifiable under two or more headings, and it classifies them by the material or component that gives them their essential character. For completeness, and because Rule 3(b) is the route taken in the show cause notice, we examine the Rules relied upon by both sides. Rules 2(b), 3 and 4 read:

> *2. (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.*
>
> *3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:*

> *(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.*
>
> *(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.*
>
> *(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.*
>
> *4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.*

37. Rule 2(b) extends a reference in a heading to a material or substance to mixtures or combinations of that material or substance with other materials or substances, and directs that goods consisting of more than one material or substance be classified according to Rule 3. By Rule 2(b), the goods are prima facie classifiable under heading 2522 by reference to slaked lime; they may also be said to be prima facie classifiable by reference to calcium carbonate. Heading 2106 is not engaged by Rule 2(b) at all, since it does not refer to any material or substance of which the goods consist.

38. Under Rule 3(a), the heading which provides the most specific description is to be preferred. Heading 2522, which names slaked lime, is plainly more specific than heading 2106, which covers food preparations not elsewhere specified or included. The Supreme Court applied Rule 3(a) in the same way in *HPL Chemicals* (para 32) to prefer heading 25.01 over a residuary heading. To the extent that headings referring to slaked lime and to calcium carbonate each refer to only part of the materials in the goods, and are therefore to be regarded as equally specific under the second sentence of Rule 3(a), the matter passes to Rule 3(b).

39. Under Rule 3(b), mixtures are to be classified as if they consisted of the material or component which gives them their essential character. For the reasons given in paragraph 23(e) above, that material is slaked lime. The route adopted in the show cause notice therefore does not lead to heading 2106, which does not describe any component of the goods, but to heading 2522.

40. Rule 3(c), which directs classification under the heading occurring last in numerical order among those which equally merit consideration, and Rule 4, which applies to goods that cannot be classified under the preceding Rules, are rules of last resort. They do not arise where, as here, classification is determined by the preceding Rules. We only observe that, if Rule 3(c) were reached, the goods would, even from that perspective, fall under heading 2522, since, as between headings 2106 and 2522, heading 2522 occurs last in numerical order. Similarly, if Rule 4 were reached, the goods are most akin to lime, which is classified in heading 2522.

41. The Revenue contends that the test reports concern only the chemistry of the goods, that a laboratory's "categorisation" is not tariff classification, that the samples were chosen by the respondent, and that, composition and process being admitted, classification is a pure question of law on which any burden on the Revenue is discharged by the admissions. We agree that classification on admitted facts is a question of law, and that a laboratory's description of goods as "slaked lime" is not a tariff classification. We have not rested our conclusion on the quantitative findings in the reports, or on the labels the laboratories attached to the goods. The reports are relevant only so far as they confirm, consistently with the admitted process, that the blending is physical and involves no chemical reaction, a matter the Revenue does not dispute. The Revenue has also argued that commercial parlance cannot override the scope of a heading as defined by a Chapter Note. Our conclusion rests on the statutory text (the headings, Note 1 read as a whole, and the Supplementary Notes to Chapter 21), read with the HSN Explanatory Notes, and not on commercial parlance per se.

42. Therefore, we hold that the product in question is correctly classifiable under tariff item 2522 20 00 (slaked lime). Since the question of classification has been decided in favour of the respondent, the demand of differential tax, interest and penalty does not survive, and it is unnecessary to examine the respondent's alternative contention that the extended period under Section 74 could not have been invoked.

Conclusion and Order

43. For the reasons given above, we hold that the goods manufactured and supplied by the respondent under the brand names “Babu”, “Jay Sardar”, “Raja Baba” and “Deluxe”, namely *chuna* in slurry and paste form, are correctly classifiable under tariff item 2522 20 00 (slaked lime), attracting GST at 5% under Serial No. 131 of Schedule I to Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 and the corresponding notifications under the GGST Act and the IGST Act.

44. Accordingly, the appeals filed by the Revenue (Appeal Nos. APL/179/RJK/2026 to APL/185/RJK/2026) are dismissed, and the impugned order is upheld.

Order pronounced in open court on 05 November 2026.

Kishori Lal
Digitally signed by Kishori Lal
Date: 2026.11.06 16:23:41 +05'30'

(Sh Kishori Lal)
Technical Member

Pramod Kumar Rai
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(Sh Pramod Kumar Rai)
Judicial Member

Place: Rajkot
Date: 05 November 2026