Assistant Commissioner of Central Tax, Howrah CGST & CX Commissionerate (Appellant, Revenue). The listing gives 'Assistant Commissioner, CGST & CX, Howrah, Kolkata South Commissionerate'; the order itself reads as stated here.

Appellate Authority for Advance Ruling — West Bengal

Appeal Case No. 08/WBAAAR/Appeal/2018 dated 05.11.2018; order Dated **05.11.2018**

Q Questions Before the Authority

- Under which heading of the GST Tariff (aligned to the First Schedule to the Customs Tariff Act, 1975) are Polypropylene Leno Bags manufactured by M/s RLJ Woven Sacks Pvt. Ltd. to be classified?

F Facts

M/s RLJ Woven Sacks Pvt. Ltd. (GSTIN 19AABCJ8866B1ZD) manufactures Polypropylene Leno Bags from polypropylene, linear low density polyethylene and colour master batch. The raw material is extruded into film, slit into strips, and woven into bags or sacks. The respondent sought an advance ruling on the classification of these bags, and the Advance Ruling Authority had placed them under Tariff Sub-Heading 6305 33 00 (Chapter 63). The respondent had reportedly classified the same goods under Chapter 39 for about nine years before seeking the ruling.

H Ruling

Classification of PP Leno Bags (Polypropylene Leno Bags, whether or not laminated with BOPP)	**Heading 392390 (Chapter 39, plastic bags), not 6305 33 00**	Modifies AAR 19/WBAAR/2018-19 dated 28.09.2018. Para 7 of CBIC Circular 80/54/2018-GST dated 31.08.2018 is cited as supporting plastic-bag treatment at 18% GST. The order's text also refers to 39232990 at para 8; the final ruling reads 392390 as printed.

The Appellate Authority held that Polypropylene Leno Bags are classifiable under **Heading 392390** , a Chapter 39 plastics heading, and not under 6305 33 00. It modified Advance Ruling No. 19/WBAAR/2018-19 dated 28.09.2018 accordingly and disposed of the appeal. The Authority also held that the respondent could not change the classification it had followed for nine years.

R Reasoning

The Authority read Note 1(g) and Note 1(h) to Section XI of the Customs Tariff Act. It held that the bags are made of plastic strips, not of textile material, so they fall outside Chapter 63 heading 6305 33 00 and within Chapter 39. It relied on the HSN explanatory notes to heading 39.23 and the Chapter 39 note defining plastics, as applied in CBIC Circular 80/54/2018-GST, which treats PP woven bags as plastic bags under HS 3923. It also gave weight

to a Division Bench order dated 25.10.2018 in Mega Flex Plastics (Appeal No. 06/WBAAAR/2018), which classified similar bags under Chapter 39. On estoppel, it applied the Supreme Court's reasoning in P.R. Deshpande v. Maruti Balram Haibatti (AIR 1998 SC 2979) to hold that the respondent could not switch classification to obtain a lower rate after nine years under Chapter 39.

P Provisions Relied On

- Section 100(1) of the WBGST Act, 2017 / CGST Act, 2017 (appeal provision)
- Section XI, Notes 1(g) and 1(h), Customs Tariff Act, 1975 (First Schedule), as applied to GST Tariff
- Chapter 39, Note 2(p) of the GST Tariff
- Chapter 39 chapter note defining 'plastics'; HSN explanatory notes to heading 39.23
- CBIC Circular 80/54/2018-GST dated 31.08.2018, para 7
- Tariff headings 6305 33 00 and 3923 29 90 / 39232990 as quoted in the order
- Doctrine of estoppel (P.R. Deshpande v. Maruti Balram Haibatti, AIR 1998 SC 2979; Sri Babu Ram v. Sri Indra Pal Singh, AI…
- Gujarat Raffia Industries Ltd v. CCE (CESTAT Delhi, 14.01.2003), on plastic strips

! For the Practitioner

This order is useful for a practitioner dealing with PP woven or leno bags who wishes to argue for a Chapter 63 classification or a lower rate. The Authority rejected that argument on the Section XI notes, the plastics definition and the estoppel reasoning. It does not decide whether the bags are textile articles for other purposes, and it does not address the Bureau of Indian Standards or Textile Commissioner references the respondent relied on, which the Authority held were not relevant to the Section and Chapter Notes. The order is an Appellate Authority ruling and is binding only on the parties before it.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> wbaaar_appeal_no.08_2018_dt._31.01.19.pdf

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