Assistant Commissioner of Central Tax, Sankrail Division, Howrah CGST & CX Commissionerate (Appellant), against M/s Mega Flex Plastics Ltd. (Respondent)

Authority for Advance Ruling — West Bengal

Appeal Case No. 06/WBAAAR/Appeal/2018 dated 08.08.2018; Date of Or… Dated **25.10.2018**

Q Questions Before the Authority

- What is the correct classification under the GST Tariff (aligned to the First Schedule of the Customs Tariff Act, 1975) of Polypropylene Leno Bags (PP Leno Bags) manufactured by the Respondent by weaving polypropylene strips (tapes)?

F Facts

The Respondent, M/s Mega Flex Plastics Ltd. of Howrah, manufactures PP Leno Bags by weaving polypropylene strips (tapes). It had earlier declared the product under Tariff Heading 3923 29 90 and claimed duty drawback, and a DGFT advance licence (dated 23.06.2017) also classified the product under ITC(HS) 39232990. The Respondent later sought an advance ruling that the product falls under Tariff Heading 6305 33 00, and the West Bengal Authority for Advance Ruling so ruled by Advance Ruling No. 09/WBAAR/2018-19 dated 06.07.2018. The Department appealed.

H Ruling

Classification of PP Leno Bags woven from polypropylene strips (tapes)	**Tariff Heading 3923 29 90**	Sets aside the advance ruling No. 09/WBAAR/2018-19 dated 06.07.2018, which had held 6305 33 00. The order contains no separate RULING section with Q1/Ans numbering; this row is taken from paragraph 12.

The Appellate Authority set aside the advance ruling dated 06.07.2018. It ordered that PP Leno Bags manufactured by the Respondent be classified under **Tariff Heading 3923 29 90** . The appeal was allowed and disposed of accordingly.

R Reasoning

The Authority relied mainly on the Respondent's own voluntary declaration of the product under heading 3923 29 90 and its claim of duty drawback, holding that no cogent reason had been given for changing the heading, and applied the doctrine of equitable estoppel. It followed the Madhya Pradesh High Court in Raj Pack Well Ltd. v. Union of India, which held that woven plastic-strip sacks are goods of plastic under Chapter 39. It also noted that the Respondent's test reports were not accepted as supporting evidence because they restricted reproduction or use in litigation. The Authority reproduced Notes 1(g) and 1(h) to Section XI, but its decision does not rest on a detailed textual analysis of those notes.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

- Section 100(1) of the West Bengal GST Act, 2017 / CGST Act, 2017 (appeal to the Appellate Authority)
- Section XI, Notes 1(g) and 1(h), Customs Tariff Act, 1975 (First Schedule), as reproduced in the order
- Chapter 39, Note 2(p) of the GST Tariff (cited in the Respondent's submission)
- Tariff Headings 3923 29 90 and 6305 33 00
- Raj Pack Well Ltd. v. Union of India, 1993 (41) ECC 285 (MP HC), relied on
- Rajasthan State Industrial Development and Investment Corporation v. Diamond and Gem Development Corporation, AIR 20…
- IS 16187:2014 (BIS), cited in the Respondent's submission and not adopted in the decision

! For the Practitioner

A practitioner can cite this order where a taxpayer has previously declared a product under one heading and claimed benefits such as duty drawback, and then seeks a different heading, since the Authority applied estoppel to bar the change. It supports the view that woven plastic-strip bags remain in Chapter 39 rather than the textile chapters. It does not settle the Section XI Note 1(h) interpretation in a reasoned way, and it does not decide the position for taxpayers without a prior declaration. It is an appellate order, and the Respondent could still challenge it in a higher forum.

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-06-2018-dt_25-10-2018.pdf

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