East Hooghly Agro Plantation Pvt Ltd

Authority for Advance Ruling — West Bengal

19/WBAAR/2019-20 Dated **26.08.2019**

Q Questions Before the Authority

- Whether 'HDPE Woven Tarpaulin' is classifiable as textile under Section XI of the First Schedule of the Customs Tariff Act, 1975.
- If so, whether it is classifiable under HSN 6306, 6301 or 5903 of the Tariff Act.

F Facts

The applicant manufactures tarpaulins from HDPE woven fabric. It makes HDPE tapes from granules, weaves them on power looms into fabric, laminates or covers both sides with LDPE, and then hems, stitches and eyelets the result. The applicant contends that this product is a textile article and not a plastic tarpaulin.

H Ruling

Whether HDPE woven fabric coated or covered with LDPE/LLDPE is textile material classifiable under heading 5903	**No. It is not textile material classifiable under heading 5903**	The Authority relied on the naked-eye visibility of the LDPE coating on both sides, comparing the applicant's Exhibit 2 (uncoated fabric) with Exhibit 3 (coated fabric).
Whether the tarpaulin is classifiable under heading 6306	**No. It is not tarpaulin made from textile material and is not classifiable under HSN 6306**	The Authority noted that a prior ruling on HDPE woven tarpaulin had already held the same, and that the Appellate Authority had confirmed it.
Whether the tarpaulin is classifiable under heading 6301 as a made-up textile article	**Does not arise**	This follows from the finding that the fabric is not textile material. The order does not give a separate answer on 6301.

The Authority held that the HDPE fabric coated or covered with LDPE or LLDPE melt is **not textile material** and so is not classifiable under heading 5903. Tarpaulin made from such fabric is **not classifiable under heading 6306** . Because the fabric is not textile, the question of classification under heading 6301 does not arise.

R Reasoning

The Authority held that the rate notifications must be read with the Tariff Act's section and chapter notes. It applied Note 1(h) to Section XI and Note 2 to Chapter 59, which exclude woven fabrics completely embedded in or coated or covered on both sides with plastics where the coating is visible to the naked eye. It relied on IS 7903:2017, which requires LDPE or LLDPE lamination on both sides, and on the visible surface change between the two samples. It treated the tarpaulin as an article of plastics in its observations, referring to tariff item 3926 90

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

99, but that point is not part of the operative ruling. The order also records that the same question had been decided for another applicant and that the decision was confirmed on appeal.

P Provisions Relied On

- Section 97(2)(a) of the CGST/WBGST Act, 2017 (admissibility)
- First proviso to Section 98(2) of the GST Act (objection to admission)
- Section 103(1)(a) of the GST Act (binding effect of ruling)
- Section 104(1) of the GST Act (ruling void)
- Section 100 and Section 99 of the GST Act (appeal and Appellate Authority)
- Notification No. 1/2017-CT (Rate) dated 28/06/2017 and Notification No. 1125-FT dated 28/06/2017 (rate notifications)
- Customs Tariff Act, 1975: Section XI, Notes 1(g) and 1(h)
- Customs Tariff Act, 1975: Chapter 39, Note 2(p)
- Customs Tariff Act, 1975: Chapter 59, Note 2
- Customs Tariff headings 5903, 6301, 6306 and tariff item 3926 90 99
- Explanatory Notes to Chapter 39 of the Harmonised System of Nomenclature
- IS 7903:2017 (specification for HDPE woven fabric tarpaulins), as cited by the applicant and the Authority

! For the Practitioner

A practitioner dealing with laminated or coated HDPE woven tarpaulins can use this order to support treating such goods as plastic articles rather than textile articles under heading 6306. The ruling is binding only on this applicant under Section 103, but the order also records a prior ruling on the same product that was upheld on appeal. It does not decide the classification of uncoated HDPE woven fabric, or the rate applicable to the goods, since the rate question is not addressed in the operative ruling.

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 -> wb_aar_19_2019_ehappl_26.08.2019.pdf

Prepared 07-11-2026.

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