M/s. Innovative Clad Solutions (ICS)

Authority for Advance Ruling — Madhya Pradesh

Order No. 03/2020, dated 16.01.2020 (Case No. 21/2019). The listing refer… Dated **16.01.2020**

Q Questions Before the Authority

- Whether Re Rolled Bimetal Strip 108 SP is covered under HSN 81110010.

F Facts

The applicant is a SEZ unit at Pithampur that manufactures clad and re-rolled bimetal strips, including Re Rolled Bimetal Strip 108 SP, in small quantities to customer requirements. The product's stated composition is manganese 36%, iron 32%, nickel 23% and copper 9%. The applicant says it has cleared the product since starting production under HSN 81110010 on bills of entry, paying the applicable duty, and that the customs department assessed those bills under that heading.

H Ruling

The Authority rejected the application under Section 98(2) of the CGST Act. It held that the question was already decided in the applicant's case, because the department had assessed the bills of entry under HSN 81110010 and IGST had been paid under that heading. The Authority did not decide whether the product falls under HSN 81110010 on the merits.

R Reasoning

The Authority read the proviso to Section 98(2), which bars admission where the question raised is already pending or decided in any proceedings in the case of the applicant under any provision of the Act. It treated the customs assessment of the applicant's bills of entry under HSN 81110010, together with the IGST paid under that heading, as a decision of the question. It also noted under Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 that tariff item, sub-heading, heading and chapter take their meaning from the Customs Tariff Act, 1975. The order does not analyse whether a customs assessment is a proceeding under the GST Act, and it does not examine the applicant's manganese-predominance argument under the Chapter 72 notes.

P Provisions Relied On

Section 98(2) of the CGST Act, 2017 (and the corresponding MPGST provision), including the proviso

Section 98(4) of the CGST Act, 2017 (cited as the basis of the proceedings)

Section 103(2) and Section 104(1) of the GST Act (cited in the ruling as to validity)

Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (definitions of tariff item, sub-heading, heading and chapter)

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

Customs Tariff Act, 1975, Chapters 72 and 81 (referred to in the applicant's submissions, not as the Authority's own finding)

! For the Practitioner

A practitioner would cite this order where an applicant's classification has already been accepted in customs or GST assessments, since the Authority may refuse admission under the Section 98(2) proviso on that basis. The order does not settle whether Re Rolled Bimetal Strip 108 SP belongs under HSN 81110010 and gives no guidance on the Chapter 72 footnote argument. It also does not explain why a customs assessment counts as a proceeding under the GST Act, so the reasoning is open to challenge on that point.

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 -> mp_aar_03_2020_16.01.2020_ics.pdf

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