NAGRANI WAREHOUSEING PRIVATE LIMITED

Authority for Advance Ruling — Madhya Pradesh

Order No. 21/2018 dated 14.12.2018 (Case Number 22/2018), Authority fo… Dated **14.12.2018**

Q Questions Before the Authority

- Determination of classification of sacks and bags made from man made textile materials under GST tariff No. 6305, which falls under Serial No. 224 of Notification No. FA3-33-2017-1-V (42) dated 29.06.17 (question as originally filed).
- Determining the classification of P.P. Bags made from strips having width of less than 5mm, i.e. whether the PP bags would classify under chapter heading 63 or chapter 39 of the GST Tariff, and what shall be the rate of GST on the same (question as amended at the personal hearing).

F Facts

The applicant manufactures PP strips of width less than 5 mm, which it uses to knit woven fabric, and that fabric is in turn used to make PP bags and sacks. The applicant states that the goods are registered as textile articles with the Textile Ministry and contends that the bags fall under Chapter 63 at 5% GST (2.5% CGST and 2.5% SGST). The Department's view, forwarded by the CGST and Central Excise Commissionerate, Indore, was that the matter is squarely covered by the Madhya Pradesh High Court's decision in Raj Packwell Ltd.

H Ruling

Classification of PP woven bags and sacks made from polypropylene strips of width less than 5 mm (Chapter 63 or Chapter 39)	****Chapter 39 of the GST Tariff, as articles of plastic; not Chapter 63****	The order does not specify a tariff sub-heading. It also does not state a GST percentage. The rate is the one prevailing at the date and time of supply, and the ruling is valid under section 103(2) until declared void under section 104(1).
Rate of GST applicable to the same goods	**The appropriate rate prevailing at the date and time of supply**	No percentage is stated. The applicant's claimed 5% rate is not accepted by the order.

The Authority held that PP woven bags and sacks are classifiable under **Chapter 39 of the GST Tariff as articles of plastic** and not under Chapter 63. The goods would attract the appropriate rate prevailing at the date and time of supply, and the order does not state a percentage rate. The ruling is valid under section 103(2) until declared void under section 104(1).

R Reasoning

The Authority relied on the Madhya Pradesh High Court in Raj Packwell Ltd. v. Union of India (1990 (50) ELT 201 MP), which held that HDPE and similar woven sacks are articles of plastic under Chapter 39 because the strips are made from plastic granules. It also followed the CEGAT decision in Gujrat Raffia Industries (2003 (153) ELT 336), which applied the Supreme Court's Woodcraft principle that HSN nomenclature governs unless the tariff

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

indicates otherwise. The Authority rejected the applicant's reliance on the West Bengal AAR ruling in Mega Flex Plastics, because that ruling had been set aside by the West Bengal Appellate Authority on 25.10.2018. It treated the applicant's cases on knitted agro-nets as distinguishable. It also noted that the applicant had long classified the goods under Chapter 39 and had shown no cogent reason for changing that classification.

P Provisions Relied On

- Section 97(2)(a) of the CGST Act, 2017 and the MPGST Act, 2017 (admissibility of the question on classification)
- Section 98 of the CGST Act, 2017 and the MPGST Act, 2017 (ruling procedure)
- Section 103(2) and Section 104(1) of the CGST Act, 2017 (binding effect and voiding of the ruling)
- Notification No. F-A3-33-2017-IV (42) dated 29.06.2017, Explanation IV (rules of interpretation of the Customs Tariff Act, 197…
- Customs Tariff Act, 1975: Section XI Note 1(g); Chapter 39 Note 2(p); Chapter 54 headings 5404 and 5407; Chapter 63 headi…
- Textiles Committee Act, 1963, section 2(a) and 2(g) (definitions of fibre and textiles, as quoted in Raj Packwell)
- Circular of the Central Board of Direct Taxes dated 20.01.1985 (finished plastic articles treated as articles of plastic)
- Supreme Court decision in Commissioner of Central Excise v. Woodcraft Ltd. (1995 (77) ELT 23 (SC)) (HSN nomenclature a…

! For the Practitioner

Manufacturers and traders of woven PP or HDPE sacks, including those made from narrow strips, can cite this order to support Chapter 39 classification in place of Chapter 63. The order is binding only on the applicant under section 103(2), but it reflects a reasoned and consistent Madhya Pradesh position. It does not fix a GST percentage, so the rate must still be determined from the notified rate schedule at the date of supply. It also does not resolve the textile-strip argument for other products, such as knitted agro-nets, which the order distinguishes.

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_21-2018_14.12.2018_nagrani.pdf

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