Sadguru Seva Paridhan Pvt Ltd

Authority for Advance Ruling — West Bengal

33/WBAAR/2019-20 Dated **11.11.2019**

Q Questions Before the Authority

- Whether the applicant's fusible interlining cloth, which is partially coated with plastic by a dot printing process, is classifiable in Chapters 50 to 55 of the First Schedule of the Customs Tariff Act, 1975, or under Heading 5903 of that Tariff Act.

F Facts

The applicant manufactures fusible interlining cloth, a woven fabric with a cotton content of about 70% to 85% by weight, which is used in shirt collars, cuffs and pant belts. One side is partially coated with polyethylene in a dotted pattern, and a National Test House certificate confirmed that the coating is discontinuous, although light does not pass through about 95% of the sample. The revenue officer took the view that the product falls under Heading 5911, while the applicant argued for Chapter 52 under General Rule 3(b).

H Ruling

Classification of fusible interlining cloth partially coated with plastic by dot printing	**Heading 5903, Chapter 59 of the Customs Tariff Act, 1975**	The Authority rejected the claim for Chapters 50 to 55. The ruling rests on the HSN Explanatory Notes treatment of thermoplastic-spattered fabrics and Circular 433/66/98-CX-6, which it treated as an exception to Chapter Note 2(a)(4). The ruling is subject to Sections 103 and 104(1) of the GST Act.

The Authority ruled that the applicant's fusible interlining cloth is **classifiable under Heading 5903** in Chapter 59 of the Customs Tariff Act, 1975. It relied on the Explanatory Notes to the HSN and on CBEC Circular No. 433/66/98-CX-6, and it rejected the applicant's Chapter 50 to 55 and General Rule 3(b) arguments. The revenue's Heading 5911 argument was not separately discussed.

R Reasoning

The Authority held that the Rate Notification explanation makes the Tariff Act headings, the Chapter Notes and the HSN Explanatory Notes applicable to GST classification. Chapter Note 2(a)(4) to Chapter 59 excludes partially coated fabrics from Heading 5903, but the Explanatory Notes treat textile fabrics spattered with thermoplastic particles that bond on heat and pressure as falling under Heading 5903. Following Circular 433/66/98-CX-6, the Authority treated this as an exception and found that the production process fitted it. The Madura Coats Single Bench ruling did not decide the point because the Division Bench set aside the circular without holding it ultra vires. General Rule 3(b) was held inapplicable because General Rule 1 bars resort to it where the Chapter Notes otherwise require.

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

P Provisions Relied On

- Section 97(2)(a) of the GST Act (admissibility)
- Section 103 and Section 104(1) of the GST Act (binding effect and voiding of ruling)
- Rate Notification No. 1/2017-CT (Rate) dated 28/06/2017 and corresponding State Notification No. 1125-FT dated 28/06/201…
- Customs Tariff Act, 1975: Chapter 59, Heading 5903, Chapter Note 2(a)(4) and former Chapter Note 2(c) to Chapter 59, Cha…
- General Rules of Interpretation, Rules 1 and 3(b)
- HSN Explanatory Notes to Chapter 59
- CBEC Circular No. 24/Coated Fabrics/88-CX.1 dated 02/09/1988 and telex dated 30/09/1988
- CBEC Circular No. 5/89 dated 15/06/1989
- CBEC Circular No. 433/66/98-CX-6 dated 27/11/1998
- Madura Coats, 2004 (163) ELT 164 (Mad) (Single Bench) and Division Bench order dated 05/01/2009 in WA No. 507 of 2005
- Section 37B of the Central Excise Act, 1944
- Dunlop India, (1983) 13 ELT 1566 (SC) (cited by the applicant)
- AAR Uttarakhand, Goodswear Fashion Pvt Ltd, 2019 (23) GSTL 154 (cited by the applicant)

! For the Practitioner

A practitioner dealing with dot-coated or partially plastic-coated interlining fabric can cite this ruling for the position that such fabric falls under Heading 5903 through the HSN Explanatory Notes and Circular 433/66/98-CX-6. The ruling is a state advance ruling binding only on the applicant and does not bind other dealers or the Central authority. It does not address the Heading 5911 argument, which was left undiscussed, or the Chapter 52 argument beyond rejecting General Rule 3(b). Readers should check the full order for how the Authority reasoned around the Madura Coats decisions.

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_33_2019_11.11.2019_ssppl.pdf

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