Piyush Polytex Industries Pvt. Ltd.

Authority for Advance Ruling — West Bengal

Order No. 41/WBAAR/2018-19 dated 26/02/2019 (Case Number / ARN 43… Dated **26.02.2019**

Q Questions Before the Authority

- What is the description and HSN for bags and sacks, with or without handle, made of laminated P.P. nonwoven fabric?
- What is the description and HSN for bags and sacks, with or without handle, made of B.O.P.P. pasted P.P. nonwoven fabric?
- What is the description and HSN for bags and sacks, with or without handle, made of woven fabric pasted with nonwoven fabric?

F Facts

The applicant manufactures P.P. nonwoven fabric, laminated nonwoven fabric, B.O.P.P. pasted P.P. nonwoven fabric, P.P. woven fabric pasted with nonwoven fabric, and nonwoven bags and sacks. It sought a ruling on the description and HSN of bags and sacks, with and without handle, made from three of these fabric types. Its submissions discussed the classification of fabrics but were silent on the bags themselves, and it relied on a Kerala AAR order on P.P. nonwoven carry bags.

H Ruling

Bags/sacks, with or without handle, of laminated P.P. nonwoven fabric	**Sub-heading **39232990** (HS 3923, plastic articles for packing of goods)**	Handle is of no consequence. The order states such goods attract 18% GST, citing Circular No. 80/54/2018 para 7.4.
Bags/sacks, with or without handle, of B.O.P.P. pasted P.P. nonwoven fabric	**Sub-heading **39232990****	Handle is of no consequence. The order states such goods attract 18% GST, citing Circular No. 80/54/2018 para 7.4.
Bags/sacks, with or without handle, of woven fabric pasted with nonwoven fabric	**No HSN fixed. Classify under the General Rules for the Interpretation of the First Schedule of the Customs Tariff**	Applies because the applicant did not state the constituent materials of the fabric. Circular No. 80/54/2018 para 7.5 (non-laminated woven bags classified by constituent material) was not applied to this item in the operative ruling.

The Authority confined its ruling to bags and sacks and did not decide the classification of the fabrics. It held that bags of laminated P.P. nonwoven fabric and of B.O.P.P. pasted P.P. nonwoven fabric fall under **sub-heading 39232990** . For bags of woven fabric pasted with nonwoven fabric, it held that classification must be determined under the General Rules for the Interpretation of the First Schedule of the Customs Tariff, because the applicant had not stated the constituent materials of that fabric.

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

R Reasoning

The Authority held that the Kerala AAR order (CT/5492/18-C3, carry bags of P.P. nonwoven fabric under Chapter 63 at 5%) did not control, because the later TRU clarification in Circular No. 80/54/2018 (dated 31/12/2018), para 7.4, classifies P.P. woven and nonwoven bags, and those laminated with BOPP, as plastic bags under HS 3923 at 18% GST. The order states that whether the bag has a handle is irrelevant. It then noted that sub-heading 39232990 covers plastic sacks and bags that are neither ethylene polymers nor poly-vinyl chloride. For the woven-pasted-with-nonwoven item, the absence of material details led the Authority to apply the General Rules of Interpretation of the Customs Tariff, which GST has adopted. The ruling was given under Section 97(2)(a) of the GST Act and is subject to Sections 103 and 104(1).

P Provisions Relied On

- Section 97(2)(a) of the CGST/WBGST Act, 2017 (admissibility of advance ruling)
- Section 100 of the GST Act (appeal provisions referred to in the preamble)
- Section 103 of the GST Act (binding effect of ruling)
- Section 104(1) of the GST Act (ruling declared void)
- Circular No. 80/54/2018-TRU (also cited as 80/54/2018-GST), F. No. 354/432/2018-TRU dated 31/12/2018, paras 7.4 and 7.5
- Notification No. 01/2017-Central Tax (Rate) dated 28/06/2017 (cited by Revenue for question iii)
- Notification No. 01/2017-CT (Rate) dated 28/06/2017, entry 224 of Schedule 1 (as referred to in the Kerala AAR order)
- HS Code 3923 and sub-heading 39232990 of the GST Tariff
- Tariff item 6305 33 00 of the GST Tariff (as quoted in the Kerala AAR order)
- General Rules for the Interpretation of the First Schedule of the Customs Tariff (applied through GST)

! For the Practitioner

A practitioner dealing with P.P. nonwoven or BOPP-laminated bags can rely on this ruling for classification under sub-heading 39232990 at 18% GST, and should note that it displaces the lower-rate Kerala AAR view for such goods. The ruling does not settle the classification of bags made from woven fabric pasted with nonwoven fabric, which is left to the General Rules and depends on the constituent materials, which the applicant had not disclosed. It binds only the applicant and does not decide fabric classification, which the Authority declined to address.

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_41_2018-19_ppipl.pdf

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