M/s. Saint-Gobain India Private Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-51/2019-20/B-38, Mumbai, dt. 17/03/2020 Dated **17.03.2020**

Q Questions Before the Authority

- Whether the proposed product is classifiable as "Glass-fibre Reinforced Gypsum Board" and whether the applicant can avail the concessional rate of tax under Schedule II of Notification No. 1/2017-Central Tax (Rate)?

F Facts

The applicant already manufactures paper-reinforced and glass-reinforced gypsum boards under Chapter 68 of the Customs Tariff Act. It proposes to manufacture a new glass-fibre reinforced gypsum board containing about 1% glass fibre, which it says is meant to improve flexural, tensile, compressive and impact strength. It argues the product falls under Sr. No. 92 of Schedule II (12%) rather than HSN 6809 under Sr. No. 180C of Schedule III (18%).

H Ruling

The Authority held that the application is not maintainable and rejected it without deciding the classification or rate question. The product was not yet manufactured, no samples were furnished, and the advance ruling provisions require an existing or proposed supply of goods rather than proposed manufacture. The application was therefore rejected under sub-section (2) of Section 98 of the CGST Act.

R Reasoning

The Authority relied on the definition of advance ruling in Section 95(a), under which the question must relate to a supply of goods or services being undertaken or proposed to be undertaken by the applicant. Section 97(2)(a) limits the questions to classification of goods or services in relation to such supply. The Authority observed that the goods must be in existence for supply to be undertaken or proposed, and that proposed manufacture alone does not meet this requirement. Because no samples had been tested, it also found no basis for a classification view, and it accepted the jurisdictional officer's submission that the question could not be decided at this stage.

P Provisions Relied On

Section 95(a) of the CGST Act, 2017 (definition of advance ruling)

Section 97(2)(a) of the CGST Act, 2017

Section 98(2) of the CGST Act, 2017

Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Schedule II Sr. No. 92 and Schedule III Sr. No. 180C (cited by t…

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

! For the Practitioner

This order is useful mainly as authority that an advance ruling application about a product not yet manufactured may be rejected at the threshold, because the Authority insists on an existing or proposed supply and tested samples. It does not decide whether glass-fibre reinforced gypsum board with a small glass-fibre content attracts 12% under Sr. No. 92 or 18% under HSN 6809. A practitioner advising on a similar new product should therefore establish the product and its supply first, or seek the ruling only once samples exist. The order does not address whether the quantity of glass fibre is relevant to the entry.

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 -> mah aar 51 2019-20 b-38 17.03.2020 sgipl.pdf

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