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| <p>GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.</p> |  |
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ADVANCE RULING NO. GUJ/GAAR/R/73/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/52)
Date: 17.09.2020

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| Name and address of the applicant | : | M/s Girivariya Non-Woven Fabrics Pvt. Ltd., Plot No. 1 to 4, Survey No.75, Gondal Road, Rajkot, Gujarat-360311. |
| GSTIN of the applicant | : | 24AAECG2597F1ZM |
| Date of application | : | 28.09.2019 |
| Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised. | : | (a) Classification of any goods or services or both; (b) applicability of a notification issued under the provisions of this Act. |
| Date of Personal Hearing | : | 18.08.2020 (Through Video Conferencing) |
| Present for the applicant | : | Shri Paresh Sheth, Advocate |

BRIEF FACTS:

The Applicant is engaged in manufacturing of Non-Woven Bags through the intermediate product, i.e. Non-Woven fabrics manufactured from Fiber grade poly propylene granules by adopting the Spun Bond technology.

2. The applicant submitted that in the Spun Bond technology, poly propylene granules are fed to the hopper and passed through extruder at certain temperature. The melted material after filtering passed through the spinning unit to obtain a continuous single filament. The said filaments are then subject to lying on the continuous web and under control pressure thermal bonding. The resultant product is Non-Woven fabric which is called Polypropylene Non-Woven fabrics.

2. The applicant submitted that prior to introduction of the GST Act, the Polypropylene Non-Woven bags were being classified under Heading No. 6305 being product manufactured through non-woven fabrics classified under Heading No.5603.

3. The applicant further submitted that prior to introduction of the GST Act, the classification of Polypropylene Non-Woven bags was in question before the authority under Section 94 of the Kerala Value Added Tax Act, 2003 in case

of M/s Malabar Treads, Manjeri. The authority after considering the Heading No. 5603 as appearing in the Schedule to the Central Excise Tariff concluded that the said product would appropriately be classifiable under HSN Code 6305.33.00 of the Customs Tariff Act which correspondence to entry no. 174 (7) (1) of List A of the third Schedule to the KVAT Act, 2003. (Copy of Order no. C3/17556/09/CT dated 29-09-2009 is annexed as Annexure-A).

4. The Applicant further submitted that after introduction of the GST Act, 2017 also the issue of classification was under consideration by various manufacturers and representations were being made. The applicant had approached the DKTE CENTER OF EXCELLENCE IN NON WOVENS (Govt. Department) and the Director of the said Organization has clarified that the Polypropylene Non-Woven fabrics are classifiable under Heading No. 5603 and these Polypropylene Non-Woven fabrics are basically textile materials and not plastic. (Copy of clarification dated 30-08-2017 is annexed as Annexure-B).

5. The Applicant further submitted that Madurai District Non-Woven Bag and Cotton Bag Manufacturer Association had approached the Commissioner of Central GST and Central Excise, Madurai and vide their letter dated 22-12-2017 had requested to clarify the classification of Non-Woven Bags etc. The Office of the Commissioner, vide letter dated 01.01.2018 issued from F. No. IV/16/84/2017-Tech (GST) has clarified that Non-Woven Bags are classifiable under Heading No. 63059000 and are eligible for exemption under Notification No.01/2017-C.T. (Rate) (Copy of letter dated 01-01-2018 is annexed as Annexure-C).

6. The Applicant further submitted that one of the manufacturers, M/s U. S. Polytech of Howrah had also approached the Hon'ble Advance Ruling Authority for Classification of Polypropylene Non-Woven Bags, the said authority was of the view that the said product is classifiable under Heading No.39.23. However, on Appeal to the Appellate Authority for Advance Ruling, the Hon'ble Appellate Authorities have reversed such orders and have settled the law that the Polypropylene Non-Woven Bags would appropriately be classifiable under Heading No. 6305 and the Advance Ruling Authorities had erred in holding that the said product was classifiable under Heading No.39.23 (Copy of Order No. 02/WBAAAR/Appeal/2019 dated 13.05.2019 is annexed as Annexure-D).

7. The Applicant further submitted that the Hon'ble Tax Research Unit of Ministry of Finance Department of Revenue, New Delhi vide Circular No. 80/54/2018-GST issued clarification regarding GST rates and classification, wherein one of the product was Polypropylene Non-Woven Bags and PP Woven

Bags and PP Woven and Non-Woven Bags laminated with BOPP. The Ld. Authority after considering the meaning of the word “Plastic” came to the conclusion that the products would be classifiable under HS Code 3923 and would attract 8% GST. (Copy of Circular No. 80/54/2018-GST dated 31.12.2018 is annexed as Annexure-E.)

Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought:

8. The Applicant submitted that the Polypropylene Non-Woven Bags are being manufactured out of Non-Woven fabrics which are admittedly classifiable under Heading No. 5603 i.e. as Textile Article and therefore the product manufactured out of the said material will have to be considered as Textile Article and classifiable under Heading no. 63.05.

9. The Applicant further submitted that in view of Rules of interpretation Heading No. 6305.3300 being specific heading would prevail over the general Heading of 3923.

10. The Applicant further submitted that the Honorable Advance Ruling Authority as referred herein above as also the Honorable Appellate Advance Ruling Authority have settled the law and have confirmed the classification of Polypropylene Non-Woven Bags under Heading No. 6305.3300 and, therefore, the same would be binding. The decision of Honorable Appellate Authority for Advance Ruling is of 13-05-2019, i.e. after the clarification issued by TRU Section of Ministry of Finance, and therefore the same would prevail over the clarification.

11. The Applicant further submitted that the Director of DKTE Center of Excellence in Non-Woven have also clarified beyond doubt that the Polypropylene Non-Woven Fabric is textile material and not plastic and, therefore, the product manufactured out of such material could never be classified as plastic material.

12. The Applicant further submitted that the same issue had come up before the Hon'ble Supreme Court in the case of Porritts and Spencers (Asia) Ltd. V/s. State of Haryana, reported in 1983 (13) E.L.T. 1607 (S.C.). The Honorable Supreme Court after considering the relevant facts has settled the law that the word "Textile" would also cover the fabric manufactured through any material. (Copy of decision is annexed as Annexure-F).

13. In view of above backdrops, the applicant has put forward their questions on which advance ruling is required, as under:

Question-1: Whether the product Non-Woven Bags manufactured through the intermediate product, Non-Woven Fabrics classifiable under Heading No. 6305 or under Heading 3923?

Question-2: Whether the product Non-Woven Bags would be eligible for exemption under Notification No.1/2017-C.T. (Rate) and 01/2017-I.T. (Rate) dated 28.06.2017, as amended?

14. At the time of personal hearing held through Video Conferencing on 18.08.2020, the Authorised Representative of the applicant, Shri Paresh Vasantry Seth, Advocate reiterated the facts as stated in the Application and mentioned herein above.

DISCUSSION & FINDINGS:

15. We have considered the submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

15.1 At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

16. The applicant has submitted the following questions for the purpose of advance ruling:

Question-1: Whether the product Non-Woven Bags manufactured through the intermediate product, Non-Woven Fabrics classifiable under Heading No. 5603 are properly classifiable under Heading No.6305 or under Heading No. 3923?

Question-2: Whether the product Non-Woven Bags would be eligible for exemption under Notification No.1/2017-C.T. (Rate) and 01/2017-I.T. (Rate) dated 28.06.2017, as amended?

17. Ongoing through the submission given by the applicant, we observe that the applicant is engaged in manufacturing of Polypropylene Non-Woven Bags through the intermediate product, i.e. Non-Woven Fabrics manufactured from

Fiber grade poly propylene granules by adopting the Spun Bond technology. In this technology, poly propylene granules are fed to the hopper and passed through extruder at certain temperature. The melted material after filtering passed through the spinning unit to obtain a continuous single filament. The said filaments are then subject to lying on the continuous web and under control pressure thermal bonding. The resultant product is Non-Woven fabric, which is called Polypropylene Non-Woven fabrics. The issue for decision before us is the appropriate Rate of Tax and HSN code for Nonwoven Bags manufactured by the applicant.

18. In order to determine the tax liability on said goods, we are required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017, as amended, containing the sub-headings as well as the rates of Central Tax GST applicable to various goods, which are covered under 6 schedules as under:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI.

Further, Explanations (iii) and (iv) of the said Notification read as under:

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

19. The applicant claimed that their product is classifiable under CTH 6305. The relevant chapter Note, headings, HSN Explanatory Notes are examined as under :

"6305 SACKS AND BAGS, OF A KIND USED FOR THE PACKING OF GOODS

6305 10 - Of jute or of other textile base fibres of heading 5303:

6305 20 00 - Of cotton

- Of man-made textile materials:

6305 32 00 -- Flexible intermediate bulk containers

6305 33 00 - Other, of polyethylene or polypropylene strip or the like

6305 39 00 - Other

6305 90 00 - Of other textile materials"

Further, Explanations to the Heading 63059000, in HSN is as follows:

“63.05 - Sacks and bags, of a kind used for the packing of goods:

6305.10 – Of jute or of other textile base fibres of heading 53-03

6305.20 - Of cotton

-Of man made textile materials:

6305.12 - - Flexible intermediate bulk containers

6305-33 - - Other, of polyethylene or polypropylene strip or the like

6305.19 - - Other

6305.90 – Of other textile materials

This heading covers textile sacks and bags of a kind normally used for the packing of goods for transport, storage or sale.

These articles, which vary in size and shape, include in particular flexible intermediate bulk containers, coal grain, flour, potato, coffee or similar sacks, mail bags, and small bags of kind used for sending samples of merchandise by post. The heading also includes such articles as tea sachets.

Packing cloths which after use as bale wrapping are roughly or loosely stitched together at the edges, but which do not constitute finished or unfinished sacks or bags, are excluded (heading 63.07).”

20. We find the competing heading for the product is CTH 3923. For ease of reference, the relevant chapter notes, the tariff entry and the HSN Explanatory note is given below :

CHAPTER 39

Plastics and articles thereof

NOTES:

1. Throughout this Schedule, the expression "plastics" means those materials of headings 3901 to 3914 which are or have been capable, either at the moment of polymerisation or at some subsequent stage, of being formed under external influence (usually heat and pressure, if necessary with a solvent or plasticiser) by moulding, casting, extruding, rolling or other process into shapes which are retained on the removal of the external influence. Throughout this Schedule and reference to "plastics" also includes vulcanised fibre. **The expression, however, does not apply to materials regarded as textile materials of Section XI.**

2. This Chapter does not cover:

(a) lubricating preparations of heading 2710 or 3403;

(b) waxes of heading 2712 or 3404; goods of Section XI (textiles and textile articles);

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(p) goods of Section XI (textiles and textile articles);

3923 ARTICLES FOR THE CONVEYANCE OR PACKING OF GOODS, OF PLASTICS; STOPPERS, LIDS, CAPS AND OTHER CLOSURES, OF PLASTICS

3923 10 - Boxes, cases, crates and similar articles:
- Sacks and bags (including cones):

3923 21 00 -- Of polymers of ethylene

3923 29 - Of other plastics:

3923 29 10 --- Of poly (vinyl chloride)

3923 29 90 -- Other

39.23 - Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics.

3923.10 - Boxes, cases, crates and similar articles - Sacks and bags (including cones):

3923.11 - - Of polymers of ethylene

3923.29 - - Of other plastics

3923.30 - Carboys, bottles, flasks and similar articles

3923.40 - Spools, cops, bobbins and similar supports

3923.50 - Stoppers, lids, caps and other closures

3923.90 - Other

This heading covers all articles of plastics commonly used for the packing or conveyance of all kinds of products. The articles covered include:

(a) Containers such as boxes, cases, crates, sacks and bags (including cones and refuse sacks). casks, cans, carboys, bottles and flasks.

The heading also covers:

(i) Cups without handles having the character of containers used for the packing or conveyance of certain foodstuffs, whether or not they have a secondary use as tableware or toilet articles;

(ii) Bottle preforms of plastics being intermediate products having tubular shape, with one closed end and one open end threaded to secure a screw type closure. the portion below the threaded end being intended to be expanded to a desired size and shape.

(b) Spools, cops, bobbins and similar supports, including video or audio cassettes without magnetic tape.

(c) Stoppers, lids, caps and other closures.

The heading excludes, inter alia, household articles such as dustbins, and cups which are used as tableware or toilet articles and do not have the character of containers for the packing or conveyance of goods. whether or not sometimes used for such purposes (heading 39.24), containers of heading 42.02 find flexible intermediate bulk containers of heading 63.05.”

21. We find that the issue of classification of PP/HDPE Bags or sacks, made of HDPE tapes and fabrics, has been dealt with at length by the Hon'ble High Court of Madhya Pradesh in case of M/s. Raj Packwell Ltd. v. UOI [1990 (50) E.L.T. 201 (M.P.)]. While deciding the identical issue, the Hon'ble High Court has observed:

“In the Textiles Committee Act, 1963 (Act 41 of 63) the word “fibre” has been defined in Section 2(a) as under:-

“fibre” means man-made fibre including regenerated cellulose rayon, nylon and the like.”

“Textiles” has been defined in Section 2(g) as under:- “Textiles” means any fabric or cloth, or yarn or garment or any other articles made wholly or in part of -

- (i) Cotton; or*
- (ii) Wool; or*
- (iii) Silk; or*
- (iv) Artificial silk or other fibre, and includes fibre”.*

Therefore, according to the above definition, any fabric or cloth or yarn or garment if made wholly or in part of cotton, wool, silk, artificial silk or other fibre shall be called textiles. The definition of ‘fibre’ includes the regenerated cellulose, rayon, nylon and the like. Nowhere in the aforesaid definition of ‘fibre’ or ‘textiles’, plastic has been mentioned as a commodity to be included in the definition of ‘fibre’ or ‘textiles’. Now in *Shree Radhe Industries case (supra)* and the *Shellya Industries case (supra)* irrespective of the entries in the tariff as prevailing then, it has been held that the HDPE sacks are articles made of plastic; they are made of high density polyethylene which is a plastic raw material and it has further been held that they are not man-made, filament yarn but are articles of plastic. The circular of the Central Board of Direct Taxes dated 20-01-1985 also clearly says that the Board has decided that so long as the finished articles of plastic is made out of plastic material falling under Tariff No. 15A(i), even if at the intermediate stage articles classifiable under Item No. 15A(ii) if any tariff item emerges, the said product would be considered to have been produced out of plastic material falling under Tariff Item No. 15A(i) and, therefore, the HDPE woven sacks should be considered as articles of plastic.”

Having so discussed the and defined the words ‘Man-made Fibre’ and ‘Textile’ for the purpose of arriving at the appropriate classification of HDPE Woven Bags/Sacks, the Hon’ble High Court has opined; ‘.....the process of manufacture of HDPE tapes, the earlier judgments of the CEGAT approved by the Supreme Court and accepted by the department clearly go to show that HDPE bags are the bags woven by plastic strips and they, therefore, are goods of plastic and the material used for weaving those bags being the strips of plastic made from plastic granules, the strips of plastic used for weaving aforesaid HDPE woven sacks has to be classified as an item under Entry 3920 of Chapter 39 and not under Entry 5406 of Chapter 54. Accordingly, entries of finished goods have also to be made under proper Chapter of the

Tariff Act treating them as the finished goods made of plastic strips.

In the result, we hold that HDPE strips or tapes fall under the Heading 3920, Sub-heading 3920.32 of the Central Excise Tariff Act and not under heading 5406, sub-heading 5406.90. Similarly HDPE Sacks fall into Heading 3923, Sub-heading 3923.90....”

21.1 In the above decision, Hon’ble High Court of Madhya Pradesh has discuss what is textile according to the Section 2(g) of *Textiles Committee Act, 1963 (Act 41 of 63)* and **according to the above definition, any fabric or cloth or yarn or garment if made wholly or in part of cotton, wool, silk, artificial silk or other fibre shall be called textiles, Nowhere in the aforesaid definition of ‘fibre’ or ‘textiles’ plastic has been mentioned as a commodity to be included in the definition of ‘fibre’ or ‘textiles’.** Therefore, it can be concluded that intermediate Fabrics manufactured from Fibre grade poly propylene granules cannot be considered as “textile” material. Under CTH No. 63 of Custom Tariff Act, 1975 only **covers textile sacks and bags of a kind normally used for the packing of goods** whereas applicant goods, Non-Woven Bags is not manufactured from textile material as discussed above. Hence, applicant’s claim that their product covers under Chapter Heading No. 6305 of the Custom Tariff Act, 1975 is not correct. The applicant product, Non-Woven Bags is manufactured from Fibre grade poly propylene granules, which falls under the definition of plastic material, therefore, goods, Non-Woven Bags is classifiable under CTH No. 3923 of the Custom Tariff Act, 1975.

22. The applicant has referred to Advance Ruling in the case of M/s. U. S. Polytech [Order No. 31/WBAAR/2018-19, dated 8-1-2019, reported in 2019 (21) GSTL 76 (AAR-GST)], wherein the West Bengal Authority for Advance Ruling held that the Non-Woven Polypropylene Bag is classifiable under Heading No. 39.23. However, the Appellate Authority of Advance Ruling, vide Order No. 02/WBAAAR/Appeal/2019 dated 13.05.2019, has reversed the said order and ruled that the Polypropylene Non-Woven Bag would appropriately be classifiable under heading No. 6305. The said Ruling is not applicable in the applicant case because as per Section 103 of the CGST Act, any Advance Ruling is binding on the Applicant who has sought it and on the concerned officer or the jurisdictional officer in respect of the Applicant. Accordingly, AAARs Ruling as cited above can’t be relied upon in the present case of the Applicant.

23. Further, applicant relied upon the Hon’ble Supreme Court decision in the case of M/s. Porritts & Spencer (Asia) Ltd. Vs. State of Haryana, reported in ELT 1983 (13) ELT 1607 (S.C.) *that the Hon’ble Supreme Court has settled the law that the word “Textile” would also cover the fabric manufactured through*

any material. The applicant has failed to understand the intention of the Hon'ble Supreme Court and therefore relied upon the last line of the Paragraph of the order. Whereas to understand the meaning of said Paragraph, it is necessary to read between the lines thoroughly. The Hon'ble Supreme Court in the said Order has defined what is textile and the relevant part of the order is, therefore, reproduced as under for better understanding:

“6. There can, therefore, be no doubt that the word `textiles' in Item 30 of Schedule `B' must be interpreted according to its popular sense, meaning “that sense which people conversant with the subject-matter with which the statute is dealing would attribute to it”. There we are in complete agreement with the Judges who held in favour of the Revenue and against the assessee. But the question is : What result does the application of this test yield? Are `dryer felts' not `textiles' within the ordinary accepted meaning of that word? The word `textiles' is derived from the Latin `texere' which means `to weave' and it means any woven fabric. When yarn, whether cotton, silk, woollen, rayon, nylon or of any other description or made out of any other material is woven into a fabric, what comes into being is a `textile' and it is known as such. It may be cotton textile, silk textile, woollen textile, rayon textile, nylon textile or any other kind of textile. The method of weaving adopted may be the warp and woof pattern as is generally the case in most of the textiles, or it may be any other process or technique. There is such phenomenal advance in science and technology, so wondrous is the variety of fabrics manufactured from materials hitherto unknown or unthought of and so many are the new techniques invented for making fabric out of yarn that it would be most unwise to confine the weaving process to the warp and woof pattern. Whatever be the mode of weaving employed, woven fabric would be `textiles'. What is necessary is no more than weaving of yarn and weaving would mean binding or putting together by some process so as to form a fabric. Moreover a textile need not be of any particular size or strength or weight. It may be in small pieces or in big rolls; it may be weak or strong, light or heavy, bleached or dyed, according to the requirement of the purchaser. The use to which it may be put is also immaterial and does not bear on its character as a textile. **It may be used for making wearing apparel, or it may be used as a covering or bedsheet or it may be used as tapestry or upholstery or as duster for cleaning or as towel for drying the body. A textile may have diverse uses and it is not the use which determines its character as textile. It is, therefore, no argument against the assessee that `dryer felts' are used only as absorbents of moisture in the process of manufacture in a paper manufacturing unit. That cannot militate against `dryer felts' falling within the category of `textiles', if otherwise they satisfy the description of `textiles'.**

From the simple and plain reading of the above para it is very much clear that Hon'ble Supreme Court of India has stated that textile is woven fabric which is emerged by weaving of yarn of cotton, silk, rayon or nylon and similar type of material. The said textile may be used for making apparel, bed sheet or tapestry or upholstery or as towel. Therefore, fabric made of other than the yarn of cotton, silk, rayon or nylon and similar type of material is not a textile. The word used in the sentence is "similar type of material" and the meaning of said word can only be drawn in reference of the words used before the above word. The fabric made of fibre grade Poly Propylene granules is not a "similar type of material" of cotton, silk, rayon or nylon. Hence, fabric made of fibre grade Poly Propylene granules cannot be considered as 'textile'. Hence, the ratio of above Case Law is not applicable to the present case.

24. Reference is also invited to CBIC (TRU) Circular No.80/54/2018-GST issued from F. No. 354/432/2018-TRU dated 31st December, 2018, clarifying GST rates & classification in respect of various goods. Vide para 7, it has clarified that the goods viz. polypropylene woven and non-woven bags are classifiable under HS code 3923 and attracts GST @ 18%, the relevant portion is extracted as below:

"Applicability of GST on supply of Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP :

7.1 Representations have been received seeking the classification and GST rates on Polypropylene Woven and Non-Woven Bags and Polypropylene Woven and Non-Woven Bags laminated with BOPP.

7.2 As per the explanatory notes to the HSN to HS code 39.23, the heading covers all articles of plastics commonly used for the packing or conveyance of all kinds of products and includes boxes, crates, cases, sacks and bags.

7.3 Further as per the Chapter note to Chapter 39, the expression "plastics" means those materials of headings 39.01 to 39.14 which are or have been capable, either at the moment of polymerization or at some subsequent stage, of being formed under external influence (usually heat and pressure, if necessary with a solvent or plasticizer) by moulding, casting, extruding, rolling or other process into shapes which are retained on the removal of the external influence.

7.4 Thus it is clarified that Polypropylene Woven and Non-Woven Bags and PP Woven and Non-Woven Bags laminated with BOPP would be classified as plastic bags under HS code 3923 and would

attract 18% GST.

7.5 Non-laminated woven bags would be classified as per their constituting materials”.

From the above clarification, it is crystal clear that Polypropylene Woven and Non-Woven Bags would be classified as plastic bags under HS code 3923 and would attract 18% GST.

25. In view of the above, we conclude that Non-Woven Bags manufactured through the intermediate product, i.e. Non-Woven fabric manufactured from Fiber grade poly propylene granules by adopting the Spun Bond technology, merits classification under HS code 3923, as also clarified by the CBIC in the Board Circular No.80/54/2018-GST issued from F. No. 354/432/2018-TRU dated 31st December, 2018 and discussed herein above.

26. Having decided the classification, the next issue to be decided is of the applicable rate of GST on product in hand. The rates of GST leviable on product in hand is changed from time to time, as discussed below:

(A) From 01.07.2017 to 30.09.2019:

The goods of Chapter heading 3923 are covered under Sr. No. 108 of Schedule-III of Notification No.01/2017-CT (Rate) dated 28.06.2017, up to 30.09.2019 and therefore, the applicable rate of total GST was 18% (CGST- @ 9%+ SGST- @ 9%) up to 30.09.2019, as reproduced herein below:

Schedule III- 9%

| Sl. No. | Chapter/Heading/ Sub Heading/ Tariff Item | Description of the Goods |
|---------|---|--|
| 108. | 3923 | Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics |

(B) From 01.10.2019 to 30.12.2019:

The Notification No.14/2019-C.T.(Rate) dated 30.09.2019, amended the Notification No. 01/2017-C.T. (Rate) dated 28.06.2017, w. e. f. 01.10.2019, to the effect that in Schedule III - 9%, against S. No. 108, in column (3), after the words “other closures, of plastics”, the brackets, words, letters and figures “(except the items covered in Sl. No. 80AA in Schedule II)”, was inserted and further a new entry 80AA was inserted in the Schedule-II of the Notification No.01/2017-C.T. (Rate) dated 28.06.2017, which is as below:

Schedule II- 6%

| Sl. No. | Chapter/Heading/Sub Heading/ Tariff Item | Description of the Goods |
|-----------|--|---|
| "80 AA | 3923 Or | Woven and non-woven bags and sacks of polyethylene or polypropylene whether or not laminated. |
| | 6305 | of a kind used for packing of goods" |

Therefore, the applicable rate of total GST was 12% (CGST- @ 6%+ SGST- @ 6%) on product in hand from 01.10.2019 to 30.12.2019.

(C) From 01.01.2020 to till date:

The Notification No. 27/2019-C.T. (Rate) dated 30.12.2019 further amended the Notification No.01/2017-C.T. (Rate) dated 28.06.2017 wherein the entry at 80AA in the Schedule-II-6% of the Notification was omitted and a new entry 163B was inserted in Schedule III-9% of the Notification, which reads as under:

Schedule III-9%

| Sl. No. | Chapter/Heading/Sub Heading/ Tariff Item | Description of the Goods |
|---------|--|---|
| "163B | 3923 or 6305 | Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated, of a kind used for packing of goods". |

Therefore, effective from 01.01.2020, the rate of the product in hand is 18% (9% CGST and 9% SGST).

27. In the light of the above, we rule as under:

RULING

Question-1: Whether the product Non-Woven Bags manufactured through the intermediate product, Non-Woven Fabrics classifiable under Heading No. 5603 are properly classifiable under Heading No.6305 or under Heading No. 3923?

Answer: The Non-Woven Bags manufactured through the intermediate product, i.e. Non-Woven fabric manufactured from Fiber grade poly propylene granules by adopting the Spun Bond technology, merits classification under HS code 3923.

The rates of GST applicable on said products during different periods as discussed herein above, are as below:

| Sl. No. | Period | Rate of CGST | Rate of SGST | Total rate of GST |
|---------|-----------------------------|--------------|--------------|-------------------|
| 1 | 01.07.2017 to 30.09.2019 | 9% | 9% | 18% |
| 2 | 01.10.2019 to 30.12.2019 | 6% | 6% | 12% |
| 3 | 01.01.2020 to till date | 9% | 9% | 18% |

Question-2: Whether the product Non-Woven Bags would be eligible for exemption under Notification No.1/2017-C.T. (Rate) and 01/2017-I.T. (Rate) dated 28.06.2017, as amended?

Answer: Answered in Negative, as discussed above.

(SANJAY SAXENA)

(MOHIT AGRAWAL)

MEMBER

MEMBER

Place: Ahmedabad

Date: 17.09.2020.