


GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING(APPEAL) NO. GUJ/GAAAR/APPEAL/2021/33
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/41)

Date :02.11.2021

Name and address of the appellant	:	M/s. Rajivkumar Giriraj Bansal (Proprietor of M/s Gujarat Plast Industries), 111/B, PTM Mill Compound, Behind Narol Court, Narol, Ahmedabad – 382 405, Gujarat
GSTIN of the appellant	:	24ABCPB2212N1Z7
Advance Ruling No. and Date	:	GUJ/GAAR/R/99/2020 dated 14.10.2020
Date of appeal	:	27.11.2020
Date of Personal Hearing	:	20.07.2021
Present for the appellant	:	Shri Manibhai Raval

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘CGST Act, 2017’ and the ‘GGST Act, 2017’) are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. The present appeal has been filed under Section 100 of the CGST Act, 2017 and the GGST Act, 2017) by M/s. Rajivkumar Giriraj Bansal (Proprietor of M/s Gujarat Plast Industries) (hereinafter referred to as Appellant) against the Advance Ruling No. GUJ/GAAR/R/99/2020 dated 14.10.2020.

3. The appellant has raised the following question for advance ruling in the application for Advance Ruling filed by it.

“Whether narrow woven fabrics manufactured are classifiable under Tariff Heading No. 58063990?”

4. The appellant has submitted that they are engaged in the manufacturing of Narrow Woven Fabrics which are woven on special narrow fabric looms called Needle Loom where the number of tapes/yarn warping according to the size and width of tape and cord,

weft yarn is carried through long needle. These machines are used for larger runs because of their high speed capabilities. Several sets of warp yarns may be beamed together to make several narrow fabrics side by side, on the same loom. The width of the narrow fabrics manufactured is below 12 inches.

5. The appellant has submitted that the classification of goods under any tariff item/sub-heading/heading/chapter shall be done using the general rules of interpretation of the First Schedule of the Customs Tariff Act, 1975 including Section and Chapter Notes and the General Explanatory Notes to the HSN of the first Schedule of the Customs Tariff Act, 1975. The appellant further submitted that their product is classifiable under sub-heading No. 58063990 since no other classification of goods with description 'narrow woven fabrics' is available in Customs Tariff. The appellant relied upon the judgment of Hon'ble Supreme Court of India in the case of CCE Vs. Wood Polymers Ltd.-1998(97) E.L.T. 193(S.C.) wherein it was held that the classification should be done as per the rules of interpretations contained in the Tariff and not as per the trade parlance and commercial understanding.

6. The Gujarat Authority for Advance Ruling (herein after referred to as 'the GAAR'), vide Advance Ruling No. GUJ/GAAR/R/99/2020 dated 14.10.2020, *inter-alia* observed that Note 5 to Chapter 58 defines the narrow woven fabrics as "Woven fabrics of a width not exceeding 30 cm, whether woven as such or cut from wider pieces, provided with selvages on both edges" and it was not forthcoming from the submission that the product is having selvages on both edges and hence it does not meet the definition of narrow woven fabrics and therefore, does not fall under the heading 5806 and to be classified with ordinary woven fabrics. Therefore, GAAR held that the product narrow woven fabrics made of polyester yarn of a width not exceeding 30 cm but not provided with selvages on both edges is classifiable under sub-heading No. 5407.10.19 of Customs Tariff Act, 1975 and attracts rate of tax of 2.5% CGST+2.5% SGST in case of Intra-State supply or 5% IGST in case of Inter-State supply. In view of the foregoing, the GAAR ruled as follows:-

Question: Whether narrow woven fabrics manufactured are classifiable under Tariff Heading No. 58063990?

Answer: No. The product, Narrow Woven Fabrics of Polyester Yarn of a width not exceeding 30 cm but not provided with selvages (flat or tubular) on both edges manufactured by the applicant is classifiable under Chapter Sub-heading No. 5407.10.19 of the Customs Tariff Act, 1975, attracting rate of GST @ 5% (2.5% CGST+ 2.5% SGST) or IGST @ 5%.

7. Aggrieved by the aforesaid advance ruling, the appellant has filed the present appeal.

8. During the course of personal hearing held on 20.07.2021, the appellant reiterated the submissions made in the appeal dated 27.11.2020.

9. The appellant in the ground of appeal has submitted that the subject goods manufactured by them satisfy the conditions laid by the GAAR, at paragraph 17.1 of the Ruling to classify the subject goods under HSN code 5806 as 'narrow woven fabrics'. The appellant further submitted that at paragraph 18 of the ruling the GAAR has observed that the product in question is manufactured by process of weaving from polyester yarn and its width is not 30 cm. It was further observed by the GAAR that 'however it is not forthcoming from the submission that the product is having selvages (flat or tubular) on both edges' and GAAR concluded that the product is not provided with a selvedge and consequently it does not meet the definition of narrow woven fabric which is self contradictory and hence bad in law.

10. The appellant has submitted that the GAAR ruled out the subject goods from classifying under the heading 5806 on the premises that the subject goods were not having selvages, which GAAR was not sure about. Thus the impugned ruling has been passed without application of mind and not sustainable.

11. The appellant has submitted that the product in question is woven from polypropylene yarn (not from polyester yarn as mentioned in the impugned ruling) is special narrow fabric looms called Needle Loom and its selvages are formed by weaving itself. The GAAR while concluding that the product is not having selvages did not bother to verify the manufacturing process or for calling for a sample. The appellant submitted a sample of the narrow woven fabric as evidence.

12. The appellant has further submitted that for a product to be considered as narrow woven fabrics, any of the three conditions laid down as per Chapter Note 5 of Chapter 58 of Customs Tariff Act, 1975 needs to be satisfied. It is not necessary that all the three conditions are to be satisfied cumulatively. The GAAR erred in observing that in order to classify the product as narrow woven fabrics it has to satisfy the conditions (i) it should be warp and weft fabrics in strips of a width not exceeding 30 cm and (ii) it should have selvages (sic) (flat or tubular) on both edges. Therefore, ruling given by the GAAR is fallacious and the product manufactured from polypropylene yarn by the appellant by weaving is appropriately classifiable under Tariff Sub-heading 58063990.

FINDINGS :-

13. We have carefully gone through and considered the appeal and written submissions filed by the appellant, submissions made at the time of personal hearing, Advance Ruling given by the GAAR and other material available on record.

14. The main issue here is to decide the classification of the impugned product i.e. narrow woven fabric manufactured and applicable rate of Goods and Service Tax of the product.

15. The appellant in its submission to Gujarat Appellate Authority of Advance Ruling has submitted that they are engaged in manufacturing of narrow woven fabric manufactured by process of weaving from polypropylene yarn in special narrow fabric looms called needle loom and **its selvages are formed by weaving itself**. The said

product “Narrow Woven Fabrics” is eligible to be classified under Tariff Heading-58063990 of Customs Tariff Act, 1975.

16. We find that the classification of goods under GST regime has to be done in accordance with the Customs Tariff Act, 1975, which in turn is based on Harmonized System of Nomenclature, popularly known as ‘HSN’. The rules of interpretation, section notes and chapter notes as specified under the Customs Tariff Act, 1975 are also applicable for classification of Goods under GST regime. However, once an item is classified in accordance with the Customs Tariff Act, 1975, the rate of tax applicable would be arrived at on the basis of notifications issued under GST by respective governments.

17. To decide the classification of the product in question i.e. Narrow Woven Fabric, it would be prudent to know the definition of Narrow Woven Fabric in accordance with Customs Tariff Act, 1975. The term Narrow Woven Fabrics is defined in Chapter 58 of Customs Tariff Act, 1975. As per Chapter Note 5 of Chapter 58 of Customs Tariff Act, “narrow woven fabrics” means:

(a) Woven fabrics of a width not exceeding 30 cm, whether woven as such or cut from wider pieces with selvages (woven, gummed or otherwise made) on both edges’;

(b) Tubular woven fabrics of a flattened width not exceeding 30 cm; and

(c) Bias binding with folded edges, of a width when unfolded not exceeding 30 cm.

18. Now, we discuss the appropriate classification of the impugned product i.e. Narrow Woven Fabric. The appellant claims that their product merit classifiable under CTH No. 58063990 of the Customs Tariff Act, 1975. We refer relevant chapter Note, headings, HSN Explanatory Notes to examine the appellant’s claim. CTH No. 5806 of the Custom Tariff Act, 1975 is as:

5806	NARROW WOVEN FABRICS OTHER THAN GOODS OF HEADING 5807; NARROW FABRICS CONSISTING OF WARP WITHOUT WEFT ASSEMBLED BY MEANS OF AN ADHESIVE (BOLDUCS)
5806 10 00	Woven pile fabrics (including terry toweling and similar terry fabrics) and chenille fabrics
5806 20 00	Other woven fabrics, containing by weight 5% or more of elastomeric yarn or rubber thread
	Other woven fabrics :
5806 31	Of cotton :
5806 31 10	Typewriter ribbon cloth
5806 31 20	Newar cotton
5806 31 90	Other
5806 32 00	Of man-made fibres
5806 39	Of other textile materials :
5806 39 10	Goat hair puttis tape
5806 39 20	Jute webbing
5806 39 30	Other narrow fabrics of jute
5806 39 90	Other

5806 40 00 *Fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)*

19. From the above, the following are deduced:

- This chapter heading 5806 covers narrow woven fabrics made from various types of fibres.
- As per definition of narrow woven fabrics in Chapter Note 5 of Chapter 58, it's width should not exceed 30 cm and it should have selvages on both edges.

20. From the ruling passed by GAAR and submission made by appellant, it is seen that the GAAR in its ruling mentioned that the impugned product is made from polyester yarn on several incidents and the appellant in its submission to Gujarat Appellate Authority of Advance Ruling Submitted that the product is made from polypropylene yarn. Further, in ruling passed by GAAR, it is stated that during personal hearing, Authorised Representative of the appellant submitted that the product is made from polyester/Synthetic/Polypropylene yarn.

21. The appellant submitted that the ruling pass by GAAR is on the premises of the observation “however it is not forthcoming from the submission that the product is having selvages (flat or tubular) on both edges” is not sustainable. To the effect, the appellant submitted that the product in question is woven from polypropylene yarn in special narrow fabric looms called Needle Loom and its selvages are formed by weaving itself. The appellant also submitted the samples of the narrow woven fabric as evidence. For illustration, photos of samples is given below



22. We find that GAAR while passing ruling relied on the observation that it was unclear whether the product is having selvages (flat or tubular) on both edges or not and held that product is not provided with selvages on both edges. The submission made by appellant indicates that the selvages are formed during the weaving process itself.

23. As it is abundantly clear that to classify the product under HSN code 5806 as “narrow woven fabric”, its width should not exceed 30 cm and it should have selvages (flat or tubular) on both edges. The width of the fabric was never in question and from the forgoing paras, it is clear that the product is provided with selvages on both sides.

24. Therefore we find that the product in question satisfy the conditions of narrow woven fabric mentioned in Chapter Note 5 of Chapter 58 of Customs Tariff Act, 1975.

We are of the view that the product is to be classified under CTH No. 58063990 and not under CTH No. 54071019 of the Customs Tariff Act, 1975

25. In view of the foregoing, we modify the Advance Ruling No. GUJ/GAAR/R/99/2020 dated 14.10.2020 of the Gujarat Authority for Advance Ruling in the case of M/s. Rajiv Giriraj Bansal (legal Name) - M/s. Gujarat Plast Industries (Trade Name), and hold that –

- (i) The product narrow woven fabric of Polypropylene yarn of width not exceeding 30 cms provided with selvages on both edges manufactured by the appellant merit classification under Tariff heading No. 58063990 of the Customs Tariff Act, 1975, attracting rate of GST @5% (2.5% CGST + 2.5% SGST) or 5% IGST as per Sl. No. 219AA of Schedule-I of Notification No. 1/2017-CT (Rate) dated 28.06.2017 (as amended) and Notification No. 1/2017-IGST (Rate) dated 28.06.2017.

(J. P. Gupta)
Member

(Seema Arora)
Member

Place : Ahmedabad
Date :02. 11.2021.