



**CUSTOMS AUTHORITY FOR ADVANCE RULINGS  
(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)  
5<sup>TH</sup> FLOOR, NDMC BUILDING, YASHWANT PLACE, SATYA MARG,  
CHANAKYAPURI, NEW DELHI-110021**

[Email: cus-advrulings.del@gov.in]

Present

Vijay Singh Chauhan

(Customs Authority for Advance Rulings, New Delhi)

**The day of 21 day of April, 2022**

**Order No. CAAR/Del/Gee Pee Mica/05/2022**

**In Application No. VIII/(CAAR)/Delhi/Gee Pee Mica/02/2022**

2383-2390  
21.4.2022

Name and address of the applicant:

M/s Gee Pee Mica Enterprises,  
13, North-West Avenue Road,  
Punjabi Bagh Extension, New Delhi

Commissioner concerned:  
(Imports),

Principal Commissioner of Customs

ICD, Tughlakabad, New Delhi- 110020

Present for the Applicant:

Shri Akhil Krishan Maggu, Advocate.

Present for the Department:

None



## ORDER

M/s. Gee Pee Mica Enterprises, 13, North-West Avenue Road, Punjabi Bagh Extension, New Delhi, a company having IEC No. AASFG3992P (applicant, in short), has filed an application dated 06.01.2022 received in this Authority on 18.01.2022, seeking advance ruling on the classification of 'Aluminum based copper clad laminates' under section 28-H of the Customs Act, 1962.

2. As per the original application, the Commissioner of Customs (Import), ICD, Tughlakabad, New Delhi has been declared as the concerned jurisdictional Commissioner of Customs, having jurisdiction over the place of import. Comments on the application for advance rulings have been received from the office of the concerned Principal Commissioner vide letter dated 04.03.2022 and the same have also been shared with the applicant.

3. During preliminary scrutiny of the application, it is found that the applicant has declared that a Show Cause Notice (SCN) has been issued to the applicant by the Additional Commissioner of Customs, ICD Patparganj, New Delhi. In view of the aforesaid submission, it is felt that the application is required to be examined for a decision at the admission stage in terms of provisions of section 28-I (2) *ibid*.

4. Therefore, this office vide letter dated 11.03.2022 sought comments from the Commissioner of Customs, ICD Patparganj regarding the status of enquiry initiated vide aforesaid SCN issued to M/s Gee Pee Mica Enterprises. In reply, vide letter dated 23.03.2022, it was informed by the office of the concerned Commissioner of Customs, ICD Patparganj and other ICDs that the noticee has submitted their reply to the SCN vide letter dated 14.02.2022; personal hearing in the matter was held on 18.02.2022 and the matter is under process of adjudication.

5. The applicant was accordingly informed that the question of admissibility under section 28 I (2) of the Customs Act, 1962 is required to be determined first; and keeping in view the procedure prescribed under section 28-I (2) read with regulation 8(9) and (10) of CAAR Regulations, 2021, a personal hearing was fixed on 11.04.2022.

6. On behalf of the applicant, Shri Akhil Krishan Maggu, Advocate attended the personal hearing. At the onset of the hearing, the Authority invited attention of the authorized representative towards the application for advance ruling, wherein it is stated inter-alia that in the matter, Show Cause Notice has been issued by the Department regarding classification of goods in question, i.e. Aluminium based Copper clad Laminates. Authority also invited attention of the learned advocate towards the provision of clause (2) of section 28-I of the Customs Act, 1962 and explained that it





is provided in the relevant section that the Authority shall not allow the application where the question raised in the application is already pending in the applicant's case before any officer of Customs. The Authority then asked the learned advocate to present his submissions in light of the above. Learned advocate explained that with regard to the question raised in the application for advance ruling, two SCNs had been issued by the Department against the applicant. In one SCN, OIO has already been issued and the applicant has preferred an appeal against the same. As regards, second SCN, he informed that the office of the Principal Commissioner of Customs (Import), ICD Tughlakabad vide letter dated 10.03.2022 brought to notice of the applicant that the competent authority has approved to keep adjudication proceedings in abeyance till further orders in terms of section 28 (9A)(c) of the Customs Act, 1962. The learned advocate requested the Authority to allow the application for advance ruling as adjudication of the second SCN has been kept in abeyance. The Authority explained that the applicant has been given an opportunity to appear for the personal in accordance with the procedure laid down in respect of the application for advance ruling. However, dispute between the applicant and the department has already attained formal status with the issue of SCN, and the order to keep the same in abeyance by the competent departmental officer does not alter this factual position. Therefore, the question of classification of the goods is already pending before an officer of customs, albeit in abeyance. As such, this application is covered by the proviso to section 28I (2) of the Customs Act, 1962. Therefore, the application prima facie, appears liable for rejection. However, on request by the authorized representative, he was asked to submit a copy of letter issued by the department for keeping the SCN in abeyance, so that the same may be looked into before issuing appropriate order in matter.

7. After the personal hearing, the advocate submitted a copy of letter dated 10/11.03.2022 issued to the applicant by the office of the Principal Commissioner of Customs (Import), ICD, Tughlakabad, New Delhi, wherein the applicant has been informed that adjudication proceeding has been kept in abeyance invoking provisions of section 28(9A)(c) *ibid*. I find that the said subsection relates to exclusion from the prescribed time limit for completion of adjudication of cases wherein the proper officer is unable to determine the amount of duty, etc. for reason that "... the Board has, in a similar matter, issued specific direction or order to keep such matter pending." Therefore, I find that the question of classification posed through the advance ruling application is presently pending before an officer of customs in the case of the applicant.

8. Thus, having gone through the application for advance ruling and having heard the authorized representative of the applicant during the personal hearing, I find that the question raised for advance ruling is already pending before an officer of Customs and the dispute between the applicant and the department has already attained a formal status. In this regard, proviso to section 28 I (2) lays down that the Authority shall not allow the application where the question raised in the application is - (a) already pending in the applicant's case before any officer of customs, the Appellate Tribunal or any Court.



9. In view of the above, the said application for advance ruling is rejected in terms of proviso 1(a) to section 28-I (2) of the Customs Act.

Date: 21.04.2022

V S Chauhan

(Vijay Singh Chauhan)  
Customs Authority for Advance Rulings, New Delhi

O/c

C.No. VIII/(CAAR)/Delhi/Gee Pee Mica/02/2022

Dated: 21.04.2022

2383-2370

This copy is certified to be a true copy of the order and is sent to: -

1. M/s Gee Pee Mica Enterprises, 13, North-West Avenue Road, Punjabi Bagh Extension, New Delhi
2. Principal Commissioner of Customs (Imports), ICD, Tughlakabad, New Delhi- 110020
3. The Customs Authority for Advance Rulings, Mumbai, New Custom House, Ballard Estate, Mumbai-400001
4. The Principal Chief Commissioner of Customs, Delhi Customs Zone, New Custom House, IGI Airport Complex, New Delhi-110037
5. The Chief Commissioner (AR), Customs Excise & Service Tax Appellate Tribunal (CESTAT), West Block-2, Wing-2, R.K. Puram, New Delhi-110066
6. The Member (L & J), CBIC, North Block, New Delhi
7. Webmaster, CBIC
8. Guard file

O/c

AS  
21.04.2022

(Anamika Singh)  
Secretary,

Customs Authority for Advance Rulings, New Delhi

