

WEST BENGAL APPELLATE AUTHORITY FOR ADVANCE RULING
AT 14, BELIAGHATA ROAD, KOLKATA-700015

Before:

Mr. Rakesh Kumar Sharma, Member

Ms. Smaraki Mahapatra, Member

In the matter of

Appeal Case No. 07 /WBAAAR/Appeal/2018 dated 08.08.2018

- And -

In the matter of:

An Appeal filed under sub-section (1) of section 100 of the West Bengal Goods and Services Tax Act, 2017/Central Goods and Services Tax Act, 2017, by M/s East Hooghly Polyplast Pvt. Ltd., of Super Market, Chinsurah Station Road, Chinsurah, Hooghly, West Bengal, holding GSTIN No. 19AACCE2946G1ZM.

Present for the Appellant: Sri Pankaj Kumar Patwari, Advocate

Present for the Respondent: Sri Santanu De, Assistant Commissioner of State Tax,
Serampore Charge, Hooghly

Matter heard on: 20.11.2018

Date of Order: 03.12.2018

This Appeal has been filed by M/s East Hooghly Polyplast Pvt. Ltd. (hereinafter referred to as "the Appellant") on 04.09.2018 against the Advance Ruling No. 12/WBAAAR/2018-19 dated 20.07.2018 pronounced by the West Bengal Authority for Advance Ruling (hereinafter referred to as "AAR").

2. M/s East Hooghly Polyplast Pvt Ltd, holding GSTIN No. 19AACCE2946G1ZM, stated to be a manufacturer of Tarpaulins made from High Density Polyethylene (hereinafter referred to as "HDPE") having its factory at Super Market, Chinsurah station road, Chinsurah, Hooghly in West Bengal, sought an Advance Ruling in the matter-

Whether "HDPE Woven Tarpaulin" be classified under HSN 6306 of GST tariff?

3. The AAR after considering Section Notes 1(g) and 1(h) of Section XI of the Tariff Act and specifications issued by the Bureau of Indian Standards ruled that "Tarpaulins made of HDPE woven fabrics" will not be classified under HSN 6306 of the GST Tariff.



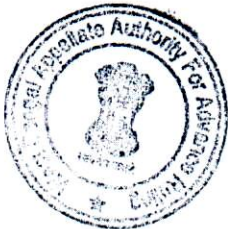
It may be mentioned here that the GST Tariff is aligned to the First Schedule of the Customs Tariff Act, 1975 (hereinafter referred to as “the Tariff Act”).

4. The Appellant has filed an Appeal against the above Advance Ruling requesting to set aside/modify the impugned Advance Ruling passed by the Authority for Advance Ruling OR pass any such further or other orders as may be deemed fit and proper in facts and circumstances of the case on the following grounds:

- (A) The Appellant has contradicted the AAR order on the ground that Tarpaulin made from HDPE woven fabrics is covered under clause 1(g) of Section XI of the Tariff Act, that is made up of monofilaments. According to Appellant’s view, the Tarpaulin, as specified vide IS 7903:2017, is manufactured by the Appellant from mono-axially oriented HDPE tapes classifiable under Chapter of textiles by the Bureau of Indian Standards (BIS).
- (B) The Appellant differed from the observation of the AAR that they had not disclosed, at the time of hearing, the width of the tape, used for weaving. They claimed that they manufactured the said product in terms of IS 7903:2017 standard. The said BIS standard provides that the tapes used should be as per specifications under BIS 6192:994.
- (C) The Appellant stated that the tapes used for weaving were produced from organic monomers and hence the final product, that is, tarpaulins made from HDPE woven fabric did not fall under the definition of plastics provided in Chapter 39.
- (D) The Appellant stated that plastic tarpaulin contained in different IS Standards are classifiable under the technical division for Plastics whereas IS 7903:2017 (for goods in question) are classified under the technical division for Textiles.
- (E) According to the contention of the Appellant, the AAR took the view that laminated HDPE fabric was not classifiable under Chapter 63 of the GST Tariff in terms of Section Note 1(h) of Section XI. But the issue before the Ld AAR was the classification of Tarpaulin, simpliciter, and not of laminated HDPE Fabrics.
- (F) The Appellant also stated that in the instant case, Chapter 63 provided the most specific description to the products in question. So, it is a settled law that if there are two competing entries under which a product may be classifiable, then the entry which covers the product more specifically should be preferred over the entry which is general in nature.

5. During the course of the hearing the Appellant reiterated the points as stated in their Grounds in Appeal.

6. The grounds taken in appeal by the Appellant are being considered sequentially in respect of relevant section Notes of the Tariff Act:



i) The main contention of the Appellant for classification of Tarpaulin under Chapter 63 is that Tarpaulin made from HDPE woven fabrics is covered under clause 1(g) of Section XI of the Tariff Act, that is made up of monofilaments and hence the final product, that is tarpaulins made from HDPE woven fabric did not fall under the definition of plastics provided in Chapter 39.

ii) The Advance Ruling Authority vide their ruling observed that:

“Note 1(g) to Section XI of the Tariff Act states that the Section of Textile and Textile Articles covering Chapters 50 to 63 *does not* include, “Monofilament of which any cross-sectional dimension exceeds 1 mm or strip or the like (for example, artificial straw) of an apparent width exceeding 5mm, of plastics (Chapter 39), or plaits or fabrics or other basket-ware or wickerwork of such monofilament or strip (Chapter 46)”

Note 1 (h) to Section XI of the Tariff Act states that the Section of Textile and Textile Articles covering Chapters 50 to 63 *does not* include, “Woven, knitted or crocheted fabrics, felt or nonwovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39”

Thus, to be included in Chapter 63, the width of the tapes, manufactured from Plastics or articles thereof of Chapter 39, used to weave the fabric should be less than or equal to 5mm and should not be impregnated, coated, covered or laminated with plastics or articles thereof, of Chapter 39.

Tariff Head 6306 covers “Tarpaulins, awnings and sun blinds; tents; sails for boats, sailboards or land craft; camping goods”.

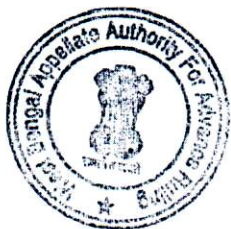
iii) The Appellant submitted that:

a) the final products of the company in question are tarpaulins made from HDPE woven fabric which are made out of synthetic fibres and are primarily used for Agricultural purposes as a harvesting material and for disaster management.

b) the intermediate output HDPE tapes is obtained from granules conforming to IS 6192:1994 i.e., “Textiles-monoaxially oriented high density polyethylene tapes” which then passed through power looms wherein the HDPE tapes are sent for circular weaving and are converted into laminated HDPE fabrics as per specification contained in IS 6899 “Textiles-high density polyethylene woven fabrics”.

c) the Appellant carries out the manufacture of tarpaulins made from HDPE through a process wherein weaving of the synthetic tapes are done followed by carrying out the procedure of lamination which gives an intermediate product, HDPE Laminated Fabrics.

d) the final product is conforming to IS 7903:2017. It is observed from IS 7903:2017 specification that Tarpaulins made from HDPE woven fabrics shall be laminated on both sides with the LDPE or suitable combination of LDPE and linear low density LLDPE melt of extrusion coating grade which shall be validated by a certificate from the polymer supplier for each lot AND in case of two or more layers of HDPE fabric are used to



manufacture laminated fabric, they shall be bonded by sandwich lamination. According to the Test Report of Central Institute of Plastics Engineering & Technology it conforms that the product is laminated with LLDPE. Copies of Invoice and Bill of Export enclosed show the description of the product as "H.D.P.E. Laminated Tarpaulin".

7. As per Note 1(h) to Section XI of the GST Tariff Act, Section of Textile and Textile Articles covering Chapters 50 to 63 does not include, Woven, knitted or crocheted fabrics, felt or nonwovens, impregnated, coated, covered or laminated with plastics or articles thereof, of Chapter 39.

8. During the course of hearing the Appellant also produced a sample of the tarpaulin in question which was made of HDPE woven fabrics and was laminated with LLDPE. Since water proofing is the principal characteristic of a tarpaulin it goes without saying that HDPE woven fabric can be used as tarpaulin only when such fabric is laminated. Thus the Appellant's contention that the issue was related to Tarpaulin, simpliciter, and not of laminated HDPE fabrics, is not the correct representation of facts. The process of lamination can neither be ignored nor treated in seclusion, as it is an integral and vital process for HDPE fabrics being put to use as tarpaulin.

9. Therefore, in view of the Note 1(h) to Section XI of the GST Tariff Act mentioned above, the tarpaulins of HDPE woven fabrics, laminated as per specification of IS 7903:2017, being expressly excluded, do not merit classification under Chapter 63.

10. The Ruling pronounced by the Advance Ruling Authority, is thus correct and justified.

11. The appeal filed by M/s East Hooghly Polyplast Pvt. Ltd. thus fails and the ruling of the West Bengal Authority for Advance Ruling pronounced, vide Order no. 12/WBAAR/2018-19 dated 20.07.2018, is upheld in its entirety.

The instant appeal stands disposed of accordingly.

Send a copy of this order to the Appellant and the Respondent for information.



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(SMARAKI MAHAPATRA)

Member

West Bengal Appellate Authority
for Advance Ruling



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(RAKESH KUMAR SHARMA)

Member

West Bengal Appellate Authority
for Advance Ruling