

**BEFORE THE AUTHORITY FOR ADVANCE
RULINGS FOR THE STATE OF UTTARAKHAND
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)

श्री विपिन चन्द्र (सदस्य)

Shri Amit Gupta (Member)

श्री अमित गुप्ता (सदस्य)

The 20 day of July, 2018

Ruling No. 05/2018-19

अग्रिम विनिर्णय संख्या

In

Application No: 02/2018-19

आवेदन संख्या, 02/2018-19

1	Applicant आवेदक	M/s. Ginni Filament Limited, Plot No. 98, Sector 5, IIE, SIDCUL, Haridwar-249403 मेसर्स गिन्नी फिलामेंट लिमिटेड, प्लॉट नं. 98, सेक्टर - 5, आई.आई.ई. सिडकुल, हरिद्वार - 249403
2	Jurisdictional Officer अधिकारिता अधिकारी	Deputy Commissioner, SGST, Haridwar region, Haridwar
3	Present for the Applicant आवेदक की ओर से उपस्थित	Shri R.S Sharma, Advocate श्री आर. एस. शर्मा, अधिवक्ता
4	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	None कोई नहीं
5	Date of receipt of application आवेदन प्राप्ति की तिथि	24.04.2018
6	Date of Personal Hearing सुनवाई की तिथि	11.07.2018

Note : Under Section. 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

नोट : इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

[Handwritten Signature]
28/08/18



**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX
UTTARAKHAND**

RULING

1. This is an application under Sub-Section (1) of Section 97 of the CGST/SGST Act, 2017 and the rules made thereunder filed by M/s Ginni Filament Private Limited, Plot No.98, Sector-5, IIE, SIDCUL, Haridwar having Drugs and Cosmetics License Number 7/C/UA/2017 dated 24.03.2017 and seeking an advance ruling on HSN classification under the GST Schedule as well as the GST rates of the **below mentioned products** which the applicant is engaged in manufacturing and supply to its various customers in the State of Uttarakhand and outside of the state

- a. Wet Baby Wipes.
- b. Wet Face Wipes.
- c. Bed and Bath Towels.
- d. Shampoo Towels.

The wipes are used for the purpose of cleaning /wiping the body by absorbing dirt, dust, grime, oil, etc.

2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
3. As per the said subsection (2) of Section 97 of the CGST Act advance ruling can be sought by an applicant in respect of :
- (a) Classification of any goods or services or both
 - (b) Applicability of a notification issued under the provisions of this Act,
 - (c) Determination of time and value of supply of goods or services or both,
 - (d) Admissibility of input tax credit of tax paid or deemed to have been paid
 - (e) Determination of the liability to pay tax on any goods or services or both
 - (f) Whether the applicant is required to be registered
 - (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term.

4. As per Section 97(2) (a) & (e) of CGST/SGST Act, 2017 the advance ruling can be given on "classification of any goods or services or both" and "determination of the liability to pay tax on any goods or services or both" respectively. In the present case applicant has sought advance ruling on HSN classification under the GST Schedule as well as the GST rates of the aforementioned products which the applicant is engaged in manufacturing and supply to its various customers in the State of Uttarakhand and outside of the state, details of which are as:

- Wet Baby Wipes.
- Wet Face Wipes.
- Bed and Bath Towels
- Shampoo Towels.

Therefore, in terms of said Section 97(2) of CGST/SGST Act, 2017, the present application is hereby admitted.

5. In this regard Joint Commissioner, SGST, Haridwar vide letter dated 13.06.2018 submitted his report wherein he, inter-alia, stated that the questioned goods have been taxable at the GST rate of 18% under Notification No.41/2017- Central Tax(Rate) dated 14.11.2017 and details of which are reproduced below:

Sl no	HSN Code	Goods	GST Rate
a.	3307	Wet Baby Wipes.	09% CGST + 09% SGST = 18%
b.	3307	Wet Face Wipes.	09% CGST + 09% SGST = 18%
c.	3305	Bed & Bath Towels.	09% CGST + 09% SGST = 18%
d.	3305	Shampoo Towels.	09% CGST + 09% SGST = 18%

6. Personal hearing in the case was held on 11.07.2018 and Shri. R.S Sharma, Advocate appeared for applicant. Nobody appeared from the side of the revenue.

7. According to the Applicant, for manufacturing the aforesaid wipes, Bed & Bath Towels & Shampoo Towels, the applicant uses non-woven spun lace fabric, Lotion & Packing material; here the matter of concern is the classification of products i.e Wet wipes, Bed & Bath Towels & Shampoo Towel respectively.

8. The applicant has requested to classify the following goods under the GST Regime quoting the reason of overlapping entries in the GST Schedule as notified by the Notification No.1/2017-Central Tax(Rate) dated 28.06.2017 and Notification No.1/2017- State Tax(Rate) dated 30.06.2017 as amended vide Notification No.41/2017-Central Tax(Rate) dated 14.11.2017 and the Notification No. 41/2017-State Tax(Rate) dated 14.11.2017("herein collectively referred to as the 'Rate Notifications'");

- Wet Baby Wipes.
- Wet Face Wipes.
- Bed and Bath Towels.
- Shampoo Towels.

9. Now we will discuss the above mentioned products one by one.

(A) Wet Baby Wipes

It consist of Non-woven spun lace fabric of 40-60 grams per square made from 60-70% viscose(regenerated cellulose)fiber +30%-40% polyester fiber of standard size 150 mm x 200 mm. Details of ingredients and functions are as follows:

Table-A

Ingredients	Functions
Water	Water
Propylene Glycol	Humectant
Phenoxyethanol	Preservative
Glycerin	Moisturisation
Propylene Glycol	Humectant
Polysorbate 20	Surfactant and Fragrance Solubiliser
PGE-40 Hydrogenated Castor Oil	Emulsifying Agent
Disodium Cocoamphodiacetate	Cleansing Agent
Herb Complex-6	Biological Additive used for moisturizing, nourishing and natural antibacterial activity.
Disodium EDTA	Chelating Agent
Aloe Barbadensis Leaf juice (Aloe Vera)	Purgative Aloin(nourishing & soothing agent)
Vitamin E	Vitamin
Fragrance	Fragrance

It is pertinent to mention here that the Government vide F.No.332/2/2017-TRU dated 22.12.2017 has clarified the matter and the relevant portion of the same is as under:

Sl no.	Queries	Replies
46	What is the HS code and GST rate for wipes for babies?	1. Baby wipes are classified on the basis of material and impregnating materials as: (i) Prior to 15.11.2017, Baby wipes consisting of Paper wadding felt and nonwovens, impregnated, coated or covered with soap or detergent, whether or not perfumed or put up (or retail sale, falls under HS code 3401 and attracts 28% GST. With effect, from 15.11.2017, it attracts 18% GST; Notification 11/2017 -Central Tax(Rate)]

	(ii) <u>And those consisting of wadding, felt and nonwoven impregnated, coated or covered with perfume or cosmetics fall under HS code 3307 and attracts 18% GST[Notification 41/2017 - Central Tax(Rate)]</u>
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Hence, there is no more scope left for further discussion over this issue and accordingly, the "Wet Baby Wipes" is to be classified under the HSN code- 3307 and as on date it will attract 18% GST rate.

(B) Wet Face Wipes

Similar to the product "Wet Baby Wipes", mentioned above at serial (A), the product in question namely "Wet Face Wipes" consists of Non-woven spun lace fabric of 40-60 grams per square made from 60-70% viscose(regenerated cellulose)fiber +30%-40% polyester fiber of standard size 150 mm x 200 mm. Details of ingredients and functions are as follows:

Table B

Ingredients	Functions
Water	Water
Di- Propylene Glycol	Chelating Agent
Glycerin	Moisturisation
Propylene Glycol	Humectant
Polysorbate 20	Surfactant and Fragrance Solubiliser
PGE-40 Hydrogenated Castor Oil	Emulsifying Agent
Disodium Cocoamphodiacetate	Cleansing Agent
Herb Complex-6	Biological Additive used for moisturizing, nourishing and natural antibacterial activity.
DMDM Hydantoin	Preservative
Propylparaben	Preservative
Aloe Barbadensis Leaf juice (Aloe Vera)	Nourishing & Soothing agent]
Fragrance	Fragrance

Since, the basic nature and working of the product "**Wet Face Wipes**" is almost the same as that of wet baby wipes i.e. gently cleaning the skin by removing the dirt and moistening it and on comparing the basic functions of the ingredients which is impregnated in the form of lotion over the non-woven fabric in respect of "Wet Baby Wipes", the same is to be taken into the HSN Code -3307 as the ingredients in this case are almost same and function founds to be same.

Hence, as discussed supra, wet face wipes will fall under HSN code- 3307 and as on date it will attract GST @ 18%.

(C) Bed and Bath Towels

Under this category in respect of the composition of materials, size and use of the goods details provided by the applicant is reproduced hereunder as:

It consist of Non-woven spun lace fabric of 40-60 grams per square meter of standard size 300 mm x 240 mm. Details of ingredients and functions are as follows:

Table-C

Ingredients	Functions
Aqua	Solvent
Chlorhexidine Gluconate 20%	Anti- bacterial
Propylene glycol	Solvent
Euxyl K703	Preservatives
Glycerine	Moisturiser
Polysorbate-20	Solubiliser
Dehtone Dc	Cleansing Agent
Cocamidopropylbetaine	Cleansing Agent
Alovera Gel	Skin Conditioner
Dc-193	Skin Conditioner
Peg-40 Hydrogenated Castor oil	Solubiliser
Sodium Gluconate	Chelating Agent
Fragrance	Fragrance
Citric Acid	Buffering Agent

The basic function of the aforesaid product is to clean and moisturizing the skin which may be use for body cleansing for a bed-ridden person or who requires partial assistance. The applicant reiterated the submissions made with regard to "Wet Face Wipes" for the product "Bed and Bath Towels" as per **Point no.11** of the Annexure- II enclosed with the Application for Advance Ruling.

In order to come to any conclusion on the classification of the product in question, first we have to go through the Chapter 33, 34, 48 & 56 of the Goods & Service Tax Tariff 2017. The relevant portion of the same are reproduced as under:

(i) **Classification under Chapter 33:**

Chapter note 4 in chapter 33 provides as under

4. The expression "perfumery, **cosmetic or toilet preparations**" in heading 3307 applies, *inter alia*, to the following products: scented sachets; odoriferous preparations which operate by burning; perfumed papers and papers impregnated or coated with cosmetics; contact lens or artificial eye solution; wadding felt and nonwovens, impregnated, coated or covered with perfume or cosmetics; animal toilet preparations

3307- Pre-shave, shaving or after-shave preparations; personal deodorants, **bath preparations** depilatories and other perfumery, **cosmetic or toilet preparations**, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties; such as Pre-shave, shaving or after-shave Preparations, Shaving cream, Personal deodorants and antiperspirants"

(ii) **Classification under Chapter 34**

340130- Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap (paper, wadding felt and **nonwovens**, impregnated, coated or covered with soap or detergent)"

"3402- Organic surface active agents (other than soap), surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 3401 (other than Sulphonated castor oil, fish oil or sperm oil)"

(iii) **Classification under Chapter 48**

"4818- Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape; handkerchiefs, **cleansing tissues**, towels, table cloths, serviettes, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibres."

(iv) **Classification under Chapter 56**

"5603- Nonwovens, whether or not impregnated, coated, covered or laminated."

On going through the submission of the applicant, we observe that the primary function of the "Bed and Bath Towels" is to clean the skin for which certain ingredients like 'Dehytone Dc' &

'Cocamidopropylbetaine' who acts like cleansing agent are impregnated with the fabric and further the addition of the 'Chlorohexidine Gluconate 20%' enhances its function as "disinfectant" who kill the bacteria alongwith the 'fragrance' to make the person to feel better. Basically, the conclusion is that the product reflects its primary function which is "clean the skin".

The basic fundamental principle of classification is guided by the Schedule of Tariff in the section notes and tariff notes. The description in each of the Chapters is the basic criteria for the purpose of classification. Now we take the issue as under:

3307: The Chapter note 4 in chapter 33 provides the expression **cosmetic or toilet preparations** in heading 3307 applies, *inter alia*, to the wadding, felt and nonwovens, impregnated, coated or covered with perfume or cosmetics. Further Chapter note 3 of Chapter 33 indicates that terms of heading Nos. 33.03 to 33.07 apply, *inter alia*, to products whether or not mixed (other than aqueous distillates and aqueous solutions of essential oils), suitable for use as goods of these headings and put up in packings of a kind sold by retail for such use.

340130: As per volume 2 of Explanatory Notes (Second addition of 1996) of Chapter heading 3401 (III), the products are generally used for washing the hands or the face and excludes paper, wadding, felt and non woven, simply perfumed (chapter 33)

3402 (Cleaning preparations): As per volume 2 of Explanatory Notes (Second addition of 1996) of Chapter heading 3402 (II)(B), cleaning preparations serve for cleaning floors, windows or other surfaces.

4818: This chapter covers toilet paper and similar paper, cellulose wadding and webs of cellulose fibres, of a kind used for household or sanitary purpose. The flow chart of manufacturing indicate the use of solution impregnation which is absent in the said chapter heading.

5603: As per volume 2 of Explanatory Notes (Second addition of 1996) of Chapter heading 5603 excludes nonwoven, impregnated, coated or covered with substances or preparations [e.g perfumes or cosmetics (Chapter 33)]

On a clear look of the items in the above headings, we note that classification of an item has to be under the heading of those items where it can be placed and can find a most suitable heading. Accordingly we find that product viz "bed and bath towel" merit classification in Chapter heading 3307 in as much as the other chapter headings (*supra*) do not give 'Bed and Bath Towels' its essential character i.e. 'cleaning and bathing' and the said product also covered in chapter note 4 of Chapter 33, further, the basic nature

and working of the product "**Bed and Bath wipes**" is almost the same as that of wet face wipes i.e. gently cleaning the skin by removing the dirt and moistening it. The said product is also impregnated in the form of lotion over the non-woven fabric. The rate of GST as on date is 18%.

(D) Shampoo towels

For this category, the composition of materials, size and use of the goods provided by the applicant is reproduced hereunder as:

It consist of Non-woven spun lace fabric of 40-60 grams per square meter of standard size 300 mm x 240 mm. Details of ingredients and functions are as follows

Table-D

Ingredients	Functions
Aqua	Solvent
Chlorhexidine Gluconate 20%	Anti- bacterial
Propylene glycol	Solvent
Euxyl K703	Preservatives
Disodium Edta	Chelating agent
Polysorbate-20	Solubiliser
Polyquaternium-10	Hair conditioner
Plantcare 2000 Up	Foaming agent
Dc-193	Hair Conditioner
Peg-40 Hydrogenated Castor oil	Solubiliser
Capb	Foaming agent
Fragrance	Fragrance
Citric Acid	Buffering Agent

The basic function of the aforesaid product is to clean and shampooing the hairs which may be use for a bed-ridden person or who requires partial assistance. The applicant in this case reiterated the submissions made with regard to "Wet Face Wipes" for the product "Shampoo Towels" as per **Point no.11** of the Annexure- II enclosed with the Application for Advance Ruling.

The Hon'ble Apex Court judgment dated 13.04.2018 in CIVIL APPEAL NO.1766 OF 2009 in the case of COMMISSIONER OF CENTRAL EXCISE VERSUS MADHAN AGRO INDUSTRIES (I) PVT. LTD held that:

"(i) The Heading 33.05 covers "preparations for use on the hair". Coconut oil is not a preparation for use on the hair. It is fixed vegetable oil capable of being used as cooking medium for for other purposes including for application on the hair. In the absence of any proof that it is specially prepared for use on the hair or any label/literature/indications on the

containers to that effect, the subject goods cannot be classified under heading 3305 simply because they were packed in small containers and applied by some sections of the society on the hair.

(ii) Coconut oil, whether pure or refined and whether packed in small or large containers merits classification under Heading 1503.

(iii) Only if the containers bear labels/literatures etc indicating that it is meant for application on hair as specified in Note 2 of Chapter 33 and/or if the coconut oil is used as additives or has undergone a process which make it a "preparation for use on hair", that coconut oil may merit classification under Chapter 33."

In this context, we find that the product in question has undergone a process which makes it a "preparation for use on hair". We further find that in the package they made declaration as under:

"Cleans and shampoos hair in minutes. No water required. No rinsing required. Easy & convenient for bedridden patients or people requiring partial assistance. Easy to use & dispose".

In view of the above, we find that the package of "Shampoo Towels" indicate that it is meant for application on hair and the said product is indeed manufactured for use on hair only. Thus both the conditions as prescribed by the Hon'ble Apex Court have been satisfied on this matter. Accordingly we hold that the product "Shampoo Towels" merit classification under Chapter 3305 of GST Tariff Act, 2017 and the rate of GST applicable on the said product is 18% as on date.

10. From the above analysis and discussion, the Authority found that the correct classification of the products is to be declared as per table:

Sl no	HSN Code	Goods	GST Rate [as on date]
a.	3307	Wet Baby Wipes.	09% CGST + 09% SGST = 18%
b.	3307	Wet Face Wipes.	09% CGST + 09% SGST = 18%
c.	3307	Bed & Bath Towels.	09% CGST + 09% SGST = 18%
d.	3305	Shampoo Towels.	09% CGST + 09% SGST = 18%

11. The Ruling is accordingly given and pronounced on this 20th day of July, 2018.


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

To,

M/s. Ginni Filament Limited,
Plot No. 98, Sector 5, IIE
SIDCUL, Haridwar-249401.

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX, UTTARAKHAND
OFFICE OF THE COMMISSIONER, SGST, UTTARAKHAND
LADPUR RING ROAD, UPPER NATHANWALA, DEHRADUN**

F.NO. : 02/2018-19/ *Advance ruling / Dehradun* / 2560 Dated : 20.07.18.

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut
2. The Commissioner, CGST, Commissionerate Dehradun
3. The Commissioner, SGST, Commissionerate Uttarakhand
4. Assistant Commissioner, CGST, Division Haridwar
- ✓ 5. Joint Commissioner, SGST, Haridwar
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