

**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 7th day of January 2019

Ruling No. 14 /2018-19

अग्रिम विनिर्णय संख्या.

In

Application No: 13

आवेदन संख्या. 13

1	Applicant आवेदक	M/s Mahalaxmi Polypack Pvt. Ltd., Plot No. 3A,B,C,D, Sector-9, IIE, SIDCUL, Pant Nagar, U.S. Nagar, Uttarakhand - 263153
2	Jurisdictional Officer अधिकारिता अधिकारी	Central GST, Range-II, Rudrapur
3	Present for the Applicant आवेदक की ओर से उपस्थित	Shri Deepak Kumar Vishnoi, Consultant
4	Concerned Officer	Mrs. Preeti Manral, DC- SGST
5	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	Nil
6	Date of receipt of application आवेदन प्राप्ति की तिथि	11.10.2018
7	Date of Personal Hearing सुनवाई की तिथि	27-12-2018 and 02.01.2019

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।

1. This is an application under Sub-Section (1) of Section 97 of the CGST /SGST Act, 2017 (herein after to be referred as "Act") and the rules made thereunder filed by M/s Mahalaxmi Polypack Pvt. Ltd., Plot No. 3A,B,C,D, Sector-9, IIE, SIDCUL, Pant Nagar, U.S. Nagar, Uttarakhand - 263153, seeking an advance ruling on the question :

"Q.1 Identification of correct classification of Poly Propylene Leno Bags among heading no. 63063300 and 39232990.

Q.2 Identification of rate of duty applicable as per respective HSN of Poly Propylene Leno Bags.

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 Act *ibid* 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

In the present case, applicant has sought advance ruling in respect of *leviability* of GST, if any, on the

(a) Identification of correct classification of Poly Propylene Leno Bags among heading no. 63063300 and 39232990.

(b) Identification of rate of duty applicable as per respective HSN of Poly Propylene Leno Bags.

Therefore, with the instant application seeking *classification of goods and determination of the liability to pay tax on such goods*, in terms of Section 97(2)(a) & (e) of CGST/SGST Act, 2017, the present application is hereby admitted.

4. Accordingly opportunity of personal hearing was granted to the applicant on 27-12-2018. Shri Deepak Kumar Vishnoi C/o -LASA Consultancy appeared for personal hearing on the said date and submitted documents describing therein exact nature of work being undertaken and on question, he replied that ruling may be given in respect of PP Leno Bags without actually testing it. Due to some unavoidable circumstances member of the Authority from the state could not be present in the hearing, therefore dated 02-01-2019 was again fixed for personal hearing. Applicant did not appear on 02-01-2019 but sent an Email stating that they have nothing to add further and whatever they have submitted before may be considered for pronouncing Advance Ruling.

5. In the present application, applicant has requested for advance ruling on :

- (a) Identification of correct classification of Poly Propylene Leno Bags among heading no. 63063300 and 39232990.
- (b) Identification of rate of duty applicable as per respective HSN of Poly Propylene Leno Bags.

However, the applicant in their application has not questioned of the testing of specimen sample whether it is Poly Propylene Leno Bags or not. Hence, we are of the opinion that the subject sample given by the applicant is 'Poly Propylene Leno Bags' and accordingly, we proceed for the classification and levability of tax on supply of the said 'Poly Propylene Leno Bags' by the applicant in the State of Uttarakhand.

5.1. As per "Introduction to GST Tariff", Customs Tariff is adopted for classification of the goods that are not classified anywhere in GST tariff. To avoid classification disputes, notifications issued by Government indicate that Customs Tariff has been adopted for descriptive classification of goods under GST. The Section Notes, Chapter Notes and Rules of interpretation of Customs Tariff have also been adopted.

Accordingly, on going through the Customs Tariff, we observe that the subject goods i.e. 'Poly Propylene Leno Bags' is classified under HS Code 3923 of the Customs Tariff and the relevant portion of the HS Code 3923 is reproduced as under :

HS Code	Description of goods	Unit
(1)	(2)	(3)
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 :	
3923 10 10	--- Plastic containers for audio or video cassettes, cassette tapes, floppy disk and similar articles	kg.
3923 10 20	--- Watch-box, jewellery box and similar containers of plastics...	kg.
3923 10 30	--- Insulated ware	kg.
3923 10 40	--- Packing for accommodating connectors.....	kg.
3923 10 90	--- Other.....	kg.
	- Sacks and bags (including cones) :	
3923 21 00	-- Of polymers of ethylene.....	kg.
3923 29	-- Of other plastics :	
3923 29 10	--- Of poly (vinyl chloride).....	kg.
3923 29 90	--- Other.....	kg.
3923 30	- Carboys, bottles, flasks and similar articles :	
3923 30 10	--- Insulated ware.....	kg.
3923 30 90	--- Other.....	kg.
3923 40 00	- Spools, cops, bobbins and similar supports.....	kg.
3923 50	- Stoppers, lids, caps and other bottles.....	kg.
3923 50 10	--- Caps and closures for bottles.....	kg.
3923 50 90	--- Other.....	kg.
3923 90	- Other :	
3923 90 10	--- Insulated ware.....	kg.
3923 90 20	--- Aseptic bags.....	kg.
3923 90 90	--- Other.....	kg.

- 5.2. Further, to determine the rate of GST leviability on the supply of 'Poly Propylene Leno Bags', we go through the corresponding HS Code 3923 of the GST Tariff and the relevant portion of the HS Code 3923 given under Chapter 39 "Plastics and articles thereof" of the GST tariff is reproduced as under -

Chapter/ Heading/ Sub-heading/ Tariff Item	Description of goods	GST Rates Rate of tax			
		Central CGST	State/UT SGST/UTGST	Inter- State IGST	Compensation Cess
3923	Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastic	9%	9%	18%	Nil

Thus, we observe that the 'Poly Propylene Leno Bags' is classified under HS Code 3923 of the Customs Tariff and, as per relevant chapter note of GST tariff, the tax is leviable @ 18% on supply of the subject goods i.e. 'Poly Propylene Leno Bags'.

- 5.3. Furthermore, on going through the advance ruling passed by the Odisha Authority for Advance Ruling vide Order No. 05/ODISHA-AAR/2018-19 dated 16.11.2018, relied upon the advance ruling passed by West Bengal Appellate Authority in department's favour arising out of Order No. 09/WBAAR/2018-19 dated 06.07.2018 in the case of "Mega Flex Plastics Ltd.", we concur with the findings of the ruling that the item "Polypropylene Leno Bags (PP Leno Bags)" will be classified under GST Tariff Heading '39232990'.

Further, as per the existing CBEC Revised Duty Drawback rates schedule applicable w.e.f.01.10.2017, "polypropylene woven fabric/bags/sacks, whether or not laminated, with or without U.V. stabilization, with or without liners/fasteners" are specifically classified under drawback chapter 39 under Tariff Item 392302. The item under consideration being woven bags of polypropylene therefore merits classification under this Chapter as it stands today without any ambiguity.

RULING

In view of the above, on the issue of identification of classification and rate of tax leviable on the supply of 'Poly Propylene Leno Bags' as per application filed by the applicant, we find that the subject goods i.e. 'Poly Propylene Leno Bags' falls under HSN 3923 of the GST Tariff and therefore, supply of 'Poly Propylene Leno Bags', would be chargeable to GST @18% [CGST @ 9% and SGST @ 9%].


VIPIN CHANDRA (MEMBER)


AMIT GUPTA (MEMBER)

AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX, UTTARAKHAND

F.NO.: 13/ STATE TAX OKD/ GST/ sec-97/2018-19/DDN/7708 Dated : 07/01/2019

Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for review.
2. The Commissioner, CGST, Commissionerate, Dehradun for review.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for review.
4. The Deputy Commissioner, CGST Division, Rudrapur for review.
- ✓ 5. The Deputy Commissioner, SGST, Dehradun for review.
6. The Concerned officer, SGST, ~~DEHRADUN~~
7. The Registrar -Appellate Authority for Advance ruling
8. Guard File.