

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata IRS., Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai.

2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member (FAC),
Office of the Joint Commissioner (ST), Enforcement /
Inter-State Investigation Cell, Chennai-6.

ORDER No.20/AAR/2018 DATED 28.11.2018

GSTIN Number, if any / User id	33AEVPT0022L1Z9
Legal Name of Applicant	Senthilkumar Thilagavathy [M/s. JVS Tex]
Registered Address/Address provided while obtaining user id	213 W/A-1, VNC Thottam, Kamaraj Nagar 1 st Street, Bhavani - 638 301.
Details of Application	Form GST ARA - 001 Application Sl.No. 48 dated 04.10.2018.
Concerned Officer	State : The Assistant Commissioner (ST), Bhavani Assessment Circle. Centre : The Commissioner of C.Ex and GST, Salem
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A	Category
B	Description (in Brief)
Issue/s on which advance ruling required	Manufacturing Manufacturing of Bags out of Non-woven Fabrics of Polypropylene/100% Cotton (Grey Fabrics).
Question(s) on which advance ruling is required	Classification and the Rate of Tax payable on Bags made-up of Non-woven Fabrics of Polypropylene/Cotton (Grey Fabrics). Classification of Bags made of Non-Woven Fabrics of Polypropylene /100% Cotton (Grey Fabrics) used for the packing of goods, commonly called as 'Stick-bags / Wedding Gift Bags/ Re-usable Shopping Bags/ Draw-string Gift Bags/ Garment Bags, etc and its rate of tax payable under the GST Acts.

Note : Any appeal against the advance ruling order shall be filed before the Tamilnadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

Senthilkumar Thilagavathy [Prop: M/s. JVS Tex], 213 W/A-1, VNC, Thottam, Kamaraj Nagar 1st Street, Bhavani - 638 301. (hereinafter referred to as Applicant) are the manufacturers of Stick-Bags / Wedding Gift Bags / Packing Bags made of Non-woven Fabrics of Polypropylene / 100% Cotton (Grey Fabrics). They are registered vide GSTIN: 33AEVPT0022L1Z9. They have sought Advance Ruling on

“Classification of Bags made of Non-Woven Fabrics of Polypropylene / 100% Cotton (Grey Fabrics) used the Packing of goods, commonly called as Stick Bags, Wedding Gift Bags, Re-useable Shopping Bags, Draw-String, Gift Bags, Garment Bags, etc., and the rate of tax payable under the GST Act 2017.”

The Applicant has submitted the Advance Ruling in Form GST ARA - 01 and had enclosed challan for payment of fees of Rs 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2.1 The Applicant has stated that they manufacture Stick-Bags / Wedding Gift Bags / Packing Bags made of Non-woven Fabrics of Polypropylene / 100% Cotton (Grey Fabrics); Their bags are mainly purchased by the Show Rooms (Cars, Bikes, Vehicle Parts and Spectacles), Textile Shops, Silk Emporiums, Jewellery Shops, Retail Outlets of Commercial products etc. for the purpose of packing of their products to the ultimate customers.; They are bags of a kind used for the packing of goods commonly called as, 'Re-usable Shopping Bags, Drawstring Gift Bags, Garment Bags, etc.‘; The major raw material for the manufacture of the said bags is Non-woven Fabrics falling under heading 5603/ 'grey fabrics/woven fabrics of 100% cotton falling under heading 5208 of first schedule to Customs Tariff Act 1975.; The said bags are manufactured through the processes of cutting, printing (either screen or off-set), sewing and handle fixing (either sticks or same material).

2.2 The Applicant has further stated that the classification of Non-Woven Fabrics of Polypropylene as per the following notes to Chapter 56 of the First Schedule to the Customs Tariff Act 1975, is as follows:

“3 Headings 5602, 5603 cover respectively felt and nonwovens, impregnated, coated, covered or laminated with plastics or rubber whatever the nature of these materials (compact or cellular).

Heading 5603 also includes Non-woven in which plastics or rubber forms the bonding substance”.

Similarly, classification in respect of the said goods, namely “Bags made up of Non-woven Fabrics of Polypropylene” is set as rest by the section notes Sl.No.7 (f) to section XI Textile and Textile Articles of the First Schedule to the Customs Tariff Act, 1975, which is as follows:

“7. For the purposes of this Section, the expression “made up” means;

(f) assembled by sewing, gumming or otherwise (other than piece goods consisting of two or more lengths of identical material joined end to end and piece goods composed of two or more textiles assembled in layers, whether or not padded).”

Accordingly, the said ‘Bags made of Non-woven Fabrics of Polypropylene are rightly classifiable under Tariff item No. 63 05 33 00, as ‘Sacks and Bags, of a kind used for packing of goods, of man-made textile materials, of Polypropylene strip or the like and Bags made of cotton’ are rightly classifiable under Tariff Item No.63 05 20 00 as Sacks and Bags, of a kind used for packing of goods, of Cotton respectively. The above said classification under the Customs Tariff is aligned with the HSN Code and it appears both in Schedule I and Schedule II of Notification No.01/2017 Central Tax (Rate) dated 28.06.2017 as amended and G.O. Ms. 157 dated 14.11.2017 of the Government of Tamilnadu the rate of tax is levied based on the value of the product. i.e., @ 2.5% - for value not exceeding Rs. 1000 per piece and @ 6%- for sale value exceeding Rs.1000 per piece. In the present case, the sale value of ‘Bags made of Non-woven Fabrics of Polypropylene/woven fabrics of cotton’ is less than Rs.1,000/- per piece and therefore, it appeared that the impugned/disputed goods attract GST at the rate of @ 5% ad vide entry No.224 of Schedule I of both CGST and SGST notifications. The Applicant has also stated that the bags manufactured by them are rightly classifiable under Chapter Heading

6305 and relied on the decision of Advance ruling Authority, State of Kerala in the case of M/s. JJ Fabrics, Ernakulam.

3. The Applicant was personally heard. During the hearing, they have stated that they purchase raw material namely Polypropylene/Non-Woven Fabrics and Cotton in rolls. They die certain fabrics. They cut both to requirement and print using offset printing and screen printing on jobwork basis & stitch into carry bags. The design is given by their buyers. They produced copies of Invoices of Inward and Outward supplies. They also produced samples of Non-woven Bag/Cotton Bags.

4. Contentions of the Applicant was examined with connected samples and records. The Classification of the Bags and the applicability of the Actual Rate / Heading is the issue to be discussed and clarified. From the various submissions of the Applicant, it is evident that the Applicant purchases Non-woven Fabric roll, convert into sheets by cutting and on printing according to requirements of customers (either screen or off-set), stitch into bags which are used in Show Rooms (Cars, Bikes, Vehicle Parts and Spectacles), Textile Shops, Silk Emporiums, Jewellery Shops, Retail Outlets of Commercial products etc. for the purpose of packing their products to the ultimate customers. They are bags of a kind used for the packing of goods commonly called as Re-usable Shopping Bags, Drawstring Gift Gags, Garment Bags. The Bags have handles made out of stick or same materials. The purchase Invoices indicate purchase of Non-woven Fabrics and plain Cotton cloth. It is seen in the Sale Invoices that the Applicant is variously describing them as "Non-woven Bags", "Cloth Bags" etc. of various sizes.

5.1 The Classification of the bags and the applicability of the Actual Rate / Heading is the issue to be discussed and clarified. In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, Tariff Heading, Sub-Heading, Heading and Chapter shall mean respectively a Tariff item, Sub-Heading, Heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

5.2 The Applicant's contention is that the products are to be classified under 6305.

Chapter 6305:

6305		SACKS AND BAGS, OF A KIND USED FOR THE PACKING OF GOODS		
6305 10	-	<i>Of jute or of other textile bast fibres of heading 5303 :</i>		
6305 10 10	---	Jute bagging for raw cotton	kg.	25% -
6305 10 20	---	Jute corn (grains) sacks	kg.	25% -
6305 10 30	---	Jute hessian bags	kg.	25% -
6305 10 40	---	Jute sacking bags	kg.	25% -
6305 10 50	---	Jute wool sacks	kg.	25% -
6305 10 60	---	Plastic coated or paper cum polythene lined jute bags and sacks	kg.	25% -
6305 10 70	---	Paper laminated hessian jute	kg.	25% -
6305 10 80	---	Jute soil savers	kg.	25% -
6305 10 90	---	Other	kg.	25% -
6305 20 00	-	Of cotton	kg.	25% -
		<i>Of man-made textile materials :</i>		
6305 32 00	--	Flexible intermediate bulk containers	kg.	25% -
<hr/>				
6305 33 00	--	Other, of polyethylene or polypropylene strip or the like	kg.	25% -
6305 39 00	--	Other	kg.	25% -
6305 90 00	-	Of other textile materials	kg.	25% -
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6306		TARPAULINS, AWNINGS AND SUNBLINDS; TENTS:		

HSN explanatory Notes to chapter 6305 states:

This heading covers textile sacks and bags of a kind normally used for the packing of goods for transport, storage or sale.

These articles, which vary in size and shape, include in particular flexible intermediate bulk containers, coal, grain, flour, potato, coffee or similar sacks, mail bags, and small bags of the kind used for sending samples of merchandise by post. The heading also includes such articles as tea sachets.

It is evident that bags which are used for packing of goods for transport, storage and sale are covered under 6305. In this case, the Bags of any materials are used for packing the goods which are then put up for sale, transport or storage. That is such goods because of their very nature, being loose, flowing or in bulk etc., cannot be sold without packing by such bags. However, in the instant case, the Applicant has stated that the goods in question are Carry Bags also called as Re-usable Shopping Bags, Drawstring Gift Bags, Garment Bags. These Bags have handles for carrying. Textiles or jewellery or other items after they are purchased by the Customers are put in these Bags and given to Customers to carry /take away from the shops. These bags are not used for packing, but for ease of carrying being in the nature of Shopping Bags.

Chapter Heading 4202:

4202	TRUNKS, SUIT-CASES, VANITY-CASES, EXECUTIVE-CASES, BRIEF-CASES, SCHOOL SATCHELS, SPECTACLE CASES, BINOCULAR CASES, CAMERA CASES, MUSICAL INSTRUMENT CASES, GUN CASES, HOLSTERS AND SIMILAR CONTAINERS; TRAVELLING-BAGS, INSULATED FOOD OR BEVERAGES BAGS, TOILET BAGS, RUCKSACKS, HANDBAGS, SHOPPING-BAGS, WALLETS, PURSES, MAP-CASES, CIGARETTE-CASES, TOBACCO-POUCHES, TOOL BAGS, SPORTS BAGS, BOTTLE-CASES, JEWELLERY BOXES, POWDER-BOXES, CUTLERY CASES AND SIMILAR CONTAINERS, OF LEATHER OR OF COMPOSITION LEATHER, OF SHEETING OF PLASTICS, OF TEXTILE MATERIALS, OF VULCANISED FIBRE OR OF PAPERBOARD, OR WHOLLY OR MAINLY COVERED WITH SUCH MATERIALS OR WITH PAPER			
	- <i>Trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels and similar containers :</i>			
4202 11	-- <i>With outer surface of leather or of composition leather:</i>			
4202 11 10	--- Travel goods (trunks, suit-cases, sports bags and other similar items) of leather	u	10%	-
4202 11 20	--- Toilet-bags and cases, of leather	u	10%	-
4202 11 30	--- Satchels	u	10%	-
4202 11 40	--- Brief-cases	u	10%	-
.....				
4202 22	-- <i>With outer surface of sheeting of plastics or of textile materials :</i>			
4202 22 10	--- Hand-bags and shopping bags, of artificial plastic material	u	10%	
4202 22 20	--- Hand-bags and shopping bags, of cotton	u	10%	
4202 22 30	--- Hand-bags and shopping bags, of Jute	u	10%	
4202 22 40	--- Vanity-bags	u	10%	
4202 22 90	--- Other			
4202 29	-- <i>Other :</i>			
4202 29 10	--- Hand bags of other materials excluding wicker-work or basket work	u	10%	
4202 29 90	--- Other	u	10%	

From the above, it is seen carry bags or shopping bags are covered in the Customs Tariff under CCTH 420222 depending on the material they are made up of. Shopping Bags made of Cotton are classified under CTH 42022220 and those made of Non-woven Fabrics are classifiable under CTH 42022210.

5.3 Having decided the classification, the next to be answered is the applicable rate of tax. Non-woven and Cotton carry Bags/Shopping Bags supplied by the Applicant were taxable to 9% CGST and 9% SGST as per Sl no 126 and 127 of Schedule III of Notification No. 01/2017-CT (Rate) dated 28.06.2017 and G.O.

(Ms) No. 62 dated 29.06.2017 No. II (2)/CTR/532(d-4)/2017 as amended respectively.

The relevant entries are found in Schedule III attracting 9% tax as given under:

124.	4202	School satchels and bags other than of leather or composition leather
125.	4202 12 10	Toilet cases
126.	4202 22 10	Hand bags and shopping bags, of artificial plastic material
127.	4202 22 20	Hand bags and shopping bags, of cotton
128.	4202 22 30	Hand bags and shopping bags, of jute
129.	4202 22 40	Vanity bags
130.	4202 29 10	Handbags of other materials excluding wicker work or basket work

The said entries stands amended vide Notification No. 41/2017- C.T (Rate) dated 14.11.2017 effective from 15.11.2017. The Hand bags and Shopping bags made of cotton and jute were moved from schedule III to Schedule II attracting rate of tax of 6%-CGST

(B) in Schedule II-6%, -

(xii) for S. Nos. 89, 90 and the entries relating thereto, the following shall be substituted, namely :-

"89	4202 22 20	Hand bags and shopping bags, of cotton
90	4202 22 30	Hand bags and shopping bags, of jute";

and the entries at Schedule III from 124 to 130 were replaced as under:

(C) in Schedule III-9%, -

(xl)in S. No. 124, for the entry in column (3), the entry "Trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; travelling-bags, insulated food or beverages bags, toilet bags, rucksacks, handbags, shopping bags, wallets, purses, map-cases, cigarette-cases, tobacco- pouches, tool bags, sports bags, bottle-cases, jewellery boxes, powder-boxes, cutlery cases and similar containers, of leather, of sheeting of plastics, of textile materials, of vulcanised fibre or of paperboard, or wholly or mainly covered with such materials or with paper [other than handbags and shopping bags, of cotton or jute]" shall be substituted;

(xli) after S. No. 124 and the entries relating thereto, the following serial numbers and the entries shall be inserted, namely: -

"124A	4203	Articles of apparel and clothing accessories, of leather or of composition leather [other than gloves specially designed for use in sports]
124B	4205	Other articles of leather or of composition leather
124C	4206	Articles of gut (other than silk-worm gut), of goldbeater's skin, of bladders or of tendons";


(xlii) S. No. 125, 126, 127, 128, 129 and 130 and the entries relating thereto shall be omitted;


From the above, it is evident that the Carry Bags/Shopping Bags made-up of Cotton are taxable at 6% under CGST Act 2017 and at 6% under SGST Act 2017 as per Sl.No.89 of Schedule II while those Carry Bags made of Non-woven Fabrics are taxable to 9% under CGST Act 2017 and 9% under SGST Act 2017 as per Sl.No.124 of Schedule III of Notification No. 01/2017-CT (Rate) dated 28.06.2017 and G.O. (Ms) No. 62 dated 29.06.2017 No. II (2)/CTR/532(d-4)/2017 as amended respectively.

6. In view of the foregoing, we rule as under:

RULING

1. Non-Woven Carry Bags/Shopping Bags supplied by the Applicant are classifiable under CTH 4202 22 10 and Cotton Carry Bags supplied by the Applicant are classifiable under CTH 4202 22 20.
2. Upto 14.11.2017, Non-woven and Cotton Carry Bags/Shopping Bags supplied by the Applicant were taxable at 9% under CGST Act 2017 and at 9% under SGST Act 2017 as per Sl.No.126 and 127 of Schedule III of Notification No. 01/2017-CT (Rate) dated 28.06.2017 and G.O. (Ms) No. 62 dated 29.06.2017 No. II (2)/CTR/532(d-4)/2017 as amended respectively.
3. From 15.11.2017 onwards, Cotton Carry Bags/Shopping Bags are taxable at 6% under CGST Act 2017 and at 6% under SGST Act 2017 as per Sl.No.89 of Schedule II while Non-woven Carry Bags are taxable to 9% under CGST Act 2017 and 9% under SGST Act 2017 as per Sl.No.124 of Schedule III of Notification No. 01/2017-CT (Rate) dated 28.06.2017 and G.O. (Ms) No. 62 dated 29.06.2017 No. II (2)/CTR/532(d-4)/2017 as amended respectively.


Ms. Manasa Gangotri Kata, IRS
Member


Shri. S. Vijayakumar, M.Sc.,
Member (FAC)

To
M/s. JVS Tex,
213-W, A-1, VNC Thottam,
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Bhavani - 638 301.

/By SPAD/



Copy Submitted to:

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2. The Principal Chief Commissioner of GST & Central Excise, 26/1,
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Copy to:

3. The Commissioner of GST & C.Ex., Salem.
4. The Assistant Commissioner (ST),
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