

**WEST BENGAL APPELLATE AUTHORITY FOR ADVANCE RULING**

**AT 14, BELIAGHATA ROAD, KOLKATA-700015**

**Before:**

**Sri. A.P.S Suri, Member**

**Sri. Devi Prasad Karanam, Member**

In the matter of

Appeal Case No. 14/WBAAAR/APPEAL/2019 dated 26.09.2019

- And -

In the matter of:

An Appeal filed under Section 100(1) of the West Bengal Goods and Services Tax Act, 2017/ Central Goods and Services Tax Act, 2017, by M/s East Hooghly Agro Plantation Pvt. Ltd., South Gotu, Sugandha, PS-Polba, Chinsurah-712102 against the Ruling passed by the West Bengal Advance Ruling Authority vide Order No. 19/WBAAR/2019-20 dated 26.08.2019.

Present for the Appellant: Sri. Anjan Dasgupta, Advocate  
Sri Joydeep Dutta, Consultant

Present for the Respondent: Sri M K Chanda, Assistant Commissioner, CGST & CX,  
Singur Division

Matter heard on: 10.12.2019

Date of Order: 23.12.2019

1. This Appeal has been filed by M/s East Hooghly Agro Plantation Pvt. Ltd. (hereinafter referred to as "the Appellant") on 26.09.2019 against Advance Ruling Order No. 19/WBAAR/2019-20 dated 26.08.2019, pronounced by the West Bengal Authority for Advance Ruling (hereinafter referred to as the "WBAAR")
2. The Appellant holding GSTIN No. 19AAECE2196A1ZU is a manufacturer of tarpaulins made from High Density Polyethylene (hereinafter referred to as "HDPE") woven fabrics. The Appellant purchases HDPE granules which are sorted, mixed with additives and passed through a HDPE tape line plant to obtain HDPE tapes. HDPE tapes of 2 mm width thus obtained as the intermediate product are passed through

winder plant and power looms to be woven into HDPE fabrics. To make the porous HDPE fabrics water resistant, lamination is done on both sides with Low Density Polyethylene (hereinafter referred to as “LDPE”). The HDPE fabrics are cut into size, hemmed, stitched and eyelets made to complete the manufacturing process of the final product being tarpaulins made from HDPE woven fabrics.

3. The Appellant sought an advance ruling under section 97 of the West Bengal Goods and Services Tax Act, 2017/ the Central Goods and Services Tax Act, 2017, (hereinafter collectively referred to as “the GST Act”) on the following questions:
  - a) Whether HDPE woven tarpaulins are classified as “Textiles and Textile Articles” under section XI of the First Schedule of the Customs Tariff Act, 1975 (hereinafter referred to as the “Tariff Act”), and
  - b) Whether HDPE woven tarpaulin is classified under either of HSN 6306/6301/5903 of the GST Tariff.
4. The WBAAR pronounced its advance ruling by an order dated 26.08.2019, that HDPE woven fabric coated with LDPE melt is not a textile fabric and tarpaulins made from the said laminated fabric is not classified under either of HSN 6306/6301/5903 of the Tariff Act.
5. The Appellant has filed the instant Appeal against the above Advance Ruling with the prayer to set aside/modify the impugned Advance Ruling passed by the WBAAR or pass any such further orders as may be deemed fit and proper in the facts and circumstances of the case on the following grounds:
  - (i) The WBAAR erroneously held that the HDPE woven tarpaulin is not a textile article. The manufacturing process of HDPE woven tarpaulin is very different from that of plastic tarpaulin. HDPE woven tarpaulins are made from fabrics obtained by weaving method using power looms. Plastic tarpaulins on the other hand are obtained from hot pressed plain plastic sheets which are cut into shapes and stitched thereafter.
  - (ii) The Appellant obtained license from the Bureau of Indian Standards, New Delhi (hereinafter referred to as the “BIS”) which authenticated the product under IS 7903:2017 (covered in TXD 23 contained in technical division 12 of standard BIS) whereas plastics are covered in PCD 12 of technical division 10 of standard BIS.
  - (iii) The Appellant was granted eligibility cum registration certificate from the Directorate of Textiles, Government of West Bengal for receiving subsidies under West Bengal Incentive Scheme, 2013 given to MSME Textile Sector.

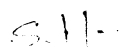
- (iv) The final product of the Appellant is made from synthetic fibers and covered under HSN 6306 or 5903. It is a settled principle that goods to be classified under specific heading, if available, then a generic or broader one.
  - (v) The Appellant further added that the WBAAR erred in its Ruling to the extent that mere presence of plastic granules as input does not make the manufactured product a plastic good. Plastic granules lose their identity in the process of manufacturing the final product being HDPE woven tarpaulin. The Appellant cited in support of its argument judgments in the matter of Modern Plastic [2007 (213) ELT A48 (SC)] and in the matter of NTB International (P) Ltd. [2015 (319) ELT 545 (SC)]
  - (vi) The WBAAR erred in applying the rules of interpretation, Section Notes, general Explanatory Notes of the Tariff Act.
6. During the course of hearing the Appellant reiterated the points as stated in the Grounds of Appeal. The Appellant emphasized on the point that manufacturing process of plastic tarpaulins is very different from tarpaulins made from textile material. The Appellant argued that tarpaulins manufactured by them fits those covered under HSN 6306 of the Tariff Act. In the pre-GST regime the Appellant was forced to follow the direction of Superintendent of Central Excise, Range-II, Chandannagar-I Division and classify under heading 3926 while obtaining export clearance from the later. At that point of time there was no adverse impact of difference in indirect tax rates due to different classification. By classifying its product under Chapter 39 instead of Chapter 63 has resulted in a larger tax burden. The Appellant also produced samples of HDPE tape, woven but non-laminated HDPE fabric and HDPE fabric laminated on both sides with LDPE.
7. The Respondent submitted that 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 cover woven, knitted or crocheted fabrics, felt or nonwovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39**”. So the tarpaulins of HDPE woven fabric laminated by plastic materials do not qualify as Textile and Textile Articles under chapters 50 to 63.
8. The Respondent also submitted that in a similar matter in case of M/s East Hooghly Poly Plast Pvt. Ltd. the WBAAR vide Order No. 12/WBAAR/2018-19 dated 20.07.2018 had ruled that tarpaulins made from HDPE woven fabrics will not be classified under HSN 6306 of the GST Tariff Act and this ruling was upheld by the West Bengal Appellate Authority for Advance Ruling vide its order dated 03.12.2018 in Appeal Case No. 07/WBAAAR/Appeal/2018.

9. The matter is examined and written and oral submissions made before us are considered.
10. On examination of samples produced by the Appellant during the course of hearing it is clear that as the principal characteristic of tarpaulin is water proofing, unless the HDPE woven fabric is laminated it cannot be used to make tarpaulin. The process of lamination cannot be ignored or treated in isolation. It is an integral and vital process in manufacturing tarpaulin from HDPE woven fabric.
11. Therefore, in view of Note 1(h) to Section XI of the GST Tariff Act mentioned above, the tarpaulins of HDPE woven fabric, laminated as per specification of IS 7903:2017, **being expressly excluded, do not merit classification under Chapter 63.**
12. The question as to whether the product can be classified under HSN 5903, Note 2 to Chapter 59 is relevant which excludes "*products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that such coating or covering can be seen with the naked eye with no account being taken of any resulting change of colour (Chapter 39)*". The sample produced by the Appellant was seen with the naked eye to be completely coated on both sides by plastic material and thus the laminated HDPE woven fabric in the instant case **is not a textile material and does not merit classification under HSN 5903.**

In view of above discussion we find no infirmity in the ruling pronounced by the WBAAR.

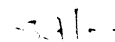
The appeal thus fails and stands disposed accordingly.

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



(Devi Prasad Karanam)  
Member

West Bengal Appellate Authority  
for Advance Ruling



(A.P.S Suri)  
Member

West Bengal Appellate Authority  
for Advance Ruling