

GIB/WB/East Hooghly/23.12.2019/AAAR-30

Appellate Advance Ruling Category : Classification

State : West Bengal

Order No.: GIB/WB/East Hooghly/23.12.2019/AAAR-30

Name of Entry :

East Hooghly Agro Plantation Pvt. Ltd.

Date : 23-12-2019

Breif Issue :

Facts & Issue of the Ruling

This Appeal has been filed by M/s East Hooghly Agro Plantation Pvt. Ltd. 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. The above mentioned Advance Ruling can be found on [GIB/WB/EAST HOOGLY/20.07.18/AAR-86](#)

The Appellant 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.

The Appellant sought an advance ruling on the following questions:

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 Whether HDPE woven tarpaulin is classified under either of HSN 63061630115903 of the GST Tariff.

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 63061630115903 of the Tariff Act.

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.

Decision of Advance Ruling Authority :

Decision

In view of the above appeal before Appellate Authority the Authority found no infirmity in the ruling pronounced by the WBAAR.

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. 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.

The question to whether the product can be classified under HSN 5903, Note 2 Chapter 59 is relevant which excludes “products in which the textile fabric is either completely embedded in plastics or entirely coated or covered in both sides with such material, provided that such coating or covering can be seen with the naked eye with no account being taken for any resulting change of colour (Chapter 39)”. The sample produced by 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.

The appeal failed and stood disposed accordingly.