

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AAACN3948F3ZE
Legal Name of Applicant	NATIONAL PLASTIC INDUSTRIES LIMITED
Registered Address/Address provided while obtaining user id	OFFICE NO.213, 214 & 215, SECOND FLOOR, HUB TOWN SOLARIS, N. S. PHADKE ROAD, ANDHERI (EAST), MUMBAI - 400 069. INDIA.
Details of application	GST-ARA, Application No. 17 Dated 03.01.2018
Concerned officer	Central GST, Range- IV, Div-VI, Mumbai East.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Warehouse/Depot
B Description (in brief)	THE APPLICANT IS IN THE BUSINESS OF SELLING OF PVC FLOOR MATS.
Issue/s on which advance ruling required	(iv) admissibility of input tax credit of tax paid or deemed to have been paid
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by NATIONAL PLASTIC INDUSTRIES LIMITED, the applicant, seeking an advance ruling in respect of the following question :

To seek the classification of the PVC floor mat and the applicable rate of GST on the same.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus -

- 1) "M/s National Plastics (hereinafter referred to as the 'applicant') is a company engaged in the manufacture of floor mats made of PVC, known as PVC Carpet Mats.
- 2) Manufacturing of the same is undertaken in two stages. Stage 1 being PVC Monofilament production and carpet piling process and stage 2 being Web-lamination and backing process. The prime raw material being used for the aforesaid product is PVC (Poly Vinyl Chloride). The stages of manufacture are as follows:
 - a) Under Stage 1, PVC monofilament yarn with decitex ranging from 1200 to 2800 and filament diameter range 0.38 to 0.75 mm is extruded through a perforated die plate using T-die extrusion. Extrusion is done through 3 to 4 parallel rows along the entire width of T-die and the vertically extruded yarn immediately falls on a water bed to form a non-woven carpet pile.



- Also, referred to as PVC web, non-woven carpet pile is taken up in a horizontal direction on a roller and wound up in rolls. Pile height of the carpet can be varied by changing the process parameters, usually in the range of 8 mm to 16 mm.
- b) Under Stage 2, the web formed in Stage 1 is impregnated with a lamination of clear coat of liquid PVC and is further made to fall over the liquid PVC layer on a conveyer belt. Then it passes through the heated conveyor oven to solidify the liquid PVC backing to the web.
 - 3) The resultant product is a product of running length. It is then cut into size as given specified by the customer.

Statement containing the applicant's interpretation of law:

Reason for classification under chapter 5705 by applicant:

- 1) Section 9(1) of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as "the CGST Act") and Section 9(1) of the Maharashtra Goods and Service Tax Act 2017 (hereinafter referred to as "the SGST Act") are the charging section which levies CGST and SGST respectively on all intra-State supplies of goods or services or both, at such rates as may be notified by the Government on the recommendations of the Council.
- 2) In exercise of powers conferred under Section 9(1) of the CGST as well as SGST Act, Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 (hereinafter referred to as "Notification No. 1/2017-CGST") and Notification no 1/2017-State Tax (Rate) respectively which specifies the rate of CGST/SGST to be levied on different products along with their corresponding Chapter/Heading/Sub-Heading/Tariff item.
- 3) Entry no 146 of Schedule II of the respective notifications issued under both the Acts cover the chapter heading 5705, the same being reproduced below:

146.	5705	Other carpets and other textile floor coverings, whether or not made up; such as Mats and mattings including Bath Mats, where cotton predominates by weight, of Handloom, Cotton Rugs of handloom
------	------	---

- 4) Notification No. 1/2017 – CGST specifically provide that –
*"Explanation For the purposes of this Schedule, -
 (iii) "Tariff item", "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.
 (iv) The rules for the interpretation of the First Schedule to the Custom Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification."*
 Thus, for the purpose of GST, Classification of goods under any tariff item/ sub-heading / heading/ chapter shall be done using the general rules of interpretation of the First Schedule of the Customs Tariff Act, 1975 including the Section and Chapter Notes and the General Explanatory Notes to the HSN of the First Schedule of the CTA, 1975.
 It is submitted that the above explanation are also part of the notification 01/2017-State Tax (Rate) and thus the above ratio will apply to state notifications also.
- 5) In our view, Chapter Heading 5705 of the Customs Tariff, the heading of which reads as "other carpets and other textile floor coverings, whether or not made up" is the relevant entry in this case. The relevant extract is as follows:

Tariff Item	Description of goods	Unit
(1)	(2)	(3)
5705	OTHER CARPETS AND OTHER TEXTILE FLOOR COVERINGS, WHETHER OR NOT MADE UP	
5705 00	Other carpets and other textile floor coverings, whether or not made up:	
	Carpets :	
5705 00 11	Of silk	m ²
5705 00 19	Other	m ²
	Durries :	
5705 00 21	Durries cotton	m ²
5705 00 22	Durries of man-made fibres	m ²
5705 00 23	Durries of wool	m ²
5705 00 24	Cotton Durries of handloom (including Chindi Durries, Cotton Chenille Durries, Rag Rug Durrie, Printed Durries, Drugetts)	m ²
5705 00 29	Other	m ²
	Of jute :	
5705 00 31	Of blended jute	m ²
5705 00 32	Of coir jute	m ²
5705 00 39	Other	m ²
	Carpets, carpeting, rugs, mats and mattings:	
	Knitted	m ²
5705 00 41	Mats and mattings including Bath Mats, where cotton predominates by weight,	m ²
5705 00 42	of Handloom, Cotton Rugs of Handloom	
	Other	m ²
5705 00 49	Other	m ²
5705 00 90	Other	m ²

- 6) Also, the relevant extract of HSN explanatory notes for chapter 5705 is reproduced below:
57.05-Other carpets and other textile floor coverings, whether or not made up.
*This heading covers carpets and textile floor coverings, other than those covered by a more specific heading of this Chapter.
 The heading includes:
 (1) Bonded pile carpets, where the pile use surface is bonded either to a substrate or directly to an adhesive which forms the substrate. The bonding may be achieved by adhesion or heat or a combination of both or by ultrasonic welding. The pile can be bonded either to a single backing surface or between two backing surfaces, in the latter case for separation into two carpets.
 (2) ...
 (3) ...
 (4) ...*

In the present case, as discussed in facts of the case, the pile of PVC fibres is bonded to the liquid PVC layer on a conveyer belt which forms the substrate of the product. The PVC fibres are bonded to each other by way of adding liquid PVC coating which functions as an adhesive in this case. Thus, it can be seen that the present product clearly falls under the explanation given in the HSN explanatory notes and therefore will be covered under chapter heading 5705.

- 7) Further, the Chapter note to chapter heading 57 reads as follows:
"For the purposes of this Chapter, the term 'carpets and other textile floor coverings' means floor coverings in which textile materials serve as the exposed surface of the article when in use and includes articles having the characteristics of textile floor coverings but intended for use for other purposes."
 It can be seen from the chapter note that Chapter 57 covers those carpets and floor coverings in which textile material serves as the exposed surface of the article.
- 8) The term 'textile' or 'textile material' is not defined in the GST Act. Therefore, reference can be taken from various Textile Dictionaries and Encyclopedia to ascertain the meaning of this term.
 - a) "Encyclopedia of Textiles, Fibres and Nonwoven Fabrics" edited by Martin Grayson and published by Wiley-Interscience Publication has defined the term 'textile material' (Relevant extract attached as **annexure B**). This encyclopedia is another



in the series of carefully selected reprints from the world-renowned Kirk-Othmer Encyclopedia of Chemical Technology, designed to provide specific audiences with articles grouped by a central theme. As a handy desk reference, it incorporates all the original articles related to textiles, fibers, and non-woven fabrics, as well as specialty fibers such as elastomeric applications, synthetic leather, artificial turf, and more.

The term 'textile material' as defined in this publication is as follows:

"Textile materials are among the most ubiquitous in society. They provide shelter and protection from the environment in the form of apparel, they provide comfort and decoration in the form of household textiles such as sheets, upholstery, carpeting, drapery and wall covering, and they have variety of industrial functions as tire reinforcement, tenting, filter media, conveyor belts, insulation, etc. Textile materials are produced from fibres (finite lengths) and filaments (continuous lengths) by a variety of processes to form woven, knitted and nonwoven (felt-like) fabrics. In the case of woven and knitted fabrics, the fibres and filaments are formed into intermediate continuous length structures known as yarns, which are then either interlaced by weaving or interlaced by knitting into planar flexible sheet like structures known as fabrics. Nonwoven fabrics are formed directly from fibres and filaments by chemically or physically bonding or interlocking fibres that have been arranged in a planar configuration (see Nonwoven textile fabrics, Tire cords).

Textile fibres may be classified into two main categories and into a number of sub-categories, as indicated in Table-1. The generic names of man-made fibres are defined and controlled by the Federal Trade Commission (1). With the exception of glass and asbestos fibres and the speciality metallic and ceramic fibres, textile fibres are formed from organic polymers. Cellulose (gv) and proteins (gv) are the only important natural polymers in naturally occurring fibres (see Biopolymers).

Table 1. Classification of Textiles Fibers

Naturally occurring fibres

vegetable (based on cellulose), cotton, linen, hemp, jute, ramie
animal (based on proteins), wool, mohair, vicuna, other animal hairs, silk
mineral, asbestos

Man-made fibres

based on natural organic polymers

rayon, regenerated cellulose
acetate, partially acetylated cellulose derivative
azlon, regenerated protein

based on synthetic organic polymers

acrylic, based on polyacrylonitrile (also modacrylic)
aramid, based on aromatic polyamides
nylon, based on aliphatic polyamides
olefin, based on polyolefins (polypropylene)
polyester, based on polyester of an aromatic dicarboxylic and a dihydric alcohol
spandex based on segmented polyurethane

vinyon based on polyvinyl chloride

based on inorganic substances

glass
metallic
ceramic"

- b) Further, "Textile Terms and Definitions, Tenth Edition" (copy attached as **annexure C**) published by the Textile Institute has also defined the term 'textile'. The Textile Institute is an international organisation governed by a Council representing members throughout the world. It is legally constituted by a Royal Charter, granted in Britain in 1925. The main central functions are the provision of an operational framework and the maintenance of quality, particularly in regard to professional qualifications and the spread of information to members and others.

The term 'textile' as per this publication is defined as follows:

"A textile was originally a woven fabric, but the terms textile and the plural textiles are now also applied to fibres, filaments and yarns, natural and manufactured and most products for which these are a principal raw material.

Note: This definition embraces, for example, fibre based products in the following categories, threads, cords, ropes and braids; woven, knitted and nonwoven fabrics, lace, nets and embroidery, hosiery, knitwear and made up apparel; household textiles, soft furnishings and upholstery; carpets and other floorcoverings; technical, industrial and engineering textiles including geotextiles and medical textiles.

Therefore, from the above definitions, it can be inferred that textile is any material which satisfies the following two characteristics:

- It is produced from fibres or filaments and;
- It is made into a woven or nonwoven article for use as apparel, carpets, floor coverings, wall covering, etc.

At the outset, it is submitted that the PVC floor mat does not involve any weaving of the PVC filaments extruded from the granules. Instead, the PVC filament is bonded by adding liquid PVC which serves as an adhesive in this case. The same has been discussed in the facts of the case above. Therefore, the product under dispute is a nonwoven product.

- 9) Now it is important to understand the meaning of the term 'fibre' to conclude that the mat produced is of textile material or not. Again, the term 'fibre' is not defined under the GST Act and thus reference is made to the Textile Dictionaries and Encyclopedia to understand its meaning.

- a) From the extract of "Encyclopedia of Textile Fibres and nonwoven fabrics" reproduced above, it is evident that textile fibres may be classified into two main categories i.e. naturally occurring fibres and manmade fibres as indicated in Table-1 of the extract. It can be seen that manmade fibres includes fibres which are based on polyvinyl chloride i.e. PVC.
- b) Further, the "Textile Terms and Definitions Tenth Edition" published by the textile institute has an entire flow chart of classification of textile fibres given, copy of which is attached as **annexure D**. From the flow chart, it is evident that textile fibres can be classified mainly into natural or manmade fibres. Further, manmade fibres include fibres made from synthetic polymer which further includes polyvinyl derivatives. Further, polyvinyl derivatives include chloro-fibre which are manufactured from PVC. Therefore, textile fibres includes fibres of PVC.
- c) Further, the HSN explanatory note to Chapter Heading 5603 are reproduced below:

"A nonwoven is a sheet or web of predominately textile fibres oriented directionally or randomly and bonded. These fibres may be of natural or man-made origin. They may be staple fibres (natural or manmade) or man-made filaments or be formed in situ.

Thus, textile fibres can be of natural or man-made origin. As per HSN explanatory notes to chapter 54, man-made fibres are defined as follows:

The General Explanatory Note to Section XI should be taken into account in reading the Explanatory Note to this Chapter.

Under note 1 to chapter 54, the term": man-made fibres", when used in chapters 54 and 55 or elsewhere in the Nomenclature, means filaments or staple fibres composed of organic polymers produced by manufacturing processes, either by:

- (1) Polymerisation of organic monomers or chemical modification of the resulting polymers (see the General Explanatory Note to the Chapter 39) (synthetic fibres); or by
(2) Dissolution or chemical treatment of natural organic polymers, or chemical modification of natural organic polymers (artificial fibres).

(1)SYNTHETIC FIBRES



The basic material for the manufacture of these fibres are generally derived from coal or oil distillation products or from natural gas. The substances produced by polymerisation are either melted or dissolved in a suitable solvent and then extruded through spinnerets(jets) into air or into a suitable coagulating bath where they solidify in cooling or evaporation of the solvent, or they may be precipitated from their solution in the form of filaments.

The main synthetic fibres are:

- (1) Acrylic:
- (2) Modacrylic:
- (3) Polypropylene:
- (4) Nylon or other polyamides:
- (5) Polyesters:
- (6) Polyethylene:
- (7) Polyurethane:

Other synthetic fibres include: chlorofibre, fluorofibre, polycarbamide, triviny and vinylal.

In the present case, PVC is produced by polymerization of vinyl chloride monomer (VCM) which is an organic monomer and thus will be known as 'synthetic fibres'. Also, PVC is manufactured by combining ethylene and chloride of which ethylene is obtained from crude oil, petroleum or natural gas. Further, it has been mentioned in facts of the case that the PVC is melted and then fibres are extruded using T-die extrusion methods which are made to fall on the water bed to solidify. Therefore, fibres of PVC are correctly classifiable under man-made fibres. Also, the HSN explanatory notes list down certain name of main synthetic fibres which includes chlorofibre. As mentioned in para 6(b) above, chlorofibres are fibres made up of PVC. Therefore, from the above it is evident that the impugned product is made up of man-made fibres. Thus, from the above, it is evident that PVC fibres are covered under the term 'textile fibres' and thus any product manufactured from such fibres will be textile material.

- 10) Thus, from the above it is evident that the exposed surface in the PVC floor mat is a textile material and therefore will be covered under Chapter Heading 5705.

As per Notification No. 1/2017-CT (Rate) the Chapter Heading 5705 is covered under the Schedule-II where the goods are taxable @ 6% CGST and 6% SGST or 12% IGST."

Submission dt.19.02.2018

In addition to the submissions made in the application for advance ruling, the applicant would like to submit the following countering the submissions made from departmental authority:

1) Use of semi-colon between two entries makes the two sentences separate and they have to be read disjunctively.

The departmental authorities have construed that entry number 146 in notification no 1/2017-CT(Rate) applies only to product where cotton predominates by weight. Since the product for which classification is under dispute is not made up of cotton, it will not be classified under entry number 146.

The description of entry number 146 in notification no 1/2017-CT(Rate) is reproduced below:

Other carpets and other textile floor coverings, whether or not made up: such as Mats and mattings including Bath Mats, where cotton predominates by weight, of Handloom, Cotton Rugs of handloom

It can be seen that the mats and mattings where cotton is predominant is placed after the use of semi-colon. The applicant relies on the following judgments wherein it has been held that when two sentences are separated by a semi-colon, they have to be read disjunctively:

- a) Heidelberg Cement (India) Ltd 2014 (8) TMI 251 - CESTAT Mumbai
- b) Mc Dowell Co Ltd 1997 (94) ELT 215 (Tribunal)

Therefore, in the present case, since semi-colon has been used, the condition of predomination of cotton will only apply to mats and mattings, including bath mats covered by the clause after use of semi-colon.

It has been contended in the advance ruling application that our product is covered under the term 'Other textile floor coverings' which is used prior to the use of semi-colon. Thus, the condition of use of cotton will not apply.

2) Even if it is assumed that the semi-colon does not separate the entry and it is to be read conjunctively, still the impugned product will be classified under serial no 146 of the notification.

It is submitted that the entry intends to cover carpets and other textile floor coverings. The entry uses the term 'such as' and mentions specific products. It is submitted that it is a settled principle of interpretation that the items mentioned after the term 'such as' are only illustrative in nature and are not exhaustive.

- a) Goodyear India Limited v. Collector of Customs, Bombay, 1997 (95) E.L.T. 450 (S.C.).
- b) T.T.K. PHARMA LTD. 1993 (63) E.L.T. 446 (Tribunal).

It is submitted that the mats and mattings with predomination of cotton is only an example. Also, there is one more product mentioned i.e. cotton rugs of handloom. Thus, cotton rugs is a separate item and the predomination of cotton does not apply to such article. Therefore, it can be interpreted that the predomination of cotton will only apply to mats and mattings, including bath mats. Therefore, by way of the example, the scope of the term 'other textile floor coverings' cannot be restricted.

3) Intention of law makers cannot be relied upon when the language of the provisions is clear.

It was argued at the time of personal hearing that entry number 146 in schedule II of notification no 1/2017-CT(Rate) applies only to textile in the nature of cloth as it was the intention of the Government to keep rates for such material lower than products of plastic.

It is submitted that the language of the notification is clear. Also, it has been submitted above that products mentioned after the semi-colon are only in the nature of example and will not restrict the scope of the main entry. Therefore, there is no requirement for ascertaining the scope of the entry through intention of the law makers. The applicant relies on the following cases:

- a) OSWAL AGRO MILLS LTD. 1993 (66) E.L.T. 37 (S.C.)
- b) Trimurti Weldmesh (P) Ltd 1993 (64) ELT 419 (Tri-Del) approved by the Supreme Court in the case of Trimurti Weldmesh (P) Ltd. 1996 (82) E.L.T. A168 (S.C)

4) There is no res-judicata in taxation.

It has been contended in para 6 of the departmental submission made during the hearing that in the pre-GST period the applicant was classifying the product under chapter heading 39249090 and thus now why is the applicant classifying the product under Chapter heading 5705.

It is submitted that the applicant was under the impression that the product would be classifiable under chapter heading 3924. However, it was lately realised that the main ingredient in the product is PVC fibre which is a textile material. Detailed submission on the same has been made in the advance ruling application. Thus, the applicant now wants to obtain the ruling from the authority for ascertaining the correct classification. It is submitted that there is no principle of estoppel in taxation. The applicant relies on the case of MICRO TIPS PVT. LTD. 1998 (104) E.L.T. 76 (Tribunal) wherein the CESTAT has held that the principle of estoppel and res judicata are not applicable in tax matter. The relevant extract reads as follows:



15. The appellant also relied upon the classification of the goods in earlier assessment order. We find that it is a settled issue that estoppel and res judicata are not applicable in tax matter. Hon'ble Delhi High Court in the case of Metal Forgings Pvt. Ltd. v. Union of India reported in 1985 (20) E.L.T. 280 held as under :
16. There is no merit to the plea of estoppel raised by the parties in different contexts. There is no estoppel in a taxing statute. The principle of equitable estoppel which is a rule of equity cannot prevail against law. If an excise duty is not paid due to incorrect interpretation, still the Central Excise authorities are empowered to recover the duty due and payable by an assessee by virtue of Section 11A. If an assessee has wrongly classified his goods, then it cannot be taken as an estoppel for claiming a correct or revised classification. The principles of estoppel or res judicata are not applicable to tax matters. The view taken by an authority in respect of any assessment period will not be binding for subsequent periods.

In view of above discussion, we find no merit in the appeal. Appeal is dismissed.

The above case has been upheld by the Supreme Court in the case of Micron Tips Pvt. Ltd. v. Collector – 1999 (106) E.L.T. A189 (S.C)

The applicant also relies on the case of PERFECT REFRACTORIES 2005 (185) E.L.T. 163 (Tri. - Del.) wherein the mere wrong classification of the goods in question by the respondents at one stage, did not operate as estoppel/res judicata against them for claiming the classification under the correct tariff heading/sub-heading of the CETA. The relevant extract is as follows:

5. Mere wrong classification of the goods in question by the respondents at one stage, did not operate as estoppel res judicata against them for claiming the classification under the correct tariff heading sub-heading of the CETA. The impugned orders of the learned Commissioner (Appeals) in this regard in all the appeals are perfectly valid and we do not find any illegality in the same and as such, are affirmed. The appeals of the Revenue are dismissed.

Therefore, prior classification under chapter heading 3924 will not affect the present proposed classification under chapter 5705."

Submission dt.20.02.2018

"During the personal hearing held on 06.02.2018 for admission/rejection of the application, the applicant was asked to produce any bill of entry for import of similar products made by sister concern/third parties.

The applicant hereby submits, as **annexure 1**, bill of entry number KMTCTAO3067382 dated 26/10/2017 for import of artificial turf by sister concern M/s Rayzon Global LLP. The corresponding packing list and purchase invoice is attached as **annexure 2**. The bill of entry clearly mentions the item as artificial turf (made of plastic raw material). The product has been classified under chapter heading 57033090 which covers CARPETS AND OTHER TEXTILE FLOOR COVERINGS, TUFTED, WHETHER OR NOT MADE UP.

It is submitted that artificial turf is also made up of PVC fibres but is sewed on the backing fabric with the help of specialized multi-needle sewing machines. This process is called tufting. Therefore, the product is classifiable under chapter heading 5703. However, in the case of product under dispute in the present case, there is no tufting carried out. In the present case, the PVC fibres are extruded and the pile is then bonded on to the backing material with the help of adhesives. Thus, the product is classifiable under chapter heading 5705."

03. CONTENTION – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

"Submission of NIL. date as signed on dt.05.02.2018

1. It is submitted at the outset that the applicant ought to have furnished all the relevant information and details in his application necessary to decide the issue. However scrutiny of the documents received has revealed that the applicant has not provided following information/details which are crucial for taking decision in the matter:-

- The applicant has requested to classify their products i.e. PVC carpet mat (PVC Floor mats) under Ch. 5705 which they used to classify under Ch.39249090 before pre GST era.
- The applicant has requested to pass a ruling to decide the classification of the PVC floormat and the applicable rate of GST applicable. The applicant has submitted a sample of the product to be classified to the Advance Ruling Authority. However, the sample product is not available with the application received in this office. The applicant ought to have made available the samples of product intended to be supplied to the respondent to examine the facts and issue. No such samples have been provided to the respondent. The applicant also required to provide
- What is the weight of cotton/ or cotton fabric material.
- Whether the above weight of cotton will be constant or change product to product or time to time ?
- The applicant has claimed in Para 2 of Annexure-I of their application that the prime raw material is PVC for their products. However, the applicant has no where mentioned the quantity in terms of weight of PVC and cotton which is crucial to decide the classification.
- The applicant has mentioned their manufacturing process, however, it is not clear as to how the said process mentioned at Para 2 (a) and (b) of Annexure -I is relevant to decide the classification.

2. It is observed from the applicant's submission that the product is manufactured using predominantly poly vinyl chloride in the manufacturing process. The stages of manufacture given by the applicant are as follows:-

- Under stage 1, PVC monofilament yarn with decitex ranging from 1200 to 2800 and filament diameter range 0.38 to 0.75 mm is extruded through a perforated die plate using T-die extrusion. Extrusion is done through 3 to 4 parallel rows along the entire width of T-die and the vertically extruded yarn immediately falls on a water bed to form a non-woven carpet pile. Also, referred to as PVC web, non-woven carpet pile is taken up in a horizontal direction on a roller and wound up in rolls. Pile height of the carpet can be varied by changing the process parameters, usually in the range of 8mm to 16mm.
- Under stage 2, the web formed in Stage 1 is impregnated with a lamination of clear coat liquid PVC and is further made to fall over the liquid PVC layer on a conveyor belt. Then it passes through the heated conveyor oven to solidify the liquid PVC backing to web.
- The resultant product is a product of running length. It is then cut into size as given specified by the customer.

However, it is not coming out from the above reasoning as to what is their product/product-range and how the same merits classification under chapter heading 5704.

3. As per the GST Tariff, the products which are classifiable under 5705 have been clearly mentioned as "other carpets and other textile floor covering, whether or not made up [such as mats, & matings including bath Mats, where cotton predominates by weight, of handlooms, cotton rugs handlooms]". From the Annexure-I submitted by the applicant, it is observed that they have clearly mentioned that the prime raw material being used for PVC carpet mats is PVC (Poly vinyl Chloride). However, the requirements of chapter 5705, are such that cotton should predominate by weight. In these circumstances, it is not clear as to how the product of Applicant can be classified under CH 5705.

4. The classification under Chapter Heading 3924 and Chapter heading 5705 are mutually exclusive as Chapter heading 3924 is for certain articles of plastics whereas Chapter heading 5705 is for articles of cotton. However, the application of the applicant and the information provided is not sufficient to take any one view in the matter.



5. The applicant has also failed to mention as to whether their products are carpets or mats as they have used a phrase 'Carpet Mat' which do not appear in the entry number 146 of Schedule II of Notification No.1/2017- Central Tax (Rate), as the said entry identifies the products as either mats or only carpets. Further, common experience shows that the size of carpet is larger than the mats. Therefore, further information is required in the matter as to how the same product can be carpet and mat at the same time.

6. The applicant has also failed to provide the information as to whether their product is a normal mat or bath mat, and whether, their product is made in handloom or otherwise, and whether, same qualifies as cotton rugs or handlooms. The applicant has also failed to provide complete information as to whether their product qualifies as tableware, kitchenware, other household articles and hygienic or toilet articles of plastic. If their product qualify under CH.5705 as to why they were earlier classifying the same under CH 39249090 which is mainly for household or hygienic articles of plastics.

7. Since the applicant has not made a full disclosure of relevant facts, as discussed above, it appears that the application deserves to be rejected under the provisions of Section 98 of the CGST Act, 2017

8. The above submissions are made only as preliminary submissions about the admissibility of the application and detailed submissions would be filed at a later stage.

PRAYERS

Since the applicant has not provided the vital information as discussed above, necessary to decide the issue, it is prayed that the application may be rejected at this stage only.

Additional Written Submissions of NIL date as received on dt.05.03.2018

In addition to the submissions made on the application of M/s National Plastic Industries Ltd., in respect of advance ruling, the department would like to make the following submissions.

1] The applicant has not submitted any written submission with reference to this office earlier submission dt. 06.02.2018.

2] At the time of hearing, the applicant were requested to submit any bill of entry for import of similar products made by sister concern/third parties.- In response to this, they have submitted the bill of entry No. KMTCTAO3067382 dt. 26.10.2017 for import of artificial turf by sister concern M/s Rayzon Global LLP. The product has been classified under CH 57033090 which covers **carpets & other textile floorings, Tufted, whether or not made up**. It is submitted by them that artificial turf is also made up of PVC fibres but is sewed on the backing fabric with the help of specialised multi-needle sewing machine. This process is called tufting. Therefore, the product is classifiable under CH 5703. However, they have further stated that in the subject case, to the product under dispute, tufting is not carried out, but the PVC fibres are extruded and the pile is then bonded on to the backing material with the help of adhesives, hence the product is classifiable under CH 5705, so it is not understood why the applicant has submitted the said sample, which has no bearing with the instant case.

2] Further, they were again emphasizing that their product namely PVC carpet should be classifiable under chapter 5705. However, chapter 5705 clearly states that **"other carpets and other textile floor covering, whether or not made up; such as mats, & mattings including bath Mats, where cotton predominates by weight, of handlooms, cotton rugs handlooms"**, which they themselves agreed that as already mentioned in point No. 2 of ANNEXURE-1 of their application, the prime raw material being used for their product is polyvinyl chloride. However, it is again mentioned by the applicant that they have relied on various textile dictionaries and encyclopaedia to ascertain the meaning of term textile, as the term 'textile' or 'textile material' is not defined in the GST Act. The applicant failed to prove the part of entry 5705 which is **"such as mats, & mattings including bath Mats, where cotton predominates by weight, of handlooms, cotton rugs handlooms"**. Instead of that, they have relied upon following case laws for the purpose of use of semi-colon between two entries makes the two sentences separate and they have to be read disjunctively.

i] Heidelberg Cement (India) Ltd 2014 (8) TMI 251 –CESTAT Mumbai

ii] McDowell CO. Ltd 1997 (94)ELT 215 (Tribunal)

However, it is observed from the discussions in the said matter that while giving decision, tribunal has mentioned that "There is a semi colon between the two clauses." This would clearly indicate that the word 'and' between the two clauses have to be read disjunctively and not conjunctively. Which is not applying in the said case, so the above referred case laws are irrelevant in this case.

4] Further, they have also relied on certain following case laws for the word 'such as' that this word is only illustrative in nature and is not exhaustive.

i] Goodyear India Limited v. Collector of Customs, Bombay, 1997 (95) ELT, 450(S.C)

ii] T.T.K. Pharma Ltd, 1993 (63) ELT 446(Tribunal)

iii] Jalal Plastic Industries 1981(8) ELT 653(Guj)

iv] M/s Varroc Engineering Pvt. Ltd. 2015 (10) TMI 54-CESTAT Mumbai

It is observed that the applicant's intention is that the mats and mattings with predomination of cotton is only an example. Also, there is one more product mentioned i.e. cotton rugs of handloom. Thus, cotton rug is a separate item and the predomination of cotton does not apply to such article. Therefore, it can be interpreted that the predomination of cotton will only apply to mats and mattings, including bath mats. Therefore, by way of the example, the scope of the 'other textile floor coverings' cannot be restricted. However, on going through the decisions of the above case laws, it is found irrelevant with above referred case, as the decisions of these cases are based on the facts of the said cases.

5] The applicant has failed to provide samples of each products with all the details so that relevant facts of each products would be analysed in the light of existing GST Law and applicability of any other case law under erstwhile Central Excise Regime.

6] The applicant has banked on above case laws in their submission at the time of hearing which is misplaced and not applicable mutatis mutandis in their case because the details of the products of the applicant has not been provided. The decisions in these cases are specific to the facts of those cases and can not be a generalised without comparing the products of the appellants with that of the above said case laws. Further, it has also to be seen as to how the case law pronounced for Central Excise regime may be applicable under GST regime. The applicant has failed to provide any reasons as to how the said case law will be applicable under GST regime.

7] Further, from the enquiries made with the trade, it is learnt that the PVC carpet is classified under Custom CH SH 3918 which reads as under "Floor coverings of plastics, whether or not self-adhesive, in rolls or in the forms of tiles; wall or ceiling coverings of plastics"

The explanatory notes provided under each HSN is as following :-

3918 : The said HSN covers "Floor coverings" of "polymers of vinyl chloride" in rolls or forms of tiles.

In the present case, primary raw material used in the manufacturing of the goods in consideration is "PVC", hence a view can be formed that the goods are specifically classified in the said entry.



It appears that Chapter heading 5705 covers carpets and textile floor coverings, and not PVC, which is the main raw material used by the applicant.

8] In view of the above, it appears that the product of applicant should be rightly classified under Chapter heading 3918 and not under chapter 5705.

9] The points raised in this office earlier submission dt. 05.02.2018, are once again reiterated.

PRAYERS

As per the discussions made above, it is prayed that the application may be rejected at this stage.”

04. HEARING

The case was taken up for hearing on dt.06.02.2018 and on dt.21.02.2018. Sh. S. S. Gupta, Chartered Accountant attended alongwith Sh. Karan Awtani, Sh. Ashutosh Shukla and Sh. Umesh Shenoy (V.P. Finance) and reiterated the contention as made in the written submissions and also submitted copies of Bill of Entries of their imports.

Ms. Anagi Zakhadi, Superintendent, Div - VI, Range - III attended on behalf of the Commissioner, GST/CX, Mumbai East Commissionerate, Mumbai Zone and furnished a written submission.

05. OBSERVATIONS

We have gone through the facts of the case. The product before us is claimed to be a floor mat. Though at the cost of repetition, for immediate reference we go through the manufacturing process once again -

- a) Under Stage 1, **PVC monofilament yarn** with decitex ranging from 1200 to 2800 and filament diameter range 0.38 to 0.75 mm is **extruded** through a perforated die plate using T-die extrusion. Extrusion is done through 3 to 4 parallel rows along the entire width of T-die and the **vertically extruded yarn immediately falls on a water bed to form a non-woven carpet pile**. Also, referred to as **PVC web, non-woven carpet pile is taken up in a horizontal direction on a roller and wound up in rolls**. Pile height of the carpet can be varied by changing the process parameters, usually in the range of 8 mm to 16 mm.
- b) Under Stage 2, **the web formed in Stage 1 is impregnated with a lamination of clear coat of liquid PVC and is further made to fall over the liquid PVC layer on a conveyer belt. Then it passes through the heated conveyor oven to solidify the liquid PVC backing to the web.**
- c) **The resultant product is a product of running length. It is then cut into size as specified by the customer.**

As can be seen, the product is made from PVC yarn which is impregnated with liquid PVC. PVC is poly(vinyl chloride). The Harmonized System of Nomenclature Explanatory (HSN) Notes to Chapter 39 (General Notes) say that PVC is a polymer. The HSN - General Notes to Chapter 39 say that *“In general, this Chapter covers substances called polymers and semi-manufactures and articles thereof, provided they are not excluded by Note 2 to the Chapter”*. This Note 2 to the Chapter 39 says-

2. *This Chapter does not cover :*

(p) *goods of section XI (textiles and textile articles);*

The HSN Notes to Chapter 39 have defined the word “plastics” as -

1. *Throughout the Nomenclature the expression “plastics” means the materials of headings 39.01 to 39.14 which are or have been capable, either at the moment of polymerisation or at some subsequent stage, of being formed under external influence (usually heat and pressure, if necessary with a solvent or plasticiser) by moulding, casting, extruding, rolling or other process into shapes which are retained on the removal of the external influence.*

Throughout the Nomenclature any reference to “plastics” also includes vulcanised fibre. The expression, however, does not apply to materials regarded as textile materials of Section XI.

The applicant has laid claim to the Customs Tariff Heading (CTH) 5705 as being applicable to the impugned product. Chapter 57 falls in Section XI of the scheme of the Customs



Tariff. Section XI is about "TEXTILES AND TEXTILE ARTICLES" and Chapter 57 is about "Carpets and other textile floor coverings". With the understanding that the impugned product is composed only of PVC monofilament yarn and liquid PVC, we look at the HSN Notes to Section XI which say thus -

Notes.

1.- This Section does not cover :

(h) Woven, knitted or crocheted fabrics, felts or nonwovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39;

PVC falls in Chapter 39, more specifically Heading 39.04. The impugned product is non-woven and is impregnated with liquid PVC. We have seen above that the Chapter 39 covers substances called polymers and semi-manufactures and articles thereof, provided they are not excluded by Note 2 to the Chapter. The Note 2 reproduced above excludes goods of Section XI and Section XI excludes nonwovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39. The impugned product is not only impregnated but also coated with PVC, which is a plastics of Chapter 39. And this is also admitted by the applicant when it is submitted that - *the web formed in Stage 1 is impregnated with a lamination of clear coat of liquid PVC and is further made to fall over the liquid PVC layer on a conveyer belt.* The present product is made from PVC only and there should be no doubt whatsoever that the same would fall in Chapter 39 which covers PVC, a polymer and articles thereof.

Having seen thus, there arises no occasion for us to discuss the Heading 5705 which is claimed as being applicable. The case laws being buttressed in respect of the applicability of the Heading 5705 also need no discussion as to their applicability or otherwise. However, we would like to observe herein that we are not at all disagreeable to the point that there are man-made textiles but the same are not required to be referred to here in view of the impugned product being clearly classifiable under Chapter 39 as per discussions held hereinabove.

Now as can be seen that the applicant's query is in respect of the classification of the PVC floor mat and the applicable rate of GST on the same, we would now move on to decide the rate on the impugned product. There is no specific entry in the Schedule for goods exempted from GST as found in the Notification no.2/2017-Central/State Tax (Rate) which would cover the impugned product. In the Schedule for goods taxable to GST at various rates as found in the Notification no.1/2017-Central/State Tax (Rate), the following entries may be looked at -

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	GST Rate [CGST + MGST]
104A.	3918	Floor coverings of plastics, whether or not self-adhesive, in rolls or in form of tiles; wall or ceiling coverings of plastics	18% [9% + 9%]
109	3924	Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics	
111	3926	Other articles of plastics and articles of other materials of headings 3901 to 3914 [other than bangles of plastic, plastic beads and feeding bottles]	

The rate in respect of all the entries is the same, 9% each of CGST and SGST. Heading 3924 covers household articles. The impugned product is a carpet mat which is used at all



locations and not only in households. In respect of Heading 39.26, the HSN General Notes say that it is a residual heading which covers articles, not elsewhere specified or included, of plastics or of other materials of headings 39.01 to 39.14. However, we find that Heading 39.18 covers the following products as under -

3918		FLOOR COVERINGS OF PLASTICS, WHETHER OR NOT SELF-ADHESIVE, IN ROLLS OR IN THE FORM OF TILES; WALL OR CEILING COVERINGS OF PLASTICS, AS DEFINED IN NOTE 9 TO THIS CHAPTER
3918 10	-	<i>Of polymers of vinyl chloride :</i>
3918 10 10	---	Wall or ceiling coverings combined with kg. 10% - knitted or woven fabrics, nonwovens or felts
3918 10 90	---	Other
3918 90	-	<i>Of other plastics :</i>
3918 90 10	---	Floor coverings of linotype
3918 90 20	---	Wall or ceiling coverings combined with kg. 10% - knitted or woven fabrics, nonwovens or felts
3918 90 90	---	Other

Note 9. For the purposes of heading 3918, the expression "wall or ceiling coverings of plastics" applies to products in rolls, of a width not less than 45 cm, suitable for wall or ceiling decoration, consisting of plastics fixed permanently on a backing of any material other than paper, the layer of plastics (on the face side) being grained, embossed, coloured, design-printed or otherwise decorated.

From the details of the Tariff Headings referred above, we find that the Heading 3918 covers floor coverings of plastics, whether or not self-adhesive, in rolls or in the form of tiles. We also find that the applicant informs that the manufactured product is a product of running length which is then cut into size as given/specified by the customer. The product is described as being a PVC Carpet Mat and therefore, it is clear that the impugned product would fall in the entry no.104A of Schedule III, thereby attracting tax at the rate of 18% (9% each of CGST and SGST).

06. In view of the deliberations as held hereinabove, we pass the order as under :

ORDER

(under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA-17/2017-18/B- 23 Mumbai, dt. 2/4/2018

For reasons as discussed in the body of the order, the question is answered thus -

- Q. To seek the classification of the PVC floor mat and the applicable rate of GST on the same.
- A. PVC floor mat, as described hereinabove, would fall in the Customs Tariff Heading 3918 and the applicable rate of GST thereon would be 18% (9% each of CGST and SGST).



— 51 —
B. V. BORHADE
(MEMBER)

— 59 —
PANKAJ KUMAR
(MEMBER)

CERTIFIED TRUE COPY

ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
3. The Jurisdictional Commissioner of Central Tax

