

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow-**

ADVANCE RULING NO. UP ADRG 11/2022 DATED 30/08/2022
PRESENT:

- 1. Shri Rajendra Prasad**
Additional Commissioner, Central Goods and Service Tax
Audit Commissionerate, LucknowMember (Central Tax)
- 2. Shri Vivek Arya**
Joint Commissioner, State Goods and Service TaxMember (State Tax)

| | | |
|----|-------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 1. | Name of the Applicant | M/s V.M. Technocoatings E-81, Site-IV, UPSIDC, Surajpur IND. Area. Greater Noida, Gautam Buddha Nagar-201206 |
| 2. | GSTIN or User ID | 09ADBPJ1040R1ZG |
| 3. | Date of filing of Form GST ARA-01 | 23.05.2022 |
| 4. | Represented by | Mr. Harsh Garg (C.A. & Authorized representative) |
| 5. | Jurisdictional Authority-Centre | Range 5, Division 1, GB Nagar |
| 6. | Jurisdictional Authority-State | Sector-2, Range- GB Nagar (B) |
| 7. | Whether the payment of fees discharged and if yes, the amount CIN | Yes IBKL22050900234094 |

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. Shri Vikas Jain is registered under GSTIN 09ADBPJ1040R1ZG under trade name M/s V.M. Technocoatings having principal address at E-81, Site-IV, UPSIDC, Surajpur Industrial Area, Greater Noida, Gautam Buddha Nagar, Uttar Pradesh-201206 (hereinafter referred as "the applicant"). The applicant is an individual undertaking a process to prepare eco-friendly expandable paper wrap (replacement of bubble wrap) from kraft paper and to sell the same in open market.

2. The applicant has submitted application for Advance Ruling dated 02.06.2022 enclosing dully filled Form ARA-01 (the application form for Advance Ruling) along with annexure and attachments. The applicant in his application has sought advance ruling on following question-

“Whether HSN applicable to eco-friendly expandable paper wrap (honeycomb paper for wrapping) is 48239013 or 48084090 ?”

3. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

4. The applicant has submitted that-



- (1) They are undertaking a process to prepare eco-friendly expandable paper wrap (replacement of bubble wrap) from kraft paper and to sell the same in open market.
- (2) First they prepare the core material by using the two or more sheets of honeycomb like structure kraft paper which is glued together in an alternate glue strip pattern to create structure of multiple layers of kraft paper in vertical direction. These corrugated layers open out in the form of continuous honeycomb like grid with center of each corrugated strip attached to another layer of corrugated strip upon expansion. Depending upon the product being packed with this material, multiple paper honeycomb wrap may be glued together to make specific design of packing material.
- (3) These paper honeycomb used in the primary packing of goods as a cushioning material, separators or edge protector, to make shipping cartons of goods and as pallets and pallet boxes.
- (4) This paper honeycomb wrap consists of 80 to 90% of kraft paper and rest is other adhesive, hence this paper honeycomb wrap classifies under HSN 4808 category. Contrary to this, 4823-chapter heading is more oriented towards 'other paper, paperboard, cellulose wadding and webs of cellulose fibers' etc. and not specific to kraft paper products.

5. The applicant have submitted their interpretation of law as under-

(1) In trade parlance, kraft paper is the main raw-material to make honeycomb wrapping paper and this impugned product contains 80-90% of kraft paper and rest other things are consumable items.

(2) Reliance is placed on recent pronouncement of the Hon'ble Advance Ruling Authority (GST) of Karnataka in the matters of **M/s LSQUARE ECO PRODUCTS PVT. LTD. [2020 (37) GSTL 394 (AAR-GST-Kar.)]** and the relevant extract is reproduced below for instant reference:

*"Therefore, on verification of the structure and purpose for which kraft paper honeycomb board or paper honeycomb board used are similar to the corrugated paperboard (listed under 4808 10 00), only difference is that this paper honeycomb board consists of honeycomb like structure core material at the center and on either side of this one or more layer of kraft paper is glued by using adhesive with fluting direction being perpendicular to corrugated boards. Hence **this honeycomb paperboard classified under the Heading 4808 90 00** as other instead 4808 10 00."*

(3) In the aforesaid case, question before the Hon'ble Authority was to determine the classification of honeycomb wrapping paper made up of kraft paper and the authority was convinced that correct classification is 4808-9000 which attracts 12% GST.

(4) Relevant extract of this chapter heading is reproduced below for instant reference:

| | |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4808 | PAPER AND PAPERBOARD, CORRUGATED (WITH OR WITHOUT GLUED FLAT SURFACE SHEETS), CREPED, CRINKLED, EMBOSSED OR PERFORATED, IN ROLLS OR SHEETS, OTHER THAN PAPER OF THE KIND DESCRIBED IN HEADING 4803 |
| 4808 10 00 | - Corrugated paper and paperboard, whether or not perforated |
| 4808 40 | - Kraft paper, creped or crinkled, whether or not embossed or perforated: |

| | |
|------------|------------------------------------------------------------------------------|
| 4808 40 10 | - Sack kraft paper, creped or crinkled, whether or not or perforated |
| 4808 40 90 | Other kraft paper, creped or crinkled, whether or not embossed or perforated |
| 4808 90 00 | Other |

- (5) Considering essential element kraft paper being 80-90% raw material in the honey comb wrapping paper, appropriate chapter heading will be 4808 for charging GST.
- (6) Contrary to this, chapter heading 4823 is more towards the residual paper, paperboard, or other residual articles of paper pulp, paper, paperboard etc. and relevant extract is reproduced below.
- 4823 OTHER PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE. FIBERS, CUT TO SIZE OR SHAPE OTHER ARTICLES OF PAPER PULP, PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBERS
- (7) Accordingly, specific classification for a product made up of kraft paper will be 4808 and not 4823 since later category is for residual paper and its articles which are not falling under any specific heads. Specifically, 48089000 will be apt classification to honeycomb wrapping paper and consequently GST rate will be 12% as per prevailing rate on the date of filing this application.

6. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. The Assistant Commissioner, CGST & Central Excise Division I, Gautam Buddha Nagar vide his letter C.No 20-CGST/R-5/D-1/GBN/RR/VM Techno/23/2022-23/1448 dated 29.08.2022 submitted that impugned eco-friendly expandable paper warp (honeycomb paper for wrapping) is classifiable under Chapter Sub-heading No. 48239013 for the following reasons-

- (i) Main input for the final product are papers and adhesive.
- (ii) The quality and category of input (paper and adhesive) depends on the demand and requirement of their buyers.
- (iii) The taxpayer submitted they firstly prepare the core materials which are mainly attachment of Kraft papers through adhesive to make a honeycomb like structure and the final products then supplied to their buyer, which they were used in their business as a packaging material.
- (iv) The HSN 4808 is related to corrugated paper, kraft paper & creped & crinkled paper only but this classification not categorically specify that these would be used for packing or wrapping purpose as specified under HSN 4823.
- (v) Though the product is manufactured through the craft paper but its use can't be restricted for packaging or wrapping only and accordingly they can't be classified under HSN -48084090.
- (vi) Therefore, it appears that the same should be classified as packaging or wrapping paper under HSN 48239013.

7. The applicant was granted a personal hearing on 22.08.2022 which was attended by Mr. Harsh Garg, Authorized Representative during which he reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

8. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST 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 UPGST Act. Further to the earlier,

henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

9. We have gone through the submissions made by the applicant and have examined the explanation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2)(a) of the CGST Act 2017 being a matter related to classification of goods. We therefore, admit the application for consideration on merits.

10. The applicant is undertaking a process to prepare eco-friendly expandable paper wrap (replacement of bubble wrap) from kraft paper and to sell the same in open market. The applicant has sought advance ruling as to "Whether HSN applicable to eco-friendly expandable paper wrap (honeycomb paper for wrapping) is 48239013 or 48084090?"

11. At the outset we must understand what is meant by paper-

The word not having been defined either in the CGST Act or UPGST Act or the Rules made there under, it has to be understood according to well established canon of construction in the sense in which persons dealing in and using the article understand it. It is, therefore, necessary to know what is paper as commonly or generally understood.

11.1 The said word is explained in The Shorter Oxford Dictionary [Volume 2 (Third Edition)] as- "*a substance composed of fibres interlaced into a compact web, made from linen and cotton rags, straw, wood, certain grasses, etc. which are messed into a pulp, and pressed; it is used for writing, printing, or drawing on, wrapping things in, for covering the interior or walls, etc.*"

Encyclopaedia Britannica says - "*Paper, the general name for the substance commonly used for writing upon or for wrapping things in.*"

In Unabridged Edition of the Random House Dictionary of the English Language the word "paper" has been defined as "*a substance made from rags, straw, wood or other fibrous material, usually in thin sheets, used to bear writing or printing on or for wrapping things, decorating walls etc.*"

As per Webster's Dictionary- "*Paper, a thin flexible material made in leaves or sheets from the pulp of rags, straw, wood or other fibrous material and used for writing or printing upon or for wrapping and various other purposes.*"

11.2 From the above definitions it is clear that in popular parlance the word "paper" is understood as meaning a substance which is used for bearing writing or printing, or for packing or for drawing on, or for decorating, or covering walls. [**State of Uttar Pradesh v. Kores India Limited, 1977 UPTC 46: (1977) 39 STC 8**].

12. The applicant has submitted that the product 'eco-friendly expandable paper wrap' merit classification under HSN 48084090 and the jurisdictional authority has opined that the product merit classification under HSN 48239013. The applicant has submitted that first they prepare the core material using the two or more sheets of honeycomb like structure kraft paper which is glued together to create structure of multiple layers of kraft paper in vertical direction. These corrugated layers open out in the form of continuous honeycomb like grid and depending upon the product being packed with this material, multiple paper honeycomb wrap may be glued together to make specific design of packing material. Therefore, eco-friendly expandable paper wrap (honeycomb paper for wrapping) is used in the primary packing of goods as a cushioning material, separators or edge protector, to make shipping

cartons of goods and as pallets and pallet boxes. As such, it is clear that its main intended use is for Packing and wrapping paper which is also eco-friendly expandable.

13. In a significant judgement the Hon'ble Rajasthan High Court has opined that 'all types of papers which are used for packing purposes are covered in under the notification of "packing materials". The Rajasthan Sales Tax Tribunal, in its order found that the glassine paper and greaseproof paper are used ordinarily for packing purposes. In view of this, the glassine paper and greaseproof paper are included in packing material.' [Deepak Agencies v. Assistant Commercial Tax Officer, (1993) 90 STC 376 (Raj), decided on 8.1.1992, by the Rajasthan High Court]

Henceforth, the intended use of the material in question should be the guiding factor for deciding the classification of the commodity.

14. The description of Chapter subheading of 4808 of the first schedule to the Customs Tariff Act, 1975 is as under-

| Tariff Item | Description of goods |
|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4808 | PAPER AND PAPERBOARD, CORRUGATED (WITH OR WITHOUT GLUED FLAT SURFACE SHEETS), CREPED, CRINKLED, EMBOSSED OR PERFORATED, IN ROLLS OR SHEETS, OTHER THAN PAPER OF THE KIND DESCRIBED IN HEADING 4803 |
| 4808 10 00 | Corrugated paper and paper board, whether or not perforated |
| 4808 40 | Kraft paper, creped or crinkled, whether or not embossed or Perforated |
| 4808 40 10 | Sack kraft paper, creped or crinkled, whether or not or perforated |
| 4808 40 90 | Other kraft paper, creped or crinkled, whether or not embossed or perforated |
| 4808 90 00 | Other |

15. From the above, it is clear that the Tariff item 4808 covers Paper and Paper Board which is corrugated, creped, crinkled, embossed or perforated in rolls or sheets and there is no mention of any packing paper or wrapping paper in the Tariff item 4808.

16. The description of Chapter subheading of 4823 of the first schedule to the Customs Tariff Act, 1975 is as under-

| Tariff Item | Description of goods |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4823 | OTHER PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBERS, CUT TO SIZE OR SHAPE; OTHER ARTICLES OF PAPERPULP, PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBERS |
| | |
| 482390 | Other : Braille paper, cellulose in sole board or sheet; packing and wrapping paper ; paper for cigarette filter tips; paper cone for loud speaker; patterns made of papers for leather footwear, leather garments and goods; patterns made of paper for articles of apparel and clothing accessories, products consisting of sheets of paper or |

| | |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | paperboard, impregnated, coated or covered with plastics (including thermo set resins or mixtures thereof or chemical formulations, containing melamine phenol or urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; decorative laminates |
| 48239011 | Braille paper |
| 48239012 | Cellulose in sole board or sheet |
| 48239013 | Packing and wrapping paper |

17. It is observed that the Tariff Item 4823 covers articles of paper and Tariff Item 48239013 has description as "Packing and Wrapping Paper" and all type of packing and wrapping paper will fall in 48239013 which is a specific tariff item for packing and wrapping paper.

18. It is observed that the Explanation (iii) and (iv) to the **Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017** provides as follows :-

[Explanation. – For the purposes of this notification, –

(i)

(ii)

(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 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 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.]

19. Further, Reference is also invited towards General Rules for the Interpretation of Import Tariff which provides that classification of goods in this Schedule shall be governed by the following principles-

1.

2 (a)

(b)*The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3*

3. *When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:*

(a) *The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.*

(b)

20. As per Rule 3(a) of General Rules for the Interpretation of Import Tariff, the heading which provides the most specific description shall be preferred to headings providing general description. The Tariff item 48239013 contains specific description of Packing and wrapping paper. The product 'eco-friendly expandable paper wrap (honeycomb paper for wrapping)' is manufactured from the kraft paper and adhesives and the same is used in wrapping/packing

as such Rule 3(a) of General Rules for the Interpretation of Import Tariff will apply and the same merits classification under HSN 48239013.

In one of the landmark judgements, Hon'ble Supreme Court has observed that, *"Paper may be presented in plain sheets or in exercise books or in big rolls. It may be thick or thin, light to heavy, bleached or coloured, according to the requirement of purchasers. The form in which the paper is presented or sold is not a conclusive test, but the use to which it is put would furnish a guiding principle."* [Rameshwarlal Murlidhar v. State of Orissa (1982) 51 STC 401 (SC)]

21. Although, there is no specific entry for the product 'eco-friendly expandable paper wrap (honeycomb paper for wrapping) in Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, there is an entry most akin to the product and process (at Sr. No. 157 of Schedule III of Notification No.1/2017 CENTRAL TAX (Rate) Dated 28-6-2017 and attracts 9% CGST and 9% SGST or 18% IGST. The Entry, at sr. No. 157, in the Schedule III is as follows:

SCHEDULE III – 9%

| S. No. | Chapter / Heading / Sub-heading / Tariff item | Description of Goods |
|--------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) | (2) | (3) |
| 157 | 4823 | OTHER PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBERS, CUT TO SIZE OR SHAPE; OTHER ARTICLES OF PAPERPULP, PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBERS (OTHER THAN PAPER PULP MOULDED TRAYS, Braille Paper, Kites, Paper mache articles) |

22. It has been observed by the Hon'ble Supreme Court in the case of **Khatema Fibres Limited v. State of Uttar Pradesh & Another. 2001** NTN (Vol.18)-106 decided on 12.12.2000, that *"if it can be established that the craft paper is mainly or only used for packing purposes and if in commercial parlance it is understood to be packing material, then the judgment delivered by the Full Bench of Allahabad High Court in the case of Lalji Board Industries does not come in the way of the appellant claiming and establishing that fact."*

In the instant case the assessee have themselves declared their product to be "a packing material used for packing of goods as a cushioning material, separators or edge protector to make shipping cartons of goods and as pallets and pallet boxes"

23. Hence the eco-friendly expandable paper wrap (honeycomb paper for wrapping) merits to be classified under heading 48239013.


24. In view of the above discussions, we, both the members unanimously rule as under;


RULING

25. Ques. Whether HSN applicable to eco-friendly expandable paper wrap (honeycomb paper for wrapping) is 48239013 or 48084090?

Answer- The HSN code of the product namely "eco-friendly expandable paper wrap (honeycomb paper for wrapping)" is 48239013.

26. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Vivek Arya)
Member of Authority for Advance
Ruling


(Rajendra Kumar)
Member of Authority for Advance
Ruling

To,

M/s V.M. Technocoatings
E-81, Site-IV, UPSIDC, Surajpur Industrial Area,
Greater Noida, Gautam Buddha Nagar,
Uttar Pradesh-201206 21,

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, GB Nagar, Wegmans Business Park, KP-III, Greater Noida-201306.
4. The Deputy/Assistant Commissioner, CGST & Central Excise Division-I, GB Nagar, Wegmans Business Park, KP-III, Greater Noida-201306
5. Through the Additional Commissioner, Gr-I, Commercial Tax, ~~Greater Noida~~ ^{Gautam Buddha Nagar (CB)}, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khnad, Gomti Nagar, Lucknow-226010, within 30 days from the date of service of this order.