

**THE AUTHORITY ON ADVANCE RULINGS IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,
GANDHINAGAR, BENGALURU - 560 009**

**Advance Rulings No. KAR.ADRG 44/2019
Dated 17th September 2019**

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax,
Bengaluru. Member (Central Tax)

2. Dr.Ravi Prasad.M.P.
Joint Commissioner of
Commercial Taxes (Policy and Law),
Bengaluru. Member (State Tax)

1	Name and address of the applicant	M/s. Intek Tapes Private Limited, No. 38, Road No.5, Bommasandra Industrial Area, Bengaluru - 560 099.
2	GSTIN or Used ID	29AAACI5571P1ZX
3	Date of filing of Form GST ARA-01	28-05-2018
4	Represented by	Sri. Sanjay M Dhariwal, Sri.G.B. Srikanth Acharya, Smt. Annapurna Kabra, Chartered Accountants
5	Jurisdictional Authority- Centre	Commissioner of Central Tax, South Commissionerate, Queens Road, Bengaluru
6	Jurisdictional Authority- State	LGSTO-25A, Koramangala, Bengaluru
7	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged Rs.10,000/- CGST: Rs.5,000/- and KGST: Rs.5,000/- vide CIN: SBIN18052900306121, Dt. 25- 05-2018

**ORDER UNDER SECTION 98(4) OF CENTRAL GOODS AND SERVICE
TAX ACT, 2017 AND UNDER SECTION 98(4) OF KARNATAKA GOODS
AND SERVICES TAX ACT, 2017**

M/s. Intek Tapes Private Limited (hereing after referred to as "applicant"), No.38, Road No.5, Bommasandra Industrial Area, Bengaluru-560099 having GSTIN 29AAACI5571P1ZX filed an application for advance ruling on 28-05-2018 under Section 97 of CGST Act, 2017, KGST Act, 2017 & IGST Act, 2017 read with rule 104 of CGST Rules 2017 & Rule 104 of KGST Rules 2017, in FORM GST ARA-01. The applicant has also enclosed a



copy of challan for Rs.10,000/- bearing CIN number SBIN18052900306121, Dt. 25-05-2018 for having made the payment.

2. The applicant is involved in the manufacture and supply of a wide range of pressure sensitive adhesive tapes. They import Polyimide Film manufactured by Dupont, USA, under the brand name "KAPTON" and coat Silicone Adhesive over the same. The final product is known as "Kapton Polyimide Adhesive Tape" which is used in various industries and also by the Indian Railways.

3. This pressure sensitive polyimide (KAPTON) film tape is used as an insulator in Armature Coil Winding. The Armature Coil is used in Traction Motor, which is an electric motor used in the propulsion of vehicle such as electric locomotive or electric roadway vehicle. Traction motors are used in electrically powered rail vehicles such as electric multiple units and others electric vehicles such as electric milk floats, elevators, conveyors and trolley buses as well as vehicles with electrical transmission systems such as diesel electric hybrid vehicles and battery electric vehicles.

4. The applicant is classifying this pressure sensitive polyimide (KAPTON) film adhesive insulation tape under the heading **8546-Electrical Insulators of any material** which attracts GST @ 18%. The applicant is engaged in supplying the pressure sensitive polyimide (KAPTON) film adhesive insulation tape to the Indian Railways to use as an insulators in its locomotives. There exists heading 8607 - Parts of Railway or tramway locomotives or rolling stock; such as Bogies, bissel- bogies, axles and wheels, and parts thereof which attracts GST @ 5%. The applicant contends that as their products are used in railway locomotives, they should be considered as parts and their goods merit classification under Heading 8607.

5. In view of the above the applicant seeks clarification regarding the "Applicable rate of tax on supply of Kapton Polyimide Film Adhesive Tape to Indian Railways for use in its railway locomotives".

PERSONEL HEARING / PROCEDINGS HELD ON 28/06/2018

6. The authorized representative Smt. Annapurna Kabra, Chartered Accountant, appeared for personal hearing proceedings and submitted written arguments inter alia stating as under:

6.1 The applicant is involved in the manufacture and supply of a wide range of pressure sensitive adhesive tapes. They import Polyimide Film

manufactured by Dupont, USA, under the brand name "KAPTON" and coats Silicone Adhesive over the same. The final product is known as "Kapton Polyimide Adhesive Tape" which is used in various industries and also by the Indian Railways.

6.2 The applicant is classifying the pressure sensitive polyimide (KAPTON) film adhesive insulation tape under the heading 8546-Electrical Insulators of any material which attracts GST @ 18% as per the earlier Supreme Court judgement which classified polyester and film insulation tapes under chapter 8546. However, there exists heading 8607 - Parts of Railway or tramway locomotives or rolling stock; which specifically encompass various parts used in the railway locomotives.

6.3 The applicant submitted that adhesive tape is used by the railways as an insulator, in its locomotives. Therefore, it can be construed that such insulator forms part of the railway locomotives. Further, the applicant narrated that as per Rule 3(a) of the General Rules of Interpretation under Customs Tariff Act, 1975, where two or more Headings seem to apply, the one which provides the most specific description of the product in question should be used. This means that a Heading which names the actual product should be used in preference to one which only names a category to which the product could belong. In the given scenario, i.e. supply of adhesive tape to railways, the adhesive tapes are further utilized by the railways as a part of the railway locomotives. Hence, applying the above mentioned rule, Heading 8607, being specific shall apply over and above the general heading 8546, specified for electrical insulators.

6.4 The applicant interprets that the rate applicable to such adhesive tapes, which is used as a part of the railway locomotives, shall be covered under heading 8607, and shall attract GST @ 5%. Therefore, the applicant pleads before the authority to clarify the rate of tax applicable to the product "Kapton Polyimide Adhesive Tape" when supplied to Railways as part of Locomotives.

7 The applicant states that Kapton Polyimide Film such as Kapton tapes, consists of a polyimide film and adhesive system having the property of an insulator that make it the ultimate in high temperature tapes. Polyimide tape has the ability to maintain its excellent physical, mechanical, and electrical properties over a wide temperature range and performs as well as any product at high temperatures. Polyimide tapes have excellent dielectric strength and remove cleanly leaving no residue. Because of these properties, Polyimide tape such as Kapton tape, is used



in various applications in electronic, automotive and general manufacturing industries as an insulators. Polyimide tape is also used in the auto industry for wrapping switches, diaphragms, sensors and coils in seat heaters. The aerospace industry uses Polyimide tape primarily for insulation of aircraft and spacecraft wings.

- 8 This pressure sensitive polyimide (KAPTON) film tape is used as an insulator in Armature Coil Winding. Armature Coil is used in Traction Motor. This traction Motor is an electric motor used in the propulsion of vehicle such as electric locomotive or electric roadway vehicle. Traction motors are used in electrically powered rail vehicles such as electric multiple units and others electric vehicles such as electric milk floats, elevators, conveyors and trolley buses as well as vehicles with electrical transmission systems such as diesel electric hybrid vehicles and battery electric vehicles.
- 9 Therefore, pressure sensitive polyimide (KAPTON) film adhesive insulation tape which have electrical insulating property can appropriately be described as insulators and also these goods commercially known as insulation tapes. It is used in various other industries as an insulator likewise it is used in railways. It is not relevant on part of the applicant to consider the pressure sensitive polyimide (KAPTON) film adhesive insulation tape as the part of the railway as it is also used in varies other auto industries as insulators.
- 10 The applicant states that Industrial laminated sheets having insulating properties have been ordered to be classifiable under heading 8546.00 by the Supreme Court in CCE vs. Bakelite Hylam Ltd. 1997 (14) RLT 204. Classification of electrical insulation tape was specifically considered by the Tribunal in Chetna Polycoats (P) Ltd. v. CCE . Classification under the Customs Tariff of such goods was considered in CCE v. Kinjal Electricals Pvt. Ltd. Both decisions have held that the goods to be classifiable under heading 8546.00. Heading 8546.00 is more specific and more appropriate to the goods in question.

FINDINGS AND DISCUSSION

- 11 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Smt. Annapurna Kabra, Chartered Accountant and authorised representative of the applicant during the personal hearing. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law.

12 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 provisions under the KGST Act.

13 The applicant is involved in the manufacture of a wide range of pressure sensitive adhesive tapes. They import Polyimide Film under the brand name "KAPTON" and coats Silicone Adhesive over the same. The final product is known as "Kapton Polyimide Adhesive Tape" which is supplied to various industries and also to Indian Railways. It is clear from the above, that the final product is not only sold to Indian Railways but also sold to other Industries for their use. Hence it is not a specific product for Indian Railways. The product catalogue submitted along with the application reads as *'Intek Tapes Private Ltd is a company that is involved in the manufacture of a wide range of pressure sensitive adhesive tapes. Products that are designed to suit an array of specifications in the electrical, electronics, printing, packaging and leather industry.'* This bears testimony that the applicant is engaged in manufacture of adhesive tapes for a wide range of industrial uses, one of the users being Railways.

14 The applicant is already classifying this pressure sensitive polyimide (KAPTON) film adhesive insulation tape under the heading 8546-Electrical Insulators of any material which attracts GST @ 18%. However, the applicant contends that there exists another competing entry covering parts to the railway locomotives in Heading 8607 - Parts of Railway or tramway locomotives or rolling stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof which attracts GST @ 5%. The contention of the applicant is that since the adhesive tape is used by the railways as an insulator in its locomotives, it has to be construed that such insulator forms part of the railway locomotives. The argument of the applicant is that as per Rule 3(a) of the General Rules of Interpretation under Customs Tariff Act, 1975, where two or more Headings seem to apply, the one which provides the most specific description of the product in question should be used. This is examined and found that there is no dispute that the goods in question are covered under HSN Heading 8546 under the description "Electrical Insulators of any material". The issue is that in case this material is supplied to Indian Railways for their use, whether the same goods can be classified under HSN 8607.

15 The HSN Heading 8607 is examined and it reads as under: Parts of Railway or Tramway Locomotives or rolling stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof. The Section Notes of Section



XVII dealing in "Vehicles, Aircraft, Vessels and Associated Transport Equipment" in Note 2 states as under:

"The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this Section:

- (a)
- (b)
- (c)
- (d)
- (e)
- (f) Electrical machinery or equipment (Chapter 85)
- (g)
- (h)
- (i)
- (j)
- (k)
- (l)

Further, Note 3 states as under:

"References in Chapters 86 to 88 to "parts" or "accessories" do not apply to parts or accessories which are not suitable for use solely or principally with the articles of those Chapters. A part of accessory which answers to a description in two or more of the headings of those Chapters is to be classified under that heading which corresponds to the principal use of that part of accessory".

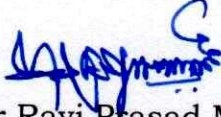
On cursory reading of the above, the goods under Chapter 85 are not covered under Chapter 86. Even by the admission of the applicant in their catalogue, the pressure sensitive polyimide film adhesive insulation tape find use in a wide range of industries and are not solely for use by Railways in their locomotives. Therefore by virtue of Note 3 alone the product is not liable to be classified under Heading 8607. Further, the pressure sensitive polyimide film adhesive insulation tape is used in the locomotive for insulation and it can also be used in other industries for insulation. Hence their primary function is as "insulators" and hence they are not parts of the locomotives.

16 In view of the foregoing, we pass the following

RULING

Rate of tax on supply of Kapton Polyimide Film Adhesive Tape to Indian Railways for use in its railway locomotives shall be the rate of tax as applicable to goods covered under the heading 8546-Electrical Insulators of any material and therefore the rate is 18%.


17/09/2019
(Harish Dharnia)
Member


(Dr. Ravi Prasad.M.P.)
Member

Place : Bengaluru,

Date : 17.09.2019

To,

The Applicant

Copy to :

- 1) The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
- 2) The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
- 3) Commissioner of Central Tax, South Commissionerate, Queens Road, Bengaluru
- 4) The Asst. Commissioner of Commercial Taxes, LGSTO- 25A Office Folder

