

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)
(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAECA8253G1ZN
Legal Name of Applicant		M/s. ALUDECOR LAMINATION PRIVATE LIMITED
Registered Address/Address provided while obtaining user id		4th Floor, Suit No. 2, Cello Triumph, I B Patel Road, Goregaon East, Mumbai-400063
Details of application		GST-ARA, Application No. 78 Dated 12.12.2019
Concerned officer		Division-VII, Commissionerate- Mumbai East
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Office/Sale Office
B	Description (in brief)	The applicant seeks ruling whether the Aluminium Composite Panel / sheet is covered under: a. HSN Code 3920 or HSN Code 7606 or HSN Code 7610 b. And what is the rate of tax on the same under SGST Act and CGST Act respectively.
Issue/s on which advance ruling required		(i) Classification of any goods or services or both
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 78/2019-20/B- 67

Mumbai, dt. 30/09/2021

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" respectively] by M/s. ALUDECOR LAMINATION PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following questions.

Whether the Aluminium Composite Panel / sheet is covered under:

- a. HSN Code 3920 or HSN Code 7606 or HSN Code 7610?
b. And what is the rate of tax on the same under SGST Act and CGST Act respectively?

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

any 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, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant are as under:-

2.1 *M/s. Aludecor Lamination Private Limited, the applicant having its registered office at No.1, R. N Mukherjee Road, 5th Floor, Room No.52, Kolkata-700001, India also has place of business at Suit No. 4501, 4th Floor; Cello Triumph, I B Patel Road, Goregaon East, Mumbai – 400063 and holds valid registration under CGST Act, 2017.*

2.2 *The applicant is engaged in manufacturing of Aluminium Composite Panel/ sheet, (herein after referred as "ACP Sheets") in Haridwar, Uttarakhand, India. The applicant has place of business in Maharashtra at the address declared in the application for Advance Ruling under Rule 98 of Goods and Service Tax Rules, 2017. In common parlance the product of the applicant is called as "Aluminium Composite Panel", often it is called as "Sandwich Panel" or "ACP Sheet". The same is manufactured in 4" width (Fixed) and length of 89, 10* or 12' as required by the purchases. In fact the product is "Plastic sheet laminated with Aluminium Sheets". If re-cycled plastic is used in manufacturing, it can be said to be "Re-cycled plastic Aluminium Composite Panel Sheet". Aluminium composite panels are sandwiched type panel consisting of Nontoxic polythene core firmly laminated with thin Aluminium sheet on top and bottom (**One Side affixed with adhesive polythene film for protection**) and is being used as Industrial Product. The dealer has manufacturing unit at Haridwar.*

2.3 *The applicant procures the ACP Sheets from his factory situated in Uttarakhand or from the other places of business situated in India as branch transfer and sells the same in Maharashtra. Once the applicant has imported the same product from out of India and the documents relating to import also says that the product is covered under CETH 3920.*

2.4 *In fact the product is "Plastic sheet laminated with Aluminium Foils". If re cycled plastic is used in manufacturing, it can be said to be "Re-cycled plastic Aluminium Composite Panel". Aluminium composite panels are sandwiched type panels/sheets consisting of Non-toxic polythene core firmly laminated with thin Aluminium Foils on top and bottom (**Both Side of the polythene sheet**) and is being used as Industrial Product.*

Brief about ACP Manufacturing Process:

2.5 *Recycled Plastic Granules (i.e. low density polyethylene granules) purchased from the various suppliers are first created in a drier-mixer (or removal of moisture from the said material. Thereafter with the help of Screw-conveyor these plastic granules go into the Extruder machine via hopper, where it passes through different temperature profiles and comes out from a T-Die in hot melt condition. From T-Die, this hot plastic melt passes through steel calendar rollers where the hot plastic melt is converted into a matt or sheet form of required thickness, normally for manufacturing of 3mm and 4mm thick ACP sheets and fixed width of 4 feet. During it passes, the extra material in excess of 4 feet is cut from both the side. Meanwhile a thin polyethylene film known as "plastic adhesive film" is laminated on both the sides (Top & Bottom side) of the plastic sheet extruded in the process. This plastic adhesive film is melted and helps Aluminium foils/coils to be laminated on the plastic sheet extruded. Further, this plastic sheet/core material laminated with adhesive film, passing through the composite section where Top & Bottom coated Aluminium foils/coils of particular thickness are laminated on both the sides of the plastic core/sheet. Finally the plastic sheet laminated with Aluminium foils/coils passes from cooling section. After cooling section a plastic protective film is laminated on*

decorative side or top coated Aluminium foils/coils of the ACP sheet and then the ACP sheet reaches at cutter section where it can be cut into the required lengths as per order from specific customer or cut to standard length of 8 feet, 10 feet or 12 feet. The same is stacked, one above another, and then shifted to dispatch area as ready for delivery after pre-dispatch-inspection process. A schematic diagram of ACP manufacturing process is given below:

Schematic Diagram of ACP Manufacturing Process

ACP Product Information

Sr. No.	Parameters			
	ACP Product Thickness	3mm	4mm	6 mm
1	ACP Product Thickness	3mm	4mm	6 mm
2	Top & Bottom Aluminium foil/coil Thickness (mm)	0.10 -0.50	0.25 -0.50	0.25..0.50
3	Plastic Sheet/Core Thickness (mm)	2.80.- 2.00	3.50 -- 3.00	5.50 -5.00
4	Weight Per Sq. Meter (ACP) (Kg/m ²)	3.50 -4.85	5.05 - 5.90	7.15 -- 9.00
5	Weight Per Sq. Meter (Aluminium foil/coil) (Kg/m ²)	0.550 -2.750	1.375 -2.750	1.375 -2.750
6	Weight per sq. Meter (Plastic Sheet/ Core) (kg/m ²)	2.940 - 2.100	3.675 - 3.150	5.275 -5.25
7	% of plastic Sheet/ Core (Thickness-wise)	93.33 -66.66	87.50 -75.00	91.66-83.33
8	% of Plastic Sheet/ Core (Weight-wise)	84.00 - 43.29	72.77-53.38	80.76-65.62

Use of finished Goods

2.6

The finished goods of the applicant are used in different industries such as;

- (1) In construction of mainly Commercial buildings to be used on outside walls for protection from heat, water proofing, avoiding painting and like purpose by the builders and contractors engaged in works contract. Form the sheets by drilling, routing, cutting and other process components, parts are prepared for use in construction / structure.
- (2) In Railways in coach building
- (3) In signage Industries for manufacturing of advertisement boards, name boards etc.
- (4) In passenger ship building industries,
- (5) In manufacturing of Furniture and Fixture,
- (6) In automobile Industries in manufacturing of passenger motor vehicles,
- (7) In interior decoration,
- (8) In construction of pedestrian bridges etc.

This is not ready to be used as it is, but the same requires cutting, routing, drilling; etc. process and then can be used in structure or fabrication or as the case may be.

B. Statement containing the Applicant's interpretation of law and /or facts

2.7

In VAT Period, the applicant use to sell the product under Central Excise Tariff Heading (CETH) 3920, after DDQ in the matter of Kevin Enterprises and others under CETH 7606. Commissioner of Sales Tax, Maharashtra while deciding the issue of rate of tax held the same product falling

under CETH 7610. Please refer complete copy of Chapter 39, Chapter 73 and Chapter 76 of Central Excise Tariff Act, attached herewith.

2.8 Important portion from the said Tariff entry is reproduced for quick reference and comparison.

CETH 3920 Chapter heading 39 under Central Excise is related to Plastic and its different products. It does not speak for any other goods other than plastic. Yet certain products are not covered under this chapter heading;

3920	Other plates, sheets, films, foil and strip of plastics, Non-cellular and not reinforced, laminated, supported or similarly combined with other material
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CETH 7606 Chapter heading 76 deals with Aluminium and different products made from Aluminium. For further clarification, one has to refer following meaning of the product;

7606	Aluminium plates, sheets and strip, of thickness exceeding 0.2 mm.
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CETH 7610 : CETH 7610 reads as under in Central Excise Tariff Act.

Sr. No.	Central Excise Tariff Entry	Description of Goods
1	7610	Aluminium structures (Excluding prefabricated building of heading 9406) and parts of structures (For example, bridges and bridge sections, towers, lattice masts, roofs, roofing, frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns) Aluminium plates, rods, profiles, tubes & the like, prepared for use in structure.

CETH 7308 This chapter heading deals with products manufactured from Iron and steel having the same description as provided in CETH 7610 except the words "Aluminium"

Sr. No.	Central Excise Tariff Entry	Description of Goods
1	7308	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF HEADING 9406) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGE-SECTIONS, LOCK-GATES, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAME-WORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, SHUTTERS, BALUSTRADES, PILLARS AND COLUMNS), OF IRON OR STEEL; PLATES, RODS, ANGLES, SHAPES, SECTIONS, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES, OF IRON OR STEEL

2.9 The applicant submits following judgments from honorable Courts, from Sales Tax tribunals, documents, advertisement material, small samples of the product sold by the applicant, photographs and video describing manufacturing process etc. in following order; 1988, and that cotton fabric based laminates are classifiable under Heading 3922 90 till February 28, 1988 and under Heading 3926.90 on and after March 1, 1988.

As regards paper based insulators it was held that same are classifiable under Heading 8546.00. In taking the said view the Tribunal has followed its earlier judgments in Amit Polymers & Composites Ltd., Hyderabad v. CCE Hyderabad, 1989 (20) ECR 454, and M/s Meghdoor Laminate Pvt. Ltd. v. CCE Ahmedabad, Order Nos, 553 to 572/89 dated September 29, 1989. As regards paper based insulators the Tribunal has placed reliance on its decision in CCE Ahmedabad vs

Metro Wood Engineering Works, 1989 (22) ECR 369. Civil Appeals Nos. 1852-53 of 1991 have been filed by the Revenue against the said judgment of the Tribunal.

R K Corporation V/s Government of Karnataka & Others (2009) 21 VST 386 (KAR)

Value added Tax - Circulars and clarifications - Commissioner. Withdrawal of Circular affecting rights of declares beneficially - Circular by Commissioner clarifying Goods Taxable at 4% - subsequent circular withdrawing earlier circular and clarifying goods taxable at 12, 5% has to be prospective and not retrospective. - Karnataka Value Added Tax Act, 2003 (32 of 2004) - S. 59(4)

JUDGMENTS FROM CXESTA

2011 (267) E.L.T. 546 (Tri. - Mumbai) RANA ENTERPRISES V/S Commissioner of Customs

Aluminium composite panel, consisting of polyethylene sheet sandwiched between two layers of Aluminium, with plastic content predominating - Used as external lining for walls of buildings, to improve water/heat/dust resistances and aesthetic appeal - Mechanical properties like bonding strength, thermal resistance, water absorption etc. attributable to Aluminium sheet - HELD : Classification has to be determined by essential character test and not by percentage of composition - Goods classifiable under sub-heading 7610.90 of Central Excise Tariff, and not as plastic material under sub-heading 3920.99 ibid. - Panel is used to improve water resistance, heat resistance, dust repelling property etc. of a building as also to impart an aesthetic appeal to it. By 10 stretch of imagination can it be said that these purposes would be attained by the polyethylene sandwiched between the Aluminium sheets: {paras 4, 5, 6}

2010 (260) E.L.T. 301 (Tri.-Del.) FLEX INDUSTRIES LTD. V/s COMM. OF CEN. EX., NOIDA

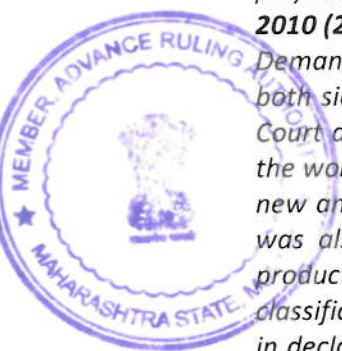
Demand" - Limitation - Misdeclaration - Fact that product in question was coated by plastic on both sides not disclosed by appellants in the declaration filed in the year 1995-1996 - Supreme Court decision delivered on the issue in the year 2005 merely reiterates the generic meaning of the word used in tariff statute - Ruling of Apex Court cannot be construed to lay down something new and different from the law as it existed during relevant period - Description in stock report was also not for declaration of Aluminium foil laminates coated with paper, plastic or the product being classified under Chapter 39 - Appellant was not to decide himself whether classification would be under 76 or 39 irrespective of description of the product -- Mis-statement in declaration enabled the Department to invoke extended period of limitation -- Section 11A of Central Excise Act, 1944. {Paras 14, 15}

Demand - Limitation - Mis-statement - Submission that decision of Apex Court delivered in 2005 and therefore observations therein would not justify accusation of any mis-statement in 1996 - HELD: Settled law that Courts do not frame law' - Courts merely state law as it exists - Ruling of Apex Court cannot be construed to lay down something new and different from law as it existed during relevant period - Extended period invocable - Section 11A of Central Excise Act, 1944. {Para 15}

The issue in the appeal relates to the classification of the goods manufactured by the appellants under the brand name phenotherm as also decotherm. The authorities below have classified the goods under tariff heading 3921.19 while the appellants claim the classification under tariff heading 3925.99. The two competing tariff entries are reproduced below for convenience of reference

Markell Paper Plast Pvt. Ltd. V/s C.C. & C.EX, Noida

Learned Advocate for the appellants has also brought to our notice that since 2008 onwards, Chapter Note 16 to Chapter 39 clearly states that in relation to the provision of the headings, 3920, 3921, the process of metallization or lamination or lacquering shall amount to manufacture. The Chapter heading 3920 refers other plates, sheets, film, foil and strip, of



plastics, non-cellular, and not re-in forced, laminated, supported or similarly combined with other materials, Chapter heading 3921 refers to other plates, sheets, film, foil and strip, of plastics.

Pushpdeep Enterprises vs. The Commissioner of Central Excise

1. The appellants are challenging the Order-in-Appeal No. 196/2005 CIS dated 28.10.2005 by which the Commissioner has confirmed demands under proviso to Section 111 along with interest and has imposed penalty under Section IIAC of CE Act on the ground that the Aluminium composite panel manufactured by the appellant is distinct from the ACP sheets imported by them. The appellants contended that they were carrying on the activity of cutting and routing (i.e, cutting the grooves) or ACP material and such activity did not bring into existence new product and it was not known in the market as a separate product with a distinct name, character and use and hence, they submitted that the item on carrying on the activity of the process of cutting and routing, did not produce new goods. This plea has been rejected by the authorities on the ground that the Aluminium sheets in running length when they are cut and routing would be classifiable under the Tariff Heading 76.10 of CET, which reads as follows:

Aluminium structures (Excluding prefabricated buildings of Heading No. 94.06) and parts of structures (For example) Bridges, and Bridge sections, Towers, Lattice Masts, Roofs, Roofing frameworks, Doors & Windows and their frames and thresholds for doors, Balustrades, Pillars and Columns): Aluminium plates, rods, profiles, tubes and the like, prepared for use in the structures.

COMMISSIONER OF C. EX. VS. TETRA PAK INDIA PVT. LTD.

CETH 4811 90 92 and 7607 20 90

JUDGMENTS FROM SALES TAX TRIBUNALS

Appeal No.6ATVAT/06-07 under Delhi VAT Act Gurind Traders V/s Comm. of Trade & Tax, Delhi (Delhi Sales Tax Tribunal)

"Whether ACP and other similar laminates manufactured and sold by the company is covered by entry 166 of Schedule III to attract levy of tax @ 4% under DVAT?"

(1989) 74 STC 187 (AP) Ravi Agencies V/s State of Andhra Pradesh

ENTRIES IN SCHEDULE - PLASTIC SHEETS -- INCLUDES PLASTIC LAMINATED SHEETS - PLASTIC LAMINATED SHEETS SUPPLIED TO DEALER CLASSIFIED AS PLASTIC SHEETS FOR PURPOSE OF LEVY OF CENTRAL EXCISE DUTY - NO REASON TO CLASSIFY DIFFERENTLY FOR PURPOSES OF LEVY OF SALES TAX DEPARTMENT ALSO NOT PLACING ANY MATERIAL TO SHOW HOW OTHER DEALERS IN SAME GOODS TAXED -- ANDHRA PRADESH GENERAL SALES TAX ACT 6 OF 1957), SCH, I, ENTRIES 113, 114 CENTRAL EXCISES AND SALT ACT (1 OF 1944), SCH. I, ITEM 15-A (2).

Appeal No. 11 of 2007 Umiya Flexifoam Pvt. Ltd V/s State of Gujarat

"Under which entry of the which schedule of the Gujarat Value Added Tax Act, commodity of Aluminium Panel Sheet/ Aluminium Composite Panel / Plastic Laminated Sheet is to be covered and accordingly what the rate of tax is applicable on sales of the commodity of Aluminium Panel Sheet / Aluminium Composite Panel / Plastic Laminated Sheet sold under invoice no. 0388 Dt. 24.8.2006, under the provision of the Gujarat Value Added Tax Act?"

Antidumping duty Notification No. 23/2017-Customs (ADD)

Excluding Aluminium Composite Panels from levy of antidumping duty on Aluminium Foils covered by CETH 7607

Commissioner of Central Excise Mumbai V/S PENTAIR WATER INDIA PVT LTD (CESTA)

We have carefully considered the submissions made by both the sides. We find that the respondent is admittedly manufacturing glass fibre vessel wherein the ingredients of glass fibre

is predominant, ie, in case of FRP vessel content of fibre glass is of 57% and in respect of the product composite vessel is 63% and in respect of the composite vessel, the fibre glass present is 38% but remaining 62% is of all other materials used. Therefore in all the three products, the predominant part of material used is fibre glass. According to the predominate principle, the products should be classified under chapter 70.14. We find that the Ld. Commissioner takes support of the decision in the case of kemrock Industries (supra) wherein it was held that the classification should be decided on the basis of essential characteristic of the product and not on the basis of predominant material used for the manufacture, We find that in the said judgement it was not the case of essential characteristic based on the end use of the goods whereas the issue was whether the plastic is predominant or the glass fibre is predominant as per the strength of the goods. Since the plastic has major role therefore, the product has decided under Chapter 39. In the present case, the rival entry is 70:14 which is based on the predominant of the material used and 84.21 which is on the basis of end use. Accordingly, the case of Kemrock Industries (supra) is not directly applicable in the fact of the present case. We also observed that there is no dispute that the product in question in the present case is FRP glass fibre vessel wherein the predominant material is glass fibre. Therefore, it will be preferably classifiable under Chapter 70.14. We also perused that as per Note 2 (a) to Section XVI of CETA which reads as under:

- 2.10 The appellant respectfully submits that he shall be providing samples of the product is small sizes for easy handling and also provide video film of the manufacturing process with sub-title at the time of hearing on the issue.

03. CONTENTION – AS PER THE CONCERNED OFFICER:

OFFICER SUBMISSION DATED 22.01.2020:-

- 3.1 With reference by M/s. Aludecor Lamination Pvt. Ltd in letter dated 10.12.2019 and on the basis of the above letter and enclosures, the following point wise/Para wise Comments submitted:
- 3.2 On plain reading of the question raised, it appears that all these three HSN Codes, i.e., 3920, 7606 or 7610 are bearing the same rate of taxes under the GST Act, i.e., 18%.
- 3.3 As per the HSN /SAC Code list the Aluminium Composite Panel/Sheet is covered under HSN Code 7606 - "**Aluminium plates, sheets and strip, of a thickness exceeding 0.2 mm**". Thus as per the words used the appropriate classification can be done under HSN Code *7606' with the rate of duty 18%.
- 3.4 The other HSN code, i.e., 3920, in which the detailed description is given as - "**other plates, sheets, film, foil and strip, of plastics, non-cellular, and not reinforced, laminated, supported or similarly combined with other material**". This HSN code does not seems to be appropriate for the goods 'Aluminium Composite panel/sheet' as same is applicable to articles of plastic.
- 3.5 The last HSN code, i.e., 7610, in which the detailed description is given as - "**Aluminium Structures**". As the HSN is used for Structures of Aluminium, hence not seems to be appropriate for the goods 'Aluminium Composite panel/sheet'.
- 3.6 From the facts detailed above and as per all the provisions cited above, it appears that as per the HSN /SAC Code list, the Aluminium Composite Panel/Sheet is covered under HSN Code 7606 – "**Aluminium plates, sheets and strip, of a thickness exceeding 0.2 mm**", the appropriate classification is therefore can be done under HSN Code "7606" with rate of duty 18%.

04. HEARING

- 4.1 Preliminary hearing in the matter was held on 22.01.2020. Shri. Bharat Shaha, Advocate appeared, and requested for admission of the application. Jurisdictional Officer Shri. Anand Kakane, Superintendent, Range-1, Division-7, Mumbai East Commissionerate also appeared.
- 4.2 The application was admitted and called for final e-hearing on 07.09.2021. Shri. Bharat Shaha, Advocate, Authorized Representative, appeared and made oral and written submissions. Jurisdictional Officer Shri Machhindra Patil, Superintendent, Range-I, Div 7, Mumbai East was also present and made oral & written submissions. Applicant requested for time to produce sample invoices and challans issued for making outward supply from Mumbai in respect of impugned goods.
- 4.3 We heard both the sides.
05. **DISCUSSIONS AND FINDINGS:**
- 5.1 We have perused the documents on record and oral/written submissions made by both, the applicant as well as the jurisdictional officer.
- 5.2 The only issue before us is regarding the classification of the product Aluminium Composite Panel/sheet, (herein after referred as "**ACP Sheets**") supplied from Mumbai address by the applicant to its customers. The applicant has a factory situated in Uttarakhand. The said products are received from their factory or from the other places of business situated in India as branch transfer and sold by the applicant in Maharashtra. The applicant has place of business in Maharashtra at the address declared in the application for Advance Ruling under Rule 98 of Goods and Service Tax Rules, 2017.
- 5.3 The applicant has submitted that Aluminium composite panels (impugned goods) are sandwiched type panel consisting of Nontoxic polythene core firmly laminated with thin Aluminium sheet on top and bottom. Applicant has submitted the manufacturing process in their application. The applicant has also enumerated certain uses of the impugned product and submitted that the said goods can be used in structure or fabrication or as the case may be.
- 5.4 The only issue before us is whether the impugned goods are covered under: HSN Code 3920 or HSN Code 7606 or HSN Code 7610.
- 5.5 The jurisdictional officer, in his submissions has submitted that "From the facts detailed and as per all the provisions cited, it appears that as per the HSN /SAC Code list, the Aluminium Composite Panel/Sheet is covered under HSN Code 7606 – "Aluminium plates, sheets and strip, of a thickness exceeding 0.2 mm", the appropriate classification is therefore can be done under HSN Code "7606" with rate of duty 18%.
- 5.6.1 The applicant argued that the impugned goods are classifiable under Tariff Heading 3920 and earlier they have cleared the goods under Tariff Heading 3920. They submitted that "*In VAT Period, the applicant use to sell the product which is cleared under Central Excise Tariff Heading (CETH) 3920*".
- 5.6.2 Chapter Heading 3920 of the GST Tariff is reproduced as under:-
3920: ***Other plates, sheets, film, foil, tape strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.***
- 5.6.3 Chapter 39 of the GST Tariff pertains to Plastics and articles thereof. Chapter 3920 covers other plates, sheets, film, foil, tape strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials. The applicant has clearly stated that the impugned product is "**Plastic sheet laminated with Aluminium Sheets**". In view of Tariff Heading 3920 it is clear that the impugned products, being plastic sheets laminated with aluminium sheets, are not covered under Tariff Heading 3920.
- 5.7.1 The alternative heading proposed by the applicant is Heading 7610 which covers: *Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for*

example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures.

5.7.2 It is seen that Heading 7610 covers Aluminium structures and its parts; aluminium plates, rods, profiles, tubes and the like, prepared for use in structures.

5.7.3 The applicant has submitted that the subject product is used: in construction of Commercial buildings to be used on outside walls for protection from heat, water proofing, in Railways in coach building ; in signage Industries for manufacturing of advertisement boards, name boards etc. ; in passenger ship building industries, in manufacturing of Furniture and Fixture ; in automobile Industries in manufacturing of passenger motor vehicles and in interior decoration, etc.

5.7.4 The submissions made by the applicant do not support the fact of the subject product being termed as Aluminium Structure and/or parts thereof. From the facts and submissions before us we find that the subject product is not covered by the Tariff Heading 7610.

5.8.1 The third alternative heading submitted by the applicant is 7606 of the GST Tariff. We find that the subject product is covered by the decision of the Hon. Tribunal in the case of Commissioner of Customs (Imports), Chennai versus ICP India Pvt. Ltd 2018 (7) TMI 546 - CESTAT Chennai. The Hon. Tribunal observed as follows:-*"The Ld.Counsel has produced a sample plate of the impugned goods before us. It is in the form of a sheet and definitely is not a structure, or part of structure falling under 7610. It cannot be used as structure or part of structure and is only plates that are generally used for cladding the surfaces. These are sheets which are cut and grooved to clad surfaces, walls etc. They cannot be termed as structures or parts used for construction. In our view, the Commissioner (Appeals) has rightly classified the same under 7606"*.

5.8.2 The applicant has mentioned various uses to which the subject product can be put to use. We find that in respect of most of these uses the essential user characteristics are given by the aluminium lamination for example, when used in construction of buildings to be used on outside walls for protection from heat, water proofing, avoiding painting such protection from heat etc is extended by the aluminium coating and not the plastic material. Even in manufacturing of Furniture and Fixture the essential characteristics is given by the aluminium cover.

5.8.3 Further, we find that Heading 7606 of the GST tariff covers **ALUMINIUM PLATES, SHEETS AND STRIP, OF A THICKNESS EXCEEDING 0.2 mm**. In the subject case, under the 'ACP Product Information' has mentioned that the Top and Bottom Aluminium Foil thickness in the subject products ranges upto 0.5 mm. Thus it is seen that the subject product would essentially exceed the thickness of 0.2 mm.

5.8.4 In view of the above discussions, we hold that the subject product is covered under Heading 7606 of the GST Tariff and the rate of GST on the impugned product is 18% (9% each under CGST and SGST).

5.9.1 Finally we find that the applicant has submitted some sample invoices relevant to the subject product, issued by their various units which are as under:-

i) Invoice Nos. 2304004013/4026/4121/4225/4245 dated 02.03.2020, 03.03.2020, 06.03.2020, 14.03.2020 and 16.03.2020 respectively, issued by M/s Aludecor Lamination Pvt. Ltd, Goregaon, West, Mumbai.

ii) Invoice No. 1207008699/722 dated 04.03.2020 and 05.03.2020 respectively, issued by M/s Aludecor Lamination Pvt. Ltd, Uttarakhand.

iii) Invoice No. 1307000099 dated 04.03.2020, issued by M/s Aludecor Lamination Pvt. Ltd, West Bengal.

iv) Invoice No. 2407000281/242000163 dated 04.03.2020 and 16.03.2020 respectively, issued by M/s Aludecor Lamination Pvt. Ltd, Nagpur, Maharashtra.

5.9.2 Whereas in Sr. No.(i) the Item Description in all the invoices, issued by the applicant is mentioned as 'Metal Composite Panel', in the remaining invoices, such Item Description is not shown. However, all the invoices are reflecting HSN Code as 7606 in respect of the concerned goods.

5.10.1 The applicant has submitted a few case laws in their application but most of the referred case laws are not applicable in the instant case because the facts of the matter in the said case laws are different from the matter at hand. However the following case laws cited by the applicant are taken up for discussion as under:

5.10.2 **R K Corporation V/s Government of Karnataka & Others (2009) 21 VST 386 (KAR)**

In the said case, the Petitioner filed an application under the Karnataka Value Added Tax, 2003, to clarify the rate of tax applicable on the sale of ALUMINIUM COMPOSITE PANEL. Thereafter a clarification dated 02.02.2006 was issued by the Commissioner stating that the Aluminium Panel Sheets covered under Heading 3920.10.19 would be liable to tax at the rate of 4 percent. Further, to this another clarification dated 11.12.2007 was issued wherein the said product was said to be liable to tax at the rate of 12.5 percent and the earlier clarification was withdrawn. During the course of the hearing, the department contended that the said product i.e. Aluminium Panel Sheets and Aluminium Composite Panel Sheets fell under Central Excise tariff Code 7606.11.90 and not Heading 3920 and accordingly the second clarification was issued, which also withdrew the first clarification dated 02.02.2006. Thus the second clarification was issued considering the said products as classifiable under HSN Code 7606. The Karnataka High Court Held that the benefit that accrued to the Petitioner under the earlier Circular can be taken away only from the date of the subsequent Circular. In effect, the High Court has upheld the second Circular which has considered the Aluminium Panel Sheets and Aluminium Composite Panel Sheets as falling under Heading 7606.

06. In view of the above discussions, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus –

Question a. Whether the Aluminium Composite Panel / sheet is covered under:
HSN Code 3920 or HSN Code 7606 or HSN Code 7610?


Answer:- In view of the above discussions, the Aluminium Composite Panel/Sheet is covered under HSN Code 7606.

Question b. And what is the rate of tax on the same under SGST Act and CGST Act respectively. ?

Answer:- The rate of tax on Aluminium Composite Panel/Sheet 18% (9% each under CGST and SGST).




RAJIV MAGOO
(MEMBER)


T.R. RAMNANI
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.

