

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata IRS., Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai.
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member (FAC),
Office of the Joint Commissioner (ST), Enforcement /
Inter-State Investigation Cell, Chennai-6.

ORDER No. 2 /AAR/2019 DATED 21.01.2019

GSTIN Number, if any / User id	33AAF4022H1ZR
Legal Name of Applicant	M/s. RmKV Fabrics Private Limited
Registered Address/Address provided while obtaining user id	176F, 2 nd Floor, 3 rd Floor, Trivandrum Road, Vannarapettai, Palayamkottai, Tamil Nadu - 627 003.
Details of Application	GST ARA - 001 Application Sl.No. 53 Dated 25.10.2018.
Concerned Officer	State : The Assistant Commissioner (ST), Palayamkottai Assessment Circle, Commercial Tax Building, Reserve Line Road, Palayamkottai, Tirunelveli - 627 002. Centre : Madurai Commissionerate Division: Tirunelveli
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Supply of goods
B Description (in Brief)	Sale of Salwar/Churidar sets.
Issue/s on which advance ruling required	Classification of Salwar/Churidar sets compressing of three pieces sold by them and the rate applicable for such sale.
Question(s) on which advance ruling is required	Whether the Salwar / Churidar sets being sold by the applicant compressing of three piece of cloth viz Top, Bottom and Dupatta would be classifiable as Fabrics under the relevant chapters and attract only 5% GST; or they would be classifiable as Articles of apparel and attract 5% GST if their sale price is below Rs. 1000 and attract 12% GST if their sale price is more than Rs.1000.

Note: Any appeal against the advance ruling order shall be filed before the Tamilnadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. RmKV Fabrics Pvt Ltd, 176 F, 2nd Floor, 3rd Floor, Trivandrum Road, Vannarpettai, Palayamkottai, Tamilnadu 627003 (herein referred as Applicant or RmKV) are engaged in the trading of readymade garments, fabrics and other similar items and have their showrooms at Tirunelveli, Chennai and Coimbatore. They are registered under GST with Registration No. 33AFCR4022H1ZR.

They have preferred an Application seeking Advance Ruling on

“Whether the Salwar / Churidhar sets, comprising of three sets of Tops, Bottom and Dupatta, whether partially stitched/ neck work done, or not would remain as fabrics under Chapters 50,52,54,55 based on the constituent material and attract a total 5% GST; or they are classifiable under Chapters 61 to 63, thereby attracting a total of 5% if their sale price is less than Rs.1, 000 and 12 % GST if their sale price is more than Rs.1, 000”

They have applied for Advance Ruling in Form GST ARA – 01 and enclosed challan for payment of fees of Rs 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules and SGST Rules 2017.

2.1 The Applicant has stated that one of the products being sold by them is Salwar / Churidar Sets, comprising of three piece of cloths viz., Top, Bottom and Dupatta. They have enclosed photographs of the subject items for reference, and have described as follows :-

- 1) Both Top and Bottom not stitched- a model where no stitching has been done and the Top is merely cut into size;
- 2) Top Semi-stitched and Bottom not stitched- a model where the Top is semi-stitched, requiring further cutting and stitching to size;
- 3) Top stitched but bottom not stitched- a model where the Top is completely stitched but the bottom is not stitched; and
- 4) Top Neck-worked; Both Top and Bottom not stitched-a model where both the Top and Bottom are not stitched but only the neck portion is cut and design made

They have stated that these Salwar / Churidar Sets are nothing but three difference pieces of fabrics which has to be ultimately stitched into a complete Salwar / Churidar Set.

2.2 The Applicant has stated that these Salwar / Churidar Sets are nothing but pieces of fabrics cut from the lengthy fabrics and hence can be classified as "Fabrics", based on the constituent materials. For example woven fabrics of cotton would fall under Chapter 5208 and woven fabrics of silk under Chapter 5007. As per Schedule I to Notification 1/2017 Central Tax (Rate) dated 28.06.2017, such woven fabrics attract 2.5% CGST with equivalent rate of SGST under the SGST Notification. Articles of apparel are classifiable under Chapter 61, 62 and 63, based on the fact whether they are knitted or crocheted. As per Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 articles of apparel falling under Chapter 61,62, 63 would attract a total 5% GST (2.5% CGST + 2.5% SGST), if their sale value is up to Rs.1000/- and if their sale value is more than Rs.1,000/-, they would attract a total 12% GST (6% CGST + 6% SGST).

2.2 The Applicant has further stated that the Salwar/Churidar sets in question comprises of three pieces of fabric and in some of the sets, certain degree of stitching or neck work is done. These items cannot be worn as such and requires further stitching according to the measurement of the user. They are essentially in the form of fabric and have not attained the characteristics of an article like that of a readymade shirt or pant. They have relied on the circular issued by the Central Board of Excise and Customs No.557/53/2000 dated 03.11.2000, wherein it is clarified that Dhotis and Sarees are classifiable as fabrics only and stated that the same rationale would hold good for Salwar and Churidar sets also. Also, as per circular issued by the CBIC, No 13/13/2017 dated 27.10.2017,Cut pieces of Fabrics are classifiable under chapters 50 to 55 of First Schedule to the Customs

Tariff Act 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit. The Applicant has stated that mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST. The Applicant has sought the correct classification of these items and applicable rate of GST.

3. The Applicant was heard in person. They stated that they sell Salwar sets unstitched and stitched. In some cases, the fully unstitched sets will also have some work/embroidery/hemming done and will not be just cut from the bales/than by their suppliers. In other cases, the top/bottom is variously stitched or neck done or dupatta stitched/work done, etc. They stated that Board's Circular dated 3/11/2000 and 27/10/2017 may be relevant in these cases. They also submitted that under VAT they were treated as readymade sets/apparels of fabric. They submitted copies of invoices where they are charging under 62/63 chapter.

4. The Contentions of the Applicant were examined with submissions made by them. It is seen from the photographs submitted that there are four models of Salwar/Churidar materials

1. Both Top and Bottom not stitched: This consists of three pieces of fabrics (Top/Bottom/Dupatta) where no stitching has been done and the pieces are merely cut into fabrics from bales/than

2. Top semi - stitched and bottom not stitched: This consist of bottom and dupatta fabrics cut from bales/than and the Top has already been partially cut into shape but requires further cutting and stitching to size

3. Top stitched but bottom not stitched: This consists of bottom and dupatta fabrics cut from bales/than and the Top fully stitched

4. Top Neck -worked; Both Top and Bottom not stitched: This consist of bottom and dupatta fabrics cut from bales/than and the Top has neck portion cut and design worked into it .

In all the cases, the fabrics themselves could have some embroidery work/hemming or embellishments on them. It is seen from the copy of invoices submitted by them, the same is sold as 'Chudi Material' as a single quantity for the whole set with Chapter 62.

5.1. The issue to be decided is whether the various models of Salwar / Churidar Sets in question, would be classifiable as Fabrics from Chapter 50 to 55 under the relevant Chapters and attract only 5% rate as Tax under GST or it would be classifiable as Articles of apparel under 61/62/63 and attract 5% rate as Tax under GST, if the sale price is below Rs.1000/- and attract 12% rate as Tax under GST, if the sale price is more than Rs.1,000/-.

5.2. In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, 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 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

5.3. We find that the issue of classification of 'Unstitched Salwar Suits' was taken up by the GST Council in its 22nd Meeting held on 6th October 2017. The decision of the council, as available in the minutes of the meeting is reproduced as under:

Serial No.4: Clarification regarding Unstitched Salwar suits

53. The Joint Secretary (TRU-I), CBEC, stated that fabrics are classified under Chapters 50 to 55 and attract tax at the rate of 5% with no refund of unutilised input tax credit. Mere cutting and packing of fabrics into pieces of different lengths from bundles and *thans* would not change the nature of these goods and such pieces of fabrics would continue to be classified under respective chapter headings as fabrics and attract 5% tax. He stated that the proposal was to clarify that unstitched *salwar* suit is a fabric cut from lumps or *thans* on which value addition is done with embroidery, handwork, patchwork, etc. and that such pieces of fabrics would continue to be classified under Chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 and attract 5% rate of tax. The Council agreed to the suggestions.

On this CBIC had issued Circular No 13/13/2017 dated 27.10.2017 stating:

"Doubts have been raised regarding the classification of Cut pieces of Fabrics under GST.

2. It has been represented that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size.

3. Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5% with no refund of the unutilized input tax credit.

4. Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate.”

Another clarification was issued vide Circular No 80/54/2018-GST dt 31.12.2018 stating:

“10. Applicability of GST on supply of embroidered fabric sold in three pieces for lady suits:

10.1. Representations have been received seeking clarification regarding GST rate applicable on supply of embroidered fabric sold in three pieces fabric pack/set for lady suits (fabric for suit, salwar and dupatta). It has been informed that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state with certain embellishment like gota etc. The consumers buy these sets or pieces and get it tailored which entails cutting of fabric in shape and stitching thereof. Doubts have arisen as regards applicable rates on such three fabric pieces in sets/packs.

10.2 Fabrics are classifiable under chapters 50 to 55 and 60 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials and attract a uniform GST rate of 5%. Garments and made up articles of textiles under chapters 61, 62 and 63 attract GST at the rate of 5% when value is upto Rs 1000 per piece and 12% when the value exceeds Rs. 1000 per piece.

10.3 Earlier, vide Circular no. 13/13/2017-CGST dated 27th October 2017, it has been clarified that mere packing of fabrics into pieces of different lengths will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric and attract the 5% GST rate. This clarification would equally apply to three pieces of fabrics sold in a pack as ladies salwar suit. Any embroidery on a fabric piece or certain embellishment thereon does not change the basic nature of their being a fabric. The chapter 63 covers garment, including the unstitched garments which may or may not be sufficiently completed to be identifiable as garments or parts of garments. However, heading 6307 would not cover a fabric pieces or a set of pre-packed fabric pieces, even if embroidered or embellished. Such set of fabric pieces would attract GST at the rate of 5%.”

From the above, it is seen that Model 1 of applicant consisting of Both Top and Bottom not stitched i.e. three pieces of fabrics (Top/Bottom/Dupatta) where no stitching has been done and the pieces are merely cut into fabrics from bales/than, is merely pieces of fabric even if they have embroidery or embellishments and as per the clarification above are classified under Chapters 50 to 55 of the Customs Tariff Act depending on the textile material used.

5.4. The above clarifications is regarding pieces of fabric cut from bales/than of different lengths put up for sale as a set, even when these fabric have some embellishment or embroidery. Such fabrics after sale are cut into shape and stitched by the customer. The remaining three models of the applicant fall under this category where either further cutting or stitching has been done before such sale. In Model 2, supplied by the Applicant, i.e. Top semi – stitched and bottom not stitched, the Top is cut into shape but requires further cutting and stitching to size. In Model 3 i.e. Top stitched but bottom not stitched, the Top is fully stitched. In Model 4 i.e. Top Neck –worked Both Top and Bottom not stitched, for the Top neck portion is cut and design worked into it. In respect of these three models, it is required to be determined whether all these three would qualify as fabrics.

Note 7 to Section XI of Customs Tariff covering 'Textile & Textile Articles' of Chapter 50 to Chapter 63 states

7. For the purposes of this Section, the expression "made up" means:

- (a) cut otherwise than into squares or rectangles;*
- (b) produced in the finished state, ready for use (or merely needing separation by cutting dividing threads) without sewing or other working (for example, certain dusters, towels, table cloths, scarf squares; blankets);*
- (c) Cut to size and with at least one heat-sealed edge with a visibly tapered or compressed border and the other edges treated as described in any other sub-clause of this Note, but excluding fabrics the cut edges of which have been prevented from unravelling by hot cutting or by other simple means;*
- (d) hemmed or with rolled edges, or with a knotted fringe at any of the edges, but excluding fabrics the cut edges of which have been prevented from unravelling by whipping or by other simple means;*
- (e) cut to size and having undergone a process of drawn thread work;*

(f) assembled by sewing, gumming or otherwise (other than piece goods consisting of two or more lengths of identical material joined end to end and piece goods composed of two or more textiles assembled in layers, whether or not padded);
(g) knitted or crocheted to shape, whether presented as separate items or in the form of a number of items in the length.

It is seen from Note 7 (a) to Section XI of Customs Tariff that 'made up' means cut otherwise than into squares or rectangles. The Top in Model 2 of the Applicant is fabric already cut into the shape of a salwar top but is not completely stitched. This means that this is not a fabric in square or rectangle shape and hence is a 'made up'. The Top in Model 4 is also not a fabric in square or rectangle but has the neck portion cut and worked on. This too would qualify as a 'made up'. It is seen from Note 7(f) to Section XI of Customs Tariff that 'made up' means assembled by sewing, gumming or otherwise. The top in Model 3 is fully stitched or assembled by sewing and hence would be a 'made up'. Thus, Model 2,3 and 4 is a set containing 'made up' articles of textiles for Top of salwar suit and pieces of fabrics for Bottom and Dupatta of salwar suit.

General Rule 2 for the Interpretation of Customs Tariff states

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

It is seen that Model 2, 3 and 4 have some additional cutting and stitching on the Top made up article which is either a complete Top of salwar, in case of Model 3, or is an unfinished Top of a salwar suit, in case of Model 2 and 4. They are also sold as 'Chudi material' by the Applicant which contains made up article of Top and fabrics of Bottom and Dupatta. Together all three constitute an unstitched salwar suit containing made up articles of textile. As per Rule 2 to the general Interpretative Rules above, the incomplete articles has the essential characteristic of a made up article of a salwar suit and are not mere pieces of fabric. Therefore, Model 2, 3 and 4 would be classifiable as a salwar suit.

Note 8 to Section XI of Customs Tariff states

8. For the purposes of Chapters 50 to 60: (a) Chapters 50 to 55 and 60 and, except where the context otherwise requires, Chapters 56 to 59 do not apply to goods made up within the meaning of Note 7 above;

From the note above it is seen that made up articles of textiles as defined in Note 7 to Section XI of Customs Tariff cannot be classified under Chapter 50 to 60 as fabrics. Hence, Model 2,3 and 4 cannot be classified under Chapter 50 to 60 as they are 'made up' articles of textiles.

Note 1 to Chapter 62 of Customs Tariff states

1. This Chapter applies only to made up articles of any textile fabric other than wadding, excluding knitted or crocheted (other than those of heading 6212).

Chapter heading 6211 covers "Other garments, women's or girls" states:

6211	TRACK SUITS, SKI SUITS AND SWIMWEAR; OTHER GARMENTS
	- Swimwear :
6211 11 00	-- Men's or boys'
6211 12 00	-- Women's or girls'
6211 20 00	- Ski suits
	- Other garments, men's or boys' .
6211 32 00	-- Of cotton
6211 33 00	-- Of man-made fibres
6211 39 00	-- Of other textile materials
	- Other garments, women's or girls' :
6211 42	-- Of cotton :
6211 42 10	--- Kurta and salwar with or without duppatta
6211 42 90	--- Other
6211 43 00	-- Of man-made fibres
6211 49	-- Of Other textile materials:
6211 49 10	--- Of wool or fine animal hair
6211 49 90	--- Other

Depending on the textile material, Model 2, 3 and 4 would be classified under various subheadings under Tariff heading of 6211 i.e 621142 /621143/621149.

5.5 Therefore, Model 1 salwar/chudidar sets supplied by the Applicant is classifiable as Fabrics under Chapter 50 to 55 depending on the material. The applicable rate of tax would be 2.5% CGST as per applicable Sl.no (depending on the material) in Schedule I of Notification 1/2017 –Central Tax(Rate) dt. 28.06.2017 as amended and 2.5% SGST as per applicable Sl.no (depending on the material) in Schedule I of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017. Model 2,3 and 4 salwar/chudidar sets supplied by the Applicant are classifiable as made up articles under Tariff heading 621142/621143/621149 depending on the material . The Applicable rate of tax for such articles of sale value

not exceeding Rs 1000 per piece, would be 2.5% CGST as per Sl.no 223 in Schedule I of Notification 1/2017 –Central Tax(Rate) dt. 28.06.2017 as amended and 2.5% SGST as per Sl.no 223 in Schedule I of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017. The Applicable rate of tax for such articles of sale value exceeding Rs 1000 per piece, would be 6% CGST as per Sl.no 170 in Schedule II of Notification 1/2017 –Central Tax(Rate) dt. 28.06.2017 as amended and 6% SGST as per Sl.no 170 in Schedule II of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.

6. In view of the above, we rule as under:

RULING

1. Model 1 Salwar/Chudidar sets supplied by the Applicant, Both Top and Bottom not stitched consisting of three pieces of fabrics (Top/Bottom/Dupatta) where no stitching has been done and the pieces are merely cut into fabrics from bales/than, is classifiable as fabric Chapter 50 to 55 depending on the material.
2. Model 2 Salwar/Chudidar sets supplied by the Applicant, Top semi – stitched and bottom not stitched consisting of bottom and dupatta fabrics cut from bales/than and the Top has already been partially cut into shape but requires further cutting and stitching to size, is classifiable as made up articles under Tariff heading 621142/621143/621149 depending on the material.
3. Model 3 Salwar/Chudidar sets supplied by the Applicant, Top stitched but bottom not stitched consisting of bottom and dupatta fabrics cut from bales/than and the Top fully stitched is classifiable as made up articles under Tariff heading 621142/621143/621149 depending on the material.
4. Model 4 Salwar/Chudidar sets supplied by the Applicant, Top Neck –worked, Both Top and Bottom not stitched consisting of bottom and dupatta fabrics cut from bales/than and the Top has neck portion cut and design worked into it is classifiable as made up articles under Tariff heading 621142/621143/621149 depending on the material.
5. For Model 1 Salwar/Chudidar sets supplied by the Applicant, the applicable rate of tax would be 2.5% CGST as per applicable Sl.no (depending on the material) in Schedule I of Notification 1/2017 –Central Tax(Rate) dt. 28.06.2017 as amended and 2.5% SGST as per applicable Sl.no (depending on the material) in Schedule I of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.

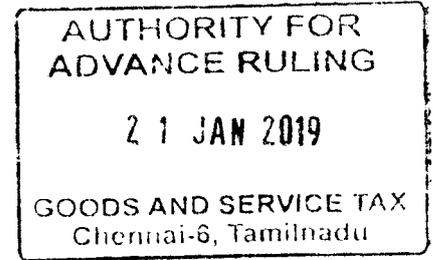
6. For Model 2,3 and 4 Salwar/Chudidar sets supplied by the Applicant, the applicable rate of tax for such articles of sale value not exceeding Rs 1000 per piece, would be 2.5% CGST as per Sl.no 223 in Schedule I of Notification 1/2017 –Central Tax(Rate) dt. 28.06.2017 as amended and 2.5% SGST as per Sl.no 223 in Schedule I of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 and the applicable rate of tax for such articles of Sale Value exceeding Rs 1000 per piece, would be 6% CGST as per Sl.no 170 in Schedule II of Notification 1/2017 –Central Tax(Rate) dt. 28.06.2017 as amended and 6% SGST as per Sl.no 170 in Schedule II of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.


Ms. Manasa Gangotri Kata, IRS
Member, CGST


Shri. S.Vijayakumar, M.Sc.,
Member (FAC), TNGST

To
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/By SPAD/



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