

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

**ADVANCE RULING NO. UP ADRG-28/2023/ DATED 19-6-2023**

**PRESENT:**

**1. Shri Amit Kumar**

Joint Commissioner, Central Goods and Service Tax  
Audit Commissionerate, Lucknow .....Member (Central Tax)

**2. Shri Harilal Prajapati**

Joint Commissioner, State Goods and Service Tax .....Member (State Tax)

1.	Name and address of the Applicant	M/s MAAVISA FOM CUP PRIVATE LIMITED, 14 TEXTILE CENTER, PILKHUWA, HAPUR, HAPUR, UTTAR PRADESH -245304
2.	GSTIN or User ID	09AALCM2054N1Z0
3.	Date of filing of Form GST ARA-01	14.03.2023
4.	Represented by	Mr. Hitesh Bajaj
5.	Jurisdictional Authority-Centre	Range -33, Division Hapur, Commissionerate-Noida
6.	Jurisdictional Authority-State	Sector- Sector 4 Hapur, Range- Ghaziabad(B), Zone- Ghaziabad I
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes CNRB23030900030223

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

M/s MAAVISA FOM CUP PRIVATE LIMITED, 14 Textile Center, Pilkhuwa, Hapur, Hapur, Uttar Pradesh -245304 (hereinafter referred as "the applicant") having GSTIN09AALCM2054N1Z0 have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and Section 97 of UPGST Act, 2017 read with Rule 104 of the UPGST Rules, 2017 in Form GST ARA-01 (the application form for Advance Ruling), discharging the fee of Rs. 5,000/- each under the CGST Act and the UTGST Act.

2. The applicant is a manufacturing unit, registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Uttar Pradesh Goods and Services Tax Act, 2017 (herein after referred to as the CGST Act and UPGST Act respectively). The applicant is engaged in the manufacture of highly specialized foam cup pads in state of art machines, using raw materials including foam made from polyutherane, glue and fabric.

3. The applicant has sought advance ruling in respect of the following question :

- i) To confirm the exact HSN code out of the following -  
(1) 39269079 (2) 62129090, 39262091,  
for billing of Foam Cup Pads, as finished products, which is supplied to manufacture brassier (ladies bra) by manufacturers.

4. The question is about classification of goods and hence is admissible under Section 97(2)(e) of the CGST Act 2017. Further, 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.

5. Statement of relevant facts having a bearing on the question(s) raised

The applicant is a manufacturing unit located at 14 TEXTILE CENTER, PILKHUWA, HAPUR, Hapur, Uttar Pradesh, 245304, engaged in the manufacture of highly specialized foam cup pads using state of the art machines, which are supplied to women's brassier manufacturers. The material used for manufacturing of these pads include foam made of polyutherane, glue and fabric. The applicants were invoicing their goods under HSN code 39269079 with applicable GST rate of 18%, since foam pad cup by character was an insulating liner made of polyutherane foam. A recent supply made by the appellant to a customer was rejected on the ground that the other foam cup pad manufacturers were invoicing foam cup pads under HSN Code 62129090, 39262091 with applicable rate of 5%.

6. The applicant has submitted their interpretation of law as under-

The raw material used by the applicant for manufacturing Foam Cup Pads include foam made of polyutherane, glue and fabric. Since foam pad cup by character is an insulating liner made of polyutherane foam, they were invoicing their goods under HSN code 39269079 with applicable rate of 18%.

7. The application for advance ruling was forwarded to the Central Jurisdictional GST Officer vide letter dated 20.04.2023 to offer their comments/views/verification report on the matter. Assistant Commissioner CGST Division-Hapur vide his letter dated 03.05.2023 submitted that M/sMAAVISA FOM CUPPRIVATE LIMITED GSTIN 09AALCM2054N1Z014 Textile Center, Pilkhuwa, Hapur, Hapur, Uttar Pradesh -24530, is falling under the jurisdiction of state and comments may be called from State Jurisdiction.

Deputy Commissioner, SGST- Sector 4 Hapur has submitted his comments vide his letter dated 06.01.2023 as under:

7.1 The applicant has submitted that they are manufacturing foam cup pads, which are supplied to women's brassier manufacturers. The said foam, which is moulded to give bra cup the precise shape of the breast is made of polyurethane widely used in various textile and apparel products. The applicant has sought an opinion regarding the correct classification of the said foam cup pads from among the following HSN Codes :- 62129090 , 39262091 and 39269079. The applicant was currently classifying the said product under 39269079.

7.1.1 It has been stated that the HSN Code 62129090 in Chapter 62 covers, 'Brassieres, Girdles, Corsets, Braces, Suspenders, Garters and Similar Articles and parts thereof, whether or not knitted



or crocheted'. Since the Foam Cup Pads manufactured by the applicant is manufactured using polyurethane, glue and fabric, it cannot be considered as cloth or brassieres. Hence the same does not merit classification under HSN code 62129090.

**7.1.2** HSN Code 39262091 covers 'Other Articles of plastics and other material of headings 3901 to 3914 articles of apparel and clothing accessories (Including gloves, mittens & mitts)'. The applicant has submitted that the foam cup pads by character is an insulating liner. Hence the same does not merit classification under HSN code 39262091.

**7.1.3** HSC Code 39269079 covers 'Other Articles of plastics and other material of headings 3901 to 3914. Plastic or nylon tipped hammers insulating liner of nylon, HDPE products'. The applicant has specifically mentioned that their product by character is an insulating liner and the heading 39269079 also contains the words 'insulating liner', hence, the product 'Foam cup Pad' is classifiable under 39269079 attracting GST @ 18%.

**8.** Mr. Hitesh Bajaj, Director, M/s Maavisa Fom Cup Private Limited, appeared for the personal hearing held in 16.06.2023 and reiterated the submissions made in the application of advance ruling.

### **DISCUSSION AND FINDING**

**9.** 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'.

**10.** We have gone through the submissions made by the applicant and have examined the interpretation submitted by them and the submissions made by the jurisdictional officer. 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 or services or both. We therefore, admit the application for consideration on merits.

**11.** The applicant is a manufacturing unit located in Hapur, Lucknow, engaged in the manufacture of Foam cup pads, supplied to brassier manufacturers for manufacture of women's brassiere. The material used for manufacturing of these pads includes foam made of polyutherane, glue and fabric. They have been currently invoicing their product under HSN code 39269079 with applicable rate of 18%, since foam pad cup by character is an insulating liner made of polyutherane foam.

**12.** The applicant in the present application has sought advance ruling on following question/clarification-

To confirm exact HSN code out of the following-

(1) 39269079 (2) 62129090, 39262091

For billing of foam cup pads as finished products which is supplied and used to manufacture brassier (ladies bra) by manufactures.



13. From the submissions made by the applicant, we observe that the applicant is manufacturing the product, 'Foam cup pads', to be used in the manufacture of women's brassies. The said product is manufactured using the raw materials viz. polyutherane, glue and fabric. The applicant has specifically submitted that the product has the character of insulating liner made of polyutherane foam, and it essentially displays the character of insulating liner made of polyutherane foam.

The general rules for the interpretation of tariff can be referred for better understanding.

### GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM

Classification of goods in the Nomenclature shall be governed by the following principles:

1. *The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions :*

The applicant is engaged in the manufacture of 'Foam cup pads' using polyutherane, glue and fabric. Polyutherane is a plastic material which exists in various forms. Note 1 of Chapter 39 – Plastics and articles thereof stipulates as follows :

*'1. Throughout this Schedule, the expression "plastics" means those materials of headings 3901 to 3914 which are or have been capable, either at the moment of polymerisation or at some subsequent stage, of being formed under external influence (usually heat and pressure, if necessary with a solvent or plasticiser) by moulding, casting, extruding, rolling or other process into shapes which are retained on the removal of the external influence. Throughout this Schedule any reference to "plastics" also includes vulcanized fibre. The expression, however, does not apply to materials regarded as textile materials of Section XI.'*

The heading 3909 reads –*"Amino –resins, phenolic resins and polyutheranes, in primary forms"*, thus polyutherane in primary form is classified under heading 3909. Accordingly, it satisfies the definition of *"plastics"* as per chapter Note 1.

As per the applicant, the 'Foam cup pads' manufactured using polyutherane, glue and fabric. Thus, 'Foam cup pads' can be considered as articles of plastics/and articles of other materials of headings 3901 to 3914. The heading 3926 reads –*"Other articles of plastics and articles of other materials of headings 3901 to 3914"*. Since, there is no other specific entry for 'Foam cup pads', thus the 'Foam cup pads' is classifiable under heading 3926.

The applicant has requested to know whether the 'Foam cup pads' manufactured by them can be classified under HSN 62129090.

The chapter 62 *"Articles of apparel and clothing accessories, not knitted or crocheted"* falls under Section XI *"Textile and Textile Articles"*.

Further Section Note 1(h) to Section stipulates as follows:

1. *This Section does not cover*  
*(h) woven, knitted or crocheted fabrics, felt or nonwovens, impregnated, coated or covered or laminated with plastics or articles thereof, of chapter 39'*



Since, the “foam pad cup” by character is an insulating liner made of polyutherane foam, hence the product in question does not merit classification under Chapter 62.

Accordingly, the product is classified under heading 3926.

The applicant has also requested to know whether the ‘Foam cup pads’ manufactured by them can be classified under HSN 39269079.

The description of heading 39269079 pertains to ‘Plastic or nylon tipped hammers; insulating liner of nylon’. The product in question possesses the essential character of insulating liner made of polyutherane foam. Since polutherane foam is the basic material used in manufacture of the foam cup pads, the same cannot be considered as insulating liner of nylon to merit classification under heading 39269079.

The applicant has also requested to know whether the ‘Foam cup pads’ manufactured by them can be classified under HSN 39262091.

14. The description of heading 39262091 pertains to Articles of apparel and clothing accessories (including gloves, mittens and mitts), of polyurethane foam. Since, the product is essentially - article of plastics/and articles of other materials of headings 3901 to 3914, articles of apparel and clothing accessories, and made of polyutherane foam. Hence the product will be classified under HSN Code 39262091 on merit.

15. From the analysis of the above paras, we are of the considered views that the ‘Foam cup pad’ made of polyurethane, glue and fabric, is to be classified under heading 39262091 and is liable to GST @ 18% (CGST @ 9% and SGST @ 9%).

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

### **RULING**

1. To confirm exact HSN code out of the following-  
(2) 39269079 (2) 62129090, 39262091

For billing of foam cup pads as finished products which is supplied and used to manufacture brassier (ladies bra) by manufactures.

**Answer:**39262091

18. 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.

  
(Harilal Prajapati)

Member of Authority for Advance Ruling



(Amit Kumar)

Member of Authority for Advance Ruling

To,

M/s MAAVISA FOM CUP PRIVATE LIMITED  
14 Textile Center, Pilkhuwa, Hapur, Hapur,  
Uttar Pradesh -245304

## 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, GSTC-56/42, Sector-62, Noida-201309.
4. The Deputy/Assistant Commissioner, CGST & Central Excise Division-Hapur, Near SSB PG College, Delhi Road, Hapur-245101.
5. Through the Additional Commissioner, Gr-I, Commercial Tax, *Ghaziabad Zone-I, Ghaziabad* 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 Khnada, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.