

**APPELLATE AUTHORITY FOR ADVANCE RULING, KERALA**  
**PROCEEDINGS OF THE APPELLATE AUTHORITY FOR ADVANCE RULING**  
**(U/s.101 OF THE KERALA / CENTRAL GOODS AND SERVICES TAX ACT, 2017)**

Members present:

Shyam Raj Prasad, IRS  
 Chief Commissioner,  
 Central Tax, Central Excise and Customs

Anand Singh, IAS  
 Commissioner  
 State Taxes, Kerala

Name and Address of the Applicant	M/s. Soft turf, Building No: 594/594 Thiruvizha, S.N.Puram.P.O, Cherthala, Alleppey-688582
GSTIN	32ADQPG340P1ZF
Advance ruling against which appeal is filed	Referred by advance ruling authority U/s
Date of filing Appeal	NA
Date of Personal Hearing	15/10/2020
Authorized Representative	Advocate P.A. Augustin

**ORDER No. AAR/11/20 DATED: 01-03-2021**

1. The application for advance ruling stands referred under section 98(5) of the CGST/SGST Act, 2017. The application has been filed by M/s Soft turf Alleppey bearing GSTIN 32ADQPG340PIZF. The dealer is engaged in the manufacture and supply of floor mats made of poly vinyl chloride known commonly as PVC carpet mats

**Brief facts of the case**

2. The applicant had sought an advance ruling regarding the classification of PVC carpet mats manufactured by them .

The classification was sought on the issue "Whether PVC carpet mats manufactured and supplied by the applicant will be classifiable under tariff item 5705.00.49 of CTA and attract a tax rate of 12% as per entry 146 of Schedule II of Notification No: 1/2017 - Integrated tax Rate dated 28/6/2017"

3. As there was difference of opinion the same was referred to the appellate authority for advance ruling U/s 98(5) of the GST Act. Section 98(5) of CGST /SGST Act specifies that where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question. The opinion of both the authorities were as follows

**3.1. The CGST authority** is of the view that the PVC carpet mats are classifiable under Customs tariff Heading 5705.00.49 and is liable to GST @12% as per SL no: 146 of the schedule II of the notification no: 1/2017 ,

**3.2. The SGST authority** is of the view that the Floor covering of plastics are covered under HSN 3918 of Customs Tariff Act 1975 . Therefore PVC carpet Mats would fall in the entry no: 104 A of schedule III thereby attracting tax at the rate of 18%.( 28% Upto 14.11.2017 and 18% thereafter as per Sl no: 104A of schedule III to Notification 43/2017) .

4. M/s Soft turf had submitted that they are engaged in the manufacture and supply of Carpets and Mats also known as PVC Carpet mats (herein after referred as carpets mats). It is submitted that manufacturing of the Carpet mats are undertaken in two stages. The process at Stage I being production of man made monofilament for non-woven carpet top texture, the regular quality carpets mats generally have the following raw material in its compound: the plasticizer provides flexibility in the compound has a share of 26%, filler like CaCo3 or limestone powder from the mineral mines share 37%, additives and lubricants such as stearic acid, wax share 1% and suspension grade polyvinyl chloride 36% .The process at Stage II being bonding of non-woven carpet top texture and backing coating; the backing coating and adhesive are made from emulsion grade polyvinyl chloride 35%, plasticizer, additives, lubricants and fillers consisting 65%, the indications of the quantity of raw material is for a general type carpets and mats.

5. Further that, Under stage 1, monofilament yarn with decitex around 270 and filament diameter range 0.38 to 0.75 mm is extruded through a perforated die plate using T-die extrusion. Extrusion is done through 3 to 4 parallel rows along the entire width of T-die and the vertically extruded mono filament in multiples immediately falls in between the grooved rollers in a water bed to form a non-woven carpet top texture and also crimped. The crimped non-woven carpet top texture is taken up in a horizontal direction and would be dried on a conveyer for drying. The top texture height / the thickness of crimped top texture of the carpet can be varied by changing the process parameters, usually in the range of 8mm to 16mm.

6. Further Under Stage 2, the top texture in Stage 1 is being coated with adhesive / glue and is further made to fall over the thick backing of PVC and be bonded by glue on a conveyor belt. Then it passes through the heated conveyor through the oven for final bonding between backing and the non-woven top texture. The resultant product is a product of running length. It is then cut into size as specified by the customer. A detailed manufacturing flow chart was also submitted.

7. The applicant had submitted a test report dtd.01-06-2018 vide number TC/LB/ST/690/2018-19 of The Laboratory of Textile Committee, under the Ministry of Textiles, Govt. of India. In page 2 of the Lab Report, the impugned product HSN has been identified as 5705, carpet made out of PVC with PVC backing, (other carpets and other textile floor coverings, whether or not made up).

8 It is further submitted that the present application is maintainable under section 97 of the KSGST Act 2017.

9. The applicant contends that the carpet mats manufactured are classifiable under Tariff item 5705 0049 of customs tariff Act

1975 and in view of the entry 146 of the Schedule II of the notification 01/2017 Integrated tax date 28 June 2017, the applicable rate of GST on the PVC carpet is 12%. It is also submitted that this application is preferred on the apprehension that the activity could be considered as a supply of goods under Sl.No: 43 of Schedule IV of the notification no: 1/2017.Integrated tax ( rate ) pertaining to Floor coverings made of plastic, which attracted rate of tax at the rate of 28% upto 14/11/2017 and @18% from 15/11/2017 as per Sl. no: 104 A of Schedule III inserted by notification No: 43/2017-Integrated Tax ( rate ) dated 14/11/2017.

10. It is further submitted that the Govt. of India, on the recommendations of the Council, has vide Notification No.1/2017-Integrated Tax (Rate) dtd.28-06-2017, (as amended) notified the rate of the IGST that shall be levied on the inter-state supply of goods. As per the Notification, the applicable rate of tax that shall be levied on supply of goods, the description of which is specified in the corresponding entry in column (3) of the Schedules under the Notification, falling under the tariff item, subheading, heading or chapter, as the case may be, as specified in the corresponding entry in column (2) of the said schedules.

11. Further, explanation (iii) to Notification No.1/2017-IGST(Rate) provides that "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. Further, Explanation (iv) provides that 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, so far as may be, apply to the interpretation of this Notification.

12. It is submitted that the product proposed to be supplied will be covered under tariff heading 57 of the Customs Tariff Act, 1975, which deals with Carpets and other textile floor coverings.

13. The relevant entries of the Schedules covered there under have been submitted as follows:-

13.1. Schedule II of the Notification No.1/2017-Integrated Tax (Rate) provides the list of goods that attract IGST at the rate of 12%. Sl.No.146 of the Notification reads as below:

146	5705	Other carpets and other textile floor coverings, whether or not made up; such as Mats and mattings including Bath Mats, where cotton predominates by weight, of Handloom, Cotton Rugs of handloom
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13.2. Schedule IV of the Notification No.1/2017-Integrated Tax (Rate) provides the list of goods that attract IGST at the rate of 28%. Sl.No.43 of the Notification reads as below:

43.	3918	Floor coverings of plastics, whether or not self-adhesive, in rolls or in form of tiles; wall or ceiling coverings of plastics
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13.3. The above entry in Schedule IV was deleted and the heading and description brought under Schedule III (18%) by insertion of Sl.No.104A vide Notification No.43/2017-IT(Rate) dtd.14-11-2017.

14. The applicant submits that the PVC carpet mats manufactured falls within the scope of entry 146 of Schedule II and which attracts levy of GST at the rate of 12%.

15. It is further submitted that ,It is seen from a bare perusal of the Tariff that the two competing headings for the classification of PVC carpet mats are chapter headings 3918 and 5705.

15.1. The entry for 5705 is being reproduced for ease of reference

Chapter/ Heading / Sub heading / Tariff item	Description of goods
5705	Other carpets and other textile floor coverings, whether or not made up
	-Other carpets and other textile floor coverings, whether or not made up
	---Carpets
	---Durries;
	Of Jute:
	---Carpets, Carpeting, rugs, mats and mattings;
5705 00 42	---Mats and Mattings including Bath Mats, where cotton predominates by weight, of handloom, cotton rugs of Handloom.
5705 00 49	---Other
5705 00 90	---Other

15.2.. Note 1 of Chapter 57 of CTA 1975 provides the kind of products which are covered under this Heading. The said Chapter Note is reproduced below:

*"For the purpose of this chapter, the term 'carpet and other textile floor coverings' means floor coverings in which textile materials serve as the exposed surface of the article when in use and includes articles having the characteristics of textile floor coverings but intended for use for other purposes".*

16. Further ,PVC carpet mats is a mat in which the exposed surface is made up of a textile material and accordingly, it would be classifiable under Chapter 57. The mats are made up of 'textile fibre', could be established through the Explanatory Note to Chapter Heading 5603, which states that 'fibres may be of natural or man-made origin. They may be staple fibres (natural

or made-made) or man-made filaments or be formed in situ'. As per HSN explanatory Notes to Chapter 55, '*Man-made fibres are usually manufactured by extrusion through spinnerets (jets) having a large number of holes (sometimes several thousand); the filaments from a large number of spinnerets (jets) are then collected together in the form of a tow. This tow may be stretched and then cut into short lengths, either immediately or after having undergone various processes (washing, bleaching, dyeing, etc.) while in the tow form. The length into which the fibres are cut is usually between 25 mm and 180 mm and varies according to the particular man-made fibre concerned, the type of yarn to be manufactured and the nature of any other textile fibres with which they are to be mixed.*' Placing reliance on the above it is submitted that man-made fibres are usually manufactured by extrusion through spinner jets having large number of holes. Filaments are extruded from these spinnerets which are then collected in form of tow.

17. As per HSN Explanatory Note to chapter Heading 5404, 'synthetic monofilaments' are filaments extruded as single filaments. They are classified here only if they measure 67 decitex or more and do not exceed 1 mm in any cross sectional dimension. In the instant case, PVC monofilament is extruded from the extruding machine and has a filament diameter ranging from 0.38 mm to 0.75mm, which fulfils the condition that it does not exceed 1 mm in any cross-sectional dimension. The fibre weighs about 37 mg per metre and works to about 270 decitex on conversion ( $10000 / 37$  gm per km). Hence the PVC monofilament used in the subject product falls within the parameters laid down for a synthetic monofilament. It is submitted that since synthetic monofilament is a textile material, the arrangement of these monofilaments crimped loops in order to form top texture of non-woven carpet, without involving any weaving process results in a non-woven textile fabric.

18. It is also submitted that PVC carpet mat produced and supplied by the applicant, in its entirety, whether removed in

forms of big roll or in rectangular shapes is used only to cover a small part of the floor. Chapter note 1 of the Chapter 57 of the HSN explanatory notes, explain 'Carpets and other textile floor coverings' as under: '*Carpets and other textile floor covering*' to be floor coverings in which textile materials serve as the exposed surface of the article when in use and includes articles having the characteristics of textile floor coverings but intended for use for other purposes'.

*The chapter does not cover:*

- a. *Floor coverings underlays, i.e., coarse fabric or felt padding placed in between the floor and the carpet (classified according to its constituent material).*
- b. *Linoleum and other floor coverings consisting of a coating or covering applied on a textile backing (heading 59.04)*

19. In view of the above understanding of 'carpets and other textile floor coverings' it is submitted that since the textile material i.e., PVC mono filament yarn, forms the exposed surface of the final product, the product is covered under the ambit of 'carpet and other textile floor coverings'. The product of the applicant neither includes any coarse fabric or felt padding between the floor and carpet, nor does it use linoleum coating over its textile backing. Therefore, the goods may be classified under Chapter Heading 5705, and to be more specific under Tariff Item 5705 00 49.

20. On the other hand, Chapter 39 does not cover 'goods of Section XI (textiles and textile articles) as per clause (p) of Note 2. In as much as the 'PVC carpet mats' supplied by the Applicant is appropriately classifiable as a textile product under HSN Chapter 57.05 explained in Explanatory Note sl.no.2 "non woven carpets, consisting of a layer of carded textile fibres crimped between grooved rollers to form loops, which may either be held in position by a thick coating of rubber, plastics, etc., which also serves as a backing or be bonded to a backing fabric by similar adhesives"; the impugned product is a non-woven carpet, which



is coated by a thick coating of plastic, coating of non-woven by plastic is an appropriate process in production of commodities of HSN 57.05, Refer Explanatory Notes, sl.no.2. It is the applicant's understanding that, woven, knitted or crocheted fabric, felts or non-woven, impregnated, coated, "covered or laminated" with plastics or articles of thereof does not fall in Section XI of Chapter 39. Ultimately the PVC carpet mats supplied by the applicant, are not "covered" or "laminated", more specifically the exposed textile non-woven surface of the carpet is coated, (coating is a permissible act in manufacturing of commodities of HSN 57.05, Refer Explanatory Notes, Sl.No.2), but it is neither "covered or laminated". Hence PVC carpet mats are classifiable under HSN 5705 and not classifiable under HSN 3918.

21. It is humbly submitted by the applicant that reference may be made to the case of Uni Products India Ltd. Vs. CCE, Delhi, reported in 2008 (23) ELT 453 (Tri-Del) where the Hon'ble Court held that chapter 57 covers not only carpets but also other floor coverings. The relevant portion of the decision is extracted below for ready reference:

21.1. *"We find that chapter 57 covers not only carpets but also other floor coverings. What has to be considered is that between terms 'carpets and other floor coverings' the terms 'parts and accessories' which can be considered more specific. Even if the claim of the Department that at no stage the carpets come into existence is accepted, it cannot be denied that the article can be considered as other floor coverings meant for other application. We also find that in the interpretive notes for rule 3 (a) in HSN, where by way of an example, it has been clarified that 'textile carpet identifiable for use in motor cars to be classified not as accessories of motor cars in heading 8708 but in heading 5703 where they are more specifically described as carpets'. Though, in common parlance the impugned product may not be considered as carpets, in view of the wordings of the chapter, the section notes, chapter notes and the explanatory notes extracted above, we are of the considered opinion that the impugned goods is correctly*

*classifiable under chapter heading 5703.90.90 as claimed by the assessee."*

22. The applicant also places reliance on CCE, Bhubaneswar-I Vs. Champadany Industries Ltd., reported in 2009 (241) ELT 481 (SC), wherein the Hon'ble court considered the classification of 'Jute Carpet' under Chapter 57 and also made a finding regarding scheme of classification under Chapter 57. The relevant portion of the decision is extracted below for ready reference.

22.1 *"since the goods admittedly fall under chapter 57 and consist of more than two or more textile materials, it has to be classified on the basis of that textile material which predominates by weight over any other single textile material. As in the goods in question jute admittedly predominates by weight over each other single textile material, the said carpet could only be classified as jute carpets and nothing else."*

22.2. The Hon'ble Court also made a finding regarding classification on basis of description of the goods, the relevant portion of which is reproduced below:

22.3 *"The classification thereafter has to be covered under one heading or sub-heading of chapter 57. The question of classification of such carpets under one or other heading or sub-heading of chapter 57 has to be decided on the basis of description of such heading / sub-heading read with the relevant section notes and chapter notes. This also flows from Rule 1 of the "General Rules for the Interpretation of the said Schedule" and these Rules are part of the Central Excise Tariff Act, 1985".*

23. It is submitted that the case laws cited herein clarify that the ambit of 'carpet and other floor coverings' includes not only carpets but also other floor coverings, so long as it is in consonance with the classification based on the description, the heading / sub heading and the scheme of rules of classification.

Further the classification provided by the assessee is in consonance with the scheme of classification and hence the Carpet Mats are classifiable under Chapter Heading 5705 and Tariff Item 5705.00.49m of the CTA 1975.

#### **24. PERSONAL HEARING**

The authorized representative of the applicant was heard by the appellate authority at the Office of the Chief Commissioner , Customs and central Excise , Kochi on 15/10/2020 . During the personal hearing, the authorized representative reiterated the contentions raised in the grounds of appeal and further has produced the Bills cleared by customs after taking textile committee reports and classified the product under HSN 5705 as the exposed surface of mat is made up with textile materials. The contention is material made of PVC is also classified as textile as per report produced by petitioner from Regional Laboratory, Bangalore and also report used by Customs in classifying the product issued by Regional Laboratory, Textiles committee, Kannur. The applicant also relies on explanations under Chapter 57 of Customs Tariff Act, 1975. It also contended that the dealers have been paying Tax under HSN 5705 at applicable rate@12% .

#### **25. DISCUSSION & FINDINGS**

25.1 We have gone through the facts of the case, in the application for advance ruling filed by M/s. Soft Turf and various submissions made by the applicant in course of proceedings before the lower authority and before us including during the course of personal hearings, the manufacturing process of the commodity, samples of the commodity and other evidences on record. The issues for determination before us are as follows:

1. Whether the impugned goods viz. PVC Carpet mats are classifiable under Tariff item 57050049 as claimed by the applicant and held by CGST Member or under Tariff item 3918 as held by the SGST Member; and

2. Consequently whether the said impugned goods are chargeable to GST @ 12% in terms of entry 146 of schedule-II of the Notification No. 1/2017-Integrated Tax (rate) dated 28.06.2017 or @28% in terms of Entry no. 43 of Schedule-IV of Notification No. 1/2017-Integrated Tax (rate) dated 28.06.2017 till 13.11.2017 and thereafter @18% in terms of Entry No.1 04A of Schedule III of Notification No. 43/2017-Integrated Tax (rate) dated 14.11.2017.

25.2. We note that the application filed by the applicant before the Advance Ruling authority of Kerala State stands referred to this Appellate Authority in terms of Section 98(5) of CGST/SGST Act, 2017 for determination of the aforesaid issue, which could not be resolved at the lower level for difference in opinion between the two members. We also note that

(a) The CGST authority is of the view that the impugned goods viz. PVC carpet mats are classifiable under Tariff item 57050049 and are leviable to GST @12% as per Entry No. 146 of Schedule II of Notification No.1/2017-Integrated Tax (rate) dated 28.06.2017;

(b) Whereas, the SGST Authority is of the view that the said impugned goods are classifiable under Tariff item 3918 and are leviable to GST @28% as per Entry No.43 of Schedule-IV of Notification No. 1/2017-Integrated Tax (rate) dated 28.06.2017 till 13.11.2017 and thereafter @18% in terms of Entry No. 104A of Schedule III of Notification No. 43/2017-Integrated Tax (rate) dated 14.11.2017.

25.3. The facts of the case which are not disputed in this case are that the applicant is engaged in manufacture and trading of PVC carpet mats, the process of manufacturing is already indicated in this order at para 4, 5 & 6 (supra). The manufacturing process of the goods as submitted by the applicant through video and in writing reveals that the said goods are manufactured in two stages. Stage-I being PVC monofilament production and carpet piling process and stage-II being web lamination and backing

process; prime raw material being PVC. Under Stage-I, PVC monofilament yarn is extruded using T die extrusion through 3-4 parallel rows and the extruded yarn falls on a water bed to form a non-woven carpet pile. Resultant PVC web, non-woven carpet pile is impregnated with a lamination of clear coat of liquid PVC and further made to fall over the liquid PVC layer on a conveyor belt and to an oven to solidify the liquid backing. The product is thereafter cut-to-size. The exposed surface of the product therefore contains a web of PVC made from moulding process in which "T" shaped mono filaments result in the intermediate process. Said monofilament is made of PVC, plasticizer, CaCO<sub>3</sub>, lime powder etc. As per manufacturer, a non-woven material of PVC monofilament forms the upper surface of the product with a PVC backing as the base, and the product is essentially for use as a floor covering. These facts including that the said goods are predominantly made of Poly Vinyl Chloride, are not in dispute.

25.4. The two competing entries in the Tariff which contain description of the goods covered therein and the description emerging from the respective Notification No. 1/2017-Integrated Tax (rate) or 43/2017-Integrated Tax (rate) are as under:

25.4.1. **3918:** "Floor Coverings of Plastics, whether or not self-adhesive, in rolls or in form of tiles; wall or ceiling coverings of plastics"

The relevant extract of chapter heading 3918 in Customs tariff is as follows:

Tariff item	Description of goods	Unit
(1)	(2)	(3)
3918	Floor covering of plastics, whether or not self adhesive, in rolls or in the form of tiles: wall or ceiling coverings of plastics, as defined in note 9 to this chapter	
3918.10	Of polymers of vinyl chloride	
3918.10.10	Wall or ceiling coverings combined with knitted or woven fabrics, nonwovens or felts	Kg

3918.10.90	Other	Kg
3918.90	Of other plastics	Kg
3918.90.10	Floor coverings of linotype	Kg
3918.90.20	Wall or ceiling coverings combined with knitted or woven fabrics, nonwovens or felts	Kg
3918.90.90	Other	Kg

25.4.2. **5705** : The relevant entry no 146 of Schedule II of Notification No. 1/2017 is reproduced below:

146.	5705	Other carpets and other textile floor coverings, whether or not made up; such as Mats and mattings including Bath Mats, where cotton predominates by weight, of Handloom, Cotton Rugs of handloom
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The relevant extract of customs tariff is as follows:

Tariff item	Description of goods	Unit
(1)	(2)	(3)
5705	Other carpets and other textile floor coverings, whether or not made up	
5705.00	Other carpets and other textile floor coverings, whether or not made up	
	Carpets	
5705.00.11	Of silk	m2
5705.00.19	Other	m2
	Durries	
5705.00.21	Durries cotton	m2
5705.00.22	Durries of man-made fibres	m2
5705.00.23	Durries of wool	m2
5705.00.24	Cotton durries of handloom (including Chindi Durries, Cotton Chenille Durries, Rag Rug Durrie, Printed Durries, Druggets)	m2
5705.00.29	Other	m2
	Of jute	
5705.00.31	Of blended jute	m2
5705.00.32	Of coir jute	m2
5705.00.39	Other	m2
	Carpets, carpeting, rugs, mats and mattings	

5705.00.41	Knitted	m2
5705.00.42	Mats and mattings including Bath Mats, where cotton predominates by weight, of Handloom, Cotton Rugs of Handloom	m2
5705.00.49	Other	m2
5705.00.90	Other	m2

25.5. Having reproduced the rival entries in Tariff and the said notifications, we shall now examine the claim of the applicant for classification of goods under HSN 5705. It is established that to avoid any classification disputes under GST, the Customs Tariff along with Harmonized system of Nomenclature (HSN) has been adopted for appropriate classification of any commodity under GST. Notification No. 1/2017 - IGST specifically provide that:

*"Explanation - For the purposes of this Schedule-*

*(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.*

*(iv) The rules for the interpretation of the First Schedule to the Custom Tariff Act, 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. "*

Thus, for the purpose of GST, Classification of goods under any tariff item/ subheading / heading/ chapter shall be done using the General rules of interpretation of the First Schedule of the Customs Tariff Act, 1975 including the Section and Chapter Notes and the General Explanatory Notes to the HSN of the First Schedule of the CTA, 1975.

25.6 We note that Textile & Textile articles are covered by various chapters under **Section XI**, while Plastics and Plastic articles fall under Chapter 39 of **Section VII**. Hence, respective section/chapter notes and HSN Explanatory notes relating thereto would be applicable. The applicant has claimed that their product being in the nature of textiles is excluded from chapter 39 of Tariff by virtue of Chapter note 2(p) of chapter 39 and the

same is covered under chapter 57 by virtue of chapter note 1 to Section XI.

25.7 The SGST Advance Ruling member has held that the said goods is appropriately classifiable under tariff item 3918 as the same are made up of PVC, which is nothing but Plastics. However, the CGST member has held the same classifiable under tariff item 5705 as the same is made up of textiles fibres/non-woven monofilaments of PVC.

25.8 In this regard, it is important to appreciate Note-1 to chapter 39 which defines the word "plastics" 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 vulcanised fibre. The expression, however, **does not apply to materials regarded as textile materials of Section XI**."*

Further, as per clause (p) of Note 2 to chapter 39, the goods of section XI (textiles or textile articles) i.e., Chapter 50 to 63 will not be covered under this chapter. The relevant extract of the same is reproduced as follows:

*This Chapter does not cover:*

*(a).....*

*(b)....*

*(p) goods of Section XI (textiles and textile articles);*

*(q).....*

25.9 Thus, on combined reading of note 1 and 2 of the chapter 39, the term plastic for the purpose of chapter 39 will not cover any material which is classified as textile material under section XI of the Tariff.



However, Section Notes to Section XI-Textiles and Textile articles, reads:

*"1. This section does not cover:*

*a) .....*

*h). Woven, knitted or crocheted fabrics, felt or non-wovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39: "*

25.10 Therefore, the classification needs to be finalized only after deciding the nature of the material of which the impugned product is made up of. Once the same is found to be textile articles covered as goods of Section XI (Textiles & Textiles articles) in terms of the tariff (Section XI), the same gets classifiable under chapter 57 and if it is found to be made up of plastics covered under chapter 39 (section VII), the same shall be covered under tariff item 3918.

25.11 We observe that the impugned product under discussion has non-woven material made up of PVC on surface, which is coated/laminated with plastics (PVC), which is not in dispute. Hence, by virtue of said Section 1(h) to Section XI (Textiles and Textile articles), same gets excluded from the scope of being Textile & Textile articles under Section XI i.e. Chapters 50-63.

25.12 We further note that the General notes to Chapter 39 in HSN about Plastics and Textile combinations, reads as under:

*"Plastics and Textile Combinations*

*Wall or ceiling coverings which comply with Note 9 to this chapter are classified in heading 39.18. Otherwise, the classification of plastics and Textile combinations is essentially governed by Note 1 (h) to Section XI, Note 3 to Chapter 56 and Note 2 to Chapter 59. The following products are also covered by this Chapter:*

*(a) Felt, impregnated, coated, covered or laminated with plastics, containing 50% or less by weight of textile material or felt completely embedded in plastics;*

*(b) Textile fabrics and non-wovens, either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that*

such coating or covering can be seen with the naked eye with no account being taken of any resulting change of colour;

(c) Textile fabrics, impregnated, coated, covered or laminated with plastics, which cannot, without fracturing, be bent manually around a cylinder of a diameter of 7 mm, at a temperature between 15° C and 30° C;

(d) Plates, sheets and strips of cellular plastics combined with textile fabrics (as defined in Note 1 to Chapter 59), felt or nonwovens, where the textile is present merely for reinforcing purposes".

Plates, sheets and strips of cellular plastics combined with textile fabrics on both faces, whatever the nature of the fabric, are excluded from this chapter (generally heading 56.02, 56.03 or 59.03).

25.13 In this regard, Note 1(h) to Section XI, Note 3 to Chapter 56 and Note 2 to Chapter 59 relevant for deciding classification of a combination of textile and plastics materials are reproduced as below:

----- **Note 1(h) to Section XI reads:**

"1. This section does not cover:

a) .....

h) Woven, knitted or crocheted fabrics, felt or non-wovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39:

....."

**"Note 9 to Chapter 39 reads:**

For the purposes of heading 39.18, the expression "wall or ceiling coverings of plastics" applies to products in rolls, of a width not less than 45 cm, suitable for wall or ceiling decoration, consisting of plastics fixed permanently on a backing of any material other than paper, the layer of plastics (on the face side) being grained, embossed, coloured, design printed or otherwise decorated."

**"Note 3 to Chapter 56 reads:**

3. Heading 56.02 and 56.03 cover respectively felt and nonwovens, impregnated, coated, covered or laminated with

plastics or rubber whatever the nature of these materials (compact or cellular).

Heading 56.03 also includes nonwovens in which plastics or rubber forms the bonding substance.

Heading 56.02 and 56.03 do not, however, cover:

(a) Felt impregnated, coated, covered or laminated with plastics or rubber, containing 50% or less by weight of textile material or felt completely embedded in plastics or rubber (Chapter 39 or 40)

(b) Nonwovens, either completely embedded in plastics or rubber, or entirely coated or covered on both sides with such materials, provided that such coating or covering can be seen with the naked eye with no account being taken of any resultant change of colour (Chapter 39 or 40); or

(c) Plates, sheets or strips of cellular plastics or cellular rubber combined with felt or nonwovens, where the textile material is present merely for reinforcing purposes (Chapter 39 or 40).

**"Note 2 to Chapter 59 reads:**

1. Except where the context otherwise requires, for the purposes of this Chapter the expression "textile fabrics" applies only to the woven fabrics of Chapters 50 to 55 and headings 58.03 and 58.06, the braid and ornamental trimmings in the piece of heading 58.08 and the knitted or crocheted fabrics of headings 60.02 to 60.06.

2. Heading 59.03 applies to:

(a) Textile fabrics, impregnated, coated, covered or laminated with plastics, whatever the weight per square metre and whatever the nature of the plastic material (compact or cellular), other than:

(1) Fabrics in which the impregnation, coating or covering cannot be seen with the naked eye (usually Chapters 50 to 55, 58 or 60); for the purpose of this provision, no account should be taken of any resulting change of colour;

**As chapter 59 covers woven fabrics only, it does not apply to the product under discussion.**

25.14 From the above discussion, it can be concluded that though the exposed surface are of non-woven materials, same are excluded from the scope of Textile & Textiles articles. Hence the contention for classification in Chapter 57 as Carpets/mats on the ground that the exposed surface of the mat is textiles fails. On the other hand, Chapter 39 includes even textile/plastic combinations also, subject to certain conditions. Relevant factors to decide classification of subject goods rule out classification under Section XI (Textiles and Textile articles) whereas the inclusive provisions of Chapter 39 (more specifically Tariff Head 3918) very well cover impugned goods, as detailed above.

25.15. In this context it is seen that Chapter 57 of the HSN falls under Section XI of the Customs Tariff. Section Note 1(h) of Section XI, relied upon by the AAR, excludes interalia non-wovens impregnated/coated with plastics. In their written submissions, the appellant has claimed the said goods to be 'Non-woven' and impregnated/coated (as per their manufacturing process). Thus in view of Note 1(h) of Section XI, the said goods are apparently excluded outright from this section. If the said goods are excluded from the section XI, their classification under any Chapter under the Section would also be ruled out.

25.16. The Appellant, however, have placed their counter claim - that their goods are in the nature of 'textiles', and are therefore excluded from Chapter 39 by virtue of Chapter Note 2(p) of the said Chapter. They have claimed that the exposed surface in their goods is textile materials and hence the same are covered under definition of 'carpets and other textile floor coverings' in terms of the Note 1 to Chapter 57, which states that,

*For the purposes of this chapter, the term "carpets and other textile floor coverings" means floor coverings in which textile materials serve as the exposed surface of the article (emphasis applied)*

We shall therefore need to turn our attention to understanding what constitutes textiles and textile materials. The definition of 'Textile' cited by the appellant is as follows:

*"A textile was originally of woven fabric, but the terms textile and the plural textiles are now also applied to fibres, filaments and yarns, natural and manufactured and most products for which these are a principal raw material"*

We also find that the definition of 'Textile' and 'Textile material' as available in The Fairchild Books Dictionary of Textiles is as under:

#### Textile-

Derived from the Latin term *textilis*, which is based on the verb *texere*, to weave. 1. A broad classification of materials that can be utilized in constructing fabrics, including textile fibres and yarns. 2. Designates the constructed fabric including woven, knitted and non-woven structures as well as lace and crochet goods. 3. Descriptive of processes, organizations, personnel associated with the manufacture of products from fibres or yarns.

#### Textile Material-

An inclusive term for fibres, yarns, fabrics and products that retain relatively the same tensile strength, flexibility and properties of the original fibres.

From the above definitions, it is inferred that textile refers to fabric of any nature and textile material includes fibre, filaments and yarns which are primarily used to manufacture textiles, or fabric.

25.17. Coming to the goods in question, the exposed surface of the article does not contain fabric or fibres, filaments or yarns, but is a web of PVC made from a moulding process in which T-shaped monofilaments result in the intermediate process. It is not the case of the appellants that they manufactured the non-woven product (PVC web) by use of monofilament yarns. Instead, the monofilament, if any, arising in course of manufacturing as per applicant's contention, is coming into existence at intermediate stage only. There are no identifiable fibres, filaments or yarns in the exposed surface of their product but the web like structure made from 100% PVC, duly laminated/coated with PVC on the bottom. Therefore, the impugned

goods do not qualify as textile materials as specified in Note 1 to Chapter 57.

25.18. As regards the Bill of Entry produced by the appellant for goods imported by other importers, wherein according to the applicant, it has been classified under customs tariff heading 57050049, it is observed that the detail facts of the goods mentioned in the Billed Entry like test report etc. are not available and the nature and identity of goods are also not available on record to consider the same to be applicable to the goods in question before us. It is therefore difficult to arrive at a conclusion that the goods imported under the said Billed Entry are similar to that of the goods in question. Therefore, the said Bill of Entry is of no help to the appellant. In the instant case, there is no fabric, woven or non woven and no textile yarn. There is one PVC web obtained by moulding process which is then impregnated with PVC which acts as its base. Therefore, even in absence of relevant details about the product covered under the cited Bill of Entry, the goods in question cannot be claimed to be similar to that of the goods imported, based upon the explanatory notes to 5705 and the manufacturing process of the goods in question.

25.19. Moreover, the applicant has been manufacturing and trading the impugned goods and classifying the same under Chapter 39 in the pre-GST era. The applicant has not brought on record any change in the composition, nature or manufacturing process of the said goods from the pre-GST era to now which has compelled them to approach AAR for classification. The only change noticed is the higher rate of GST for tariff heading 3918 than for Tariff heading 5705. But, it is settled law that the rate of duty/tax cannot be a criterion for deciding the classification of any product. The classification has to be decided as per the terms of headings, subheadings and tariff items and the relevant section/ chapter notes/sub notes in terms of the interpretative rules to the Customs Tariff.

25.20. The appellant has also contended that applying bonding material does not make the product impregnated, coated, covered or laminated. It appears that the appellant wants to claim that their goods are not impregnated, coated, covered or laminated to escape the exclusion clause provided under Section XI vide Note 1(h). But this claim is against their manufacturing process which states that "under


stage 2, the web formed in Stage 1 is impregnated with a lamination of clear coat of liquid PVC".

25.21. As regards the argument of the appellant that if product equally merits classification under 2 different chapter headings, as per interpretative rules, the chapter occurring later will apply, we observe that there is no such case of merit classification of the said goods under 2 different chapter headings equally. Instead, the said goods are specifically classifiable under 3918 as PVC floor coverings, and invoking Rule 3 is not necessary when classification can be decided under Rule 1 itself.

25.22. In view of the above discussion, we hold that the PVC Mats manufactured by the appellant, a sample of which was produced before us, are specifically covered under HSN 3918 as Floor Coverings of PVC in terms of Rule 1 of the Rules of Interpretation of Customs Tariff read with Note 1(h) to Section XI and Note 1 to Chapter 57. Accordingly, we pass the following order:

**ORDER No. AAR/11/20 DATED: 01-03-2021**

We hold that the impugned goods viz. PVC carpet Mat would fall in the Customs Tariff heading 3918 and applicable rate of GST would be 18% (9% each of CGST and SGST). However, this order is restricted to the types of PVC floor coverings/Carpet/Mats being manufactured by the Applicant as per the manufacturing process submitted and whose sample was produced before us.

  
**Shyam Raj Prasad, IRS**  
**Chief Commissioner,**  
**Central Tax, Central Excise & Customs**  
**Thiruvananthapuram Zone**

  
**Anand Singh, IAS**  
**Commissioner,**  
**State Goods & Service Tax Dept.,**  
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To,

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