

TAMILNADU STATE APPELLATE AUTHORITY FOR ADVANCE RULING
(Constituted under Section 99 of Tamilnadu Goods and Services Tax Act 2017)

A.R.Appeal No. 2/2019/AAAR

Date: 13.05.2019

BEFORE THE BENCH OF

1. Thiru. M. AJIT KUMAR, MEMBER

2. Dr. T.V. SOMANATHAN, MEMBER

ORDER-in- Appeal No. AAAR/03/2019 (AR)

(Passed by Tamilnadu State Appellate Authority for Advance Ruling under Section 101(1) of the Tamilnadu Goods and Services Tax Act, 2017)

Preamble

1. In terms of Section 102 of the Central Goods & Services Tax Act 2017/Tamilnadu Goods & Services Tax Act 2017("the Act", in Short), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the applicant within a period of six months from the date of the Order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the appellant has been given an opportunity of being heard.
2. Under Section 103(1) of the Act, this Advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act shall be binding only
 - (a). On the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling;
 - (b). On the concerned officer or the jurisdictional officer in respect of the applicant.
3. Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the said advance ruling have changed.
4. Under Section 104(1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.

Name and address of the appellant	M/s. RmKV Fabrics Private Limited
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	176F, 2 nd & 3 rd Floor, Trivandrum Road, Palayamkottai 627003
GSTIN or User ID	33AAFCR4022HIZR
Advance Ruling Order against which appeal is filed	2/AAR/2019 dt. 21.01.2019
Date of filing appeal	01.03.2019
Represented by	M/s. Swamy Associates
Jurisdictional Authority-Centre	Commissioner of C.Ex. and GST, Madurai
Jurisdictional Authority -State	The Assistant Commissioner(ST), Palayamkottai Assessment Circle
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs. 20000/- made vide challans No.HDFC19023300473943 & HDFC19023300478281 dated 26.02.2019

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.

The subject appeal is filed under Section 100(1) of the Tamilnadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017 (hereinafter referred to 'the Act') by M/s. RmKV Fabrics Private Limited, 176F, 2nd & 3rd Floor, Trivandrum Road, Vannarpettai, Palayamkottai 627003 (hereinafter referred to as 'RmKV' or 'Appellant'). The Appellant is registered under GST vide GSTIN 33AAFCR4022HIZR. The appeal is filed against the Order No. 2/AAR/2019 dated 21.01.2019 passed by the Tamilnadu State Authority for Advance ruling on the application for advance ruling filed by the Appellant.

2. The Appellant are engaged in the trading of readymade garments, fabrics and other similar items and have their showrooms at Tirunelveli, Chennai and Coimbatore. They sought Advance Ruling on 'Whether the Salwar / Churidhar sets, comprising of three pieces of cloths viz., 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/-.

2.1 The Appellant 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 enclosed photographs of the subject items for reference, and 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 different pieces of fabrics cut from the lengthy fabrics which has to be ultimately stitched into a complete Salwar / Churidar Set and hence can be classified as "Fabrics", based on the constituent materials. 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 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 sought the correct classification of these items and applicable rate of GST.

3. The original authority for Advance Ruling has ruled as follows:
 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.

4. Aggrieved by the above decision as to the classification and rate of GST applicable for the products of Model 2, 3 and 4, the Appellant has filed the present appeal. The grounds of appeal are as follows:

- The Salwar/ Churidar sets in question comprise 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 measurements of the user. They are essentially in the form of fabric only and not attained the characteristics of an article of apparel like that of a shirt or pant or readymade Churidars wherein both the top and bottom are fully stitched and ready to wear.
- Reference is invited to the Circular issued by the Central Board of Excise and Customs bearing No. 557/53/2000 dated 03.11.2000, in the context of classification of dhotis and saree under the erstwhile Central Excise Tariff, wherein it has been clarified that they are classifiable as fabrics only. The same rationale would hold goods for the Salwar/ Churidar sets also.
- Further, reference is also invited to the Circular issued by the CBEC, bearing No. 13/13/2017 dated 27.10.2017, wherein it is clarified that “Mere cutting and packing of fabrics 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.”
- The issue of classification of unstitched salwar suits were brought to the notice of Directorate of Commercial Taxes and the said department vide Trade Circular No. 16/2018(Circular No. 13/13/2017-GST) dated

17.09.2018 has clarified that “Mere cutting and packing of fabrics 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 on this issue was issued by CBIC vide Circular No. 80/54/2018-GST dated 31.12.2018, in which it was further clarified that “any embroidery on a fabric piece or certain embellishment thereon does not change the basic nature of their being a fabric”
- In view of the above clarifications, the subject Salwar/Churidar sets, comprising of three sets of fabrics for Tops, Bottom and Duppata, whether partially stitched/ neck work done or not, would remain classified as fabrics, under Chapters 50,52,54,55 only based on the constituent material and attract a total 5% GST and are not classifiable under Chapters 61 to 63 and thereby attracting a total 5% GST if their sale price is less than Rs. 1000/- and attracting 12% GST, if their sale price is more than Rs. 1000/-
- In para 5.4 of the impugned order, the authorities concerned has referred to Chapter Note 7 of Section XI of Customs Tariff covering “Textile & Textile Articles” of Chapter 50 to Chapter 62 wherein the meaning of “made up” is given. As per the chapter note 7(a) – “made up” means, cut otherwise than into squares or rectangles; Chapter note 7(f) to Section XI of Customs Tariff “made up” means, sewing, gumming or otherwise. Chapter Note 8(a) of the Customs Tariff, it was specified that “made-up” cannot be classified under Chapters 50 to 60. Further, General Rule 2 of the Interpretation of Customs tariff was relied upon to substantiate that any unfinished goods or incomplete articles has the essential character of the complete or finished article, should be classified under the appropriate heading of “finished article”.
- Based on the description in Chapter notes, the authorities have ruled that the fabrics cut into pieces otherwise than into squares or rectangles, are to be termed as “made up” therefore excluded from CTH 50 to 60 as “fabrics” and fall under CTH 6211;
- The products specified in S.No. 2 to 4 above are Semi-finished such as neck work done, embellishment done, part of the article of the complete set was stitched, hence this products should be appropriately classifiable

under the heads of articles of particular made ups. This observation of the lower authorities is not sustainable for a reason that though these articles are incomplete or unfinished, the same has not attained the essential character of "READY MADE GARMENTS OR CHURIDHAR SETS". Unless the semi finished products/articles attains the essential character, the same cannot be called as a "COMPLETE LADIES GARMENTS" in order to classify them under appropriate heading under CTH 6211.

- It is not out of place to mention that in trade parlance, the suppliers supply these products only as "fabric" and not as ready made garments as it cannot be worn without undergoing the process of stitching. Merely it is cut into shapes other than squares or rectangles or neck work is done and top is finished or semi-finished, the same cannot be used as in where condition since the other parts of the fabric is required to be stitched in order to use the same as a COMPLETE SET. Further, the customers/end users shall also term this as "fabric" which is subject to stitching according to their sizes/shapes and designs and without such stitching it cannot be called as "Churidar Materials". Once this doubt has been raised by the Trade, the matter was taken up for discussion by the GST council and accordingly various clarifications were issued by the CBIC and DCT as above and clarified to trade that these "unstitched salwar suits" are classifiable as "fabrics" and attract 5% GST.

The appellant has prayed to set aside/modify the impugned advance ruling passed by the Authority for Advance Ruling.

PERSONAL HEARING:

5. The Appellant was granted personal hearing as required under law before this Appellate Authority on 25th April 2019. The Authorized representative of the Appellant Shri. M. Karthikeyan, Advocate and Shri. K. Hariharan appeared for the hearing. They produced samples of Model-2 and Model-3 types. In respect of Model-2 the bottom was unstitched and Top semi-stitched and in Model-3 Top is stitched, duppatta hemmed but the bottom unstitched. They did not produce a sample of Model-4 during the hearing. The learned representatives reiterated the written submissions submitted along with the Appeal Application filed by them.

6. It was observed from the samples produced before us and the images given in their written submissions that each set consists of three pieces. The bottom piece is unstitched in the sample model sets produced. The duppatta is hemmed/knotted requiring no further work on the same. One of the Top is fully stitched and the other Top is Semi-stitched.

DISCUSSION:

7. We have carefully considered the various submissions made by the Appellant and the applicable statutory provisions. The issue before us for determination is the classification of the Model 2 [Top semi-stitched and bottom not stitched], Model 3 [Top stitched but bottom not stitched] and Model 4 [Top Neck-worked; Both Top and Bottom not stitched] Salwar/Churidar sets with duppatta hemmed/knotted, traded by them, as to whether they are to be classified as "Fabrics" under Chapters 50 to 55 depending on the constituent material or as "articles of apparel and made up textile articles" under Chapter 61,62 and 63 and the applicable appropriate rate of GST.

8. From the submissions, it is seen that the appellant are engaged in the trading of readymade garments, fabrics and other similar items. The product under consideration is the Salwar/ Churidar sets with duppatta containing three different pieces in a set, of which some piece have to be ultimately stitched to size to make a finished Salwar/Churidar set. The different models being sold by the applicant are

- 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(sample produced);
- 3) Top stitched but bottom not stitched- a model where the Top is completely stitched but the bottom is not stitched (sample produced);
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

In the two sample model sets that were produced at the time of personal hearing, it was noticed that one of the three piece in the set, i.e., the duppatta, in all cases,

were either hemmed or knotted and had already attained the final characteristics of a duppatta and did not require any further finishing. The original authority after due consideration of the various clarifications and materials furnished, has ruled that except Model-1 set, which consists of three pieces of fabrics with/without certain embellishments, the other models being 'Top semi-stitched and bottom not stitched', 'Top stitched but bottom not stitched' and 'Top Neck-worked; Both Top and Bottom not stitched' are sets containing 'made up' articles of textiles for Top of salwar suit and pieces of fabrics for Bottom and Dupatta of Salwar suit. Applying General Rule 2 for the interpretation of Customs Tariff the original authorities has classified these products under chapter heading 6211 – Other garments, women's or girls. The appellant is in appeal before us against the ruling in respect of Model 2, 3, and 4 sets of Salwar/ Churidar.

8.1 The Appellants' main grounds in this appeal are

1. These articles are incomplete or unfinished and the same has not attained the essential character of 'Ready Made Garments or Churidhar sets'. Unless the semi finished products/articles attains the essential character, the same cannot be called as a 'Complete Ladies garments' classifiable under CTH 6211.
2. In Trade parlance, these goods are supplied as "fabric", which is subject to stitching according to the size/ shape and designs of the end user and therefore it cannot be termed as ready-made garments and only called as "Churidar materials". Once this doubt was raised by the Trade, the matter was taken up for discussion by the GST council and accordingly clarifications were issued that "unstitched salwar suits' are classifiable as "fabrics" and attract 5% GST.

9. The contentions of the Appellant are taken one by one for consideration. The first contention is that the products under consideration are incomplete or unfinished and the same has not attained the essential character to be called as a 'Complete Ladies garments' and classified under CTH 6211. In this connection, we find that, it is to be examined whether CTH 6211 covers only 'Complete Ladies garments' or the heading also covers 'incomplete or unfinished articles listed in the CTH 6211' as the products under consideration are in 'incomplete or unfinished' state.

9.1 For the purposes of GST, 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.

9.1 CTH 6211 of the Customs Tariff is reproduced below for ease of reference:

6211	TRACK SUITS, SKI SUITS AND SWIMWEAR; OTHER GARMENTS			
	- <i>Swimwear</i> :			
6211 11 00	-- Men's or boys'	u	25%	-
6211 12 00	-- Women's or girls'	u	25%	-
6211 20 00	- Ski suits	u	25%	-
	- <i>Other garments, men's or boys'</i> :			
6211 32 00	-- Of cotton	u	25% or Rs.135 per piece, whichever is higher	-
6211 33 00	-- Of man-made fibres	u	25% or Rs.135 per piece, whichever is higher	-
6211 39 00	-- Of other textile materials	u	25%	-
	- <i>Other garments, women's or girls'</i> :			
6211 42	-- <i>Of cotton</i> :			
6211 42 10	--- Kurta and salwar with or without duppatta	u	25% or Rs.135 per piece, whichever is higher	-
6211 42 90	--- Other	u	25% or Rs.135 per piece, whichever is higher	-
6211 43 00	-- Of man-made fibres	u	25% or Rs.135 per piece, whichever is higher	-
6211 49	-- Of Other textile materials:			
6211 49 10	--- Of wool or fine animal hair	u	25%	-
6211 49 90	--- Other	u	25%	-

From the above, it is seen that '--Kurta and salwar with or without duppatta' is specified under the heading '-Other garments, women's or girls' and depending on the constituent material the product is classifiable under 'CTH 6211 4...'. It is further to be examined, whether, the said CTH covers only 'Complete Ladies Garments' or it includes 'incomplete or unfinished suits' also. The Customs Tariff is based on Harmonious System of Nomenclature(HSN) and therefore the Explanatory notes of HSN is a guide to resolve issues of Classification. Rule (1) of the General rules for Interpretation states as follows:

RULE 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 Explanatory notes as per HSN to the above Rule is as follows:

EXPLANATORY NOTE

- (I) The Nomenclature sets out in systematic form the goods handled in international trade. It groups these goods in Sections, Chapters and sub-Chapters which have been given titles indicating as concisely as possible the categories or types of goods they cover. In many cases, however, the variety and number of goods classified in a Section or Chapter are such that it is impossible to cover them all or to cite them specifically in the titles.
- (II) Rule 1 begins therefore by establishing that the titles are provided "for ease of reference only". They accordingly have no legal bearing on classification.
- (III) The second part of this Rule provides that classification shall be determined :
- (a) according to the terms of the headings and any relative Section or Chapter Notes, and
- (b) where appropriate, **provided the headings or Notes do not otherwise require**, according to the provisions of Rules 2, 3, 4, and 5.
- (IV) Provision (III) (a) is self-evident, and many goods are classified in the Nomenclature without recourse to any further consideration of the Interpretative Rules (e.g., live horses (heading 01.01), pharmaceutical goods specified in Note 4 to Chapter 30 (heading 30.06)).
- (V) In provision (III) (b) :
- (a) The expression "provided such headings or Notes do not otherwise require" is intended to make it quite clear that the terms of the headings and any relative Section or Chapter Notes are paramount, i.e., they are the first consideration in determining classification. For example, in Chapter 31, the Notes provide that certain headings relate **only** to particular goods. Consequently those headings cannot be extended to include goods which otherwise might fall there by reason of the operation of Rule 2 (b).
- (b) The reference to Rule 2 in the expression "according to the provisions of Rules 2, 3, 4 and 5" means that :
- (1) goods presented incomplete or unfinished (e.g., a bicycle without saddle and tyres), and
- (2) goods presented unassembled or disassembled (e.g., a bicycle, unassembled or disassembled, all components being presented together) whose components could individually be classified in their own right (e.g., tyres, inner tubes) or as "parts" of those goods,
- are to be classified as if they were those goods in a complete or finished state, **provided the terms of Rule 2 (a) are satisfied and the headings or Notes do not otherwise require**.

As per the above Rule, classification is to be determined based on the terms of the heading and any related Section/Chapter Note. CTH 6211 specifies 'Kurta and salwar with or without duppatta'. To ascertain whether the incomplete or unfinished goods will also be classified under the said CTH, as per the explanation (V) above, it is to be seen if the goods fulfill the terms of Rule 2(a). Rule (2)(a) of the General Rules for Interpretation states as follows:

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.

The Explanatory Notes to the above rule, as per HSN is as follows:

EXPLANATORY NOTE

RULE 2 (a) (Incomplete or unfinished articles)

- (I) The first part of Rule 2 (a) extends the scope of any heading which refers to a particular article to cover not only the complete article but also that article incomplete or unfinished, **provided** that, as presented, it has the essential character of the complete or finished article.
- (II) The provisions of this Rule also apply to **blanks** unless these are specified in a particular heading. The term "**blank**" means an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part (e.g., bottle preforms of plastics being intermediate products having tubular shape, with one closed end and one open end threaded to secure a screw type closure, the portion below the threaded end being intended to be expanded to a desired size and shape).

Semi-manufactures not yet having the essential shape of the finished articles (such as is generally the case with bars, discs, tubes, etc.) are not regarded as "blanks".
- (III) In view of the scope of the headings of Sections I to VI, this part of the Rules does not normally apply to goods of these Sections.
- (IV) Several cases covered by the Rule are cited in the General Explanatory Notes to Sections or Chapters (e.g., Section XVI, and Chapters 61, 62, 86, 87 and 90).

As per the explanation above, if the incomplete or unfinished article has the essential character of the complete or finished article, then the heading referring to a particular article covers such incomplete or unfinished article also. It is further stated that several cases covered in this Rule are cited in the General Explanatory Notes to Sections and Chapters. The General Explanatory Notes to Chapter 62 states as follows:

GENERAL

This Chapter covers men's, women's or children's articles of apparel, clothing accessories and parts of apparel or of clothing accessories, made up of the fabrics (excluding wadding but including felt or nonwovens) of Chapters 50 to 56, 58 and 59. With the **exception** of the articles of heading 62.12, articles of apparel, clothing accessories and parts made of knitted or crocheted material are **excluded** from this Chapter.

.....

By application of Note 14 to Section XI, garments of different headings are to be classified in their own headings even if put up in sets for retail sale. This, however, does not apply to garments put up in sets which are specifically mentioned in the heading texts, for example, suits, pyjamas, swimwear. It should be noted that, for the application of Note 14 to Section XI, the expression "textile garments" means garments of headings 62.01 to 62.11.

This Chapter also covers unfinished or incomplete articles of the kind described therein, including shaped textile fabric for making such articles and shaped knitted or crocheted fabrics for making articles or parts of articles of heading 62.12. Provided these products have the essential character of the articles concerned, they are classified in the same headings as the finished articles. However, parts of garments or of clothing accessories, not knitted or crocheted (**other than those of heading 62.12**) are classified in **heading 62.17**.

From the above, it is clear that this Chapter covers unfinished or incomplete articles of the kind described in the heading provided the products have the essential character of the articles concerned.

9.2 The appellants in their grounds of appeal has stated that the products has not attained the essential character of "Ready Made Garments or Churidhar Sets" but has not elaborated the grounds. They have stated that further stitching to size is required and the set is known in common parlance as 'Unstitched Salwar materials'. We find that the products under consideration are sets consisting of three pieces of cloth 1. Top, 2. Bottom and 3. Duppatta. In Model 2, the Top is semi-stitched and duppatta knotted/stitched and the bottom is unstitched; Model- 3, Top is completely stitched and duppatta knotted/stitched and bottom is unstitched; Model-4, Top is Neck-worked and both top & bottom unstitched(not displayed during the Personal hearing). It is agreed that in the sets under consideration, the Salwar (bottom) requires stitching and the Kurta(Top) is to be stitched to size but mere Stitching / Stitching to size do not take away the characteristics of the garments being Salwar/ Churidar sets. It will not be out of context to mention that in the Model 2 and 3 displayed during the hearing, it was observed that the duppatta which is one of the pieces in the Set is hemmed/knotted and in a ready to wear condition. The sets can be used only as 'Churidars' and cannot be used as any other garments or termed as 'fabrics'. Therefore we find that the sets which are in approximate shape/outline of the finished goods, more so with one piece in ready to wear condition, have the essential character of 'finished goods' and in view of interpretative Rule 2(a) are classified as 'Kurta and Salwar with or without dupatta' under CTH 6211.

10. The second contention of the appellant is that once the trade raised the doubt, that, in trade parlance, these goods are supplied as "fabric", which is subject to stitching according to the size/ shape and designs of the end user and therefore it cannot be termed as ready-made garments and only called as

“Churidar materials”, the matter was taken up for discussion by the GST council and accordingly clarifications were issued that “unstitched salwar suits’ are classifiable as “fabrics” and attract 5% GST.

10.1 It is seen that CBIC vide Circular No. 13/2017 dated 27.10.2017 has clarified 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. Further to this clarification, on the doubts raised by the Trade as to the applicable rate of tax and on the classification, when the embroidered fabric with certain embellishment are sold in three pieces(suit salwar and duppatta fabric), the issue was discussed by the Fitment Committee which furnished the comments as below:

13.	Embroidered fabric sold in three piece for lady suits		Issue clarification regarding applicable rate	<ol style="list-style-type: none"> 1. Fabrics of all kind attract GST at the rate of 5%. 2. Garments and made up attract GST at the rate of 5% when value is less than Rs 1000 per piece and 12% when the value exceeds 12%. 3. Doubts have arisen as regards applicable rates when the embroidered fabric with certain embellishment like gota etc. are sold in three pieces (suit salwar and dupatta fabric). 4. Earlier a clarification was issued to the effect that fabrics cut to size for salwar suits etc. continue to be fabric and attract GST at the rate of 5% irrespective of price. 5. However, now doubt has been raised about three piece fabric sold in a pack as ladies salwar suit, when such fabric is embroidered would fall under the category of made up or fabric. 6. Fitment Committee was of the view that even in three pieces the items remain fabric. To be a garment made up, it has to be more than mere fabric. Made up article in Chapter 63 covers pieces which have undergone some working, such as hemming or formation of necklines, intended for the manufacture of garments but not yet sufficiently completed to be identifiable as garments or parts of garments. Thus, mere fabric, even if embroidered or has stitching of lace and tikki etc., and even if sold in three piece fabric as ladies suit set, will continue to classifiable as fabric (as essential character of fabrics is not altered) and attract 5% GST.
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The committee has stated that even in three pieces the items remain fabric, if embroidered or has stitching of lace and tikki etc., and to be a garment/made up, it must have undergone some working, intended for manufacture of garments. The above comments were placed before the 31st GST council Meeting and was accepted by the council and thereupon, CBIC has issued a Circular No 80/54/2018-GST dt 31.12.2018, the effective portion of which is as follows:

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%.”

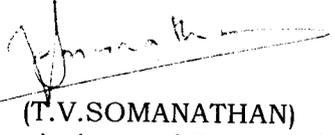
10.2 From the above, it is evident that to be a garment/made up, the product has to be more than mere fabric. It is further commented that Made up article in Chapter 63 covers pieces which have undergone some working, such as hemming or formation of necklines and intended for the manufacture of garments but not yet sufficiently completed to be identifiable as garments or parts of garments. In the case at hand it is already established that the products are incomplete or unfinished ‘Salwar/Churidar Sets’, which requires further stitching to size/design. The products are not simply fabrics with certain embellishments but containing Top which are Semi-stitched, Stitched and neck-line formed/ dupatta hemmed/knotted, which are without ambiguity cannot be considered as mere ‘Fabrics’ but more appropriately termed as ‘garments’ or ‘Part of garments’.

10.3 Thus the Model 2, 3 and 4 under consideration, being Sets of three pieces consisting of (1) unstitched Salwar(bottom), (2) laced/hemmed/knotted duppata and (3)Semi-stitched / Fully stitched Kurta(Top)/ Top with defined neckline are ‘garments’ and not mere ‘fabric’ in three pieces. These are covered under specific entry in the Customs Tariff- CTH 6211, as the heading includes ‘Salwars’ of various materials. As per Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 as amended and Schedule I of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 52 dated 29.06.2017 of Tamil Nadu Government as amended, the subject goods are liable to GST @ 5%[CGST-2.5% and SGST-2.5%], if the Sale Value is less than Rs. 1000/- per piece and @ 12%[CGST-6% and SGST-6%], if the sale value is more than Rs. 1000/- per piece. We find that the lower authority has considered the above and accordingly pronounced the ruling and do not find any reason to interfere with the same.

11. In view of the above we, Pass the following Order:

ORDER

For reasons discussed above, we do not find any reason to interfere with the Order of the Advance Ruling Authority in this matter. The subject appeal is disposed of accordingly.


(T.V.SOMANATHAN)

Commissioner of Commercial Taxes,
Tamilnadu /Member AAAR

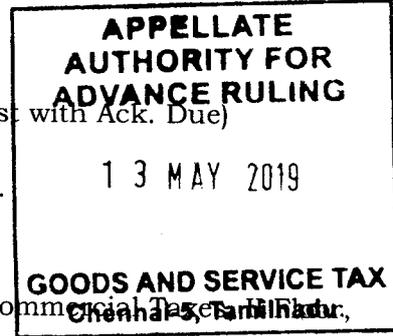

(M. AJIT KUMAR)

Pr.Chief Commissioner of GST & Excise
Chennai Zone/Member AAAR

To

M/s. RmKV Fabrics Private Limited,
176F, 2nd Floor, 3rd Floor,
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Vannarapettai, Palayamkottai, Tamil Nadu – 627 003.

(By Speed Post with Ack. Due)



Copy to

1. Additional Chief Secretary/Commissioner of Commercial Taxes, Tamil Nadu, Ezhilagam, Chepauk, Chennai- 600 005.
2. The Principal Chief Commissioner of GST & Central Excise, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
3. The Authority for Advance Ruling , Tamil Nadu
O/o the Authority for Advance Ruling,
No.1, PAPJM Building , Greams Road, Chennai-600 006.
4. The Assistant Commissioner (ST)
Palayamkottai Assessment Circle,
Commercial Tax Building,
Reserve Line Road,
Palayamkottai,
Tirunelveli – 627 002.
5. The Commissioner of GST & C.Ex., Chennai South Commissionerate
6. Master File/ Spare-2