

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU
NO.206, 2ND FLOOR, PAPJM BUILDING , NO.1 , GREAMS ROAD,
CHENNAI -600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER
SECTION 98(4) OF THE TNGST ACT, 2017.**

Members present:

Smt. D. Jayapriya, I.R.S., Additional Commissioner/ Member(CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. A. Valli, M.Sc., Joint Commissioner/Member(SGST), Office of the Commissioner of Commercial Taxes, Chennai-600 006.
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Advance Ruling No. 16/ARA/2024 Dated: 24.07.2024

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed, is communicated.
2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the 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. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.
5. The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (hereinafter referred to as the '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 Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.

GSTIN Number, if any / User id		33BYTPM5795A1Z1
Legal Name of Applicant		M/s. V M Polymers (Mohan Sujatha)
Trade Name of Applicant(Optional)		M/s. V M Polymers (Mohan Sujatha)
Registered Address / Address provided while obtaining user id		No. 60, Water Tank Street, Varadharajapuram Medu, Coimbatore- 641015.
Details of Application		Form GST ARA - 01 Application Sl.No.103/2023/ARA, Dated 23.11.2023
Concerned Officer		Center: Coimbatore Commissionerate, Coimbatore II Division, Range II B. State: Coimbatore Division, Coimbatore-I Zone, Singanallur (North) Circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Manufacturer
B	Description (in brief)	The applicant is engaged in the business of manufacturing plastic articles used as parts of electric accumulator (commonly known as "high power batteries").
Issue/s on which advance ruling Required		1) Classification of any goods or services or both. 2) Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		Taxability Issue 1. Whether the products viz. rope handle, vent plug and split top / bottom support, made from plastic which falls under headings 3901 to 3914, fall under HS code classification heading "3926" or "8507"? 2. What is the rate of tax for the above said products under GST enactments.

M/s. V M Polymers (Mohan Sujatha), No.60, Water Tank Street, Varadharajapuram Medu, Coimbatore- 641015(hereinafter called as 'the Applicant') is engaged in the business of manufacturing plastic articles used as parts of electric accumulator (commonly known as "high power batteries"). They are registered under the GST Acts with GSTIN: 33BYTPM5795A1Z1.

2 The Applicant submitted a copy of challan dated 07-10-2023 evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

3. They have preferred this application seeking Advance Ruling on the following:

(1) *Whether the products viz. rope handle, vent plug and split top / bottom support, made from plastic which falls under headings 3901 to 3914, fall under HS code classification heading "3926" or "8507"?*

(2) *What is the rate of tax for the above said products under GST enactments?*

4. **Statement of facts in brief:**

4.1 The applicant submits that they have been engaged in the business of supply of plastic articles in different sizes used as parts of electric accumulators. The plastic articles sold by them are (i) packing shim, (ii) Bottom shim and (iii) Bottom support and top support. Further the applicant submitted the raw materials, process of manufacture and uses of the said plastic articles in a tabular form and the same is reproduced below;

Product	Raw Material	Process	Use
Packing Shim	Reprocessed Polypropylene (hereinafter referred to as "PP")	Raw material which is black in colour is moulded using an injection moulding machine.	Side packing of lead acid battery.
Bottom Shim	Reprocessed Polypropylene	Raw material which is black in colour is moulded using an injection moulding machine	Bottom packing of lead acid battery
Bottom support and top support	Low linear density polyethylene (hereinafter referred to as "LLDPE")	Raw material is moulded using an injection moulding machine.	Support to top and bottom of the battery plates.

4.2 The applicant submits that the above plastic articles are classified under the Chapter "39" of HS code issued by the World Customs Organisation. Chapter 39 of HS code issued by the World Customs Organization. Chapter 39 deals with "plastic and articles thereof" and more specifically, under classification "3926", i.e other articles of plastic. That the supply of the above said plastic articles are subjected to GST at the RATE OF 18% (CGST - 9% + SGST - 9%) as per the Sl. No. 111 of Schedule III of Notification No. 1/2017-CT (R) dated 28.06.2017, as amended vide Notification No. 41/2017- CT (R) dated 14.11.2017.

4.3. The applicant submits that they are now desirous of expanding the business and contemplating manufacture and supply of rope handle, vent plug and split top / bottom support (in different sizes), all used as parts are accessories for lead acid battery / electric accumulators. The applicant submitted the raw material, process and use of the said items in a tabular form and the same is reproduced below;

Product	Raw Material	Process	Use
Rope Handle	Polypropylene (hereinafter referred to as "PP")	Raw material is moulded using an injection moulding machine. It has three parts viz. PP rope, rope moulded and cover for moulded part and the raw material is the same for all such parts	Lifting of lead acid battery.
Vent plug (Also known as "transportation vent plug" but it is also used as regular vent plug by few customers)	Polypropylene	Raw material is moulded using an injection moulding machine. It has three parts viz. main PP part, insert part, PP /PE brought-out items.	Transportation purposes
Split top / bottom support	High density Polyethylene (hereinafter referred to as HDPE) / LLDPE	Raw material is moulded using an injection moulding machine.	Support to top and bottom of the battery plates.

STATEMENT OF INTERPRETATION OF LAW

4.4. The applicant submitted that Chapter "39" deals with "plastics and articles thereof; rubbers and articles thereof". More specifically, Heading No. "3926" deals with "Other articles of plastics and articles of other materials of headings 3901 to 3914". Whereas, Chapter "85" deals with "electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles", and "8507" deals with "electric accumulators, including separators therefor, whether or not rectangular (including square)". Further, HS Code "85079010" deals with "accumulator cases made of hard rubber and separators" and "85079090" deals with "other parts".

4.5. That it is evident from a bare perusal of the above classification that heading "8507" deals with electric accumulators only. Whereas, heading "3926" deals specifically with articles of plastics. That on a combined reading, heading "3926" is a more specific classification which also deals with the essential character of the products, i.e. plastic. Further, notes to Chapter 39 defines plastic as follows: *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. In the present case, materials falling under both "3901" and "3902" are moulded to manufacture the impugned articles.

4.6. The applicant submitted that it is a well settled law that goods must be classified under a most specific description than a most general description. Heading "8507", more specifically HS "85079090", i.e "other parts" is a most general description. The applicant submitted that they rely on the "General Rules for the Interpretation of the Harmonised System" issued by the World Customs Organisation, and reproduced the relevant paragraph 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 article 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.

• (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When by application of Rule 2 (b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4.7. The applicant submitted that as per Rule 2 (both sub-rule (a) as well as (b)), particular reference to an article or material in the heading includes such articles or goods wholly or partly consisting of such materials. The applicant submitted that Heading "3926" refers to "Other articles of plastics and articles of other materials of headings 3901 to 3914", therefore, the heading refers to "plastic articles" or goods made of "plastic". The applicant further submitted that in the present case, as explained in the statement of facts, all the goods are manufactured only using plastic and they are nothing but plastic articles.

4.8. The applicant further submitted that in any event, without agreeing or admitting, for the sake of arguments, if the plastic articles to be manufactured by them are deemed to fall under both "3926" as well as "8507" as they are parts or accessories of electric accumulators, interpretation must be made in accordance with Rule 3. That Rule 3 (a) categorically states that the heading which has the most specific description must be preferred, which is "3926" in the present case as "8507" merely states "electric accumulators, including separators therefor, whether or not rectangular (including square)" and does not even refer to parts or accessories of electric accumulators, that too, plastic parts. The applicant quoted the case law *Commissioner of Customs v. Shahnaz Commodities International Pvt. Ltd.*, wherein the Division Bench of the Hon'ble Jurisdictional High Court (Madras High Court) held as follows:

11.4 It is well established that when a general law/entry and a special law/entry dealing with same aspect are in question, the rule adopted and applied is one of harmonious construction, whereby the general law to the extent dealt with by the special law, would yield to the Special Law/Entry.

This principle finds its origins in the Latin maxim of generaliaspecialibus non derogant i.e. general law yields to special law should they operate in the same field on same subject. The maxim generaliaspecialibus non derogant is dealt with in Vol. 44(1) of the 4th Edn. of Halsbury's Laws of England at Para 1300, as follows:

*"The principle descends clearly from decisions of the House of Lords in *Seward v. Vera Cruz* ((1884) LR 10 AC 59) and the Privy Council in *Barker v. Edger* (1898 AC 748) and has been affirmed and put into effect on many occasions.....*

*Corpus Juris Secundum, 82 C.J.S. Statutes 482 states: when construing a general and a specific statute pertaining to the same topic, it is necessary to consider the statutes as consistent with one another and such statutes therefore should be harmonised, if possible, with the objective of giving effect to a consistent legislative policy. On the other hand, where a general statute and a specific statute relating to the same subject-matter cannot be reconciled, the special or specific statute ordinarily will control. The provision more specifically directed to the matter at issue prevails as an exception to or qualification of the provision which is more general in nature, provided that the specific or special statute clearly includes the matter in controversy (*Edmond v. United States* [137 L Ed 2d 917], *Warden v. Marrero* [41 LEd 2d 383])."*

11.5 In this context, it may also be useful to refer to the following judgments, wherein the above maxim/principle has been applied by the Courts in India while dealing with fiscal statutes:

(i) *CCE v. Shree Baidyanath Ayurved Bhavan Ltd.*, (2009) 12 SCC 419 = 2009 (237) E.L.T. 225 (S.C.)/2009 taxmann.com 1041 (S.C.):

"56. There is no doubt that a specific entry must prevail over a general entry. This is reflected from Rule 3(a) of the general Rules of interpretation that states that Heading which provides the most specific description shall be preferred to Headings providing a more general description. DML is a tooth powder which has not been held to be ayurvedic medicine in common parlance in *Baidyanath* (1996) 9 SCC 402.

(emphasis supplied)

(ii) *Moorco (India) Ltd. v. Collector of Customs*, 1994 Supp (3) SCC 562 - 1994 (74) E.L.T. 5 (S.C.)/1994 taxmann.com 265 (S.C.):

"4.... The specific heading of classification has to be preferred over general heading. The clause contemplates goods which may be satisfying more than one description. Or it may be satisfying specific and general description. In either situation the classification which is the most specific has to be preferred over the one which is not specific or is general in nature. In other words, between the two competing entries the one most nearer to the description should be preferred. Where the class of goods manufactured by an assessee falls say in more than one heading one of which may be specific, other more specific, third most specific and fourth general, the rule requires the authorities to classify the goods in the heading which satisfies most specific description...."

4.9. The applicant submitted that if Rule 3 (a) is also not applicable, Rule 3 (b) states that the goods must be classified as per the materials which provide the essential character. That, as per Rule 2 as well as Rule 3, the plastic articles in question can be classified only under heading "3926" and not "8507". They further submitted that the impugned articles are construed as plastic articles or goods even in the trade parlance. That it is rather considered as plastic articles than parts or accessories of lead acid battery. The Applicant further relied on the judgment of the Hon'ble Supreme Court in the case of *Commissioner of Customs & Central Excise v. M/s.D.L Siccis* in Civil Appeal Nos. 2360-2376 OF 2009, which held as below:

12. We would, at this stage, take on record the well-settled principle that words in a taxing statute must be construed in consonance with their commonly accepted meaning in the trade and their popular meaning. When a word is not explicitly defined, or there is ambiguity as to its meaning, it must be interpreted for the purpose of classification in the popular sense, which is the sense attributed to it by those people who are conversant with the subject matter that the statute is dealing with. This principle should commend to the authorities as it is a good fiscal policy not to put people in doubt or quandary about their tax liability. The common parlance test is an extension of the general principle of interpretation of statutes for deciphering the mind of the law-maker.

4.10. The applicant further submitted that it is essential to note that the plastic articles in question are used for transporting, lifting, packing and other similar activities and not the essential parts of electric accumulators. That it cannot be said that the impugned articles are essential parts of electric accumulators without which the accumulators cannot function. The applicant further submitted that it is also to be noted that "vent plug" to be manufactured by the applicant cannot only be used for transportation but also few customers would use it as a regular vent plug

4.11. The applicant further submitted that as per Sl.No. 139 of Schedule IV of Notification No.1/2017- CT (R), "electric accumulators including separators thereof, whether or not rectangular (including square)" falling under heading "8507" are taxable at 28%. That Sl.No. 139 does not even refer to parts of the electric accumulators. That it is a well settled principle of law that no terms or words can be read into the provisions of law and similarly, Sl. No. 139 of Notification No.1/2017- CT (R) cannot be read into to include parts and accessories of electric accumulators.

4.12. The applicant submitted the following documents;

- i) Sample Invoices raised by the applicant - annexed as Annexure A
- ii) Sample Invoices received by the applicant - annexed as Annexure B
- iii) Sample invoices - annexed as Annexure-C

5.1 The applicant is under the administrative control of Central Tax Authority. The concerned authorities of the Center and State were addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the ARA application and for the comments on the issues raised.

5.2 The State jurisdiction Officer viz. the Assistant Commissioner(ST), Singanallur (North) Assessment Circle, vide reference No. 966/2023/ A2, dated 04.01.2024, stated that questions raised in the application are neither pending nor decided in any proceedings in the case of the applicant in their circle and the Joint Commissioner (ST), Intelligence, Coimbatore has also remarked that no proceeding relating to the question raised by the applicant is pending in their jurisdiction.

5.3. The concerned central authority vide letter GEXCOM/TECH/GST/4660/2023-TECH dated 30.01.2024 submitted that the question raised in the application are not pending or has been decided in any proceedings in the case of the applicant and also offered the following comments:

- In order to determine the classification of the products "Rope handle, vent plug and split top/bottom support, made from plastic" which are used in the manufacture of Electric Accumulators/Batteries, the relevant Section notes of Section XVI & Chapter notes to Chapter Heading 39 and 85 as appearing in the First schedule to the Customs Tariff Act, 1975 are examined.

- The Chapter Note 2(s) to Chapter 39 of the Customs Tariff Act, 1975 (CTA for short) is reproduced as below:

"2. This chapter does not cover:
....
(s) articles of Section XVI (machines and mechanical or electrical appliances)".
- Thus, Articles of Section XVI (machines and mechanical or electrical appliances) are excluded from Chapter 39. Further, it is opined that none of the descriptions of goods mentioned under the heading 3926 covers the goods for which the Advance Ruling is sought by the Applicant.
- As per Section Note 2 of Section XVI of the CTA which is reproduced below;

Subject to Note 1 to this Section, Note 1 to Chapter 84 and to Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

a. parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8487, 8303, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings:"
- Further, Chapter Note 3 to Chapter 85 of CTA is as follows:

3. For the purposes of heading 8507, the expression "electric accumulators" includes those presented with ancillary components which contribute to the accumulator's function of storing and supplying energy or protect it from damage, such as electrical connectors, temperature control devices (for example, thermistors) and circuit protection devices. They may also include a portion of the protective housing of the goods in which they are to be used."
- In the instant case the products in question are invariably used in Electrical Accumulators/Acid Batteries, which obviously falls under Tariff heading 8507 of CTA and therefore the said goods form parts of the Electrical Accumulators. Further, the heading 8507 also includes 'parts' under Tariff subheading 850790 and more specifically under 85079090. Since the goods in question are parts of goods falling under Heading 8507 they cannot be classified under Chapter 39 as the said products are excluded from Chapter 39 in terms of Note 2(s) to Chapter 39 of the CTA as cited above.
- Further, the applicant's contention that the sub-heading 85079090 represents 'other parts' and hence not specific is not sustainable as the term "other" is used in the description is only to distinguish it from the previous sub heading 85079010 representing Accumulator cases made of hard rubber and separators'. Hence "others" under HSN 85079090 includes all the parts of Electrical Accumulators/Batteries other than the item Accumulator cases made of hard rubber and separators".
- Therefore, it is informed that based on analysis of the usage and upon considering the Section and the Chapter notes as detailed supra, the products 'Rope handle, vent plug and split top/bottom support, made from plastic' merit classification under Tariff Heading 8507, more specifically under CTH 85079090.
- Furthermore, regarding the query (b), the rate of tax will be 28% as per Sl. No. 139 of Schedule IV of Notification No. 1/2017-CT (Rate) dated

28.06.2017 as amended as the items supplied by the applicant will fall under HSN 8507 as "Electric accumulators, including separators therefore, whether or not rectangular (including square)".

6. The Applicant, was given an opportunity to be heard in person on 27.03.2024. M/s Harini S.P, Advocate appeared as the Authorised Representative (AR) in respect of V.M polymers (Mohan sujatha) for the Personal hearing. The AR furnished additional submissions in the form of booklet containing the pictures of the products concerned with description, extracts of various legal provisions, rulings / orders in support of their stand, during the personal hearing. She explained in detail about the usage of the products in question and reiterated the submissions made in the original application.

DISCUSSION AND FINDINGS:

7.1. We have carefully considered the submissions made by the applicant in the advance ruling application and also the submissions made during the personal hearing.

7.2 The Applicant is before us seeking Advance ruling on the following questions;

(1) *Whether the products viz. rope handle, vent plug and split top / bottom support, made from plastic which falls under headings 3901 to 3914, fall under HS code classification heading "3926" or "8507"?*

(2) *What is the rate of tax for the above said products under GST enactments.*

7.3. We find that the applicant is engaged in the business of supply of plastic articles in different sizes used as parts of electric accumulators. The applicant is now contemplating manufacture and supply of rope handle, vent plug and split top / bottom support (in different sizes), all used as parts or accessories for lead acid battery / electric accumulators. We find that the applicant contends that the said articles merit classification under heading "3926" and not under heading "8507". We find that the Applicant's contention is based on the following arguments;

1) Heading "3926" is a more specific classification which also deals with the essential character of the products, i.e plastic.

2) It is a well settled law that goods must be classified under a most specific description than a more general description. Heading "8507", more specifically HS "85079090", i.e "other parts" is a most general description.

3) Even if the plastic articles to be manufactured by the Applicant are deemed to fall under both "3926" as well as "8507" as they are parts or accessories of electric accumulators, interpretation must be made in accordance with Rule 3(a) which categorically states that the heading which has the most specific description must be preferred, which is "3926" in the present case as "8507" merely states

"electric accumulators, including separators thereof, whether or not rectangular (including square)" and does not even refer to parts or accessories of electric accumulators, that too, plastic parts.

4) If Rule 3 (a) is also not applicable, Rule 3 (b) states that the goods must be classified as per the materials which provide the essential character.

5) As per Rule 2 as well as Rule 3, the plastic articles in question can be classified only under heading "3926" and not "8507".

6) The impugned articles are construed as plastic articles or goods even in the trade parlance. That it is rather considered as plastic articles than parts or accessories of lead acid battery.

7) The plastic articles in question are used for transporting, lifting, packing and other similar activities and not the essential parts of electric accumulators. That it cannot be said that the impugned articles are essential parts of electric accumulators without which the accumulators cannot function.

8) The "vent plug" to be manufactured by the Applicant can not only be used for transportation but also few customers would use it as a regular vent plug.

7.4. We find that in terms of explanation (iii) and (iv) to Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, 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 and the rules of 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.

7.5. We find that the applicant submits that the Heading "3926" is a more specific classification which also deals with the essential character of the products, i.e. plastic and that the heading "8507" deals with electric accumulators only. We find that the applicant has based his contention on the General Rules of Interpretation of the Customs Tariff Act, 1975 (GRIs), more particularly Rule 2 and Rule 3 of the said Rules and hence it is necessary to delve into the rules of interpretation of the First Schedule to the Customs Tariff Act, 1975. However before taking up the GRIs for discussion it is necessary to look into the terms of headings along with the subheadings of the two competing headings i.e. heading "3926" and heading "8507". The same is reproduced below for ease of reference;

Chapter -39 Plastics and articles thereof

Heading 3926- Other articles of plastics and articles of other materials of headings 39.01 to 39.14

3926.10 - Office or school supplies

3926.20 - Articles of apparel and clothing accessories (including gloves, mittens and mitts)

- 3926.30 - Fittings for furniture, coachwork or the like
- 3926.40 - Statuettes and other ornamental articles
- 3926.90 - Other

Chapter 85- Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles

Heading 8507 – Electric accumulators, including separators therefor, whether or not rectangular (including square).

- 8507.10- Lead-acid, of a kind used for starting piston engines
- 8507.20 - Other lead-acid accumulators
- 8507.30 - Nickel-cadmium
- 8507.50 - Nickel-metal hydride
- 8507.60 - Lithium-ion
- 8507.80 - Other accumulators
- 8507.90 - Parts

7.6. In the case on hand we find that the said articles "Rope handle", "Vent plug" and "Split top /bottom support" are not specifically described in either of the headings or the subheadings of the two competing headings i.e. heading "3926" and heading "8507". The said articles are manufactured by moulding using injection moulding machine and the raw materials used is Reprocessed Polypropylene / Low linear density polyethylene and hence the applicant has contended that the right classification of the said articles is under heading "3926". We also find that the applicant has not disputed the use or purpose of the articles i.e the impugned articles are 'all used as parts or accessories for lead acid battery / electric accumulator' as submitted by the applicant. Hence in the instant case it is imperative to look into the General Rules of Interpretation of the Customs Tariff Act, 1975 (GIRs) of the first schedule for placing the article/articles under the right classification. The said rules are reproduced below for ease of reference;

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 :*
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 article 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 failing to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.*

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When by application of Rule 2 (b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows :

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein : (a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character; (b) Subject to the provisions of Rule 5 (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

7.7. We find that the application of the GRIs (1-4) should always be in sequential order i.e. Rule 1 is to be taken into consideration first. If classification is not covered by the provisions of Rule 1, then apply Rule 2, and so on. Now we take upon Rule 1 of the GRIs for discussion along with the two headings in competition.

7.8. From the perusal of the above rule we find that the **classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes**. Though on initial perusal of the terms of heading 3926 it appears that the impugned articles fall under the heading "3926" - Other articles of plastics and articles of other materials of headings 39.01 to 39.14, we find that by virtue of the **Chapter Note 2 (s)** to the 'Chapter-39 - Plastics and articles thereof' of the Customs Tariff Act, 1975 the impugned articles are not classifiable under heading "3926". The **Chapter Note 2 (s)** to the 'Chapter-39 - Plastics and articles thereof' of the Customs Tariff Act, 1975 provides as follows;

Notes.

1.
2. **This Chapter does not cover:**
.....
(s) Articles of Section XVI (machines and mechanical or electric appliances);

7.9. Hence, we find that though the impugned articles are all made of plastic (polypropylene / High density Polyethylene) the said articles are all used as parts of Lead acid battery. We find that the applicant themselves have submitted that the said articles '**are all used as parts are accessories for lead acid battery / electric accumulator**'. The applicant has also submitted that the uses of each of the articles i.e. the said articles are used for lifting of lead acid battery, transportation purposes and providing support to top and bottom of the battery plates. Further, the applicant also submitted that the "vent plug" to be manufactured by them can not only be used for transportation but also few customers would use it as a regular vent plug. Hence we find that there is no doubt regarding the purpose of manufacturing the impugned articles i.e. the said articles are manufactured with the purpose of transporting/ lifting the lead acid battery or providing support to the lead acid battery. Further as discussed above the Chapter Note 2 (s) to the Chapter-39 – Plastics and articles thereof of the Customs Tariff Act, 1975 provides that the articles of Section XVI (machines and mechanical or electric appliances) **are not covered under Chapter 39**.

7.10. Further it is necessary to look into the notes to Section XVI and Chapter 85 also. We find that the Section Note 1 of Section XVI of the CTA provides as follows;

This Section does not cover:

(g) Parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);

7.11. On perusal of Note 1 to Section XVI of the CTA it becomes imperative to look into the Definitions of parts of general use as defined in Note 2 to Section XV - Base Metals And Articles Of Base Metal- of the CTA. The same is reproduced below;

2.- Throughout the Nomenclature, the expression "parts of general use" means:

- (a) Articles of heading 73.07, 73.12, 73.15, 73.17 or 73.18 and similar articles of other base metals;*
- (b) Springs and leaves for springs, of base metal, other than clock or watch springs (heading 91.14); and*
- (c) Articles of headings 83.01, 83.02, 83.08, 83.10 and frames and mirrors, of base metal, of heading 83.06.*

In Chapters 73 to 76 and 78 to 82 (but not in heading 73.1~) references to parts of goods do not include references to parts of general use as defined above.

Subject to the preceding paragraph and to Note 1 to Chapter 83, the articles of Chapter 82 or 83 are excluded from Chapters 72 to 76 and 78 to 81.

Hence on combined perusal of Section Note 1(g) to Section XVI and Section Note 2 to Section XV we find that the **impugned articles are not excluded from Section XVI and are very much covered under Chapter 85.**

7.12. Further the extracts of certain Section Notes, Chapter Notes and Subheadings which throw more light on the classification of impugned articles is reproduced below for ease of reference;

➤ **Section Note 2 of Section XVI of the CTA provides as follows;**

3. Subject to Note 1 to this Section, Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading 84.84, 85.44, 85.45, 85.46 or 85.47) are to be classified according to the following rules:

(a) Parts which are goods included in any of the headings of Chapter 84 or 85 (other than headings 84.09, 84.31, 84.48, 84.66, 84.73, 84.87, 85.03, 85.22, 85.29, 85.38 and 85.48) are in all case & to be classified in their respective headings;

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 84.79 or 85.43) are to be classified with the machines of that kind or in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 85.17 and 85.25 to 85.28 are to be classified in heading 85.17.

(c) All other parts are to be classified in heading 84.09, 84.31, 84.48, 84.66, 84.73, 85.03, 85.22, 85.29 or 85.38 as appropriate or, failing that, in heading 84.87 or 85.48.

➤ **General content of Section XVI:**

I(B) In general, the goods of this Section may be of any material. In the great majority of cases they are of base metal, but the Section also covers certain machinery of other materials (e.g., pumps wholly of plastics) and parts of plastics, of wood, precious metals, etc.

➤ **Chapter Note 3 to Chapter 85 of CTA:**

3. For the purposes of heading 8507, the expression "electric accumulators" includes those presented with ancillary components which contribute to the accumulator's function of storing and supplying energy or protect it from damage, such as electrical connectors, temperature control devices (for example, thermistors) and circuit protection devices. They may also include a portion of the protective housing of the goods in which they are to be used."

➤ **Heading Notes to Heading 8507**

PARTS

Subject to the general provisions regarding the classification of parts (see the General Explanatory Note to Section XVI), the heading also covers parts of accumulators, e.g., containers and covers; lead plates and grids, whether or not coated with paste; separators of any material (except of unhardened vulcanised rubber or of textile material), including those in the form of flat plates merely cut into rectangles (including squares), meeting very precise technical specifications (porosity, dimensions, etc.) and hence ready for use.

The heading does not cover :

(a) Terminals (heading 85.36).

(b) Spent electric accumulators and waste and scrap thereof (heading 85.48).

7.13. From the foregoing discussion and perusal of the relevant Section Notes, Chapter Notes and Explanatory Notes we find that the impugned articles i.e "Rope handle", "Vent plug" and "Split top /bottom support" merit classification under heading "8507" in terms of Rule 1 of the General Rules of Interpretation of the First Schedule to the Customs Tariff Act, 1975 (GRIs). As seen above though the impugned articles are all made of plastic by virtue of Chapter Note 2(s) to Chapter 39 the impugned articles are not covered under Chapter 39. Further the explanatory notes given under General content of Section XVI mentions that the goods of the said section can be of any material. In the instant case the impugned goods happen to be made of plastic. However, as the impugned plastic articles are used as parts of electric accumulators they are to be classified under the heading "8507". Hence we are of the opinion that the impugned articles can be classified in terms of Rule 1 as even though the articles are not specifically described in the

terms of the heading / subheading the classification is to be done as per the direction of the Section Notes or Chapter Notes.

7.14. We find that the applicant has based his arguments on Rule 2 and Rule 3 of the General Rules of Interpretation of the First Schedule to the Customs Tariff Act, 1975 and has stated that *as per Rule 2 as well as Rule 3, the plastic articles in question can be classified only under heading "3926" and not "8507*. As discussed above the impugned articles are classifiable in terms of Rule 1 of the said rules and reference to Rule 2 and 3 is not warranted. Rule 1 provides that the 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: Further, Rule 2 provides for classification of goods **unfinished or incomplete & unassembled and disassembled** goods and **mixtures and combinations** of material or substance which is not the case on hand.

7.15. We also find that the applicant submits that the impugned articles are classifiable under heading "3926" in terms of Rule 3 and the argument put forth by the applicant is as follows "*even if the plastic articles to be manufactured by the Applicant are deemed to fall under both "3926" as well as "8507" as they are parts or accessories of electric accumulators, interpretation must be made in accordance with Rule 3(a) which categorically states that the heading which has the most specific description must be preferred, which is "3926" in the present case as "8507" merely states "electric accumulators, including separators therefor, whether or not rectangular (including square)" and does not even refer to parts or accessories of electric accumulators, that too, plastic parts. If Rule 3 (a) is also not applicable, Rule 3 (b) states that the goods must be classified as per the materials which provide the essential character.*" In this regard we find that Rule 3 provides for the classification of goods that are *prima facie* classifiable under two or more headings which is also not the case on hand. Rule 3(a) provides that goods should be classified in the heading that provides the most specific description and in this regard the applicant has submitted that "*heading "3926"- Plastics and articles thereof is a more specific description and 8507" merely states "electric accumulators, including separators thereof, whether or not rectangular (including square)" and does not even refer to parts or accessories of electric accumulators, that too, plastic parts.*" We reiterate that though the impugned articles are all made of plastic, by virtue of Chapter Note 2(s) to Chapter 39 the impugned articles are not covered under Chapter 39. Further the explanatory notes given under General content of Section XVI mentions that the goods of the said section can be of any material including plastics. Also Rule 3(b) of GRIs is also not applicable in the instant case as the same deals with mixed goods, composite goods and goods put up in sets for retail sale which cannot be classified by reference to 3(a).

7.16. Further the case laws submitted by the applicant i.e. 1) Commissioner of Customs Vs Shahnaz Commodities International P. Ltd (Madras High Court 2) Tamil Nadu Advance Ruling Order No. 10/AAR/2019 dated 27.02.2019 and 3) Appellate Authority for Advance Ruling, West Bengal Order No.

08/WBAAAR/APPEAL/2018 dated 31.01.2019 do not support the applicants contention as the classification of goods is governed by the principles set forth in the General Rules of Interpretation and the applicability of Section Notes / Heading Notes. In the instant case by virtue of Chapter Note 2(s) to Chapter 39 the impugned articles are not covered under Chapter 39, which is not the case for classifying the goods viz "Agricultural Seedling Trays" and "Polypropylene Leno Bags" under Chapter 39, as discussed in case laws mentioned at Sl no. 2 and Sl no. 3 above, respectively.

7.17. With regard to the second query of the applicant as to what is the rate of tax for the above said products under GST enactments we find as the impugned goods are to be classified under the heading "8507" and more particularly under sub heading "8507 90", the applicable tax rate is 14% CGST as per SL No. 139 of Schedule IV of Notification No. 01/2017-C.T.(rate) dated 28.06.2017 as amended and 14% SGST as per Sl No. 139 of Schedule IV of G.O. (Ms) No. 62 dated 29.06.2017 No. II(2)/CTR/532(d-4)/2017 as amended. We find that the applicant has contended "that Sl.No. 139 does not even refer to parts of the electric accumulators and that it is a well settled principle of law that no terms or words can be read into the provisions of law and similarly, Sl. No. 139 of Notification No.1/2017- CT (R) cannot be read into to include parts and accessories of electric accumulators." In this regard we find that all the goods falling under Heading 8507 attracted 14% CGST initially as per Notification No.1/2017- CT (R) dated 28.06.2017 and later the GST on Lithium -ion batteries was reduced to CGST 9% vide subsequent Notification. Hence the impugned goods which are Parts of Electric accumulators are classifiable under subheading "8507 90" which is covered under heading "8507" and attracts CGST rate and SGST rate as mentioned supra.

Based on the above discussions, we rule as under:

RULING

(1) The products viz. rope handle, vent plug and split top / bottom support, made from plastic merit classification under heading "8507" as discussed in para 7.4 to 7.16 above.

(2) The rate of tax for the above said products under GST enactments is 14% CGST as per SL No. 139 of Schedule IV of Notification No. 01/2017-C.T.(rate) dated 28.06.2017 as amended and 14% SGST as per Sl No. 139 of Schedule IV of G.O. (Ms) No. 62 dated 29.06.2017 No. II(2)/CTR/532(d-4)/2017 as amended, as discussed in para 7.17.

24/07/2024
(A. VALLI)
Member (SGST)



24/07/2024
(D. DAYAPRIYA)
Member (CGST)

To

M/s. V M Polymers (Mohan Sujatha)
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//by RPAD//

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