

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2018/19
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017-18/AR/2)

Date : 10.10.2018

Name and address of the applicant	:	M/s. Ginni Filaments Ltd., Plot No. 205-207, GIDC Industrial Estate, Panoli, Ankleshwar, Distt. Bharuch – 394 116
GSTIN of the applicant	:	24AABCG0942K1ZT
Date of application	:	11.08.2017 / 03.10.2017
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both (e) determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing	:	30.11.17 and 14.06.18
Present for the applicant	:	Shri R.S. Sharma, Advocate

The applicant M/s. Ginni Filaments Limited is engaged in the supply of (a) Wet Baby Wipes, (b) Wet Face Wipes, (c) Bed and Bath Towels and (d) Shampoo Towels, from the state of Gujarat. The applicant submitted the composition of materials used in goods supplied, size and use of the goods. It is submitted by the applicant that the company is engaged in the supply of various types of wet wipes, shampoo towels, etc. as per the requirements of the buyers. For example, under the category of Wet Face Wipes, the applicant supplies different types of Wet Face Wipes such as “moisturizing” “cleansing”, “skin care” wet wipes wherein the proportion of ingredients used may differ slightly. However, the composition, size and use of the sub-categories is broadly the same.

2. The applicant submitted that they are uncertain as to the classification of the following goods under the GST regime as a result of overlapping entries in the GST Schedules as notified by Notification No. 1/2017 – Central Tax (Rate) dated 28.06.2017 and Notification No. 1/2017 – State Tax (Rate) dated 30.06.2017 (hereinafter collectively referred to as the “Rate Notifications”):

- a. Wet Baby Wipes
- b. Wet Face Wipes

- c. Bed and Bath Towels
- d. Shampoo Towels

3.1 The applicant submitted that the overlapping HSN entries along with the description as given in the Rate Notifications pertaining to the Applicant's product, "Wet Baby Wipes" are as under :

HSN Code	Description of Goods as per Rate Notifications
3307	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations , not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties; such as Pre-shave, shaving or after-shave Preparations, Shaving cream, Personal deodorants and antiperspirants
3401 30	Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens , impregnated, coated or covered with soap or detergent
3402	Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations , whether or not containing soap, other than those of heading 3401
4818	Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape; handkerchiefs, cleansing tissues , towels, table cloths, serviettes, napkins for babies , tampons, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, or paper pulp, paper, cellulose wadding or webs of cellulose fibres
5603	Nonwovens , whether or not impregnated, coated, covered or laminated
9619	Sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles, of any material
Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI

3.2 The applicant submitted that the applicant's Wet Baby Wipes may fall under any of the above categories owing to the overlapping nature of the description of the goods provided under the Rate Notifications. Considering that the Wet Baby Wipes are non-wovens used for cleansing the baby's delicate skin, the applicant has requested for clarity as to classification of Wet Baby Wipes under the Rate Notifications. While cosmetic and toilet preparations fall under Chapter sub-heading 3307, cleaning preparations fall under Chapter sub-heading 3401 30, 3402 and 4818. Further, "napkins for babies" have been covered under Chapter sub-headings 4818 and 9619. Given the overlapping nature of the entries *qua* the Applicant's Wet Baby Wipes, the Applicant required the guidance of this Authority in categorization of the same.

3.3 As the Explanation to the Rate Notifications 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 the Rate Notifications, the Applicant has referred to the relevant Notes under the First Schedule of the Customs Tariff Act, 1975 in order to obtain clarity as to the taxation of "Wet Baby Wipes" under GST.

3.4 In light of the above, it is submitted that upon perusal of the First Schedule of the Customs Tariff Act, 1975 even Chapter sub-heading 3401 1990 appears relevant to the Applicant's wet wipes. In this regard, the Chapter sub-heading 3401 1990 of the First Schedule of the Customs Tariff Act, 1975 is reproduced hereunder:

HSN Code	Description under First Schedule of the Customs Tariff Act, 1975
3401	Soap; organic surface-active products and preparations for use as soap, in the form of bars, cakes, moulded pieces or shapes, whether or not containing soap; organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent
3401 19 90	Other

3.5 It is submitted that even other suppliers are supplying baby wipes under numerous HSN Codes and GST Rates. The applicant has submitted sample copies of GST invoices of other suppliers who are supplying wipes under HSN Code 9619 (at GST rate 12%) and HSN code 3307 (at GST rate 28%) and stated that it reflects that the confusion within the

market with regard to taxation of Wet Baby Wipes is all pervasive and in urgent need of adjudication.

3.6 In view of the above, the applicant requested to determine the HSN Code as well as GST Rate for the Applicant's Wet Baby Wipes.

4.1 With regard to Wet Face Wipes, the Applicant has considered the applicability of the following HSN entries along with the descriptions under the Rate Notifications:

HSN Code	Description of Goods as per Rate Notifications
3307	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations , not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties; such as Pre-shave, shaving or after-shave Preparations, Shaving cream, Personal deodorants and antiperspirants
3401 30	Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens , impregnated, coated or covered with soap or detergent
3402	Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations , whether or not containing soap, other than those of heading 3401
4818	Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape; handkerchiefs, cleansing tissues , towels, table cloths, serviettes, napkins for babies, tampons, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, or paper pulp, paper, cellulose wadding or webs of cellulose fibres
5603	Nonwovens , whether or not impregnated, coated, covered or laminated
Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI

4.2 It is submitted that upon a perusal of the above relevant entries, it appears that on the basis of the usage of the Applicant's Wet Face Wipes, the product may be classified under either of the above Chapter sub-headings. As the Wet Face Wipes can qualify as non-wovens, cleansing tissues and even cosmetic preparations, the Applicant has requested for correct classification.

4.3 In view of the above, the applicant requested to determine the HSN Code as well as GST Rate for the Applicant's Wet Face Wipes.

5. With regard to Bed and Bath Towels, the Applicant reiterated the submissions made with regard to Wet Face Wipes and requested to provide clarity as to the classification and GST Rate for Bed and Bath Towels.

6.1 With regard to Shampoo Towels, the Applicant reiterated the submissions with regard to Wet Face Wipes. Apart from the entries already listed hereinabove, the Applicant also drew attention to the following entry:

HSN Code	Description of Goods as per Rate Notifications
3305	All goods , i.e. preparations for use on the hair such as Shampoos ; Preparations for permanent waving or straightening; Hair lacquers; Brilliantines (spirituous); Hair cream, Hair dyes (natural, herbal or synthetic) [other than Hair oil]

6.2 The applicant submitted that given the ambiguity, classification and GST Rate for Shampoo Towels may be clarified.

7.1 The applicant, vide their further written submission, drew attention to the fact that subsequent to the recommendations of the GST Council, the GST Rates for some of the relevant HSN Codes laid forth in the Advance Ruling Application have been lowered from 28 per cent to 18 per cent (9 per cent CGST + 9 per cent SGST) with effect from 15.11.2017 vide Notification No. 41/2017-Central Tax (Rate) dated 14.11.2017 and Notification No. 41/2017-State Tax (Rate) dated 14.11.2017.

7.2 The applicant also submitted manufacturing process of Wet Baby Wipes, Wet Face Wipes, Bed and Bath Towels and Shampoo Towels. They also submitted a copy of License Number 7/C/UA/2017 dated 24.03.2017 issued under the Drugs and Cosmetics Act, 1940.

8. The applicant, vide letter dated 03.04.2018 submitted copy of Ruling No. AAR/CE/01/2018 dated 16.03.2018 passed by the Authority for Advance Ruling (Customs, Excise and Service Tax) under the Central Excise Act, 1944 wherein it has been held that Baby Wipes, Facial Wipes, Make-up remover wipes and Bed Bath Wipes are classifiable under Heading 5603. The applicant submitted that it is using similar raw material and ingredient and have same manufacturing process and is supplying the same products which are mentioned in the said Advance Ruling. The applicant requested that the said Ruling may be taken on record and may be taken into consideration before passing of Ruling in its application. It is further requested that in case it is held that the Ruling by the Advance Ruling Authority (Central Excise) is correct ruling on classification, the products of the applicant may also be classified under Heading 5603.

9.1 The Central Goods & Services Tax and Customs Commissionerate, Vadodara-II informed that the products are classifiable on the basis of their use, ingredients and functions, as follows :-

- (a) Wet Baby Wipes are non woven fabrics (15 cm X 20 cm size) immersed with solution and used for cleansing baby's skin, which appears to be classifiable under HSN Code 340130.
- (b) Wet Face Wipes are non woven fabrics (15 cm X 20 cm size) immersed with solution and used as cleansing & cosmetic tissue which appears to be classifiable under HSN code 3307.
- (c) Bed and Bath Towels are non woven fabrics (30 cm X 24 cm size) immersed with solution and used to clean and moisturize body skin. It is also used by a person while being bed ridden, which appears to be classifiable under HSN Code 340130
- (d) Shampoo Towels are non woven fabrics (30 cm X 24 cm size) immersed with solution and used for cleansing hair, which are classifiable under HSN Code 3307. It appears to be cosmetic material.

9.2 It is further informed by the Vadodara – II Commissionerate that HSN Code 4818, 5603 and 9619 covers the dry material, hence above products are not classifiable in these HSN Codes.

10. We have considered the submissions made by the applicant in its application, further submissions and at the time of personal hearing. We have also considered the views of the Central Goods & Services Tax and Customs Commissionerate, Vadodara-II.

11. We find that the main issue involved in this case is regarding classification of the products (a) Wet Baby Wipes, (b) Wet Face Wipes, (c) Bed and Bath Towels, and (d) Shampoo Towels.

12.1 It is observed that the Explanation (iii) and (iv) of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 provides as follows :-

“Explanation. - For the purposes of this notification, -

(i)

(ii)

(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 (51 of 1975).

(iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 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.”

12.2 Further, Hon’ble Supreme Court in the case of L.M.L. Ltd. Vs. Commissioner of Customs [Civil Appeal No. 3764 of 2003, decided on 21.09.2010 reported at 2010 (258) ELT 321 (S.C.)] has held as follows :-

“12. In Collector of Central Excise, Shillong v. Wood Crafts Products Ltd. reported in (1995) 3 SCC 454, it was held by this Court that as expressly stated in the statements of objects and reasons of the Central Excise Tariff Act, 1985, the Central Excise Tariffs are based on the Harmonious System of Nomenclature (HSN) and the internationally accepted nomenclature was taken into account to reduce disputes on account of tariff classification. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the Harmonious System of Nomenclature (HSN). Although, the decision in the case of Woodcraft Products (supra) dealt with the interpretation of the provisions of the Central Excise Tariff there can be no doubt that the HSN Explanatory Notes are a dependable guide even while interpreting the Customs Tariff.”

13.1 The applicant has submitted the composition, size and use of ‘Wet Baby Wipes’ as follows :-

- **Fabric:** Non-woven spun lace fabrics of 40-60 grams per square meter made from 60-70% viscose (regenerated cellulose) fiber + 30%-40% polyester fiber
- **Size of each wipe:** 150 mm x 200 mm

- **Use [As per declaration on the package]:** Soft, smooth & tender wipes for baby's delicate skin. It gives a convenient solution for baby cleaning. Mild fragrance keeps your baby fresh. Enriched with aloe vera and jojoba oil which gently cleans and moisturizes baby's skin.
- **Ingredients and Function:**

Ingredients	Function
Water	Water
Propylene Glycol	Humectant
Phenoxyethanol	Preservative
Glycerin	Moisturisation
Propylene Glycol	Humectant
Polysorbate 20	Surfactant and Fragrance Solubiliser
PGE-40 Hydrogenated Castor Oil	Emulsifying Agent
Disodium Cocoamphodiacetate	Cleansing Agent
Herb Complex – 6	Biological Additive used for moisturizing, nourishing and natural antibacterial activity
Disodium EDTA	Chelating Agent
Aloe Barbadensis Leaf Juice (Aloe Vera)	Purgative Aloin (nourishing and soothing agent)
Vitamin E	Vitamin
Fragrance	Fragrance

13.2 The applicant has submitted the composition, size and use of 'Wet Face Wipes' as follows :-

- **Fabric:** Non-woven spun lace fabrics of 40-60 grams per square meter made from 60-70% viscose (regenerated cellulose) fiber + 30%-40% polyester fiber
- **Size of each wipe:** 150 mm x 200 mm
- **Use [As per declaration on the package]:** The wipes are formulated with Aloe Vera, Vitamin E, etc. and will be used to remove dirt and grime from the face.
- **Ingredients and Function:**

Ingredients	Function
Water	Water
Di-propylene Glycol	Chelating Agent
Glycerin	Moisturisation
Propylene Glycol	Humectant
Aloe Barbadensis Leaf Juice (Aloe Vera)	Nourishing and soothing agent
PGE-40 Hydrogenated Castor Oil	Emulsifying Agent
Polysorbate 20	Surfactant and Fragrance Solubiliser
Disodium Cocoamphodiacetate	Cleansing Agent
DMDM Hydantoin	Preservative
Propylparaben	Preservative
Fragrance	Fragrance

13.3 The applicant has submitted the composition, size and use of 'Bed and Bath Towels' as follows :-

- **Fabric:** Non-woven spun lace fabrics of 40-60 grams per square meter.
- **Size of each wipe:** 300 mm x 240 mm
- **Use [As per declaration on the package]:** Cleans and moisturizes skin and helps to relax and feel better. A safer alternative for person who requires body cleansing while being bed-ridden or requiring partial assistance.
- **Ingredients and Function:**

Ingredients	Function
Aqua	Solvent
Chlorhexidine Gluconate 20%	Anti-bacterial
Propylene Glycol	Solvent
Euxyl K703	Preservatives
Glycerine	Moisturiser
Polysorbate – 20	Solubiliser
Dehytone Dc	Cleansing Agent
Cocamidopropylbetaine	Cleansing Agent
Aloevera Gel	Skin conditioner
Dc-193	Skin conditioner
Peg-40 Hydrogenated Castor Oil	Solubilizer
Fragrance	Fragrance
Sodium Gluconate	Chelating agent
Citric Acid	Buffering agent

13.4 The applicant has submitted the composition, size and use of 'Shampoo Towels' as follows :-

- **Fabric:** Non-woven spun lace fabrics of 40-60 grams per square meter.
- **Size of each wipe:** 300 mm x 240 mm
- **Use [As per declaration on the package]:** Cleans and shampoos hair in minutes. No water required. No rinsing required, Easy & convenient for bedridden patients or people requiring partial assistance. Easy to use & dispose.
- **Ingredients and Function:**

Ingredients	Function
Aqua	Solvent
Propylene Glycol	Solvent
Euxyl K703	Preservatives
Chlorhexidine Gluconate 20%	Anti-bacterial
Fragrance	Fragrance
Dc-193	Hair conditioner
Capb	Foaming agent
Polyquaternium-10-	Hair conditioner
Plantacare®2000 Up	Foaming agent
Polysorbate – 20	Solubiliser
Peg-40 Hydrogenated Castor Oil	Solubilizer
Disodium Edta	Chelating agent
Citric Acid	Buffering agent

14.1 The product 'Wet Baby Wipes' is manufactured with the use of non-woven spun lace fabrics of 40-60 grams per square meter made from 60-70% viscose (regenerated cellulose) fiber + 30%-40% polyester fiber, the size of each wipe being 150 mm X 200 mm. The Licence issued under Drugs and Cosmetics Act, 1940 for the said product, a copy of which is submitted by the applicant indicates that 'approx. quantity of lotion in one wipe is NLT 3.2 g.'. The list of ingredients used in 'Wet Baby Wipes' and functions of such ingredients mentioned in the copy of said licence and the list of ingredients and their functions submitted by the applicant indicates that these ingredients act as humectant, preservative, moisturisation, surfactant and fragrance solubiliser, emulsifying agent, cleansing agent, biological additive used for moisturizing, nourishing and natural antibacterial activity, chelating agent, purgative aloin (nourishing and soothing agent), vitamin and fragrance. It is also mentioned in the said licence that 'the above formula will be impregnated on clover fabric wipes'.

14.2 The product 'Wet Face Wipes' is manufactured with the use of non-woven spun lace fabrics of 40-60 grams per square meter made from 60-70% viscose (regenerated cellulose) fiber + 30%-40% polyester fiber, the size of each wipe being 150 mm X 200 mm. The Licence issued under Drugs and Cosmetics Act, 1940 for the said product, a copy of which is submitted by the applicant indicates that 'each wipe contains minimum 3 g. of lotion' and 'each Dry Wipe (Fabric) weight approx. – 1.2 g.'. The list of ingredients used in 'Wet Face Wipes' and the list of ingredients and function of such ingredients submitted by the applicant indicates that these ingredients act as chelating agent, moisturisation, humectants, nourishing and soothing agent, emulsifying agent, surfactant and fragrance solubiliser, cleansing agent, preservative and fragrance.

14.3 The product 'Bed and Bath Towels' is manufactured with the use of non-woven spun lace fabrics of 40-60 grams per square meter, the size of each wipe being 300 mm X 240 mm. The Licence issued under Drugs and Cosmetics Act, 1940 for the said product, a copy of which is submitted by the applicant indicates that 'approx. quantity of lotion in one wipe is NLT16 g.'. The list of ingredients used in 'Bed Bath Towels' and functions of such ingredients mentioned in the copy of said licence and the list of ingredients and their functions submitted by the applicant indicates that these ingredients act as solvent, anti-bacterial, preservatives, moisturizer, solubiliser, cleansing agent, skin conditioner, fragrance, chelating agent and buffering agent.

14.4 The product 'Shampoo Towels' is manufactured with the use of non-woven spun lace fabrics of 40-60 grams per square meter, the size of each wipe being 300 mm X 240

mm. The Licence issued under Drugs and Cosmetics Act, 1940 for the said product, a copy of which is submitted by the applicant indicates that 'each wipe contains minimum 8.92 g. of lotion' and 'each Dry Wipe (Fabric) weight approx – 2.88 g.'. The list of ingredients used in 'Shampoo Towels' and the list of ingredients and function of such ingredients submitted by the applicant indicates that these ingredients act as solvent, preservatives, anti-bacterial, fragrance, hair conditioner, foaming agent, solubiliser, chelating agent and buffering agent.

15. The applicant has submitted that the aforesaid products may fall under Chapter Heading 3307, 3401 30, 3402, 4818, 5603, or 9619 owing to the overlapping nature of the description of the goods provided under the Rate Notifications.

16.1 Chapter Note 4 of Chapter 33 of the First Schedule of the Customs Tariff Act, 1975 as well as HSN reads as follows :-

“The expression “perfumery, cosmetic or toilet preparations” in heading 3307 applies inter alia, to the following products : scented sachets; odoriferous preparations which operate by burning; perfumed papers and papers impregnated or coated with cosmetics; contact lens or artificial eye solution; wadding, felt and nonwovens, impregnated, coated or covered with perfume or cosmetics; animal toilet preparations.

16.2 Further, Explanatory Notes of Harmonized System of Nomenclature provides in respect of Chapter 33 that this Chapter does not cover, *inter-alia*, Soaps and paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent (heading 34.01).

16.3 Chapter Heading 3401 covers “Soaps; Organic surface-active products and preparations for use as soap, in the form of bars, cakes, moulded pieces or shapes, whether or not containing soap; organic surface – active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent.

16.4 Further, in case of Chapter 56, as per Chapter Note 1(a), this Chapter does not cover wadding, felt or nonwovens, impregnated, coated or covered with substances or preparations (e.g. perfumes or cosmetics of Chapter 33, soaps or detergents of heading 3401, polishes, creams or similar preparations of heading 3405, fabrics softeners of heading 3809) where the textile material is present merely as a carrying medium.

16.5 thus, the relevant Chapter Notes and Explanatory Notes of HSN indicates that if non-woven are impregnated, coated or covered with perfume or cosmetic, the product would fall under Chapter Heading 3307 and in case such non-woven are impregnated, coated or covered with soap or detergent, the product would fall under Chapter Heading 3401.

16.6 The manufacturing process and the copies of manufacturing licenses of the said products issued under the Drugs and Cosmetics Act, 1940 submitted by the applicant clearly reveals that the lotion manufactured as per product's formula is impregnated in the dry wipes (fabric). It is also indicated that the weight of the lotion so impregnated is more than the weight of the dry wipes (fabrics). From the functions of the ingredients used in the aforesaid products and the copy of manufacturing license of the said product issued under the Drugs and Cosmetics Act, 1940 submitted by the applicant, the ingredients used in the said products appear to be in the nature of cosmetic or perfume rather than in the nature of soap or detergent. The applicant has not submitted that the ingredients used in these are in the nature of soap or detergent. In view thereof, these products appear appropriately classifiable under Chapter Heading 3307 rather than under Chapter Headings 3401, 3402 or 5603.

16.7 These products would also not fall under Chapter Heading 4818 as the said heading covers the products of paper, cellulose wadding etc. and not of non-wovens.

16.8 Chapter Heading 9619 covers 'Sanitary towels (pads) and tampons, napkins and napkin liners for babies and similar articles, of any material' which heading does not specifically cover the aforesaid products.

17.1 We have also gone through the Ruling No. AAR/CE/01/2018 dated 16.03.2018 passed by the Authority for Advance Ruling (Customs, Excise and Service Tax) under the Central Excise Act, 1944 wherein it has been held that Baby Wipes, Facial Wipes, Make-up remover wipes and Bed Bath Wipes of the applicant therein (a different manufacturer, not the applicant herein) are classifiable under Heading 5603. While arriving at the said conclusion, it has been *inter-alia* observed in the said Ruling that the wipes manufactured by the applicant therein using spunlace non-woven fabric, which are merely sprinkled with water and some chemicals for aiding the process of cleaning/wiping are classifiable under Chapter Heading 5603; that the exclusion in Chapter Note 1(a) to Chapter 56 applies only in a case where the textile material is present merely as a carrying medium; that in that case, the wipes made of spunlace non-woven fabrics perform the primary function of cleaning / wiping by absorbing dust,

grime dirt, oil etc. and could not by any stretch of imagination be called 'merely' a carrying medium. It was further observed that the wipes in question, which are used for the purpose of cleaning/wiping cannot by any stretch of imagination be called perfume, cosmetic or toilet preparations, and that is why the same cannot be classified under Chapter Heading 3307.

17.2 The said Ruling has been given on the basis of the facts of particular case presented before that authority. However, in the present case before us, the products are being manufactured under the license issued under Drugs and Cosmetics Act, 1940; the lotion manufactured as per product's formula is impregnated in the dry wipes (fabrics); the weight of the lotion so impregnated is more than the weight of the dry wipes (fabrics); and the non-woven acts merely as a carrying medium. Therefore, the Ruling No. AAR/CE/01/2018 dated 16.03.2018 is clearly distinguishable inasmuch as the aforesaid facts available in the present case were not there in the said Ruling.

18. It is also observed that the Government of India, Ministry of Finance, Department of Revenue (Tax Research Unit) vide Circular No. 52/26/2018-GST dated 09.08.2018 has also issued clarification in respect of applicable GST rate on 'wipes using spun lace non-woven fabric' as follows :-

8.1 Appropriate classification of baby wipes, facial tissues and other similar products: Varied practices are being followed regarding the classification of baby wipes, facial tissues and other similar products, and references have been received requesting for correct classification of these products. As per the references, these products are currently being classified under different HS codes namely 3307, 3401 and 5603 by the industry.

8.2 Commercially, wipes are categorized into various types such as baby wipes, facial wipes, disinfectant wipes, make-up remover wipes etc. These products are generally made by using non-woven fabrics of viscose and polyviscous blend and are sprinkled with demineralized water and various chemicals and fragrances, which impart the essential character to the product. The base raw materials are moisturising and cleansing agents, preservatives, aqua base, cooling agents, perfumes etc. The textile material is present as a carrying medium of these cleaning/wiping components.

8.3 According to the General Rules for Interpretation [GRI- 3(b)] of the First Schedule to the Customs Tariff Act (CTA), 1975, "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." Since primary function of the article should be taken into consideration while deciding the classification, it is clear that the essential character of the wipes in the instant case is imparted by the components which are to be mixed with the textile material.

8.4 As per the explanatory notes to the HSN, the HS code 5603 clearly excludes nonwoven, impregnated, coated or covered with substances or preparations such as perfumes or cosmetics, soaps or detergents, polishes, creams or similar preparations. The HSN is reproduced as follows : “The heading also excludes: Nonwoven, impregnated, coated or covered with substances or preparations [i.e. perfumes or cosmetics (Chapter 33), soaps or detergents (heading 3401), polishes, creams, or similar preparations (heading 3405), fabric, softeners (heading 3809)] where the textile material is present merely as a carrying medium. Further, HS code 3307 covers wadding, felt and non-woven, impregnated, coated or covered with perfumes or cosmetics. The HS code 3401, would cover paper, wadding, felt and non-woven impregnated, coated or covered with soap or detergent whether or not perfumed”.

8.5 Further, as per the explanatory notes to the HSN, the heading 3307 includes wadding, felt and nonwovens impregnated, coated or covered with perfume or cosmetics. Similarly, as per explanatory notes to the HSN, the heading 3401 includes wipes made of paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent, whether or not perfumed or put up for retail sale. 8.6 Thus, the wipes of various kinds (as stated above) are classifiable under heading 3307 or 3401 depending upon their constituents as discussed above. Therefore, if the baby wipes are impregnated with perfumes or cosmetics, then the same would fall under HS code 3307 and would attract 18% GST rate. Similarly, if they are coated with soap or detergent, then it would fall under HS code 3401 and would attract 18% GST.

19. In view of the foregoing, we rule as under :-

RULING

1. The products (a) Wet Baby Wipes, (b) Wet Face Wipes, (c) Bed and Bath Towels and (d) Shampoo Towels supplied by M/s. Ginni Filaments Limited (GSTIN 24AABCG0942K1ZT) are appropriately classifiable under Heading 3307 or 3401 depending upon their constituents. If these products are impregnated with perfumes or cosmetics, the same would fall under HS code 3307 and if they are coated with soap or detergent, then it would fall under HS code 3401.
2. GST rate prescribed for the applicable HS code shall be charged under Central Goods & Services Tax Act, 2017 and Gujarat Goods & Services Tax Act, 2017 and notifications issued thereunder.

(R.B. Mankodi)
Member
Place : Ahmedabad
Date : 10.10.2018.

(G.C. Jain)
Member