

GOVERNMENT OF PAKISTAN MODEL CUSTOMS COLLECTORATE OF APPRAISEMENT CUSTOM HOUSE, KARACHI

No. CC-31/2012(A)

Dated: 21.05.2013

Public Notice No. <u>05</u> of 2013 CLASSIFICATION

Subject: ZERO-RATING CLAIMED BY THE MANUFACTURERS OF ARTIFICIAL LEATHER / REXIN ETC. - CLASSIFICATION OF ARTIFICIAL LEATHER IN THE CASE OF M/S A.T.S SYTHETIC (PVT) & M/S AHN SYNTHETIC (PVT) LTD.

This classification ruling is being issued in pursuance of the Federal Board of Revenue (hereinafter referred to as the Board) letter C. No. 3(2)ST-L&P/2011(Pt)52107-R dated 11.04.2012, whereby the Board has referred the matter of classification of goods generally traded as "Artificial Leather / Rexian" to the Classification Committee of the Custom House, Karachi.

- 2. Subsequently, the Commissioner Inland Revenue, Lahore vide letter C. No. CIR(I)LTU/9908 dated 12.05.2012 further elaborated the issue by stating that M/s. A.T.S. Synthetic (Pvt) Ltd., Lahore is a manufacturer of "artificial leather" of PU and PU and PU dessifiable under Chapter 39 of the Customs Tariff. However, the registered accordingly, eligible for zero rating of Sales Tax vide SRO 1125(I)/2011 dated 31.12.2011 (available to textile and artificial leather products of Chapter 40 to Chapter 63). In support, the Commissioner Inland Revenue, Lahore vide letter No. CIR(I)/LTU/11536 dated 25.06.2012 also provided five representative samples of the goods for consideration / opinion of the Classification Committee.
 - 3. In order to discuss the issue in detail, the following officers / officials were co-opted as member of the Classification Committee (hereinafter referred to as the "Committee") in terms of Para 2(iii) of the Customs General Order 12 of 2002 dated 15.06.2002:-

The Principal Appraiser-III
 MCC-Appraisement, Karachi

Member PCT Committee

 The Principal Appraiser-II MCC-PaCCS, Karachi Member PCT Committee

The Principal Appraiser
 Classification Committee
 MCC-Appraisement, Karachi

Member PCT Committee



- For proper assistance to reach at an appropriate conclusion, the relevant clearance group of the MCC-Appraisement, was also requested to participate in the meetings and offer opinion and perspective.
- 5. The meetings of the Committee were held on 13.06.2012, 26.07.2012, 02.08.2012, 15.10.2012, 18.11.2012, 11.02.201 and 16.03.2013. The representatives of local manufacturers i.e. M/s. A.T.S. Synthetic (Pvt) Ltd., Lahore and M/s. AHN Synthetic (Pvt) Limited, Lahore and LTU also attended many of the aforesaid meetings and furnished written arguments in support of their contentions. For the sake of brevity the contents of the LTU are enclosed as Annex-A which may be treated as actually reproduced herein.
- 6. The representative of the importers M/s. AHN Synthetic (Pvt) Ltd., and M/s. A.T.S. Synthetic (Pvt) Ltd., Lahore also provided written arguments dated 01.09.2012 and dated 08.11.2012 which are also enclosed herewith and marked as Annex-B and Annex-C. For the sake of brevity the contents thereof may also be treated as actually reproduced herein.

During the meetings, the matter was discussed at length with the representatives of LTU and the local manufacturers. At the outset, the Committee between that the issue of classification of the under reference goods had been raised in view of the exemption of Sales Tax at manufacturing stage, which is not the domain of the Committee. Therefore, the committee decided to confine itself to discussing the appropriate Tariff classification of the goods without dilating upon the issue of "exemption" and/or the description / heading given under the exemption notification.

- 8. After lengthy deliberations and in view of the apparent physical appearance and obvious physical characteristics / traits of the aforesaid representative samples provided to the Committee by the Commissioner Inland Revenue, the Committee considered the following PCTs for the classification purpose:-
 - (i) 5903
 - (ii) 3921
- 9. All the learned representatives from both sides produced various references of decisions / opinions regarding classification of such type of goods given by different Customs formations of various countries, including India, UK, USA, Canada etc., which were also taken into consideration. It is observed that the demarcation line for classification of the goods under chapters 39, and/or 59 is (i) the composition of coating, covering or lamination, and (ii) the purpose of fabric used therein. The committee is, therefore, of the view that these varying references are not applicable squarely in the under reference case unless the goods in question are identical to the goods which remained under consideration by the other Customs



formations. Notwithstanding the above factual as well as legal position, the Committee has adopted these references as guiding tools for appropriate classification of the goods in question.

10. In order to discuss the issue in its true legal perspective, the Committee perused the available provisions of law and nomenclature. The relevant provisions are as under:-

Customs Tariff Heading

39.21 Other plates, sheets, film, foil and strip of plastics

59.03 Textile fabric impregnated, coated, covered or laminated with plastics Other than those of heading 59.02.

Notes to Harmonized system Chapter 39, Note 2

This chapter does not cover:

(P) Goods of Section XI (Textile and textile articles):

Section XI, Note 1

This Section does not cover:

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

Chapter 59, Note 2

Heading 59.03 applies to:

- (a) Textile fabrics, impregnated, coated covered or laminated with plastics, whatever the weight per square meter and whatever the nature of the plastic material (compact or cellular), other than:
- (1) Fabric in which the impregnation, coating or covering cannot be seen with the naked eye (usually Chapters 50 to 55, 58 or 60); for the purpose of this provision, no account should be taken of any resulting change of colour;
- (2) Products which cannot, without fracturing, be bent manually around a cylinder of a diameter of 7cm, at a temperature between 15°C and 30°C (usually Chapter 39);
- (3) Products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that such coating or covering can be seen with the naked eyes



with no account being taken of any resulting change of colour (Chapter 39);

- Fabric partially coated or partially covered with plastics and bearing designs resulting from these treatments (usually Chapter 50 to 55, 58 or
- Plastic, sheets or strip of cellular plastic, combined with textile fabric, (5)where the textile fabric is present merely for reinforcing purposes (Chapter 39); or
- Textile products of heading 58.11
- (b) Fabric made from yarn, strip or the like impregnated, coated, covered or sheathed with plastics, of heading 56.04.

WCO EXPLANATORY NOTES ON THE HARMONIAZED SYSTEM

olletter of CHAPTER 39, GENERAL NOTES, PLASTICS AND TEXTILE COMBINATIONS Karachi.

MCC Approsemi Out of Note 9 to this Chapter are classified in heading 39.18. Otherwise, the classification of plactice and toutile 39.18. Otherwise, the classification of plastics and textile combinations if essentially governed by Note 1 (h) to Section XI, Note 3 to Chapter 56 and Note 2 to Chapter 59. The following products are also covered by this Chapter:

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

In this respect, un-figured, unbleached, bleached or uniformly dyed textile fabrics, fell or nonwovens, when applied to one face only of these plates, sheets or strip, are regarded as serving merely for reinforcing purposes.

- From the above, the committee observed that clear demarcation lines which distinguish the classification of such sorts of the goods have been embodied in above mentioned Note 2 to Chapter 39 and; Note 2 to chapter 59 read with Notes to Section XI of Harmonized System Code. Therefore, after careful consideration of above provisions and the classification decision of the Customs formations of different countries, the Committee observed that:-
 - (i) The Note I (h) to Section XI states that the Section excludes woven, knitted or crocheted fabrics, felt or nonwovens that are impregnated, coated, covered or



laminated with plastic, or articles made from such material, that are classifiable in Chapter 39.

(ii) The General Explanatory Note to Chapter 39 states that combinations of plastic and textile are, for the most part, governed not only by Note 1(h) to Section XI, but also by Note 3 to Chapter 56 and Note 2 to Chapter 59. Similarly, the Note 3(c) to Chapter 56 and Note 2(a)(5) to Chapter 59 exclude, from specified headings, any felts, nonwovens or textile fabrics that are combined with "plates, sheet or strip" of cellular plastic, provided the textile material is "present merely for reinforcing purposes". Therefore, the Committee is of the view that to determine if a cellular plastic-coated textile fabric is classified in Section XI or in Chapter 39 two elements must be considered. The first is whether the cellular plastic constitutes a plate, sheet or strip, and the second is whether the textile material is present merely for reinforcing purposes. This condition need only be considered if the cellular plastic layer in a cellular plastic-coated fabric is a plate, sheet or strip. That the fabric is merely for reinforcing purposes has no other purpose than to support or reinforce the structural integrity of the plate, sheet or strip.

(iii)

Additional Collector of Customs

Additional Collector of Customs

MCC Appraisement-1

MCC Appraise, Karachi

Customs House, Karachi

If the textile material has any purpose beyond merely reinforcing the structural integrity of the cellular plastic, a textile coated with a plate, sheet or strip of cellular plastic remains classified in Chapter 59. Qualities indicating that the textile material has a purpose other than reinforcing the cellular plastic include strength, durability, resistance to wear, additional warmth, protection from the elements and, in a fashion or design context, drape and cut.

- (iv) The committee therefore, unanimously concludes that a textile fabric coated with a plate, sheet or strip of cellular plastic is classified in Chapter 59. However, if the textile material is merely for reinforcing purposes the cellular plastic-coated textile fabric is classified in Chapter 39.
- 12. In view of the above discussion, the Committee carefully examined the aforesaid representatives samples provided by the LTU and found that the same are plastic sheets reinforced with the textile material. The textile is merely used for reinforcing purposes and has no other purpose than to support or reinforce the structural integrity of the sheet of cellular plastic. The Note 2(a)(5) to Chapter 59 exclude, from specified headings, any felts, nonwovens or textile fabrics that are combined with "plates, sheets or strip" of cellular plastic, provided the textile material is "present merely for reinforcing purposes". The Committee therefore, unanimously concludes that these products, wherein textile material is "present merely for reinforcing purposes", are appropriately classifiable under PCT heading 39.21 by virtue of the exclusion given under Note 2(a)(5) to Chapter 59.
- 13. This classification is restricted exclusively to the goods which were provided to the Committee. Goods other than to the above shall continue to be classified under respective



PCT headings strictly as per the above mentioned criteria adapted from the Explanatory Notes to the Harmonized System with particular reference to composition thereof, coating and purpose of fabric used therein. The matter is disposed off in above terms, accordingly.

Additional Collector-I/

Chairman PCT Committee)

MCC Appraisement-I Custom House, Karachi

Encl: As above

Copy to:-

- Member (Customs), Federal Board of Revenue, Islamabad.
- Chief Customs (Tariff & Trade), Federal Board of Revenue, Islamabad.
- 3. The Secretary, Customs Tariff-I, Federal Board of Revenue, Islamabad.
- 4. The Commissioner, Inland Revenue Zone-I, Large Taxpayer Unit, Lahore.
- 5. M/s. A.T.S. Synthetic, Pesthranwali Street, Shah Alam Gate, Lahore.
- 6. M/s. AHN Synthetic (Pvt) Limited through /s. Tariq Sheikh International Karachi
- 7. Karachi Chamber of Commerce & Industry, Karachi.
- 8. Karachi Customs Agent Association, Custom House, Karachi.
- 9. All concerned.

10. Notice Board.