

Whether Aluminium composite panel/sheet is covered under HSN 3920 or HSN 7610 or HSN 7606?
HELD BY additional commissioner State Tax As the Aluminium Composite Panel/Sheet attribute most of its characteristics to the two aluminium sheets from which it is made, the ACP has to be classified under the tariff heading 7606 as per Rule 3(b) of the General Rules for the interpretation of the Customs Import Tariff Schedule read with Notification No.1/2017-Central Tax (Rate) dated 28th June,2017. HELD BY additional commissioner Central Tax As the Aluminium Composite Panel/Sheet attribute most of its characteristics to the two aluminium sheets from which it is made, the ACP has to be classified under the tariff heading 7606 as per Rule 3(b) of the General Rules for the interpretation of the Customs Import Tariff Schedule read with Notification No.1/2017-Central Tax (Rate) dated 28th June,2017. (2) Rate of SGST and CGST applicable on the same. HELD BY additional commissioner State Tax & Central Tax 9% SGST and 9% CGST AS there is no uniform opinion arrived by the Members of the Authority for Advance Ruling is being referred to the Appellate Authority for Advance Ruling for the state of Telangana

AUTHORITY FOR ADVANCE RULING TSAAR Order No. 05/2023, A.R.Com/16/2022, Dated 12th April, 2023

TELANGANA STATE AUTHORITY FOR ADVANCE RULING

CT Complex, M.J Road, Nampally, Hyderabad-500001.

(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

Sri Sahil Inamdar, Additional Commissioner (Central Tax)

Sub: Referring application to Appellate Authority for Advance Ruling in terms of Section 98(5) of TGST Act, 2017 for hearing and decision - Reg.

M/s. Aludecor Lamination Private Limited, SY NO 19, Ground Floor, Gopal Reddy Estate, Medchal Road, Kompally, Qutubullapur Mandal, Medchal Malkajgiri, Telangana - 500 100 (36AAECA8253G2ZN) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules, seeking Advance Ruling on the following as under :-^

1. Whether Aluminium composite panel/sheet is covered under HSN 3920 or HSN 7610 or HSN 7606?
2. Rate of SGST and CGST applicable on the same.~

I. Statement of relevant facts submitted by the applicant having a bearing on the question(s) raised:

1. M/s. Aludecor Lamination Private Limited, the applicant having its registered office at Ground Floor, SY No. 19, Gopal Reddy Estate, Medchal Road, Kompally 500100 India and holds valid registration under CGST Act, 2017.
2. The applicant has submitted that he is engaged in manufacturing of Aluminium Composite Panel/ sheet, (herein after referred as "ACP Sheets") in Haridwar, Uttarakhand, India. The applicant has place of business in Telangana at the address declared in the application for Advance Ruling under Rule 98 of Goods and Service Tax Rules, 2017. In common parlance the product of the applicant is called as "Aluminium Composite Panel", often it is called as "Sandwich Panel" or "ACP Sheet". The same is manufactured in 4 width (Fixed) and length of 89, 10* or 12 as required by the purchases. In fact the product is "Plastic sheet laminated with Aluminium Sheets". If recycled plastic is used in manufacturing, it can be said to be "Recycled plastic Aluminium Composite Panel Sheet". Aluminium composite panels are sandwiched type panel consisting of Nontoxic polythene core firmly laminated with thin Aluminium sheet on top and bottom (One Side affixed with adhesive polythene film for protection) and are being used as Industrial Product. The dealer has manufacturing unit of at Haridwar.
3. The applicant procures the ACP Sheets from his factory situated in Uttarakhand or from the other plivalgs of business situated in India as branch transfer and sells the same in Maharashtra. Once the applicant has imported the same product from out of India and the documents relating to import also says that the product is covered under CETH 3920.
4. In fact the product is "Plastic sheet laminated with Aluminium Foils". If re cycled plastic is used in manufacturing, it can be said to be "Re-cycled plastic Aluminium Composite Panel".

5. Aluminium composite panels are sandwiched type panels/sheets consisting of Non-toxic .S)Y7RA, polythene core firmly laminated with thin Aluminium Foils on top and bottom (Both Side of the polythene sheet) and is being used as Industrial Product.

6. Brief about ACP Manufacturing Process:

Recycled Plastic Granules (i.e. low density polyethylene granules) purchased from the various suppliers are first created in a drier-mixer (or removal of moisture from the said material. Thereafter with the help of Screw conveyor these plastic granules go into the Extruder machine via hopper, where it passes through different temperature profiles and comes out from a T-Die in hot melt condition. From T-Die, this hot plastic melt passes through steel calendar rollers where the hot plastic melt is converted into a matt or sheet form of required thickness, normally for manufacturing of 3mm and 4mm thick ACP sheets and fixed width of 4 feet. During it passes, the extra material in excess of 4 feet is cut from both the side. Meanwhile a thin polyethylene film known as "plastic adhesive film" is laminated on both the sides (Top & Bottom side) of the plastic sheet extruded in the process. This plastic adhesive film is melted and helps Aluminium foils/coils to be laminated on the plastic sheet extruded. Further, this plastic sheet/core material laminated with adhesive film, passing through the composite section where Top & Bottom coated Aluminium foils/coils of particular thickness are laminated on both the sides of the plastic core/sheet. Finally the plastic sheet laminated with Aluminium foils/coils passes from cooling section. After cooling section a plastic protective film is laminated on decorative side or top coated Aluminium foils/coils of the ACP sheet and then the ACP sheet reaches at cutter section where it can be cut into the required lengths as per order from specific customer or cut to standard length of 8 feet, 10 feet or 12 feet. The same is stacked, one above another, and then shifted to dispatch area as ready for delivery after pre-dispatch inspection process.

7. Use to finished Goods

The finished goods of the applicant are used in different industries such as;-^

(1) In construction of mainly Commercial buildings to be used on outside walls for protection from heat, water proofing, avoiding painting and like purpose by the builders and ontractors engaged in works contract. Form the sheets by drilling, routing, cutting and other process components, parts are prepared for use in construction /structure.

(2) In Railways in coach building

(3) In signage Industries for manufacturing of advertisement boards, name boards etc.

(4) In passenger ship building industries,

(5) In manufacturing of Furniture and Fixture,

(6) In automobile Industries in manufacturing of passenger motor vehicles,

(7) In interior decoration,

(8) In construction of pedestrian bridges etc.~

This is not ready to be used as it is, but the same requires cutting, routing, drilling; etc. process and then can be used in structure or fabrication or as the case may be.

II. Statement containing the applicant's interpretation of law based on the facts, in respect of the aforesaid questions:

1. In VAT Period, the applicant use to sell the product under Central Excise Tariff Heading (CETH) 3920, after DDQ in the matter of Kevin Enterprises and others under CETH 7606. Commissioner of Sales Tax, Maharashtra while deciding the issue of rate of tax held the same product falling under CETH 7610. Please refer complete copy of Chapter 39, Chapter 73 and Chapter 76 of Central Excise Tariff Act, attached herewith.

2. Important portion from the said Tariff entry is reproduced for quick reference and comparison. CETH 3920 Chapter heading 39 under Central Excise is related to Plastic and its different products. It does not speak for any other goods other than plastic. Yet certain products are not covered under this chapter heading;

3920 Other plates, sheets, films, foil and strip of plastics, Non-cellular and not reinforced, laminated, supported or similarly combined with other material

CETH 7606 Chapter heading 76 deals with Aluminium and different products made from Aluminium. For further clarification, one has to refer following meaning of the product;

7606 Aluminium plates, sheets and strip, of thickness exceeding 0.2 mm.

CETH 7610 : CETH 7610 reads as under in Central Excise Tariff Act

	Centra/Excise Tariff Entry	Description of Goods
	7610	Aluminium structures (Excluding prefabricated building of heading 9406) and parts of structures (For example, bridges and bridge sections, towers, lattice masts, roofs, roofing, frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns) Aluminium plates, rods, profiles, tubes & the like, prepared for use in structure.

This chapter heading deals with products manufactured from Iron and steel having the same description as provided in CETH 7610 except the words "Aluminium"

	Central Excise Tariff Entry	Description of Goods
	7308	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF HEADING 9406) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES AND BRIDGE-SECTIONS, LOCK- GATES, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAME-WORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, SHUTTERS, BALUSTRADES, PILLARS AND COLUMNS), OF IRON OR STEEL; PLATES, RODS, ANGLES, SHAPES, SECTIONS, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES, OF IRON OR STEEL

3. The applicant submits following judgments from honorable Courts, from Sales Tax tribunals, documents, advertisement material, small samples of the product sold by the applicant, photographs and video describing manufacturing process etc. in following order; 1988, and that cotton fabric based laminates are classifiable under Heading 3922 90 till February 28, 1988 and under Heading 3926.90 on and after March 1, 1988. As regards paper based insulators it was held that same are classifiable under Heading 8546.00. In taking the said view the Tribunal has followed its earlier judgments in Amit Polymers & Composites Ltd., Hyderabad v. CCE Hyderabad, 1989 (20) ECR 454, and M/s Meghdoor Laminate Pvt. Ltd. v. CCE Ahmedabad, Order Nos. 553 to 572/89 dated September 29, 1989. As regards paper based insulators the Tribunal has placed reliance on its decision in CCE Ahmedabad vs Metro Wood Engineering Works, 1989 (22) ECR 369. Civil Appeals Nos. 1852-53 of 1991 have been filed by the Revenue against the said judgment of the Tribunal.

III. ISSUES REQUIRING ADVANCE RULING:

1. The applicant submits the following questions for Advance Ruling and their interpretation on the questions as under:-^

1. Whether Aluminium composite panel/sheet is covered under HSN 3920 or HSN 7610 or HSN 7606?

2. Rate of SGST and CGST applicable on the same.~

III. Personal Hearing:

The Authorized representatives of the unit namely Bharath Shah, Tax Practitioner (Appeared in Virtual hearing) and Anil Pareek, Commercial Manager attended the personal hearing held on 15.12.2022. The authorized representatives reiterated their averments in the application submitted and averred as follows:

During the course of hearing, they have drawn the attention of the AAR to the Advance Ruling of Maharashtra AAR as well as classification decisions taken by harmonized system from 1st to 26th sessions i.e., 1988 to 2000 and requested to dispose the case accordingly.

IV. Opinion expressed by Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax), on the issues raised by the applicant.

The State authority for Advance Ruling proceeds from the law declared by the Hon'ble Supreme Court of India in the case of State of Tamil Nadu Vs Pyare Lal Malhotra and Ors. AIR 1976 SC 800 wherein it was held that the substance or raw material out of which a commodity is made has no relevance to commodity taxation when it was sold as a separate commercial commodity. The Hon'ble Court also held that the object of commodity taxation is to tax sales of goods of each variety and not the sale of the substance out of which they are made.

In this case, the Hon'ble Court held that the intention of commodity taxation is with reference to different commercial commodities and not to tax the production or manufacture of particular substances out of which these commodities may have been made. It was also observed that as soon as separate commercial commodities emerge or come into existence, they become separately taxable goods or entities.

The applicant has submitted that Aluminium composite panels (impugned goods) are sandwiched type panel consisting of Nontoxic polythene core firmly laminated with thin Aluminium sheet on top and bottom and described the manufacturing process in their application. The applicant listed the uses of the impugned product.

The applicant argued that the impugned goods are classifiable under Tariff Heading 3920 and earlier they have cleared the goods under Tariff Heading 3920.

Chapter Heading 3920 of the GST Tariff is reproduced as under:-

3920: Other plates, sheets, film, foil, tape strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.

As seen from the above narration in Chapter 39 of the GST Tariff, it pertains to Plastics and articles thereof. Chapter 3920 covers other plates, sheets, film, foil, tape strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.

The applicant has clearly stated that the product sold by them is "Plastic sheet laminated with Aluminium Sheets"; it is clear from the reading of Tariff Heading 3920 that the impugned products, being plastic sheets laminated with aluminium sheets, are not covered under Tariff Heading 3920.

Alternative tariff headings proposed by the applicant before the Authority for Advance Ruling are 7606 and 7610.

The tariff Heading 7610 covers: Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminum plates, rods, profiles, tubes and the like, prepared for use in structures.

According to the applicant their product is used: in the construction of Commercial buildings to be used on outside walls for protection from heat, water proofing, in Railways in coach building ; in signage Industries for manufacturing of advertisement boards, name boards etc. ; in passenger ship building industries, in manufacturing of Furniture and Fixture ; in automobile Industries in manufacturing of passenger motor vehicles and in interior decoration, etc.

The submissions made by the applicant do not support the fact of the subject product being termed as Aluminium Structure and/or parts thereof. From the facts and submissions before us we find that the subject product is not covered by the Tariff Heading 7610.

This leaves the Authority for Advance Ruling with the tariff heading 7606 of the GST Tariff. It is found that the subject product is covered by the decision of the Hon. Tribunal in the case of Commissioner of Customs (Imports), Chennai versus ICP India Pvt. Ltd 2018 (7) TMI 546 -CESTAT Chennai. The Hon. Tribunal observed as follows:-"The Ld.Counsel has produced a sample plate of the impugned goods before us. It is in the form of a sheet and definitely is not a structure, or part of structure falling under 7610. It cannot be used as structure or part of structure and is only plates that are generally used for cladding the surfaces. These are sheets which are

cut and grooved to clad surfaces, walls etc. They cannot be termed as structures or parts used for construction. In view, the Commissioner (Appeals) has rightly classified the same under 7606..

It is found that in respect of most of these uses the essential user characteristics are given by the aluminium lamination for example, when used in construction of buildings to be used on outside walls for protection from heat, water proofing, avoiding painting such protection from heat etc is extended by the aluminium coating and not the plastic material.

It is found that the tariff Heading 7606 of the GST tariff covers ALUMINIUM PLATES, SHEETS AND STRIP, OF A THICKNESS EXCEEDING 0.2 mm.

The applicant at page no. 10 of the booklet submitted has given 'ACP Product Information' wherein it is mentioned that the Top and Bottom Aluminium Foil thickness in the subject products ranges upto 0.5 mm. Thus it is seen that the subject product would essentially exceed the thickness of 0.2 mm if treated as aluminium plate.

However the commodity produced by the applicant contains both aluminium plates as well as plastic sheet which are inextricably bound with each other by a process of manufacture after the aluminium plates as well as the plastic sheets have come into existence in an anterior manufacturing process and are only raw materials in the production of the "Composite Panels".

As seen from the ACP product information, the respective weight of aluminium and plastic are in the ratio of maximum 2.75 kgs per m² of aluminium to maximum 5.75 kgs per m² of plastic. Therefore the commodity is neither plastic nor aluminium wholly. The new commodity which came into existence as a result of manufacturing process cannot be classified either as plastic or aluminium based on the substance/substances from which it has been made. It is a new commodity having specified uses and therefore a separate marketability. Hence this is a commodity which is not specified in Schedule I, II, IV, V or VI of the Notification No. 01/2017 dt. 28.06.2017 and hence would fall in residuary entry at Serial No. 453 of Schedule III and attract the tax at the rate of 9% CGST & 9% SGST each.

The facts of the case in the case laws submitted by the applicant are not relevant to these proceedings. Hence they are not applicable to the facts of the present case.

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Whether Aluminium composite panel/sheet is covered under HSN 3920 or HSN 7610 or HSN 7606?	The aluminium composite panel would fall under serial no. 453 of Schedule III of Notification No. 01/2017 dt. 28.06.2017
2. Rate of SGST and CGST applicable on the same	9% SGST and 9% CGST

V. Opinion expressed by Sri Sahil Inamdar, Additional Commissioner, Central Tax on the issues raised by the applicant are as given below.

1. The applicant contended that the impugned goods are classifiable under Tariff Heading 3920 and in the earlier tax regime they have cleared the goods under Tariff Heading 3920.

2. Chapter Heading 3920 of the GST Tariff is reproduced as under:-

3920: Other plates, sheets, film, foil, tape strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.

As seen from the above narration in Chapter 39 of the GST Tariff, it pertains to Plastics and articles thereof. Chapter 3920 covers other plates, sheets, film, foil, tape strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.

3. The applicant has clearly stated that the product sold by them is "Plastic sheet laminated with Aluminium Sheets"; it is clear from the reading of Tariff Heading 3920 that the impugned products, being plastic core laminated with aluminium sheets, are not covered under Tariff Heading 3920 as it exclusively deals with plates of plastic which are not reinforced, laminated, supported or similarly combined with other materials.

4. Relevant extract of Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017 is produced below:

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the rate of the central tax of-(i) 2.5 per cent. in respect of goods specified in Schedule I,

(ii) 6 per cent. in respect of goods specified in Schedule II,

(iii) 9 per cent. in respect of goods specified in Schedule III,

(iv) 14 per cent. in respect of goods specified in Schedule IV,

(v) 1.5 per cent. in respect of goods specified in Schedule V, and

(vi) 0.125 per cent. in respect of goods specified in Schedule VI

appended to this notification (hereinafter referred to as the said Schedules), that shall be levied on intra-State supplies of goods, the description of which is specified in the corresponding entry in column (3) of the said Schedules, falling under the tariff item, subheading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedules.

"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).

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.

Rate of the central tax of is 9 per cent in respect of the below goods as they are specified in Schedule III

267.	7606	Aluminium plates, sheets and strip, of a thickness exceeding 0.2 mm
271.	7610 [Except 7610 10 00]	Aluminium structures (excluding prefabricated buildings of heading 94.06 and doors, windows and their frames and thresholds for doors under 7610 10 00) and parts of structures (for example, bridges and bridge-sections, towers, lattice masts, roofs, roofing frameworks, balustrades, pillars and columns); aluminium plates, rods, profiles, tubes and the like, prepared for use in structures

This notification shall come into force with effect from the 1st day of July, 2017.

5. Relevant provisions under Section 3 of THE CUSTOMS TARIFF ACT, 1975 are produced below:-^

(7) Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent. as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8) 3[or sub-section (8A), as the case may be]

(9) Any article which is imported into India shall, in addition, be liable to the goods and services tax compensation cess at such rate, as is leviable under section 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (10) 1[or sub-section (10A), as the case may be].

(11) The duty or tax or cess, as the case may be, chargeable under this section shall be in addition to any other duty or tax or cess, as the case may be, imposed under this Act or under any other law for the time being in force.

(12) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section as they apply in relation to the duties leviable under that Act.]~

6. As per Section 2 of the CUSTOMS TARIFF ACT, 1975 'Duties specified in the Schedules to be levied.-The rates at which duties of customs shall be levied under the Customs Act, 1962 (52 of 1962), are specified in the First and Second Schedules.'

7. Rule 3(b) of the General Rules for the interpretation of the Customs Import Tariff Schedule states,-^

"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 (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable. "~

8. Therefore the mixtures, composite goods and sets that cannot be classified by use of the previous Rules should be classified as if they consisted of the material or component which gives them their essential character.

9. As per the relevant provisions under Section 3 of the CUSTOMS TARIFF ACT, 1975, the Rule 3(b) of the General Rules for the interpretation of the Customs Import Tariff Schedule also applies for determination of the applicable IGST rate on the Goods.

10. As 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, applies to the interpretation of the Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017. Therefore the ACPs should be classified as if they consisted of the material or component which gives them their essential character. Therefore the impugned product, being plastic core laminated with aluminium sheets, are not covered under Tariff Heading 3920 as the properties of ACPs are not due to the polyethylene sandwiched between the aluminium sheets but because of the aluminium sheets which are bonded by the polyethylene.

11. The decision of the Hon'ble Supreme Court in the case of Bakelite Hylam Ltd. squarely supports that one must not blindly go by the percentage composition to determine the classification of a composite material under the Customs Tariff Schedule. It is the essential character of the goods which has to be reckoned for the purpose.

12. The ACPs are sandwich panels comprising two aluminium sheets bonded to a nonaluminium core. Therefore the ACPs should be classified as if they consisted of the material or component which gives them their essential character i.e. Aluminium in the present case and not the polythene core which binds the both Aluminium panels in the ACPs.

13. Custom, Excise & Service Tax Tribunal in the 'Rana Enterprises vs Commissioner Of Customs, Mumbai' on 8 February, 2011, in respect of ACPs, held that:-^

"The item should be classified considering its essential character. The mechanical properties of the product, some of which are deflection temperature, thermal expansion, ultimate compressive strength, bonding strength, water absorption, thermal resistance, thermal conductivity, tensile strength, tensile modulus, shear strength, sound transmission class, flame spread index, fire resistance, fire propagation etc. All these properties are attributable essentially to the outer component of the commodity, which is aluminium sheet. It is not in dispute that the aluminium composite panel is used as an external lining material for walls of buildings. Therefore, properties like bonding strength, thermal resistance, water absorption, thermal conductivity, fire resistance, sound transmission etc. should be understood with reference to the aluminium sheets. This panel is used to improve water resistance, heat resistance, dust repelling property etc. of a building as also to impart an aesthetic appeal to it. By no stretch of imagination can it be said that these purposes would be attained by the polyethylene sandwiched between the aluminium sheets. The essential character test is, therefore, to be undertaken by considering the aluminium component of the goods in question.

Classification of any composite material has to be determined on the basis of its essential character rather than the percentage of components thereof."~

14. Hon'ble Supreme Court of India in the case of State of Tamil Nadu Vs Pyare Lal Malhotra and Ors. AIR 1976 SC 800 held that where commercial goods, without change of their identity as such goods, are merely subjected to some processing or finishing or are merely jointed together, they may remain commercially the same goods, so long as they retain their identity as goods of a particular type.

15. The applicant has submitted that Aluminium composite panels (impugned goods) are sandwiched type panel consisting of Nontoxic polythene core firmly laminated with thin Aluminium sheet on top and bottom and described the manufacturing process in their application. The applicant listed the uses of the impugned product. Therefore the Aluminium panels, in the ACPs, which are bonded through Nontoxic polythene core retain their identity as Aluminium panels as there is no chemical/Mechanical change in the Aluminium panels bonded through Nontoxic polythene core in the ACPs. The ACPs have enhanced properties due to the polythene core bonded to the Aluminium panels.

16. The tariff Heading 7610 covers: Aluminium structures (excluding prefabricated buildings of heading 9406) and parts of structures (for example, bridges and bridge sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminum plates, rods, profiles, tubes and the like, prepared for use in structures.

17. Alternative tariff headings proposed by the applicant before the Authority for Advance Ruling are 7606 and 7610.

18. According to the applicant their product is used on the outside walls of Commercial buildings for protection from heat and for water proofing, in Railways coach building; in signage Industries for manufacturing of advertisement boards, name boards etc; in passenger ship building industries, in manufacturing of Furniture and Fixture; in automobile Industries in manufacturing of passenger motor vehicles and in interior decoration, etc.

19. The applicant submitted that the subject product can be termed as Aluminium Structure and/or parts thereof and can be covered under the Tariff Heading 7610. From the facts and submissions before us we find that the subject product is not covered by the Tariff Heading 7610 as the ACPs does not come under Aluminium structures and parts of structures (like, bridges and bridge sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, balustrades, pillars and columns); aluminum plates, rods, profiles, tubes and the like, prepared for use in structures.

20. The goods made by applicant is not a structure or part of a structure. The goods at the time of manufacture are in the form of sheets of various dimensions/measurements. As declared by the applicant, the same has to be further cut to different size and shape depending on the shape and size of the structure as the ACPs made are not ready to be used as it is, but the same requires cutting, routing, drilling; etc. process and only then they can be used in structure or fabrication or as the case may be. Thus, the goods made by him are not ready to use in the form in which they are made but needs further processing such as cutting, grooving/routing, bending etc. before being put to use. Therefore, it cannot be said that the impugned goods in the form in which it is presented are 'prepared for use in structure'. Thus, the claim of the applicant to classify the said goods under CTH 7610 is not correct.

21. It is found that the subject product is covered by the decision of the Hon'ble Tribunal in the case of Commissioner of Customs (Imports), Chennai versus ICP India Pvt. Ltd 2018 (7) TMI 546 - CESTAT Chennai. The Hon'ble Tribunal observed as follows: -^

"The Ld.Counsel has produced a sample plate of the impugned goods(ACPs) before us. It is in the form of a sheet and definitely is not a structure, or part of structure falling under 7610. It cannot be used as structure or part of structure and is only plates that are generally used for cladding the surfaces. These are sheets which are cut and grooved to clad surfaces, walls etc. They cannot be termed as structures or parts used for construction."~

22. It is found that in respect of most of the above uses of ACPs, the essential user characteristics are given by the aluminium lamination. For example, when used in construction of buildings by placing them on outside walls, they give protection from heat, water proofing, reduces necessity of painting etc. These properties arise from the aluminium panels and not because of presence of the plastic core as plastic does not possess these properties.

23. The applicant further contended that the subject product can also be classified under the tariff heading 7606. It is found that the tariff Heading 7606 covers ALUMINIUM PLATES, SHEETS AND STRIP, OF A THICKNESS EXCEEDING 0.2 mm.

24. The applicant at page no. 10 of the booklet submitted has given 'ACP Product Information' wherein it is mentioned that the Top and Bottom Aluminium Foil thickness in the subject products ranges up to 0.5 mm. Thus it is seen that the subject product would essentially exceed the thickness of 0.2 mm if treated as aluminium plate.

25. The commodity produced by the applicant contains both aluminium plates as well as plastic sheet which are bonded to each other by a process of manufacture after the aluminium plates as well as the plastic sheets have

come into existence in an anterior manufacturing process and are the only raw materials used in the production of the "Composite Panels." As seen from the ACP product information, the respective weight of aluminium and plastic are in the ratio of maximum 2.75 kgs per m² of aluminium to maximum 5.75 kgs per m² of plastic. The ACPs are sandwich panels comprising two aluminium sheets bonded to a non-aluminium core. The combined thickness of the aluminium sheets in ACP manufactured by the applicant exceeds 0.2mm.

26. As these sandwich panels attribute most of their characteristics to the two aluminium sheets, they have to be classified under the tariff heading 7606 as per Rule 3(b) of the General Rules for the interpretation of the Customs Import Tariff Schedule read with Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017. The same is clarified by judgements issued by various Courts and Tribunals as detailed supra. In view of the above discussions, we hold that the subject product is covered under Heading 7606 of the GST Tariff and the rate of GST on the impugned product is 18% (9% each under CGST and SGST).

27. The applicant has submitted a few case laws in their application but most of the referred case laws are not applicable in the instant case because the facts of the matter in the said case laws are different from the matter at hand.

In view of the above discussions, the question raised by the applicant is clarified as per the below ruling:

Questions	Ruling
1. Whether Aluminium composite panel/sheet is covered under HSN 3920 or HSN 7610 or HSN 7606?	As the Aluminium Composite Panel/Sheet attribute most of its characteristics to the two aluminium sheets from which it is made, the ACP has to be classified under the tariff heading 7606 as per Rule 3(b) of the General Rules for the interpretation of the Customs Import Tariff Schedule read with Notification No.1/2017-Central Tax (Rate) dated 28th June,2017.
2. Rate of SGST and CGST applicable on the same.	9% SGST and 9% CGST

Referring the application to Appellate Authority for Advance Ruling:

Since there is no uniform opinion arrived by the Members of the Authority for Advance Ruling in respect of Question raised by applicant representing Central Tax and State Tax and they have expressed two different views on the issue raised by the applicant on Question No.1, i.e., Whether Aluminium composite panel/sheet is covered under HSN 3920 or HSN 7610 or HSN 7606?, the application filed by M/s. Aludecor Lamination Private Limited, Sy No 19, Ground Floor, Gopal Reddy Estate, Medchal Road, Kompally, Qutubullapur Mandal, Medchal Malkajgiri, Telangana - 500 100 (36AAECA8253G2ZN), is being referred to the Appellate Authority for Advance Ruling for the state of Telangana in terms of Section 98(5) of the CGST/TGST Act, 2017 for hearing and decision on the question on which advance ruling is sought.

(S. V. Kasi Visweshwar Rao)

ADDL. COMMISSIONER (State Tax)

(Sahil Inamdar)

ADDL. COMMISSIONER (Central Tax)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]