



आयुक्त (अपील) का कार्यालय
Office of the Commissioner (Appeals)
केंद्रीय जीएसटी अपील आयुक्तालय - अहमदाबाद
Central GST Appeal Commissionerate- Ahmedabad
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015



☎ 26305065-079 :

☎ 26305136 - 079 :

DIN-20210264SW000000F491

स्पीड पोस्ट

- क फाइल संख्या : File No : V2(49) 3/Ahd-South/2020-21
- ख अपील आदेश संख्या Order-In-Appeal No. **AHM-EXCUS-001-APP-66/2020-21**
दिनांक Date : 29.12.2020 जारी करने की तारीख Date of Issue : 09.02.2021
आयुक्त (अपील) द्वारा पारित
Passed by **Shri Akhilesh Kumar**, Commissioner (Appeals)
- ग Arising out of Order-in-Original No. 07/DC/Div-I/MK/2019-20 dated 14.01.2020
passed by the Deputy Commissioner, Central GST, Division-I, Ahmedabad South.
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant

M/s Sahitya Mudranalaya Private Limited,
55/15, City Mill Compound,
Kankaria Road,
Ahmedabad- 380 022.

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

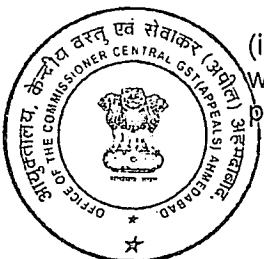
Revision application to Government of India :

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अतत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.



(क) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(A) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ख) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(B) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(c) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-

Appeal to Custom, Excise, & Service Tax Appellate Tribunal:

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35-बी/35-इ एवं वित्त अधिनियम, 1994 की धारा 86 के अंतर्गत के अंतर्गत:-

Under Section 35B/ 35E of Central Excise Act, 1944 or Under Section 86 of the Finance Act, 1994 an appeal lies to :-

(क) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में 2nd माला, बहुमाली भवन, असरवा, गिरधरनागर, अहमदाबाद -380004

(a) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2nd floor, Bahumali Bhawan, Asarwa, Girdhar Nagar, Ahmedabad : 380004. in case of appeals other than as mentioned in para-2(i) (a) above.



(2) The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjudicating authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contained in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपील के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है। (Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग" (Duty Demanded) -

- (i) (Section) खंड 11D के तहत निर्धारित राशि;
- (ii) लिया गलत सेनवैट क्रेडिट की राशि;
- (iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇒ यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील दाखिल करने के लिए पूर्व शर्त बना दिया गया है।

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited, provided that the pre-deposit amount shall not exceed Rs.10 Crores. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."



ORDER-IN-APPEAL

This appeal has been filed by M/s. Sahitya Mudranalaya Private Limited, 55/15, City Mill Compound, Kankaria Road, Ahmedabad- 380 022 (*hereinafter referred to as the 'appellant'*), against Order-In-Original No. 07/DC/Div-I/MK/2019-20 dated 14.01.2020 (*hereinafter referred to as "impugned order"*) passed by the Deputy Commissioner, CGST, Division-I, Ahmedabad South Commissionerate (*hereinafter referred to as the "adjudicating authority"*).

2. The facts of the case, in brief, are that the appellants are engaged in the manufacturing of excisable paper products viz. Question Papers, Cheque Books, Dividend Warrant, Printed Books, Printed Magazines, Answer Books, Mark Sheets, Loose Printed Sheets for Advertisement, OMR sheet, Envelopes, Folder, Letter Pads, Invitation Cards, Various types of Avlokan Arjioni Nodh Book, Waste of papers generated during manufacturing, etc. These goods are falling under Chapter 48 or 49 of the First Schedule of the Central Excise Tariff Act, 1985 (*hereinafter referred to as 'CETA'*). Consequent to an investigation by officers of DGCEI, Ahmedabad, a show cause notice F.No.DGCEI/AZU/36-41/2017-18 dated 19.6.2017, was issued to the appellant, *inter alia* alleging that they had manufactured and cleared *answer books, nodh books, folders, invitation cards, letter heads/pads, envelopes, waste papers*, etc. by wrongly classifying them under Chapter 49 of CETA instead of Chapter 48 of the Act *ibid* and had thus cleared the said goods under nil rate of Central Excise duty. It was contended by the department that since the said products are used for further printing or writing, they would fall under Chapter Heading No. 4820 of CETA as per Chapter Note 14 to Chapter 48 which attract central excise duty @12.5%. Accordingly, the show cause notice issued proposed re-classification of the impugned goods and demand of central excise duty of Rs.49,37,500/- on the clearance of the said goods for the period from 01.06.2012 to 2015-16 along with interest and penalties under Section 11AC of the Central Excise Act, 1944 (*hereinafter referred to as 'the Act'*) read with Rule 25 of the Central Excise Rules, 2002 (*hereinafter referred to as 'the Rules'*) and under Rule 27 and Rule 26 of the Central Excise Rules, 2002 and confiscation of the goods under Rule 25 of the Central Excise Rules, 2002.

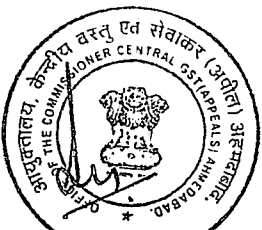
2.1 Since the appellant had continued with the same practice, a further Show Cause Notice dated 19.04.2018, covering the period from 2016-17 to 2017-18 (upto June, 2017) was issued in terms of Section 11A(7A) of the Central Excise Act, 1944, as per details obtained from them, demanding Central Excise duty amounting to Rs.12,39,809/- along with interest and for imposition of penalty under Section 11AC of the Act read with Rule 25 of the Rules and under Rule 27 of the Rules and for confiscation of the goods under Rule 25 of the Rules. This notice dated 19.04.2018 was adjudicated vide the impugned order wherein the adjudicating authority, relying on Commissioner (Appeals), Ahmedabad Order-in-Appeal No.AHM-EXCUS-001-APP-008 to 009-2018-19 dated 24.05.2018 passed in the case of principal SCN dated 19.06.2017, dropped the demand amounting to Rs.12,34,070/- on the goods i.e. Answer Books, Gun Chasasni Arjioni Book and Receipt and Pmt Book with



writing space by holding their classification under Chapter 49 of CETA and confirmed the duty demand amounting to Rs.3,55,478/- along with interest on the remaining goods i.e. Waster Paper, Invitation Card and Envelope, by holding their classification as proposed in the Notice. Penalties were also imposed on the appellant under Section 11AC of the Act read with Rule 25 of the Rules and under Rule 27 of the Rules. Since the impugned goods were not available for confiscation, the adjudicating authority refrained from actual confiscation of the goods.

3. Being aggrieved with the confirmation part of the impugned order, the appellant has filed the present appeal on the following grounds:

- (a) that the adjudicating authority overlooked the basic summation that the appellant is from the printing industry and produces the products which cannot be sold as general stationery in stationery stores but are meant for specific purposes;
- (b) that they have printed various articles for Gujarat Secondary Education Board (GSEB) and Gujarat Secondary & Higher Education Board (GSHEB) as ordered by them and after printing the same, it was sold to them and such articles were never meant for open market. Therefore, it is their contention that their articles so printed will directly fall under CTH 4901 of CETA as it covers all products of printing industry in specific which attract NIL Tariff Rate;
- (c) that from the entry at Chapter heading 48.20, it can be concluded that only stationery like items which are generally and openly sold in market will be classified under 4820, however if any customized printing which is not merely incidental carried out on these items, then all the products as mentioned under Chapter 4820 becomes input on which printing is to be done and the final output will be the product from printing industry and thus classifiable under Chapter 49 of CETA;
- (d) that the adjudicating authority has observed and matched the exact name of the product with specific entry available in heading 4820 of tariff and without appreciating the facts that the Appellant is using these products for further customized printing which is not merely incidental, but having more fiduciary value then the intrinsic value and the article emerged after such printing is having use of exclusive customers and is not the stationery article for general public at large. Therefore, their product cannot be classified under chapter heading 4820;
- (e) that they rely on the case of M/s Data Processing Forms Pvt. Ltd. (Tri.-Ahmd.) [2014 (311) ELT 161 and the case of M/s Comper Products Company Vs. Commissioner of Central Excise, Chennai-II [2018 96 taxmann.com 315 (Chennai-CESTAT);
- (f) that further they would like to rely on landmark decision of the Hon'ble Apex Court in the case of Holostick India Ltd. Vs. Commissioner of Central Excise [2015 (318) ELT 529 (S.C.) on similar issue which has become the basis of issuance of Circular No. 1052/01/2017-CX dated 23.02.2017 by CBEC, where under various products of Printing Industries are clarified to be classifiable under 4901 if the printing is NOT MERELY INCIDENTAL and the ratio of this decision and the clarification from CBEC's circular is squarely applicable to the present case of the appellant as printing on Folder for inserting Certificate and Letter heads/Pads are not merely incidental and then all such goods will continued to be classified under chapter heading No.4901 and



not under chapter heading No.4820. Thus, the ratio of the aforesaid circular is squarely applicable in the appellant's case;

(g) that the waste paper generated while manufacturing exempted products is exempted in terms of Notification No.89/95-C.E. dated 18.05.1995;

(h) that no interest is payable since the demand itself is illegal and unsustainable; and

(i) that since the appellant is not liable for duty, penalty cannot be sustained. Imposition of penalty and interest will be sustainable only if liability of duty or tax exists. The Hon'ble Supreme Court in the case of CCE Vs. HMM Ltd. [1995 (76) ELT 497 (SC)] held that where the demand itself is unsustainable, the imposition of penalty cannot be sustained.

4. Personal hearing in the matter was held on 26.11.2020. Shri Pravin Dhandharia, Chartered Accountant, appeared on behalf of the appellant. He reiterated submissions made in the appeal memorandum.

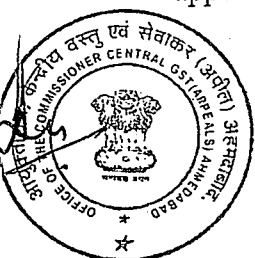
5. I have gone through the facts of the case, the grounds of appeal and the oral submissions made during the course of personal hearing. The issue to be decided in the case is as to whether the classification of the products viz. Waste Paper, Invitation Card and Envelope manufactured and cleared by the appellant, as ordered by the adjudicating authority, and the consequent confirmation of demand on the same along with interest and imposition of penalty is legally correct or otherwise.

6. At the outset, it is observed that the adjudicating authority has passed the impugned order by following the decision of the Commissioner (Appeals), Ahmedabad vide Order-in-Appeal No.AHM-EXCUS-001-APP-008 to 009-2018-19 dated 24.05.2018 in the case of the appellant in respect of the principal SCN dated 19.06.2017, wherein he had upheld the classification and demand on the three products under dispute in the present case as decided in the Order in the case of principal SCN.

7. The products under dispute in the present case manufactured and cleared by the appellant which have been reclassified vide the impugned Order by the adjudicating authority, are as follows:

Sr. No.	Product description	Classified by Appellant under CETSH	Re-classified by the Adjudicating authority under CETSH
1	Waste paper	49019900	48239090
2	Invitation Card	49011020	49090010
3	Envelope	49111090	48171000

8. Against the classification as decided *supra* by the adjudicating authority, the appellant has contended that the adjudicating authority overlooked the basic summation that the appellant is from the printing industry and produces the products, which cannot be sold as



general stationery, in stationery stores but are meant for specific purposes; that as per Circular No.1052/01/2017-Cx dated 23.2.2017 issued by the CBEC, various products of Printing Industries are clarified to be classifiable under 4901 if the printing is NOT MERELY INCIDENTAL and the ratio of the aforesaid circular is squarely applicable in their case. The adjudicating authority's reasoning for re-classifying, is as under viz.

Waste paper:

The waste merit classification under CETSH 48239090 as waste is generated while printing on books/other items, which is thereafter sold as waste. According to the rule for classification of goods, the goods shall be classified if specific description of the goods in CETH/CETSH exists. The description of goods in CETSH 48239090 – Other, covers these goods as waste papers whereas the description of goods in CETH 49019900 does not pertain to it.

Invitation card:

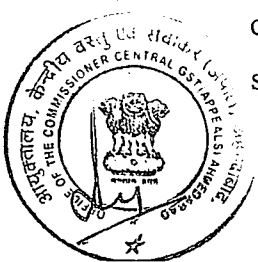
According to the rule for classification of goods, the goods shall be classified if specific description of the goods in CETH/CETSH exists. These goods merit classification under CETSH 49090010 as this is a specific entry for greeting or wedding cards whereas the description of goods in CETSH 49011020 does not pertain to it.

Envelope:

According to the rule for classification of goods, the goods shall be classified if specific description of the goods in CETH/CETSH exists. These goods merit classification under CETSH 48171000 which is a specific entry for envelop whereas the description of goods in CETSH 4911090 does not pertain to it.

The appellant has also made certain submissions to argue that their products do not merit classification under Chapter heading 4820 and has also relied on some case laws in this regard. I do not find any substance in the said contentions as the products under dispute in the present case were never contended or held to be classifiable under the said heading.

9. Now, coming to the products under dispute, it is observed that the product 'waste paper' is nothing but defective printed material, books or other material, which arose due to mis-printing or defective printing which was not usable and thus becomes waste and sold as waste. The appellant had classified this product under CETSH No.49019900. Entry at Chapter heading No.4901 pertains to 'Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets'. It is evident that this entry is very specific and it does not any manner covers miscellaneous products. The appellant has not put forth any argument or contention in support of the classification canvassed by them under the above heading. Whereas on the contrary, the SCN and the impugned order had classified the product under chapter heading No.48239090. The chapter heading No.4823 pertains to 'Other paper, paperboard, cellulose wadding and webs of cellulose, fibers, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres'. As can be seen, this chapter heading covers other articles of paper and it has residual entry at



subheading No.48239090, which cover products of paper which was not covered elsewhere therein. Therefore, it is observed that the product 'waster paper' is more aptly classifiable under CETSH 48239090 as held by the adjudicating authority. It is more so, as the nature of printing, incidental or otherwise, does not have any relevance with respect to waste paper.

9.1 The appellant further contended in this regard that the scrap which is generated while manufacturing process of various books, text books, magazines, journals, annual reports, audit report, etc. are already considered not taxable by DGCEI and also accepted at appellate level under earlier SCN and hence classifiable under Chapter 49 as main product is classifiable therein. It is not forthcoming on what grounds the appellant is making the above contention when the earlier SCN for the previous period clearly demands duty on waste paper and the Order-in-Original in case of the said SCN confirmed the said demand by classifying the product under Chapter heading No.4823. The appellate authority has upheld the said classification and demand of duty on waste paper. The other contention of the appellant that their said product was exempted in terms of Notification No.89/95-CE dated 18.05.199 is also not correct as the proviso to the said Notification very clearly provides that nothing contained in that Notification shall apply to waste, parings and scrap cleared from a factory in which any other excisable goods other than exempted goods are also manufactured. It is apparent in the case of the appellant that some of their products were held to be liable for payment of duty and therefore, they were also clearing excisable goods other than exempted. Hence, their claim for exemption is devoid of merit and is rejected.

10. The product 'Invitation Card' is sought to be classified by the appellant under CETSH No. 49011020 whereas the adjudicating authority had classified the product under CETSH 49090010. As discussed in the previous para, entry at Chapter heading No.4901 pertains to 'Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets'. Whereas, the entry at Chapter heading No.4909 pertains to 'Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings' and the subheading No.4909 0010 specifically pertains to 'Greeting or Wedding cards'. As is evident, the product 'invitation card' clearly falls under this specific entry being in the nature of goods covered therein. As per Rule 3(a) of General Rules for the Interpretation of the First Schedule of CETA, the heading which provides the most specific description shall be preferred to headings providing a more general description. Therefore, it is observed that the product 'Invitation Card' is correctly classifiable under CETSH No.49090010, as is held by the adjudicating authority.

11. So far as the product 'Envelope' is concerned, the appellant has contended its classification under CETSH No. 49111090 which pertained to 'Other printed material'. The adjudicating authority had classified it under CETSH No. 48171000. The chapter heading 4817 pertain to 'Envelops, letter cards, plain postcards and correspondence cards, of paper or



paperboard, boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery' and subheading No.4817 10 00 specifically pertains to 'Envelops'. It is observed that the appellant's contention in the matter basically rests on the premise that since the printing done on the products under dispute being not merely incidental, the products would get classified under Chapter 49 of CETA, which in turn seems to be based on Chapter Note No.12 of Chapter 48 of CETA which reads as under:

"12. Except for the goods of heading 4814 or 4821, paper, paperboard, cellulose, wadding and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of goods, fall in chapter 49."

As per the above Chapter Note, if the printing done on the goods is not merely incidental to the primary use of the goods, then the printed goods fall under Chapter 49. In other words, if the activity of printing done is essential to the primary use of the goods, then they should fall under Chapter 49. Therefore, what is to be ascertained is the primary use of the goods and whether the printing carried out is an essential activity for the said use of the goods. Mere printing on the goods would not take the product out the purview of the Chapter 48. It is a known and undisputed fact the envelopes are generally used as stationery. The explanatory notes given under Chapter heading No.4817 of the HSN clearly states that *"This heading covers paper or paperboard stationery of the kind used in correspondence, e.g. envelopes, letter cards, plain postcards (including correspondence cards). These articles may be printed with addresses, names, trade marks, decorations, crests, initials, etc., merely incidental to their use as stationery."* From the said explanatory notes, it is clear that the product used stationery even after printing would remain classified under Chapter heading 4817 for printing being merely incidental to their use as stationery. It is not the case of the appellant that the impugned product is not used as a stationery. They have also not come up with any cogent arguments/evidences to the effect that the printing done was of essential nature and it was the printing activity done which determines its essential character and use. In other words, the appellant could not establish that the printing done on the said goods is not merely incidental to its use. The contention that the printed product was for use of specific client does not ipso facto make printing not incidental and change the use or nomenclature of the product as a stationery. The primary use of envelope before and after printing remains the same. Therefore, the product 'Envelope' in the present case merits classification rightly under Chapter heading No.4817 and CETSH No.4817 10 00, as was done by the adjudicating authority.

12. In view the discussions made above, I do not find any merit in the contentions raised by the appellant on the classification of the impugned products in the case. The classification of the impugned products as decided by the adjudicating authority is proper and correct and is therefore upheld. Consequently, the demands raised in pursuance of the same are also sustainable and the same are also upheld. When the demand stands confirmed, interest also becomes payable on the amount recoverable. Penalty imposed under Section 11AC of the Act read with Rule 25 of the



Rules in the case also stand justified as the products in question were misclassified by them and cleared without payment of applicable central excise duty. They were also liable for penalty under Rule 27 of the Rules, as they had not taken central excise registration as required under the excise law even after the products under dispute were held to be liable for payment of duty for the past period.

13. Therefore, the impugned order passed by the adjudicating authority is upheld and the appeal filed by the appellant is rejected being devoid of merits.

14. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stand disposed off in above terms.

Akhil Kumar
 29th December, 2020
 (Akhilesh Kumar)
 Commissioner (Appeals)

Date : 29.12.2020

Attested:

Anilkumar P.

(Anilkumar P.)
 Superintendent(Appeals),
 CGST, Ahmedabad.



By Speed Post/ RPAD.

To

M/s. Sahitya Mudranalaya Private Limited,
 55/15, City Mill Compound,
 Kankaria Road,
 Ahmedabad- 380 022.

Copy to:-

1. The Chief Commissioner, Central GST , Ahmedabad Zone..
2. The Principal Commissioner, CGST, Ahmedabad South.
3. The Deputy/Assistant Commissioner, Central GST & C.Ex., Division-I, Ahmedabad South.
4. The Assistant Commissioner (System), CGST HQ, Ahmedabad South.
 (for uploading the OIA)
5. Guard file.
6. P.A. File