

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

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

Members present:

Smt. D. Jayapriya, I.R.S., Additional Commissioner/ Member(CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. T Indira, Joint Commissioner/Member(SGST), Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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Advance Ruling No.115/AAR/2023 Dated:22.11.2023

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed, is communicated.

2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.

5. The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act (herein referred to as an Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

GSTIN Number, if any / User id	33AJCPM7016K1ZA	
Legal Name of Applicant	M/s FLOAT GLASS CENTRE	
Registered Address / Address provided while obtaining user id	130/447, Mint Street, Sowcarpet, Chennai 600079.	
Details of Application	GST ARA – 01 Application Sl.No.56/2022 dated 15.11.2022	
Jurisdictional Officer	Centre : Chennai North Commissionerate;	
Concerned Officer	State : Chennai North Division, Vallalar Nagar Circle	
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Wholesale Business
B	Description (in brief)	The Applicant is engaged in import trading of glass products.
Issue/s on which advance ruling required		Classification of goods or services or both.
Question(s) on which advance ruling is required		Determination of correct classification of Clear Float Glass.

1. M/s Float Glass Centre, 130/447, Mint Street, Sowcarpet, Chennai 600079 (hereinafter referred to as The Applicant), a GST Registrant, is under the Administrative control of Centre and is engaged in import trading of glass products.

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

2.2 The Applicant has submitted that the subject goods i.e. 'Clear Float Glass with Absorbent layer' are used for decorative, industrial and automotive purposes. The subject goods possess an absorbent layer of tin on one side of the glass, which is naturally formed during the course of manufacturing of clear float glass. The manufacturing process is as follows:

- The raw materials such as sand, soda ash, Dolomite, limestone, salt cake etc are mixed in a batch process, then fed together with suitable cullet(waste glass) in a controlled ratio into furnace whether it is heated to approximately 1500degree C.

- Once molten, the temperature of the glass is stabilized to approximately 1200 degree C to ensure a homogenous specified gravity, then the molten glass is fed into a 'tin bath', a bath of molten tine (about 34metre wide, 50metre long and 6 cm deep), from a delivery canal and is poured into a tin bath by a ceramic lip known as spout lip and the amount of glass allowed to pour onto the molten tin is controlled by a gate called tweel.
- Tin is suitable this process as it has a high specific gravity, is cohesive and is immiscible with molten glass; To prevent oxidation of tin, the tin bath is provided with a positive pressure protective atmosphere of nitrogen and oxygen.
- The glass flows into the tin surface forming a floating ribbon with perfectly smooth surfaces on both sides and of even thickness; As the glss flows along with the tin bath, the temperature is gradually reduced to 1100 degree C until approximately 600 degree C, the sheet can be lifted from the tin on to the rollers, which is done at a controlled speed; Top rollers positioned above the molten tine may be used to control both the thickness and width of the glass ribbon.
- Once off the bath, the glass sheets pass through a lehr kiln for about 100m, where it is cooled gradually so that it anneals without strain and does not crack from the temperature change and on exiting the kiln, the glass is cut by machines.

3.1 On interpretation of law, the Applicant stated that –

- The subject goods are 'Clear float Glass', with an absorbent layer, which is fluorescent under UV illumination.
- The subject goods are not wired , not tinted and not green in colour.
- The classification of Float glass falls under Chapter 70051090 as seen below:

7005	Float Glass and Surface Ground or Polished Glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked.
7005 10	- Non-wired glass, having an absorbent, reflecting or non-reflecting layer:
7005 10 10	--- Tinted
7005 10 90	--- Other

- Domestic manufacturers of identical products such as M/s Saint Gobain classify the goods under CTH 7005 1090.
- Majority of imports into India of Float Glass having an absorbent layer have been correctly classified under CTH 7005 1090 as evident from the data collected from the website Zauba and Planetexim.
- They rely on the following case laws/Advance rulings:
 - Commissioner(Appeals) order No.CC(A) CUS/D-II/ICD/PPG/861-863/2022-23 dated 20.07.2022 in the case of M/s Asahi India Glass Ltd.
 - Advance Ruling No. CAAR/MUM/ARC/10/2022 dated 10.05.2022 passed by Customs Authority for Advance Ruling in the case of M/s Suraj Construction.
 - Advance Ruling No. CAAR/MUM/ARC/36/2021 dated 24.09.2021 passed by Customs Authority for Advance Ruling in the case of M/s Chandrakala Associates.

3.2 Based on the above, the Applicant interpreted that the product 'Clear Float Glass' having an absorbent layer(Tin) on one side merits classification under CTH 7005 10 90.

4.1. The jurisdictional Centre authority, vide letter dated 07.2023, has stated that:

- The Applicant has not included the subject goods i.e. 'Clear Float Glass' in their GST Registration under the heading 'Goods/Services dealt' till date.
- The Applicant furnished copies of past Bills of Entry, test analysis report on import clearance, lab certification for the imported subject goods in which it was reported that the goods is a float glass, not tinted, not green glass and not wired glass, an absorbent layer(tin) on one side of the glass.
- The item 'clear float glass(non-wired having an absorbent (tin) non-reflecting layer' imported by the Applicant may be classified under HSN 7005 1090.

4.2. The concerned State authority has not submitted any remarks and hence it is construed that there are no proceedings already decided or are there any pending proceedings with respect to the Applicant.

5.1 The Applicant, after consent, was given an opportunity to be heard in person on 12.10.2023. They requested for adjournment and hence personal hearing was fixed on 15.11.2022. Shri Hari Radhakrishnan, Advocate, appeared for the personal hearing as the Authorised Representative(AR) of the Applicant. He submitted a compilation of relevant Chapter notes and following case laws, apart from those which were submitted along with the application which are in their favor as additional submissions:

- Order-in-Appeal No.808/2022 dated 30.03.2022 of Commissioner of Customs(Appeals)
- Order-in-Appeal No.NOI-Cus-000-App-400-22-23 dated 09.03.2023
- Order-in-Appeal No.NOI-Cus-000-App-401-22-23 dated 09.03.2023
- RTI reply dated 17.07.2023

He stated that test reports given by CSIR, Kolkata, in respect of the goods imported by them affirms that the subject goods are to be classified under 7005 1090. The AR was asked to submit copies of the test report on import clearance, lab certification and copies of earlier bill of entry.

5.2. The AR vide his letters dated 6.11.2023 & 07.11.2023 submitted copies of the following:

- Test report dated 04.02.2019 issued by the Central Glass & Ceramic Research Institute, Kolkata
- Order-in-Appeal No. Seaport C.Cus.II No.206-200/2023 dated 17.03.2023, against which the Applicant has filed an appeal before the Hon'ble CESTAT, Chennai; Bills of Entry No.2700637 dated 01.10.2022, 2634726 dated 27.09.2023, 3027636 dated 25.10.2022 and 3103278 dated 31.10.2022 mentioned in the said OIA.
- Local sales invoices issued by M/s Saint Gobain, showing that the subject goods are classified under the heading 7005 1090.

They also stated that they rely on the decision of the Hon'ble CESTAT, Kolkata in the case of M/s Bagarecha Enterprises Ltd Vs Commissioner of Customs, Kolkata vide Order dated 03.11.2023, wherein it was held that the presence of tin layer on the clear float glass is sufficient to classify the same under the heading 7005 1090.

DISCUSSION AND FINDINGS:

6.1. We have carefully considered the submissions made by the Applicant in their application, the additional submissions made during the personal hearing, the comments furnished by the Centre and State Tax Authorities and perused the documents filed by the Applicant.

6.2 In terms of Section 97(2) of the CGST/TNGST Act, questions on which advance ruling is sought under the Act, falls within the scope of Section 97(2)(a) of the CGST/TNGST Act, 2017, and therefore the application is admissible.

6.3 The question before us for consideration is the appropriate classification of the product 'Clear Float Glass', which is imported and traded by the Applicant. Since the product under question is imported, the Applicant was asked to submit copies of Bills of Entry. On perusal of the same, it is found that the said product is classified under CTH 70052990 in the bills of entry and imported from Malaysia. Whereas, the Applicant is claiming that the subject goods are to be classified under the CTH 7005 1090.

6.4 We find that it is pertinent to see the description of the said classification and relevant chapter notes, which is reproduced under:

HSN Code	Description
7005	Float Glass And Surface Ground Or Polished Glass, In Sheets, Whether Or Not Having An Absorbent, Reflecting Or Non-Reflecting Layer, But Not Otherwise Worked
700510	- Non-Wired Glass, Having An Absorbent, Reflecting Or Non-Reflecting Layer
70051010	---Tinted
70051090	--- Other
	- Other Non-wired Glass
700521	--Coloured Throughout The Mass (Body Tinted), Opacified, Flashed Or Merely Surface Ground
70052110	--- Tinted
70052190	--- Other
700529	--Other

70052910	--- Tinted
70052990	--- Other
700530	- Wired Glass
70053010	--- Tinted
70053090	--- Other

"Notes to Chapter 70

2. For the purposes of headings 7003, 7004 and 7005 :

- (a) glass is not regarded as "worked" by reason of any process it has undergone before annealing ;
- (b) cutting to shape does not affect the classification of glass in sheets ;
- (c) the expression "absorbent, reflecting or non-reflecting layer" means a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) which absorbs, for example, infra-red light or improves the reflecting qualities of the glass while still allowing it to retain a degree of transparency or translucency; or which prevents light from being reflected on the surface of the glass."

6.5 Firstly, the subject goods 'Float Glass' is wired or not wired glass has to be decided. From the product literature submitted, we find that no wire mesh is reinforced in the glass during the manufacturing process. Hence the subject goods is 'Non-wired Glass'. Coming to the next part of the description of the chapter heading 7005 10 i.e. absorbent, reflecting or non-reflecting layer, from the above chapter notes, in specific, under 2(c), we find that what is intended to be classified under the heading 7005 10 is glass coated with an absorbent, reflecting or non-reflecting layer. It is made clear, in this notes that the absorbent layer is a microscopically thin coating of metal or metal oxide which has to be applied during the manufacturing process itself to the glass before the process of annealing, so as to not regard the glass as worked upon, as stated in notes 2(a) above. The Applicant is of the view that tin layer is an absorbent layer, for which they rely on the test report dated 04.02.2019, which was given by Central Glass & Ceramic Research Institute, Kolkata, who presented their report on the samples of Clear Float Glass imported under B/E No.8520077 dated 19.10.2018. Now, the point of consideration before us is that whether the layer of tin present in the float glass will satisfy the requirement as an absorbent layer, reflecting or non-reflecting.

6.6 At this juncture, it is pertinent to see the explanatory notes given in the Harmonised System of Nomenclature(HSN) for the chapter 7005, which is

reproduced under:

"7005:

This heading covers float glass in sheets. Its raw materials are melted in a furnace. The molten glass leaves the furnace and is fed on to a float bath of molten metal. On the float bath, the glass acquires the flatness of a liquid pool and later retains smooth finish of liquid surfaces. Before it reaches the end of the bath, it is cooled to a temperature at which it is hard enough to be passed over rollers without being marked or distorted. From the float bath, the glass moves through an annealing lehr, at the end of which it is cooled and can be cut. This glass is not surface ground or polished; it is perfectly flat as a result of the manufacturing process.

The heading

In the surface grinding.....

The glass of this heading may be coloured or opacified in the mass, or flashed with glass of another colour, during manufacture or may be coated with an absorbent, reflecting or non-reflecting layer."

From the above, it is seen that the first para in the above explanatory notes explains the general manufacturing process of Float glass. In the subsequent paras, the other glass such as surface ground or polished glass are also explained. The fourth para in these explanatory notes, describes how glass can be given a special characteristics such as coloured or opacified or flashed with glass of another colour or coated with an absorbent, reflecting or non-reflecting layer. This shows that there is an additional process beyond the regular manufacture of the float glass or surface ground or polished glass to acquire any special characteristics. A conjoint reading of the Notes to Chapter 70 under 2(c) [reproduced in para 6.4 above] with the explanatory notes to the Chapter 70, makes it evident that a microscopically thin coating of metal or of a chemical compound (for example, metal oxide) is to be done, which will serve as an absorbent, reflecting or non-reflecting layer, which is over and above the regular manufacturing process of float glass.

6.6 We find that from the write-up submitted by the Applicant, the process of manufacture of Float Glass, which is elaborated in para 2.2 above, includes standard steps viz. molten glass flows through a tweel to the molten tin bath, then to lehr at the end of which it is cooled and can be cut; While floating through the molten tin, the glass under the works of gravity and surface tension becomes smooth and flat on both sides, one side of which is known as the tin side and the other side as the air side; Tin is suitable for the float glass process because it has a high specific gravity, is cohesive, is immiscible with molten glass, it remains in liquid state at 600 degree C and usage of tin gives the glass sheet uniform thickness

and very flat surfaces.

6.7 From the above submissions made by the Applicant regarding the manufacturing process of Float Glass, we find that beyond the regular process of manufacture of float glass, no additional coating of any layer, as mentioned in the explanatory notes above, which would serve as an absorbent, reflecting or non-reflecting layer is carried out. The argument of the Applicant that tin layer is the absorbent layer, cannot be accepted as we find that, tin is not used in float glass process with the specific objective of providing any absorbent, reflecting or non-reflecting layer. It is evident that the presence of tin is by default and on account of manufacturing process and not by design or intended to add a layer with any of the properties such as absorption or reflection or non-reflection. Thus the tin layer is incidental to the manufacturing process of float glass and is not done specifically for an intended purpose/use.

6.8 It is seen that there are different types of float glass such as clear, coated, tinted, reflective, low-e float glass, acid-etched float glass etc. All such types of glass which are manufactured under the float process invariably would contain layer of tin on one side, which does not mean that the float glass is to be classified under 7005 10. We are of the view that any float glass said to have an absorbent layer will invariably be coated with a microscopically thin coating of metal or metal oxide, provided the coating is done on-line i.e. during the process of manufacturing of float glass and before the process of annealing, so that the glass isn't regarded as worked. If otherwise, the float glass has to be regarded as one having no absorbent layer.

6.9 The float glass has not undergone any coating process for presence of an absorbent, reflecting or non-reflecting layer and hence cannot be classified under sub heading 7005 10. Further, as it is also not coloured throughout the mass (body tinted), opacified, flashed or merely surface ground, the item would not be covered under the sub heading 7005 21. Hence the appropriate classification for 'clear float glass' would be under the tariff sub heading 7005 29 as 'Others'. At the eight digit level, if the item is 'tinted', it would be classifiable under the CTH 7005 2910 and if the item is 'non-tinted', it would be classifiable under CTH 7005 2990 of the Customs Tariff Act, 1975.

6.10 The Applicant has relied heavily upon the test report dated 04.02.2019, which pertains to samples tested, which were imported vide bills of entry from the year 2018. We find that that test report is applicable to those goods pertaining to those bills of entry and cannot be applied in general. Further, the Applicant has cited many Advance rulings issued by the Customs Authority for Advance Ruling, which are in their favour in respect of the subject issue. Prima facie, Advance Ruling extended to one applicant cannot be generalized and applied to all cases. As per Section 28J(1) of the Customs Act, 1962, such rulings are binding only on the Applicant and jurisdictional Commissioner in respect of that particular applicant. Hence, reliance placed by the Applicant on such rulings are of no avail.

6.11 Moreover, the Applicant has relied upon orders passed by Commissioner of Customs(Appeals). The subject matter in these orders are about goods imported by certain bills of entry. Though the issue is about classification of the product, 'Float Glass', these orders were issued for those particular goods that were imported by certain bills of entry. Hence the decision taken by Commissioner(Appeals) in these orders cannot be applied in general. The RTI relied upon by the Applicant is report showing the number of tests reports issued to Customs Department pertaining to testing of 'clear float glass' and Bill of entry-wise data is given. The other queries in the said RTI are related to the samples of product imported under those Bills of entry. We find that the said RTI can be of any support to the Applicant's claim if the subject product is under any of the Bills of Entry mentioned in the report. The question raised by the Applicant is classification of 'Clear Float Glass' in general and the same has been discussed in the previous paras.

6.12 Without prejudice to all the above, the Applicant is an importer as well as a trader. As per their submissions, they are trading the goods which are being imported by them. On import of the subject goods, that particular consignment of goods are classified under an entry in the Tariff and are assessed by the Customs Authorities. The Applicant also pays the appropriate duty on assessment. Thus, classification of imported goods are done consignment-wise by the Customs Authorities. As a trader, for trading the same goods imported in that particular consignment, the Applicant has to follow the classification approved and assessed by the Customs Authorities for that consignment, for which duty was paid by them agreeing to/accepting the assessment. The question of following a different CTH for trading purposes, for the same goods imported and assessed, does not arise.

In view of the above discussions, we rule as under:

RULING

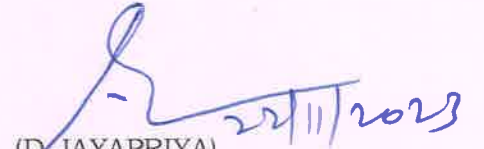
The appropriate classification for 'clear float glass' is under the tariff sub heading 7005 29 as 'Others' and at the eight digit level, if the item is 'tinted', it is be classifiable under the CTH 7005 2910 and if the item is 'non-tinted', it is be classifiable under CTH 7005 2990 of the Customs Tariff Act, 1975.



(T INDIRA)
Member (SGST)



//By RPAD//



(D. JAYAPRIYA)
Member (CGST)

To
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Copy submitted to:-

1. The Principal Chief Commissioner of CGST & Central Excise,
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Chennai - 600 034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Principal Commissioner of GST & C.Ex.,
Chennai North Commissionerate.
4. The Assistant Commissioner (ST)
Vallalar Nagar Circle.
5. Master File / spare - 1.