

THE AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs & Service Tax)
NEW DELHI

13th Day of May, 2016

Ruling No. AAR/CE/15/2016 in

Application No. AAR/44/CE-I/32/2015

PRESENT

Justice Mr V.S. Sirpurkar (Chairman)
Mr. S.S. Rana, Member (R)
Mr. R.S. Shukla , Member (L)

Name & address of the applicant : M/s. Dhunseri Petrochem. Ltd.,
Kolkata.

Commissioner Concerned : Commissioner of Central Excise,
Kolkata-V, Kendriya Utpad Shulk
Bhavan, , 3rd Floor, 180, Shanti Pally,
Rajdangha Main Road, Kolkata-700107.

Present for the applicant : Shri Arvind Baheti, Advocate

Present for the Department : Shri Amresh Jain,
Authorised Representative (AR)

ORAL RULING

(By Sirpurkar J.)

This matter was fixed for admission today, however, with the consent of the parties, we are taking it up for final hearing. Shri Arvind Baheti, the learned counsel appears for the applicant and Shri Amresh Jain appears for the Department.

2. The applicant herein M/s. Dhunseri Petrochem Limited, Kolkata is a public limited company. It is engaged in the manufacture and sale of PET Chips. The

applicant now intends to start a new business whereby the applicant intends to import coal from outside India of various size and all that It intends to do is to crush the same and thereafter supply it to the customers as per their demand. In this, the applicant seeks to recover the crushing charges from those parties who require the crushed coal.

3. The only question which is asked in respect of the Central Excise Act is as to whether the process of crushing of coal would amount to manufacturing activity as understood in the context of Central Excise Act, 1944.

4. The term 'manufacture' is defined in the Act vide Section 2(f). The definition as per the Act is as under:-

“(f) “manufacture” includes any process, -

i) incidental or ancillary to the completion of a manufactured product;

ii) Which is specified in relation to any goods in the Section or Chapter notes of the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986) as amounting to manufacture; or

iii) Which, in relation to the goods specified in Third Schedule involves packing or re-packing of such goods in a unit container or labeling or re-labeling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer, and the word “manufacturer” shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account.”

5. Considering the language of the Section, the activity of crushing the coal would not be covered in the definition of 'manufacture'. All that the applicant

would be doing, would be crushing the coal of different size. However, it is well understood that even after crushing the coal, the coal will not lose its character nor it will be a new product. Therefore, in our opinion, the activity could not be covered as a 'manufacturing activity' nor the crushed coal could be manufactured product.

6. The Revenue also does not seriously claim that this would be covered under the Central Excise Act, 1944. The Excise Commissioner, however, says that it may amount to 'service'. But that is a different issue which does not fall for consideration here. Accordingly, we hold that coal crushing activity would not amount to 'manufacturing activity' and the coal so crushed will not be a manufactured product within the meaning of the definition provided by the applicant. We, accordingly, answer the question in favour the applicant. The application is disposed of.

**Sd/-
(S.S. Rana)
Member (R)**

**Sd/-
(V.S. Sirpurkar)
Chairman**

**Sd/-
(R.S. Shukla)
Member (L)**

**THE AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs & Service Tax)
NEW DELHI**

11th Day of March, 2016

Misc. Order No. AAR/ST/37/2016
in
Application No. AAR/44/ST/19/2014

Name & address of the applicant : M/s. Himland Constructions Pvt. Ltd.,
New Delhi.

Commissioner Concerned : Commissioner of Service Tax
Delhi-II, 37-Nehru Place,
New Delhi-110019

Present for the applicant : Shri N. Venkatraman, Sr. Advocate

Present for the Department : Shri Amresh Jain,
Authorised Representative (AR)

ORDER

Put up the matter on 13th May, 2016

**Sd/-
(S.S. Rana)
Member (R)**

**Sd/-
(V.S. Sirpurkar)
Chairman**

**Sd/-
(R.S. Shukla)
Member (L)**

**THE AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs & Service Tax)
NEW DELHI**

10th Day of July, 2015

Misc. Order No. AAR/ST/02/2015

in

Application No. AAR/44/ST/19/2014

Name & address of the applicant : M/s. Himland Constructions Pvt. Ltd.,
New Delhi.

Commissioner Concerned : Commissioner of Service Tax
Delhi-II, 37-Nehru Place,
New Delhi-110019

Present for the applicant : Shri Puneet Agarwal, Advocate

Present for the Department : Shri G.K. Dixit,
Addl. Commissioner (AR)

ORDER

Arguments remained inconclusive to be held on 28th August, 2015.

**(S.S. Rana)
Member**

**(V.S. Sirpurkar)
Chairman**

**THE AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs & Service Tax)
NEW DELHI**

20TH Day of February, 2015

Misc. Order No. AAR/Cus/07/2015 in

Application No. AAR/44/CUS/05/12

Name & address of the applicant : M/s. Inter Globe Aviation Limited,
Gurgaon.

Commissioner Concerned : Commissioner of Customs
(Import), Nhava, Sheva, Maharashtra.

: Commissioner of Customs (Import)
Mumbai.

: Commissioner of Customs (Central
Excise & Service Tax), Hyderabad-II.

Present for the applicant : Shri Narasimhan, Advocate

Present for the Department : Shri G.K. Dixit,
Addl. Commissioner (AR)

ORDER

Shri G.K. Dixit appearing on behalf of the Revenue says that he is not well today and he has informed the learned counsel appearing for the applicant who has no objection to the adjournment. Hence, adjourned to 24th April, 2015.

**Sd/-
(S.S. Rana)
Member**

**Sd/-
(V.S. Sirpurkar)
Chairman**

Advocate

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**THE AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs & Service Tax)
NEW DELHI**

16th Day of January, 2015

A.A.R. No.44/CUS./01/ 2012

PRESENT

Justice V.S. SIRPURKAR (Chairman)

Name & address of the applicant : M/s. Polaris India Pvt. Ltd.
New Delhi.

Present for the applicant :

Present for the Department :

ORDER

**(V.S. Sirpurkar)
Chairman**