

# S.MURUGAPPAN

ADVOCATE, HIGH COURT

**ASSISTED BY:**

K.NANCY, B.COM., B.L. (HONS.),  
M.S.HARSHA PRABHU, L.L.M.

**CONSULTANTS:**

GST, CUSTOMS, FOREIGN TRADE LAWS,  
FOREIGN EXCHANGE MANAGEMENT ACT.

## OPINION

1. **Querist :**

M/s. Siddhi Vinayak Enterprises,  
G-3, B, 11<sup>th</sup> Street,  
Sector - 1, Ambattur IE,  
Chennai – 600 058.

2. **Facts :**

2.1 Querist has imported 24.340 M.T. of “Printed Rejected Mixed Kraft paper in Rolls” under HS Code No.4804 4900. Querist has been importing this regularly prior to 2019, last import being in December 2019. Querist supply this paper, as it is a strong Kraft, to Newspaper and periodicals to pack their magazines for railway parcel. There was a supply chain disruption due to Covid 19 and the querist resumed importing this consignment. On arrival, the consignment was subjected to 100% check and was asked to verify that it is as per declaration and more particularly, if it is “Stock lot” which is prohibited as per DGFT Notification No.45/2015-20 dated 31-01-2020. The EO after much hesitation and delay has given a declaration thus “Open examination done in presence of AC/DC 100%. Printed rejected kraft as per declaration verified actual weight. The goods appeared to be rejected printed stock in roll. The goods appeared to be coated and/or printed on side. Appears to be used for packing. Appears to be stock lot of 4810 which is prohibited.”

2.2 Based the above report, which is internal, customs have raised a query on the querist that “Shed report has reported that on first examination, the goods have been found to be stock lot of 4810 and appears prohibited for importation. Please Clarify” Query Raised by: 10XXXX Group: 2K.

3. **Query :**

In the above background, the querist would like to know what clarification can be provided to the customs department.

4. **Opinion :**

4.1 The goods are described in the sales invoice as “Printed Rejected Mixed Kraft Paper in Rolls”. The invoice also mentions the HS Code as “4804 4900”. Samples of the product under reference cut from the rolls were also shown by the querist for providing the opinion. It may be seen that the scope of heading 4804 is restricted to the extent that it will not cover ‘printed’ paper or paperboard. 4804 of the First Schedule to the Customs Tariff Act reads as follows:



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“Uncoated kraft paper and paperboard, in rolls or sheets, other than that of heading 4802 or 4803”

In this regard, the following notes to Chapter 48 will be relevant.

“3. Subject to the provisions of Note 7, headings 4801 to 4805 include paper and paperboard which have been subjected to calendering, super-calendering, glazing or similar finishing, false water-marking or surface sizing, and also paper, paperboard, cellulose wadding and webs of cellulose fibres, coloured or marbled throughout the mass by any method. Except where heading 4803 otherwise requires, these headings do not apply to paper, paperboard, cellulose wadding or webs of cellulose fibres which have been otherwise processed.”

“7. Except where the terms of the headings otherwise require, paper, paperboard, cellulose wadding and webs of cellulose fibres answering to a description in two or more of the headings 4801 to 4811 are to be classified under that one of such headings which occurs last in numerical order in this Schedule.”

4.2 A perusal of the above notes will show that once the kraft paper is printed, then, it goes out of heading 4804 as the paper has been further processed by way of printing.

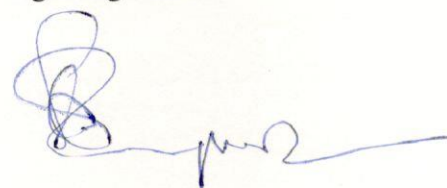
4.3 There are two other possible headings for the printed paper / paperboard viz. 4810 and 4811. These headings read as follows:

**4810** Paper and paperboard, coated on one or both sides with kaolin (china clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size

**4811** Paper, paperboard, cellulose wadding and webs of cellulose fibres, coated, impregnated, covered, surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809 or 4810

4.4 From the above, it can be seen that paper or paperboard, including printed paper/paperboard if coated on one or both sides with China clay or other inorganic substances, then they will fall under 4810. Paper or paperboard which are otherwise coated or printed in rolls as well as cut sheets fall under 4811. While scope of heading 4810 is extended to coated paper / paperboard with coating by China clay or other inorganic substances, Heading 4811 covers paper/paperboard coated otherwise or printed or subjected to other processes mentioned in the main heading.

- 4.5 In the present case, the querist has claimed that the kraft paper under reference is not coated but only printed. It was also clarified that while printing on kraft paper for producing packaging material at the initial phase it will take time for all the colours to be aligned and printing to occur in proper form. As such, according to the querist, the initial printing in rolls will be discarded and supplied for packaging purposes as intended in the present case.
- 4.6 Whether the kraft paper under reference is coated or not is a question of fact and that can be established only by carrying out appropriate tests on the subject paper.
- 4.7 If it is established that there is no coating of any kind then, 4810 will not be relevant.
- 4.8 It must be noted that stock lot of paper / paperboard is prohibited for import in terms of DGFT Notification No.45/2015-20 dated 31.01.2020. However, it is to be noted that such paper and paperboard refers to the products falling under 4810 only. Products falling under 4810 and at the same time in the form of stock lot will be prohibited for import. DGFT has issued a Trade Notice No.8/2020-2021 dated 04.05.2020 where they have clarified the scope of stock lot. A copy is attached for ready reference. In para 2(c) it is stated in the above Trade Notice that if the whole imported paper consignment is without description for each category of paper it is a Stock lot. Therefore, additionally, it can be inferred that even if the product falls under 4810 and if the consignment consists of various categories of paper mentioned at six-digit / eight-digit level under 4810, then, such a consignment will qualify to be referred to as 'Stock lot'. In the present case, it is seen that the goods are described only as 'kraft paper printed and mixed lot'. From the description it appears that there is only one category of kraft paper. Subject to verification of this, even if the goods fall under 4810, they may not be covered by the description "Stock lot".
- 4.9 If the paper under reference is not coated, but it is only printed, then, the appropriate heading for these papers will be 4811. In the HSN Explanatory Notes under 4811 the following is stated, as within the scope of 4811.
- “Paper, paperboard, cellulose wadding and webs of cellulose fibres, coloured on the surface with a single colour or with different colours, including surface marbled and design printed paper, and those printed with motifs, characters or pictorial representations merely incidental to their primary use and not constituting printed matter of **Chapter 49** (see Note 12 and General Explanatory Note to this Chapter : coloured or printed paper and paperboard).
- 4.10 Therefore, in our view, subject to confirmation that the paper is not coated, the appropriate classification should be under 4811 9099 at eight-digit level.



4.11 Considering the above, the querist can reply customs after confirming by test whether the paper under reference is coated or only printed.

(i) If they are coated, the following reply can be provided.

“The scope of what is stock lot is clarified by DGFT in Trade Notice No.8/2020-2021 dated 04.05.2020. In particular, para 2(c) states ‘If the whole imported paper consignment is without description for each category of paper it is a Stock lot’. We have imported kraft paper which is printed and there are no other categories of paper. Hence, these will not be within the scope of ‘Stock lot’ and hence the goods may be released.”

(ii) If the paper is not coated, the following reply can be provided.

“Only coated paper falls under 4810. In the present case, these are not coated but only printed. Though we have indicated classification under 4804, printed kraft paper appears to be classifiable under 4811 9099 and accordingly, these are not prohibited/restricted for import. Hence, we request you to release the goods.”



**S. MURUGAPPAN**

sm/ss

**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.