

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, 8th floor, H-Wing, Mazgaon, Mumbai – 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AABCS9352H1Z4
Legal Name of Applicant		SAFSET AGENCIES PRIVATE LTD (Astaguru.com)
Registered Address/ Address provided while obtaining user id		FGP Centre, Commercial Union House, 3rd Floor, 9, Wallace Street, Fort, Mumbai, Maharashtra 400001
Details of application		GST-ARA, Application No. 86 Dated 16.10.2018
Concerned officer		Dy. Commissioner of S.T.(E-626) LTU-1, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Retail Business, Service provision
B	Description (in brief)	Applicant is an auctioneer dealing in various goods such as paintings, vintage collectibles, sculptures, classic miniatures paintings, fine writing instruments, vintage timepieces, celebrity memorabilia, aristocratic jewellery and vintage cars (hereinafter referred to as "goods").
Issue/s on which advance ruling required		(i) classification of goods and /or services or both (iii) determination of Yes time and value of supply of goods or services or both. (vii) whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term.
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.



PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by SAFSET AGENCIES PRIVATE LTD ,(Astaguru.com) , the applicant, seeking an advance ruling in respect of the following questions.

- 1.1. *Whether Applicant is dealing in second hand goods and tax is to be paid on the difference between selling price and purchase price as stipulated in Rule 32 (5) of CGST Rules, 2017?*
- 1.2. *The classification and HSN code of goods listed in table given in "Issues for Determination" and GST rates applicable to such goods.*

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

02 FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

STATEMENT OF THE RELEVANT FACTS HAVING A BEARING ON THE QUESTION(S) ON WHICH THE ADVANCE RULING IS SOUGHT

1. This Application is being filed by **Safset Agencies Private Limited (Astaguru.com)** ("Applicant").
2. Applicant, having Good and Service Tax ("GST") Registration No. 27AABCS9352H124.
3. Applicant is an auctioneer dealing in various goods such as paintings, vintage collectibles, sculptures, classic miniatures paintings, fine writing instruments, vintage timepieces, celebrity memorabilia, aristocratic jewellery and vintage cars (hereinafter referred to as "goods").

Applicant usually procures the abovementioned goods on approval basis from unregistered as well as registered persons ("sellers"). Applicant displays all such goods on its website and conducts the auction sale in respect of such goods. The goods are sold to the highest bidder in the auction.

5. The standard business process of Applicant is as under:

- (i) Intending seller and Applicant sign an 'on approval contract wherein intending seller agrees to sell his goods to the applicant on approval basis at mutually agreed price.
- (ii) On receipt of goods on approval and being satisfied with quality and authenticity of the goods, Applicant uploads the details of goods for online auction.
- (iii) The goods remain in the possession of Applicant during the mutually agreed period of approval. Applicant has right to retain or return the goods during the approval period. Either approval is granted by Applicant within 6 months from the date on which it receives the said goods and purchases the same at mutually agreed price or returns the said goods to the intending seller.

- (iv) After conveying the approval and confirming purchase of goods, Applicant sells the goods to buyer in auction.

- (v) Applicant attracts buyers for the auction in the following manner:

- a. It maintains a list of buyers who have previously interacted and/or purchased any goods from the Applicant by participating in the auction.

Whenever the Applicant organizes any auction, it sends an invitation to all such buyers inviting them to participate in the preview wherein goods to be auctioned are displayed. Thereafter the buyers can choose whether they want to participate in the auction or not.

b. Applicant advertises their auction on various mediums such as social media, hoardings, newspaper, etc. Such other persons can also participate in the preview event subject to them being registered with the Applicant.

(vi) A person who wants to participate in the online auction will be required to register themselves on the Applicants website. On receipt of application, the Applicant is at the liberty to accept or reject the registration application.

Once the person is registered, they can freely participate in the auction.

(vii) The highest bidder in the auction only has a claim over the goods and the Applicant reserves rights to cancel the transaction even after the fall of hammer.

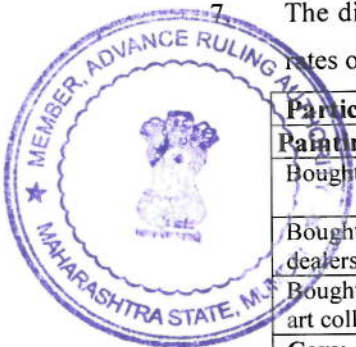
(viii) The ownership of the goods is transferred after the sale invoice is issued to buyer by the Applicant.

6. The Applicant mainly deals in following:

- Paintings procured from individual art collectors, artists or other art dealers.
- Old jewellery, cars, watches, etc. including vintage cars.
- Memorabilia/Collectibles such as clothing, sport equipment, spectacles, accessories, autographs of celebrities and renowned personalities.
- Antiques consisting mainly of antique books, jewellery, watches and other articles.

7. The different practices prevailing in the trade as to classification, valuation and applicable GST rates on above referred goods are summarized as under:

Particulars	Alternative 1	Alternative 2
Paintings:		
Bought from artist	12% on sale value (HSN Code: 9701)	12% on sale value (HSN Code: 9701)
Bought from other art dealers	12% on sale value (HSN Code: 9701)	12% on sale value (HSN Code: 9701)
Bought from individual art collectors	12% on sale value (HSN Code: 9701)	12% on difference between sale price and second hand goods as provided under Rule 32(5) of CGST Rules.
Cars:		
New cars	28% on sale value (HSN Code: 8703)	28% on sale value (HSN Code: 8703)
Old cars	18% on sale value (HSN Code: 8703) Based on Notification No. 08/2018 dated 25.01.2018)	18% on difference between sale price and purchase price considering car as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: 8703)
Jewellery:		
New Jewellery	3% on sale value (HSN Code :7113)	3% on sale value (HSN Code :7113)
Old Jewellery	3 % on sale value (HSN Code :7113)	3% on difference between sale price and purchase price considering jewellery as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: 7113)
Antique Jewellery of an age exceeding one hundred years	12% on sale value (HSN Code: 9706) or 12% on difference between sale price and purchase price considering jewellery as second hand goods as provided under Rule 32(5) of CGST Rule. (HSN Code: 9706)	3% on sale value (HSN Code: 7113) or 3% on difference between sale price and purchase price considering jewellery as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code:7113)



Watches:		
New Watches	18% on sale value (HSN Code: 9101/9102)	18% on sale value (HSN Code: 9101/9102)
Old Watches	18% on sale value (HSN Code: 9101/9102)	18% on difference between sale price and purchase price considering watches as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: 9101/9102)
Collectibles	18% on sale value (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)	18% on difference between sale price and purchase price considering watches as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)
Antique Watches of an age exceeding one hundred years	12% on sale value (HSN Code: 9706) or 12% on difference between sale price and purchase price considering watches as second hand goods as provided under Rule 32(5) of CGST Rules.	18% on sale value considering watches as normal watches. (HSN Code: 9101/9102) or 18% on difference sale price and purchase price considering watches as second hand second hand goods as provided under Rule under Rule 32(5) of CGST Rules. (HSN Code: 9101/9102)
Books:		
New books	0% on sale value (HSN Code: 4901)	0% on sale value (HSN Code: 4901)
Old books	0% on sale value (HSN Code: 4901)	0% on sale value (HSN Code: 4901)
Collectibles	18% on sale value (HSN Code: and Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)	18% on difference between sale price and purchase price considering collectibles as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)
Antique Books	12% on sale value (HSN Code: 9706) or 12% on different between sale price and purchase price considering books as second hand goods as provided under Rule 32(5) of CGST Rule. (HSN Code: 9706)	0% on sale value (HSN Code: 4901)
Collectibles/Memorabilia:		
Articles such as clothing, sporting equipments, books, autographs, photographs and such other items	Applicable rate of said items	Residuary Rate (18%) by treating collectibles and memorabilia as separate class of goods (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI) or Applicable rate on difference between sale price and purchase price treating watches as second hand goods as provided under Rule 32(5) of CGST Rules.

8. Applicant is confused as to classification and applicable GST rates on goods dealt with by it and hence approached Hon'ble Advance Ruling Authority for the ruling.

ISSUE FOR DETERMINATION

Applicant feels that goods dealt with by it are classifiable and valued in the manner stated in the following table.

Applicant seeks advance ruling in respect of determination of classification, valuation and GST rates applicable to following goods dealt with by it:

Particulars	Alternative 1	Alternative 2
Paintings:		
Bought from individual art collectors	12% on sale value (HSN Code: 9701)	12% on difference between sale price and purchase price considering painting as second hand goods as provided under Rule 32(5) of CGST Rule (HSN Code: 9701)
Cars:		
Old cars	18% on sale value (HSN Code: 8703) Based on Notification No. 08/2018 dated 25.01.2018)	18% on difference between sale price and purchase price considering car as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: 8703)
Jewellery:		
Old Jewellery	3 % on sale value (HSN Code :7113)	3% on difference between sale price and purchase price considering jewellery as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: 7113)
Antique Jewellery of an age exceeding one hundred years	12% on sale value (HSN Code: 9706) or 12% on difference between sale price and purchase price considering jewellery as second hand goods as provided under Rule 32(5) of CGST Rule. (HSN Code: 9706)	3% on sale value (HSN Code: 7113) or 3% on difference between sale price and purchase price considering jewellery as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code:7113)
Watches:		
Old Watches	18% on sale value (HSN Code: 9101/9102)	18% on difference between sale price and purchase price considering watches as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: 9101/9102)
Collectibles	18% on sale value (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)	18% on difference between sale price and purchase price considering watches as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)
Antique Watches of an age exceeding one hundred years	12% on sale value (HSN Code: 9706) or 12% on difference between sale price and purchase price considering watches as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code: 9706)	18% on sale value considering watches as normal watches. (HSN Code: 9101/9102) or 18% on difference sale price and purchase price considering watches as second hand second hand goods as provided under Rule under Rule 32(5) of CGST Rules. (HSN Code: 9101/9102)
Books:		
Collectibles	18% on sale value (HSN Code: and Residuary Entry - Serial No. 453 of	18% on difference between sale price and purchase price considering collectibles as second hand goods as provided under Rule 32(5) of CGST Rules. (HSN Code:



	Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)	Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)
Antique Books	12% on sale value (HSN Code: 9706) or 12% on difference between sale price and purchase price considering books as second hand goods as provided under Rule 32(5) of CGST Rule. (HSN Code: 9706)	0% on sale value (HSN Code: 4901)
Collectibles/Memorabilia:		
Articles such as clothing, sporting equipments, books, autographs, photographs and such other items	Applicable rate of said items	Residuary Rate (18%) by treating collectibles and memorabilia as separate class of goods (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI) or Applicable rate on difference between sale price and purchase price treating watches as second hand goods as provided under Rule 32(5) of CGST Rules.

STATEMENT CONTAINING THE APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAY BE, IN RESPECT OF THE QUESTION(S) ON WHICH THE ADVANCE RULING IS SOUGHT

SUBMISSIONS OF THE APPLICANT

- 1.1. Rule 32(5) of Central Goods and Service Tax Rules, 2017 ("CGST Rules") deals with determination of value of second hand goods.
- 1.2. Rule 32(5) of CGST Rules provides that where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e. used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the **difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.**
- 1.3. The term "second hand goods" as per Rule 32(5) of CGST Rules would mean used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on purchase of such goods.
- 1.4. All the goods listed in table given in "Issues for Determination" are coming for sale after being used by the seller or the earlier owners of the goods. Applicant does not perform any process on such goods which changes the nature of such goods.
If the goods are procured from registered dealer, Applicant will not claim input tax credit of GST charged by the seller.
If the goods are procured from unregistered persons, there is no question of claiming any input tax credit.



- 1.5. In view of what is stated above, Applicant humbly submits that the goods for which advance ruling is sought are "second hand goods" as defined under Rule 32(5) of CGST Rules. Hence, same should be valued at difference between the sale price and the purchase price. GST should be charged at applicable rate on such difference only and not on sale value/transaction value of such goods.

PRAYER

Applicant fervently prays to your Honor to pronounce advance ruling on the following questions after granting us opportunity of being heard:

- 1.1. Whether Applicant is dealing in second hand goods and tax is to be paid on the difference between selling price and purchase price as stipulated in Rule 32 (5) of CGST Rules, 2017?
- 1.2. The classification and HSN code of goods listed in table given in "Issues for Determination" and GST rates applicable to such goods.

Further Submissions before Hon'ble Advance Ruling Authority (GST Maharashtra)

Facts and Background:

1. Applicant has filed an application for advance ruling on 16.10.2018 along with statement of facts, issues for determination and the submissions.
2. Pursuant to personal hearing on 14.11.2018, Hon'ble Advance Ruling Authority hereinafter referred as to as "ARA") has accepted Applicant's application for further processing and final hearing.
3. Applicant has sought advance ruling on following two issues:
 - a. **Classification:**
 - i. Antique jewellery - whether classifiable under HSN Code 9706 attracting 12% GST or HSN Code 7113 attracting 3% GST?
 - ii. Antique Watch - whether classifiable under HSN Code 9706 attracting 12% GST or HSN Code 9101/9102 attracting 18% GST?
 - iii. Antique Book - whether classifiable under HSN Code 9706 attracting 12% GST or HSN Code 4901 attracting 0% GST?
 - iv. Collectibles and Memorabilia - whether classifiable under relevant HSN Code attracting GST at applicable rate of the goods sold as memorabilia or treating it as separate class of goods falling under Residuary Entry - Serial No. 453 of Schedule III i.e. Goods which are not specified in Schedule I, II, IV, V or VI?

Relevant rate schedules are enclosed herewith at **Annexure 1**

b. Whether Applicant is entitled to value following goods in accordance with Rule 32(5) of Central Goods and Service Tax Rules, 2017 (hereinafter referred to as "CGST Rules") read with Section 15(5) of Central Goods and Service Tax Act (hereinafter referred to as "CGST Act"):

- i. Paintings bought from individual collectors and connoisseur
- ii. Old Cars, old jewellery and old watches
- iii. Antique jewellery, watches, books and other antique articles
- iv. Collectibles and Memorabilia

Extract of relevant rule is enclosed herewith at **Annexure 6.**

4. The Applicant specifically clarifies that following are not subject matter of the present Advance ruling:

- New cars
- New jewellery
- New watches
- New books
- Paintings bought from Painter (artist) or other art dealers
- Any other new goods (not used or second hand goods)

The Applicant is presently paying and will continue to pay GST at applicable rate on full sale value on supply of such new goods and shall take credit of input tax paid on purchase of such goods.

Submissions:

- The Applicant hereby relies and reiterates submissions made by it in the application filed with ARA on 16.10.2018.
- Further submission as to classification of goods dealt by Applicant:
 - Certain goods sold by applicant apparently fall into more than one HSN codes and classification. The applicant seeks advance ruling in respect of classification of such goods:

Particulars	Alternative 1	Alternative 2
Jewellery:		
Antique Jewellery of an age exceeding one hundred years	12% on sale value (HSN Code: 9706)	3% on sale value (HSN Code: 7113)
Watches:		
New Watches	18% on sale value (HSN Code: 9101/9102)	18% on sale value (HSN Code: 9101/9102)
Antique Watches of an age exceeding one hundred years	12% on sale value (HSN Code: 9706)	18% on sale value considering watches as normal watches. (HSN Code: 9101/9102)
Books:		
Antique Books of an age exceeding one hundred years	12% on sale value (HSN Code: 9706)	0% on sale value (HSN Code: 4901)
Other Antiques:		
Other than jewellery, watches and books such as idols, sculptures, paintings, furniture, etc., of an age exceeding one hundred years	12% on sale value (HSN Code: 9706)	Applicable rate of said items (HSN of said items)
Collectibles/Memorabilia:		
Articles such as clothing, sporting equipments, books, autographs, photographs and such other items	Applicable rate of said items (HSN on said items)	Residuary Rate (18%) by treating collectibles and memorabilia as separate class of goods (HSN Code: Residuary Entry - Serial No. 453 of Schedule III - Goods which are not specified in Schedule I, II, IV, V or VI)

The relevant extract of Notification No. 1/2017 - Central Tax (Rate) dated 28.06.2017 specifying the HSN codes and the tax rate of respective goods is enclosed herewith at **Annexure 1.**

Notification No. 8/2018 - Central Tax (Rate) dated 25.01.2018 prescribes the tax rate for old and used car. The copy of said notification is **enclosed at Annexure 2**.

b. Explanation (iv) to the Rate Notification No. 1/2017 - Central Tax(Rate) dated 28.06.2017 clearly states that the rules for interpretation of the first schedule to the Customs Tariff Act, 1975 shall, so far as may be, apply to the interpretation of this notification.

The relevant extract of said notification is **enclosed at Annexure 3**.

C. Rule 3(a) of Customs Tariff Act, 1975 is relevant in Applicant's case. It provides that the heading providing most specific description shall be preferred to heading providing a more general description.

The copy of relevant extract of Customs Tariff Act, 1975 is enclosed herewith at **Annexure 4**.

d. Applicant humbly submits as under:

i. The term "antique" is defined under section 2 (1)(a) of Antiquities and Art Treasures Act, 1972 as any article, object or thing which has been existence for not less than one hundred years. The extract of relevant definition is enclosed herewith at **Annexure 5**.

Since there is a specific entry for "Antiques of an age exceeding one hundred years" in the rate schedule prescribed by Notification 1/2017 Central Tax(Rate), the same should prevail over general entries prescribing HSN code and rates for jewellery, watches, books and other items sold as antiques.

ii. Since there is no specific entry for collectibles and memorabilia in rate schedules as specified by Notification No. 1/2017- Central Tax (Rate), HSN code and rate applicable to specific goods (sold as collectibles and memorabilia) should be applied. The same should not be classified under residuary entry no. 453 of Schedule III as there is specific entry for the goods sold.

For example, cricket bat of Sachin Tendulkar (with his autograph thereon) is sold or costume of film character (Actress Deepika Padukones costume in film "Padmavat") is sold, the same should be classified under "sports equipment" or "clothes/ garments". The same should not be classified under residuary entry as there are specific entries in the rate notification for the said goods.

3. Further submissions as to applicability of Rule 32(5) of CGST Rules read with Section 15(5) of CGST Act:

a. Section 15 of CGST Act prescribes value of taxable supply. Section 15(5) of CGST Act reads as follows:

"Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed"

The government has notified Rule 32 of CGST Rules prescribing the manner of determination of value in respect of specified goods and services.

b. Rule 32(5) of CGST Rules provides that where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e. used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase

of such goods, the value of supply shall be the difference between the selling **price and the purchase price and where the value of such supply is negative, it shall be ignored.**

As per Rule 32(5) of CGST Rule, the term "second hand goods" means used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on purchase of such goods.

Extract of relevant rule is enclosed herewith at Annexure 6.

c. Rule 32(5) of CGST Rules applies to the "second hand goods" or "used goods". The term "second hand goods" or "used goods" is not defined in the CGST Act or CGST Rules. It is not defined under General Clauses Act. Hence, one has to go by the dictionary meaning or common parlance meaning of the word "second hand goods" or "used goods". The meaning of the terms "second hand goods" and "used goods" as per various dictionaries are as under:

Second Hand Goods:

- i. Second-hand things are not new and have been owned by someone else (Collins Dictionary)
- ii. having had a previous owner; not new (English Oxford Dictionary)
- iii. not new; having been used in the past by someone else (Cambridge English Dictionary)
- iv. acquired after being used by another (Merriam Webster)
- v. previously used or owned (Dictionary.com)

Used Goods:

- i. already owned or put to a purpose by someone else; not new (Cambridge Dictionary)
- ii. that has endured use (Merriam Webster)

d. Your good office will appreciate that as an auction dealer our main business is to sell "personal effects" such as jewellery, cars, watches, paintings, antiques, collectibles and memorabilia, etc. Most of these are articles used by the original owners or persons selling such goods to Applicant. The antiques, collectibles and memorabilia by very nature is old and used items. Applicant is not carrying out any processes on such goods before selling it.

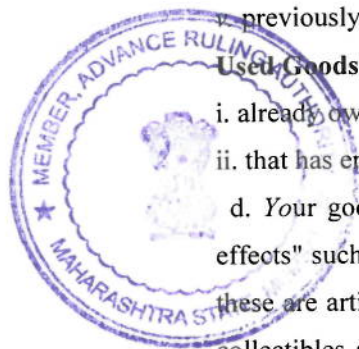
e. Applicant sells the goods [listed in point 3(b) of Facts and Background], which have been used by the seller or the earlier owners of such goods. Applicant does not perform any process on such goods, which changes the nature of such goods.

Applicant does not claim input tax credit of tax paid on procurement of such goods.

f. Rule 32(5) of CGST Rules clearly and unambiguously applies to person dealing in second hand goods. As stated in facts of case, Applicant is dealing in old jewellery, cars, watch, books, paintings, antiques, etc.

Applicant humbly submits that it is settled jurisprudence principle that when the words of a statute are clear, plain or unambiguous i.e. they are reasonable susceptible to only one meaning, the courts are bound to give effect to that meaning irrespective of consequences. Moreover, if the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. This rule of interpretation is followed in plethora of judgments. The few such judgments are as under:

- i. Nelson Motis v/s Union of India (AIR 1992 SC 1981)



- ii. Gurudevanti VKSSS Maryadit V/s State of Maharashtra (AIR 2001 SC 1980)
- iii. Swedish Match AB v/s Securities and Exchange Board of India (AIR 2004 SC 4219)
- iv. Government of Andhra Pradesh V/s Road Rollers Owners Welfare association [2004 (6) SCC 210]

In light of above submissions, Applicant humbly submits that valuation of supply of old cars, old watches, old jewellery, old books, paintings, antiques and memorabilia should be done in accordance with Rule 32(5) of CGST Rules.

Further Submissions on 10.01.2019

A. Nature of Applicants business in brief:

As explained in course of personal hearing, Applicant is an auctioneer predominantly dealing in personal effects received from the users or collectors, Usually market is divided into two main segments i.e. primary market and secondary market.

A primary market refers to when any goods comes to the market for the first time at a retail shop or any other way. This is the time when the price for the goods is established for the first time.

Once the goods are purchased from the primary market and when such purchaser (whether a collector or consumer} decides to sell it, such goods enters the secondary market as used goods or second hand goods.

Applicant is a player in the secondary market. Applicant, being an auctioneer dealer, sells art works, personal effects or such other used goods in an auction. The goods sold by applicant form part of the secondary market, as these goods have already been purchased from the primary market.

B. Classification issue:

Applicant has made detailed submissions on classification of all goods dealt by it in written submissions filed in the course of personal hearing. The applicant reiterates following submissions in case of collectible and memorabilia:

- i. Collectibles and memorabilia generally includes article like clothing, sport equipment, books, autographs, photographs, music instruments, idols, footwear, furniture, utensils, etc.
- ii. There is no specific classification, HSN code or entry for collectibles and memorabilia in rate schedules as specified by Notification No. 1/2017- Central Tax (Rate).

Therefore, HSN code and rate applicable to specific goods sold i.e. clothing, sport equipment, books, autographs, photographs, music instruments, idols, footwear, furniture, utensils, etc. should be applied.

C. Applicant primarily deals in second hand or used goods and hence Rule 32(5) of CGST Rules, 2017 applies to goods dealt by it:

- i. Please refer to Para no. 3 of Applicants submissions (handed over during personal hearing on 10.01.2019) explaining the meaning of the term "second hand goods" and "used goods".

Applicant is an auctioneer dealing primarily into used personal effects such as jewellery, antiques, watches, paintings, collectibles and memorabilia, etc.

Applicant, being an auction dealer, mainly sells "personal effects" which are used by the original owners or persons selling such goods to Applicant. Most of above goods sold by the Applicant is by very nature old and used items.

Rule 32(5) applies to second hand goods or used goods. The goods sold by applicant is old or second hand goods within the normal parlance or dictionary meaning, as stated in submissions filed in the course of personal hearing.

Applicant strongly contends that in absence of statutory definition, the meaning of the term "second hand goods" or "used goods" should be taken as per dictionary meaning or common parlance and Rule 32(5) should be construed accordingly.

Applicant humbly submits that it is well-settled jurisprudence principle that when the words of a statute are clear, plain or unambiguous i.e. they are reasonable susceptible to only one meaning, the courts are bound to give effect to that meaning **irrespective of consequences**.

Moreover, if the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to **expound those words in their natural and ordinary sense**.

This principle of interpretation is followed in plethora of judgments; few of such judgments are as under:

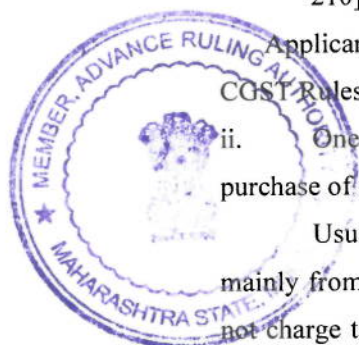
- Nelson Motis v/s Union of India (AIR 1992 SC 1981)
- Gurudevanti VKSSS Maryadit V/s State of Maharashtra (AIR 2001 SC 1980)
- Swedish Match AB v/s Securities and Exchange Board of India (AIR 2004 SC 4219)
- Government of Andhra Pradesh V/s Road Rollers Owners Welfare Association (2004 (6) SCC 210]

Applicant reiterates that being an auctioneer of used or second hand personal effects, Rule 32(5) of CGST Rules clearly and unambiguously applies to it as person dealing in second hand goods.

ii. One of the condition in Rule 32(5) is that "no input tax credit should have been availed on the purchase of such second hand or used goods".

Usually the dealer in second hand goods or used goods purchases such goods (personal effects) mainly from individuals not registered under GST. Sellers of such goods (being not liable to GST) do not charge tax on goods sold by them to second hand goods dealer. In absence of any tax charged, the question of availing input tax credit by dealer (applicant in given case) does not arise. In such case, dealer has not taken any credit of tax and hence Rule 32(5) clearly and squarely applies on sale of such goods.

One may tend to take a view that Rule 32(5) applies only to sale of goods, which are purchased on payment of GST and where credit of such tax is not availed. This interpretation will make Rule 32(5) redundant in majority of transactions as such second hand or used goods are normally purchased from individuals not liable to tax as such goods are not sold by them in course of business. If this interpretation is taken, most of the dealers in second hand goods will not be entitled to take valuation as prescribed under Rule 32(5) of the CGST Rules. This will defeat the purpose of legislation. Moreover, the second hand goods when it is purchased for the first time from primary market it would suffer the levy of indirect tax i.e. excise, VAT, GST, etc. It therefore means that when the tax is paid on margin on sale of second hand goods, these goods have suffered full tax. The question may arise in which circumstances the phrase "where no input tax credit has been availed on the purchase of such goods" shall apply. The purpose of this phrase seems to prevent the dealer purchasing second hand goods or



used goods from registered person on payment of GST and availing dual benefit of paying the tax on margin and claiming input tax credit simultaneously.

The GST is a value added tax and each person in the value addition chain is expected to pay tax on the value addition made by him in the transaction. The intention of promulgating Rule 32(5) is to ensure that a dealer operating in unorganized sector (buying second hand or used goods from unregistered persons or non-business entities) is not saddled with tax liability disproportionate to value addition done by him in transaction chain. In majority of the cases, the margin of such second hand goods dealer is less than the tax leviable on such goods under normal scheme of taxation and hence need for such provision. It is settled principle of interpretation that if a statutory provision is open to more than one interpretations, one has to choose that interpretation which represents the true intention of the legislature. A statute is to be construed according to the intent of them that make it and the duty of judicature is to act upon the true intent of the legislature i.e. mens or sententia legis (Salmond: "Jurisprudence" 11th Edition). This principle of interpretation has been enshrined in various judicial pronouncements including the following:

- Venkataswami Naidu, R vs Narasram Naraindas (AIR 1966 SC 361)
- District Mining Officer vs Tata Iron and Steel Co. (AIR 2001 SC 3134)
- Bhatia International vs. Bulk Trading SA (AIR 2002 SC 1432)
- South Asia Industries (Pvt) Ltd vs. Sarup Singh (AIR 1966 SC 346)
- Kartar Singh vs. State of Punjab [JT(1994)2 SC 423]
- Narayanaswami vs. G. Panneersevlam (AIR 1972 SC 2284) Rule 32(5)

is presumptive scheme of valuation. Such presumptive schemes are

iii. promulgated for trade facilitation or for convenience of tax administration. Once such valuation scheme is on the statute book, it is mandatory for assessee as well as tax authorities to follow it in letter and spirit, irrespective of revenue considerations. Once the goods are second hand or used goods, Rule 32(5) is applicable irrespective of value of such goods and irrespective of nature of such goods.

D. Sale of second hand or used cars by applicant:

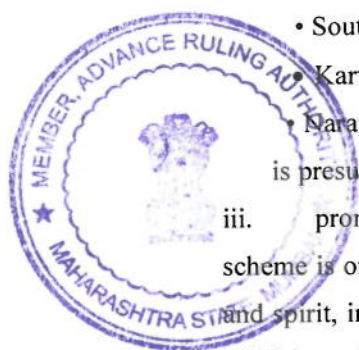
Notification No. 8/2018 - Central Tax (Rate) dated 25.01.2018 prescribes the rate of tax applicable on old and used cars. The copy of relevant notification is enclosed herewith. The said notification clearly lays down that the rate of tax specified, shall be **calculated on the value that represents margin of the supply of such goods.**

This is de hors of Rule 32(5) of CGST Rules, 2017.

E. Submission of sample invoices and relevant documents:

Applicant is not dealing in standard goods. Applicant gets variety of second hand or used articles for sale ranging from antiques, memorabilia or collectibles, paintings, sculptures, art pieces, books, watches, clocks, utensils, so on and so forth. Applicant deals in the numerous items that vary from each other. Advance ruling is sought for class of goods generally dealt with by the applicant and not for any standard goods.

The advance ruling is sought for dealings of goods that might come for auction in future.



The advance ruling is not sought for historical transactions. Hence, it is difficult to provide invoices of items for which advance ruling is sought.

However, applicant is enclosing herewith copies of sample invoices (along with description and offer as portrayed on website of applicant) for few goods recently auctioned by it. This will give fair idea of class of goods dealt with by the applicant.

Your good office is requested to take cognizance of these submissions along with earlier submissions filed with application and also in course of personal hearing for passing the advance ruling order.

03. CONTENTION – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

It is submitted that, Issue on which advance ruling is required:

The application for advance ruling can be filed for any of the question falling under Section 97(2).

1. **02. For the sake of clarity**, the relevant extract of the CGST Act' 2017 is reproduced hereunder:
2. **Section 97(2):** The question on which the advance ruling is sought under this Act, shall be in respect of,-

(a) Classification of any goods or services or both;

(b) Applicability of a notification issued under provisions of the GST ACT(s);

(c) Determination of time and value of supply of goods or services or both;

(d) Admissibility of input tax credit of tax paid or deemed to have been paid;

(e) Determination of the liability to pay tax on any goods or services under the Act;

(f) Whether applicant is required to be registered under the Act;

(g) Whether any particular thing done by the applicant with respect to any goods or services amounts to or results in a supply of goods or services, within the meaning of that term.

04. In view of above, the question posed by the applicant may be covered by the clauses, (a), (c) and (e) of section 97 (2) of CGST/MGST ACT, 2017. Hence, the application may be accepted to decide the questions.

05. Facts and Background:

The Applicant has filed an application for advance ruling on **16.10.2018** along with statement of facts, issues for determination and the submissions. It is informed that the Applicant is an auctioneer dealing primarily into used personal effects such as jewellery, antiques, watches, paintings, collectibles and memorabilia, etc. The Applicant has sought advance ruling on following two issues.

5.1 Rate of tax:-

a) Antique jewellery – whether classifiable under HSN Code 9706 attracting 12% GST or HSN Code 7113 attracting 3% GST?

The GST is applicable at the rate of 12% on sale value (HSN Code: 9706).

b) Antique Watch - whether classifiable under HSN Code 9706 attracting 12% GST or HSN Code 9101/9102 attracting 18% GST?

The GST is applicable at the rate of 12% on sale value (HSN Code: 9706).

c) **Antique Book** - whether classifiable under HSN Code 9706 attracting 12% GST or HSN Code 4901 attracting 0% GST?

The GST is applicable at the rate of 12% on sale value (HSN Code: 9706).

These rates of tax applicable only when the goods are Antique.

d) **Collectibles and Memorabilia** - whether classifiable under relevant HSN Code attracting GST at applicable rate of the goods sold as memorabilia or treating it as separate class of goods falling under Residuary Entry - Serial No. 453 of Schedule III i.e. Goods which are not specified in Schedule I, II, IV, V or VI?

The terms collectibles and Memorabilia are not defined under GST ACT, 2017. The supply is not covered either by composite supply or mixed supply. Hence, the GST is applicable as per specific schedule rate (as per HSN of said items).

5.2 Whether Applicant is entitled to value following goods in accordance with Rule 32(5) of Central Goods and Service Tax Rules, 2017 (hereinafter referred to as "CGST Rules"):

- a) Paintings bought from individual collectors and connoisseur
- b) Old Cars, old jewelers and old watches
- c) Antique jewellery, watches and books
- d) Collectibles and Memorabilia

The Rule 32(5) of CGST Rules, 2017 reads as under:-

"Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.

It is informed by the dealer that he has purchased the goods from unregistered dealer and there is no incidence of RCM. Hence there is no question of forgo of availment of ITC.

The Antique goods means:-

The collectable objects have a high value because of its age and quality. The value of antiques is affected by many different factors. The Age, Quality of work and material rarity, condition, Market demand, Manufacturer or kiln mark or autograph of legend. Antiques that are highly sought after but are scarce can usually command a better price. In individual situations another factor is the value attributed to a specific antique by its owner, and the price a collector is willing to pay to obtain it for his/her collection. In other words, this is dependent on the demand and supply situation on the antique market. Therefore, the actual value of an antique may never be the same at two points in time, or in two or more different sales locations. The Antique goods are very special in character and have inherent value cannot be treated as second hand goods. Hence the Rule 32(5) of CGST Rules, 2017 is not applicable.

04. HEARING

The Preliminary hearing in the matter was held on 28.11.2018, Sh. Naresh Seth, C.A. , Sh. Sidhanth Shetty, V P Operation, Sh. Shailesh Keluskar, accountant and Ms. Dipali, Advocate appeared

and requested for admission of application as per contentions made in their application. Jurisdictional Officer Sh. V. V. Kulkarni, Dy. Commissioner of S.T. (E-626, LTU-1, Mumbai also appeared.

The application was admitted and called for final hearing on 10.01.2019. Sh. Naresh Seth, C.A., Sh. Sidhanth Shetty, V P Operation, and Ms. Dipali, Advocate appeared and argued as per submissions. Jurisdictional Officer Sh. V. V. Kulkarni, Dy. Commissioner of S.T. (E-626, LTU-1, Mumbai appeared and made written submissions.

05. OBSERVATIONS

We have gone through the facts of the case, documents on record and submissions made by both, the applicant as well as the jurisdictional office.

Keeping the submissions made by the applicant that they are only raising their questions in respect of second hand or used goods, and the submissions made by the jurisdictional office in mind we now deal with each of the questions raised by the applicant.

Q. No. 1:- Whether Applicant is dealing in second hand goods and tax is to be paid on the difference between selling price and purchase price as stipulated in Rule 32 (5) of CGST Rules, 2017?

The submissions made by the applicant clearly indicate that they are requiring clarity on their tax liability in respect of the second hand or used goods in which they are dealing. We find that the applicant only deals with, and auctions those second hand or used goods which have been bought by them. In other words they are trading in such goods and the auction is just a medium to sell the goods. It is not that they are auctioning the goods belonging to someone else and get only fees for performing the auction.

Chapter IV of the CGST Rules, 2017 deals with the determination of value of supply and Rule 32(5) specifically deals value of taxable supply when the same is provided by a person dealing in used/second hand goods and the said Rule is reproduced as under:-

Rule 32 (5) :- *“Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e. used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored’.*

A reading of the said rule clearly states that in the subject case the value for tax purposes will be the difference between the selling price and the purchase price in case the selling price is more than the purchase price. In the event that the selling price is less than the purchase price, in that case the value shall be ignored, which implies that in such a case there will be no tax liability. This would cover cases where the applicant has purchased the said goods on payment of GST and not availed ITC of such payments made. Another situation can arise in such cases when the seller of the said goods is not liable to register under the GST laws due to the reason of having turnover below the threshold limit. In such a case there will be no payment of GST and therefore the question of ITC would not arise. In such a situation it is seen that the Government will not get any tax on the sale by the seller. This kind of situation has not been covered under the GST laws and applying the principles of Rule 32 (5) of the

CGST, Rules we find that the value of supply shall still be the difference between the selling price and the purchase price and tax liability will have to be discharged accordingly.

Q. No. 1:- The classification and HSN code of goods listed in table given in "Issues for Determination" and GST rates applicable to such goods.

We take up the issue of classification in respect of the goods as under:-

- (i) **Paintings bought from individual art collectors:-** The applicant has requested for classification of paintings bought from individual art collectors. Chapter 9701 of the GST Tariff, 2017 covers "*Paintings, drawings and pastels, executed entirely by hand, other than drawings of heading 4906 and other than hand-painted or hand-decorated manufactured articles; collages and similar decorative plaques*". If the said paintings as mentioned by the applicant answer the description of item mentioned in Heading 9701, then the goods will be covered under this Heading and will attract a rate of 12%. Paintings cannot be treated as used and therefore the applicant must pay GST of 12% on the sale value, if their goods answer the description of Heading 9701.
- (ii) **Old Cars:-** The applicant has submitted that the cars that they deal in fall under C.H. 8703 of the GST Tariff. All the Heading 8703 attracts 28% GST except tariff item 870310 10 (electrically operated vehicles specially designed for travelling on snow; golf cars and similar vehicles) and sub-heading 8703 80 (other vehicles, with only electric motor for propulsion). However old cars attract a lower rate of tax as per Notification No. 08/2018 CT (Rate) dated 25.01.2018. As per the said Notification, the lesser rate of tax i.e. 18 % is applicable to (a) Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven motor vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more, (b) Old and used, diesel driven motor vehicles of engine capacity of 1500 cc or more and of length of 4000 mm or more and (c) Old and used, motor vehicles of engine capacity exceeding 1500 cc popularly known as SUVs, including utility vehicles. The explanation to this Notification is as follows:-

*Explanation –*For the purposes of this notification, -

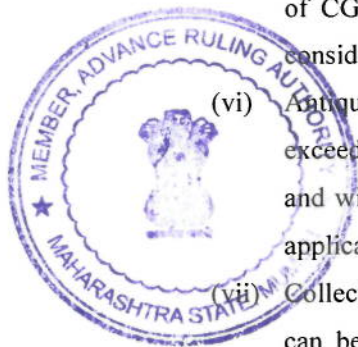
- (i) *in case of a registered person who has claimed depreciation under section 32 of the Income-Tax Act, 1961(43 of 1961) on the said goods, the value that represents the margin of the supplier shall be the difference between the consideration received for supply of such goods and the depreciated value of such goods on the date of supply, and where the margin of such supply is negative, it shall be ignored; and*
- (ii) *in any other case, the value that represents the margin of supplier shall be, the difference between the selling price and the purchase price and where such margin is negative, it shall be ignored.*

This notification shall not apply, if the supplier of such goods has availed input tax credit as defined in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017, CENVAT as defined in CENVAT Credit Rules, 2004 or the input tax credit of Value Added Tax or any other taxes paid, on such goods.



Hence for the applicant to avail the benefit of lower taxes under the said Notification, the conditions mentioned therein must be fulfilled. Except submitting that they are dealing in old cars, they have not submitted any other details. It is also seen that the provisions of Rule 32(5) of CGST Rules are applicable to them, subject to the conditions of the Notification No. 08/2018 CT (Rate) dated 25.01.2018 being satisfied by them.

- (iii) Old Jewellery:- The applicant has submitted that they deal in old jewellery and that jewellery falls under Heading 7113 of the GST Tariff. Heading 7113 covers 'Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal. The provisions of Rule 32(5) of CGST Rules are applicable to them in respect of old jewellery which are purchased by them.
- (iv) Antique jewellery of age exceeding 100 years:- Tariff item 9706 00 00 covers 'Antiques of an age exceeding 100 years'. Antique jewellery of age exceeding 100 years will fall under this tariff item and will be liable to tax @ 12% GST. The provisions of Rule 32(5) of CGST Rules will not be applicable to them in this case.
- (v) Old watches:- Wrist watches, pocket-watches and other watches, including stop-watches, with case of precious metal or of metal clad with precious metal fall under Heading 9101 of the GST Tariff and Wrist watches, pocket-watches and other watches, including stop-watches, other than those of Heading 9101 fall under Heading 9102 of the said Tariff. The rate of GST is 18% and the same is applicable even to Old Watches, however with the benefit of the provisions of Rule 32(5) of CGST Rules i.e tax will be paid on the difference between sale price and purchase price considering such watches are second hand goods.
- (vi) Antique watches of age exceeding 100 years:- Tariff item 9706 00 00 covers 'Antiques of an age exceeding 100 years'. Antique watches of age exceeding 100 years will fall under this Tariff item and will be liable to tax @ 12% GST. The provisions of Rule 32(5) of CGST Rules will not be applicable to them in this case.
- (vii) Collectibles:- A collectible can be said to be an item valued and sought by collectors. Collectibles can be any product like a painting, shoes worn by a legend, watches, etc. The applicant has submitted that collectibles fall under Residuary Entry - Serial No. 453 of Schedule III – i.e. Goods which are not specified in Schedule I, II, IV, V or VI. If the collectible is a watch then it will fall under the specific heading of watches. The Residual Entry mentioned above is only applicable to goods which are not specified in Schedule I, II, IV, V or VI. The details of 'collectibles' has not been mentioned by the applicant and in the absence of specifics the question cannot be answered.
- (viii) Collectibles (Books):- A collectible can be said to be an item valued and sought by collectors. Collectibles can be any product like a painting, shoes worn by a legend, watches, etc. The applicant has submitted that collectibles (books) fall under Residuary Entry - Serial No. 453 of Schedule III – i.e. Goods which are not specified in Schedule I, II, IV, V or VI. In the subject case the goods, if it is in the form of printed books, newspapers, pictures, etc. will fall under the various sub headings of Chapter 49 of the GST Tariff as the case may be. The Residual Entry mentioned above is only applicable to goods which are not specified in Schedule I, II, IV, V or VI. The



specific details and description of 'collectibles (books)' has not been mentioned by the applicant and in the absence of specifics the question cannot be answered.

- (ix) Antique Books:- Such articles will be covered under Tariff item 9706 00 00 only they are exceeding 100 years of age. If the antique books are under 100 years of age then they will be classified under the appropriate heading of the GST Tariff. Antique books of less than 100 years of age, if it is in the form of printed books, newspapers, pictures, etc, will fall under the various sub headings of Chapter 49 of the GST Tariff as the case may be. Since the specific details and description of 'collectibles (books)' has not been mentioned by the applicant, in the absence of specifics the question cannot be answered.

Collectibles/Memorabilia (Articles such as clothing, sporting equipment's, books, autographs, photographs and such other items):- In absence of specifics this question cannot be answered. With respect to the example given by the applicant with respect to sale, in auction, of a bat signed by Sachin Tendulkar, we have to state that in such a case it is not only the bat that is sold. The intrinsic value of a legendary sportsperson like Sachin Tendulkar also comes into play in this case for example, the specific cricket bat would be costing say, anywhere between Rs. 1,000/- to Rs 10, 000/- but probably will be auctioned off at a price of maybe even Rs. One lakh. Thus in such cases The Residual Entry under HSN Code: Residuary Entry - Serial No. 453 of Schedule III will come into play. Hence the tax will be charged accordingly. Further in these types of cases it cannot be said that the goods are sold as second-hand or used goods and therefore the provisions of Rule 32(5) of CGST Rules will not be applicable to them in this case.

05. In view of the extensive deliberations as held hereinabove, we pass an order as follows :

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 86/2018-19/B-

7

Mumbai, dt.

15/01/2019

For reasons as discussed in the body of the order, the questions are answered thus –

Question 1.1. Whether Applicant is dealing in second hand goods and tax is to be paid on the difference between selling price and purchase price as stipulated in Rule 32 (5) of CGST Rules, 2017?

Answer :- In view of the above discussions the liability will be discharged by the applicant on the difference between selling price and purchase price as stipulated in Rule 32 (5) of CGST Rules, 2017 only in respect of old cars, old jewellery and old watches.

Question 1.2. The classification and HSN code of goods listed in table given in "Issues for Determination" and GST rates applicable to such goods.

Answer :-

- (i) **Paintings** as described by the applicant will be classifiable under Heading 9701 and the applicant must pay GST of 12% on the sale value.
- (ii) **Old Cars:-** Motor Vehicles fall under Heading 8703 of the GST Tariff. All the items under 8703 attract 28% GST except Tariff item 870310 10; Sub-heading 8703 80. However old cars attract a lower rate of tax as per Notification No. 08/2018 CT (Rate) dated 25.01.2018. As per the said Notification, the lesser rate of tax i.e. 18 % is applicable to old cars provided the conditions mentioned therein are fulfilled. Except submitting that they are dealing in old cars, they have not submitted any other details. It is also seen that the provisions of Rule 32(5) of CGST Rules are applicable to them, subject to the conditions of the Notification No. 08/2018 CT (Rate) dated 25.01.2018 being satisfied by them.
- (iii) **Old Jewellery:-** Articles of jewellery and parts thereof falls under Heading 7113 of the GST Tariff. The provisions of Rule 32(5) of CGST Rules are applicable to them in respect of old jewellery which are purchased by them and then sold by them.
- (iv) **Antique jewellery** of age exceeding 100 years:- Antique jewellery of age exceeding 100 years will fall under Tariff item 9706 00 00 and will be liable to tax @ 12% GST. The provisions of Rule 32(5) of CGST Rules will not be applicable to them in this case.
- (v) **Old watches:-** Wrist watches, pocket-watches and other watches, including stop-watches, with case of precious metal or of metal clad with precious metal fall under CH 9101 of the GST Tariff and Wrist watches, pocket-watches and other watches, including stop-watches, other than those of Heading 9101 fall under Heading 9102 of the said Tariff. The rate of GST is 18% and the same is applicable even to Old Watches, however with the benefit of the provisions of Rule 32(5) of CGST Rules i.e. tax will be paid on the difference between sale price and purchase price considering such watches as second hand goods.
- (vi) **Antique watches** of age exceeding 100 years:- Antique watches of age exceeding 100 years will fall under Tariff item 9706 00 00 and will be liable to tax @ 12% GST. The provisions of Rule 32(5) of CGST Rules will not be applicable to them in this case.
- (vii) **Collectibles:-** In view of the discussions above the question cannot be answered.
- (viii) **Collectibles (Books):-** In the subject case the goods, if it is in the form of printed books, newspapers, pictures, etc, will fall under the various sub headings of Chapter 49 of the GST Tariff as the case may be. The Residual Entry mentioned above will only applicable to goods which are not specified in Schedule I, II, IV, V or VI. The specific details and description of 'collectibles (books)' has not been mentioned by the applicant and in the absence of specifics the question cannot be answered.
- (ix) **Antique Books:-** If the antique books are under 100 years of age then they will be classified under the appropriate Heading of the GST Tariff. Antique books of less than 100 years of age, if it is in the form of printed books, newspapers, pictures, etc, will fall under the various sub headings of Chapter 49 of the GST Tariff as the case may be. Antique books



exceeding 100 years of age will be covered under Tariff item 9706 00 00 and will be liable to tax @ 12% GST. Since specific details and description of 'collectibles (books)' has not been mentioned by the applicant the question cannot be answered.




B. TIMOTHY
(MEMBER)


B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai.
5. Joint commissioner of State Tax , Mahavikas for Website.


MEMBER

**ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI**

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.