

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2018/12
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017-18/AR/10)

Date : 30.07.2018

Name and address of the applicant	:	M/s. Raja Slates Pvt. Ltd. Opp. Krishna Weighbridge, Durlabh Ashram, Old Bunder Road, Bhavnagar – 364 001 (Gujarat)
GSTIN of the applicant	:	24AAACR3936KIZB
Date of application	:	06.09.2017
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both;
Date of Personal Hearing	:	30.11.2017
Present for the applicant	:	Shri P.R. Tindwani, Advocate

The applicant M/s. Raja Slates Pvt. Ltd. has submitted in the application that it is engaged in the business of manufacturing and trading of ‘slates’, which are used by primary school students, mostly at village level, for the purpose of learning i.e. educational purpose. Applicant has submitted that the ‘slates’ were tax free under Gujarat Value Added Tax Act and under GST Act also under Chapter 96 – Miscellaneous Manufactured Articles with HSN Code 9610 0000

2. The applicant submitted that it has got order from Gujarat Council of Elementary Education Sarva Shikshan Abhiyan Mission for supply of Teachers’ Slate and Students’ Slate. Teachers’ Slate is used by teachers to explain to students, whereas the Students’ Slate is used by students for learning. The dimension and inputs of both the types of slates as per tender was attached with the application. As per the specifications, the size of Students’ Slate is 12” X 12” with “Tin Patti” frame in four sides and the frame is to be fitted with four plastic corners with smooth finish, thickness of slate is 3 mm and material used is pinewood base MDF (Medium Density Fibre). The size of Teachers’ Slate is 24” X 24” in size with 5.5 mm thickness and material used is same i.e. pinewood base MDF (Medium Density Fibre) without frame but plastic corner are fitted at four corners. The applicant submitted that the difference between Students’ Slate and Teachers’ Slate is in respect of dimension and thickness of board which is used, otherwise purpose of both is teaching / learning and both are same in look and appearance.

3. The applicant submitted that applicant is of the opinion that both the slates i.e. Students’ Slate and Teachers’ Slate are of same category, Teachers’ Slates should also be treated as tax free, as the Students’ Slates are already tax free under GST Act.

4. The applicant submitted that applicant is getting some job work done on slates and when the main manufactured item is tax free, they are not required to pay tax under Reverse Charge Mechanism for job work.

5. The Goods and Services Tax and Central Excise Commissionerate, Bhavnagar, *inter-alia* informed that the applicant was not registered with the department under erstwhile Central Excise Act; that as per GST Tariff, HSN Code 9610 0000 reads as “slates and boards with writing or drawing surface, whether or not framed”.

6. We have considered the submissions made by the applicant in their application and at the time of personal hearing. We have also considered the views of the Goods and Services Tax and Central Excise Commissionerate, Bhavnagar.

7. We find that the main issue involved in this case is regarding classification of goods viz. ‘Slate for Teacher’ and ‘Slate for Student’.

8.1 It is observed that the Explanation (iii) and (iv) of the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 provides as follows :-

“Explanation. - For the purposes of this notification, -

(i)

(ii)

(iii) *“Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).*

(iv) *The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.”*

8.2 Further, Hon’ble Supreme Court in the case of L.M.L. Ltd. Vs. Commissioner of Customs [Civil Appeal No. 3764 of 2003, decided on 21.09.2010 reported at 2010 (258) ELT 321 (S.C.)] has held as follows :-

“12. In Collector of Central Excise, Shillong v. Wood Crafts Products Ltd. reported in (1995) 3 SCC 454, it was held by this Court that as expressly stated in the statements of objects and reasons of the Central Excise Tariff Act, 1985, the Central Excise Tariffs are based on the Harmonious System of Nomenclature (HSN) and the internationally accepted nomenclature was taken into account to reduce disputes on account of tariff classification. Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the Harmonious System of Nomenclature (HSN). Although, the decision in the case of Woodcraft Products (supra) dealt with the interpretation of the provisions of the Central Excise Tariff there can be no doubt that the HSN Explanatory Notes are a dependable guide even while interpreting the Customs Tariff.”

9.1 The Explanatory Notes for Heading 96.10 of Harmonised System of Nomenclature reads as follows :-

“96.10 Slates and boards, with writing or drawing surfaces, whether or not framed.

This heading covers slates and boards, clearly designed to be used for writing or drawing with slate pencils, chalks, felt or fibre tipped markers (e.g., school children’s slates, blackboards and certain notice boards).

These articles, framed or not, may be of slate, including agglomerated slate, or may consist of any material (wood, paperboard, textile material, asbestos cement, etc.) covered on one or both sides with a preparation of powdered slate or any other coating suitable for writing on, or sheeting of plastics.

Boards or slates may bear permanent markings (lines, squares, lists of commodities, etc.) and may incorporate counting frames.

This heading does not cover writing or drawing slates which are not ready for use (heading 25.14 or 68.03)”

9.2 The technical specification of ‘Slate for Teacher’, as submitted with the application, are as follows :-

“Size : 24 X 24 Inch Tolerance : 0.3 Inch

Thickness : 5.5 mm

Material : Pine wood base MDF (Medium Density Fibre)

Color : Lead free Black Color

- *4 Plastic corners with smooth finish and should be fixed with Rivet*
- *Both Side : Plane*
- *Without frame*
- *32 inch Nylon string : Pack Separately*
- *Surface should be writeable with Slate pen and chalk*
- *Hole :- Black Finish Two Hole one on the top with 8 inch _____ the Slate*
- *Packing : Each Slate in plastic bag and 10 Slates in one _____suitable size.”*

9.3 The technical specification of ‘Slate for student’, as submitted with the application, are as follows :-

“Slate should be with Tinpatti Frame in four sides and both side

Slate Size : 24 X 24 Inch (out to out) Tolerance : 0.3 Inch

Tinpatti (Tinfree) minimum 0.20 mm thick of size : _____ size and backside

Frame should be fixed with four plastic corner with Aluminium Rivet

Thickness of Slate : 3 mm

Material : Pine wood base MDF (Medium Density Fibre)

Color : Lead free Black Color

- *24 inch Nylon String (Pack Separately)*
- *Surface should be writeable with Slate pen and chalk*

- *Hole :- Black Finish Two Hole one on the top with 4 _____ the Slate*
- *Line Printing :-*
- *One side :Plane*
- *Second Side : Line printing as per drawing given _____*
- *Packing : Each Slate in plastic bag and 20 Slates in one Box of suitable size.”*

9.3 From the technical specification of ‘Teachers’ Slate’ and ‘Students’ Slate’, we find that the same are clearly designed to be used for writing or drawing with slate pen and chalk. The material specified to be used in ‘Teachers’ Slate’ is Pine wood base MDF (Medium Density Fibre) and it should be without frame. The material specified to be used in ‘Students’ Slate’ is Pine wood base MDF (Medium Density Fibre) and it should be with Tinpatti Frame in four sides and both sides. Taking the technical specification of ‘Teachers’ Slate’ and ‘Students’ Slate’, as submitted by the applicant, and Explanatory Notes for Heading 96.10 of Harmonised System of Nomenclature, into consideration, we hold that the product ‘Teachers’ Slate’ and ‘Students’ Slate’ is appropriately classifiable under Tariff Heading 96.10.

10.1 The next issue is regarding rate of Goods and Services Tax on ‘Teachers’ Slate’ and ‘Students’ Slate’. The product ‘Slates’ falling under Tariff Item 9610 00 00 is exempted from Goods and Services Tax vide Sl. No. 146 of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 issued under the Central Goods and Services Tax Act, 2017 (herein after referred to as the ‘CGST Act, 2017’) and corresponding Notification issued under the Gujarat Goods and Services Tax Act, 2017 (herein after referred to as the ‘GGST Act, 2017’) and the Integrated Goods and Services Tax Act, 2017 (herein after referred to as the ‘IGST Act, 2017’), whereas the product ‘Boards, with writing or drawing surface, whether or not framed’ falling under Tariff Item 9610 00 00 is leviable to Goods and Services Tax @ 18% (CGST 9% + SGST 9% or IGST 18%) vide Sl. No. 448 of Schedule III of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 issued under the CGST Act, 2017 and corresponding Notification issued under the GGST Act, 2017 or the IGST Act, 2017.

10.2 The term ‘Slates’ has not been defined under the CGST Act, 2017, the GGST Act, 2017, IGST Act, 2017 or the Notifications issued there under.

10.3 It is now well settled principle of interpretation of statute that the word not defined in the statute must be construed in its popular sense, meaning ‘that sense which people conversant with the subject matter with which the statute is dealing would attribute to it’. It is to be construed as understood in common language. In the case of Indo International Industries Vs. Commissioner of Sales Tax, U.P. [1981 (8) E.L.T. 325 (S.C.)], Hon’ble Supreme Court has held as follows :

“4. It is well settled that in interpreting Items in statutes like the Excise Tax Acts or Sales Tax Acts, whose primary object is to raise revenue and for which purpose they classify diverse products, articles and substances resort should be had not to the scientific and technical meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them. If any term or expression has been defined in the enactment then it must be understood in the sense in which it is defined but in the absence of any definition being given in the enactment the meaning of the term in common parlance or commercial parlance has to be adopted.”

10.4 This view was upheld by Hon'ble Supreme Court in the case of Oswal Agro Mills Ltd. Vs. Collector of Central Excise [1993 (66) E.L.T. 37 (S.C.)]. While reiterating the principle that in absence of statutory definitions, they have to be construed according to their common parlance understanding, Hon'ble Supreme Court, in the case of Commissioner of Central Excise Vs. Connaught Plaza Restaurant (P) Ltd. [2012 (286) E.L.T. 321 (S.C.)], has referred to various decisions on the subject and observed as follows :-

Common Parlance Test :

“18. Time and again, the principle of common parlance as the standard for interpreting terms in the taxing statutes, albeit subject to certain exceptions, where the statutory context runs to the contrary, has been reiterated. The application of the common parlance test is an extension of the general principle of interpretation of statutes for deciphering the mind of the law maker; “it is an attempt to discover the intention of the Legislature from the language used by it, keeping always in mind, that the language is at best an imperfect instrument for the expression of actual human thoughts.” [(See Oswal Agro Mills Ltd (supra)].”

10.5 It needs to be therefore examined whether the products manufactured and supplied by the applicant can be termed as ‘Slates’ as understood in common parlance, or otherwise.

10.6 It is observed that in the document issued by the Gujarat Council of Elementary Education, the products have been referred to as ‘Slate for Student’ and ‘Slate for Teacher’. Thus, the products ‘Slate for Student’ and ‘Slate for Teacher’ are known as ‘Slates’ in common parlance and therefore are eligible for exemption from payment of Goods and Services Tax vide Sl. No. 146 of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 issued under the CGST Act, 2017 and corresponding Notifications issued under the GGST Act, 2017 and the IGST Act, 2017.

11.1 The another issue raised by the applicant is that they are getting some job work done on slates and when the main manufactured item is tax free, in the opinion of applicant, it is not required to pay tax under Reverse Charge Mechanism for job work.

11.2 In this regard, we observe that as per clause 3 of Schedule II of the CGST Act 2017 and the GGST Act, 2017, ‘any treatment or process which is applied to another person’s goods is a supply of services’. Accordingly, applicable Goods and Service Tax on ‘manufacturing services on physical inputs (goods) owned by others’ is required to be paid.

11.3 Further, as per clause (4) of Section 9 of the CGST Act, 2017 and the GGST Act, 2017 the Goods and Services Tax (Central Goods & Services Tax and State Goods and Services Tax) in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of the Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. Therefore, in a case where registered person is recipient of taxable service of ‘manufacturing services on physical inputs (goods) owned by others’ from the supplier of such service who is not registered, the Goods and Services Tax is required to be paid under Section 9(4) of the CGST Act, 2017 and the GGST Act, 2017, subject to exemption, if any, available.

12. In view of the foregoing, we rule as under -

RULING

- (A) The products 'Slate for Student' and 'Slate for Teacher' supplied by M/s. Raja Slates Pvt. Ltd. (GSTIN 24AAACR3936K1ZB) are appropriately classifiable under Tariff Heading 96.10.
- (B) The products 'Slate for Student' and 'Slate for Teacher' supplied by M/s. Raja Slates Pvt. Ltd. (GSTIN 24AAACR3936K1ZB) are eligible for exemption from payment of Goods and Services Tax vide Sl. No. 146 of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017 issued under the CGST Act, 2017 and Sl. No. 146 of Notifications No. 2/2017-State Tax (Rate) dated 30.06.2017 issued under the GGST Act, 2017.
- (C) In case of receipt of 'manufacturing services on physical inputs (goods) owned by others' by M/s. Raja Slates Pvt. Ltd. from the unregistered supplier of such service, the Goods and Services Tax is required to be paid by M/s. Raja Slates Pvt. Ltd. under Section 9(4) of the CGST Act, 2017 and the GGST Act, 2017, subject to exemption, if any, available.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad
Date : 30.7.2018.