

**Supply of sharpeners along with pencils amounts to 'Mixed Supply' taxable at the higher rate among all the supplies**

The AAR, Gujarat in the matter of *M/s. Doms Industries Pvt. Ltd. [Advance Ruling No. GUJ/GAAR/R/ 2022/52 dated December 30, 2022]* has held that the supply of pencil-sharpeners along with pencils will be covered under the category of 'Mixed Supply' and that HSN code will be used which attracts higher rate of tax among all the taxable supplies containing in a pack/box.

**Facts:**

M/s Doms Industries Pvt. Ltd. ("**the Applicant**") is a manufacturer and supplier of all kind of the stationary items. The Applicant has submitted that vide Notification No. 2/2022- Central Tax (Rate) dated July 13, 2022 ("**the Goods Rate Notification**"), the GST rate on Sharpener and Scales was increased from 12% to 18% w.e.f. July 18, 2022. Further, the Sharpener and Scales are sold by the Applicant in a kit, which is a combination of sharpener or scales and other products, which are liable to GST rate at 5% and 12%.

The Applicant submitted that earlier they used to sell the kit under the HSN code of the item with highest value inside the kit which also had the maximum GST rate but now after the change of GST rate vide the Goods Rate Notification, sharpener has now the highest GST rate although it is sold as an accessory in the kit. The Applicant further submitted that for a combination of supplies to qualify as a 'Mixed Supply', it is important that such a combination should be supplied for a single price and the supplies are not naturally bundled. Therefore, the kits supplied by the Applicant will come under the ambit of 'Mixed Supply' and the GST rate as applicable on the principal product i.e. pencil/colour pencil/crayons will apply to the complete kit and it will fall under Heading 9609 and chargeable to GST rate of 12%.

**Issues:**

1. Whether the supply of Pencils Sharpener along with Pencils being the principal supply will be considered as the "Composite Supply" or "Mixed Supply"?
2. What will be the HSN code to be used by the Applicant?
3. Whether supply of Sharpener along with the kit having a nominal value will have an impact on rate of tax?

**Held:**

The AAR, Gujarat in **Advance Ruling No. GUJ/GAAR/R/ 2022/52** held as under:

- Noted that, the kits of supplied by Applicant satisfy all the conditions of 'Mixed Supply' under Section 2(74) of the Central Goods and Services Tax Act,2017 ("**the CGST Act**").
- Stated that, a mixed supply containing more than two supplies shall be treated as a supply of that particular supply which attracts the higher rate of tax in the mix supply.
- Held that, the Applicant is required to use the HSN code of the particular supply which attracts higher rate of tax among all the taxable supplies containing in a kit.
- Further held that, all the supplies of the Applicant are covered under the category of Mixed supply hence as per the provision of mixed supply, the supply which attracts higher rate of tax shall the applicable rate for the supply.

**Relevant Provisions:**

**Section 2(74) of the CGST Act:**

*"mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply"*

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