

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

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

BEFORE THE BENCH OF

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AALFA8276H1Z1
Legal Name of Applicant	ACRYMOLD
Registered Address/Address provided while obtaining user id	82-86, A.R.Street, Agyari X Lane, Shop No. 11, Haji Manzil, Mumbai 400 003.
Details of application	GST-ARA, Application No. 12 Dated 26.12.2017
Concerned officer	Deputy Commissioner of State Tax (E-820), Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory / Manufacturing, Wholesale Business
B Description (in brief)	(Provision for file attachment also)
Issue/s on which advance ruling required	(i) Classification of goods and /or services or both
Question(s) on which advance ruling is required	

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 ACRYMOLD, the applicant, seeking an advance ruling in respect of the following questions :

1. *If the word TROPHY is specifically mentioned under 83062920, So can we sell all trophies made of any material under this HSN?*
2. *If different code is allocated to trophies assembled of different material, I would like to know if there is a combination of different materials and about 75% (value terms) is getting used of any one Raw Material, under which HSN should we make bill?*

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 such 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, a reference to such a similar provision under the CGST Act/MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

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

"I am the partner of the above mentioned firm, Murtaza A. Kanchwala. We are into importing/Trading/manufacturing of gift articles namely TROPHIES and AWARDS. As per the Cbec site and other official documents the above product is classified under the HSN 83062920. The chapter no. 83 deals specifically with articles of BASE METAL. As Trophies and Awards are made of



a variety of material namely, METAL, PLASTIC, GLASS, MDF/WOOD, RESIN, etc. There is no clear classification of the same under other chapters.

As I am an importer/manufacturer of these items, If we go by the Customs Classification, there is discrepancy of HSN allotted to these goods which are imported under different HSN code for this same product viz-a viz Mumbai, Kolkatta & Delhi ports. Thus there is variation in IGST rate for the same product. Due to this discrepancy we as traders suffer due to reduced sales compared to lower IGST/CGST rate being charged by some traders. To put it mildly my sales have taken a hit of 20% due to this anomaly as customers are demanding us to charge the lower IGST/CGST rates for this item.

My request to you is:

- Under which HSN code do I classify the product Trophies and Awards made from these different raw materials?
- Also if a product is made with a combination of the above materials, (plastic, glass,metal, plastic etc) under which HSN code should it be classified?
- Can we have an official domestic classification for these products (like in china) so that a uniform IGST/CGST rate is charged across our industry by all traders.
- As there is no formal association who can handle this i beg to ask you to take notice of this case with utmost urgency

I am attaching some copies of Bill Of Entry and Invoices from Mumbai and other states , this letter I write to you not to complain against any particular trader/Manufacturer, but for saving traders manufacturers who are following correct business practises.

Hoping that you will consider this application at the earliest and escalate this issue so that there is no loss of revenue for the Centre as well as the state.”

Statement of relevant facts having a bearing on the question(s) raised.	Trophies listed under HSN Code 83062920 For Metal
Statement containing the applicant's interpretation of low and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submission on issues on which the advance ruling is sought).	Chapter No 83 Deals with the basic raw material as metal & specifically mentions Trophies as a Product. What Will be the HSN Code classification for Trophies & Awards, Manufactured with base material namely Plastic, Glass, MDF, Wood & POP or with a combination of all the above?

Our Item Description	Description as per HSN	HSN Code	GST
For Glass & Crystal Trophies & Awards	Glass Beads Immitation Pearls Immitiations Precious or Semi precious and similar glass smallware and articles thereof, other than.....	7018	
	Others	70181090	18%
for Plastic Trophy and trophy parts	Other articles of plastics and articles of other materials of heading nos. 39.01 to 39.14	3926	18%
	Others	39261019	
For Wooden Trophies & Frames	Heading 4414 to 4421 applies to articles of the respective descriptions of particle board or similar board, fibre board, laminated wood as they apply to such articles of such wood		
	Wooden frames for paintings, photographs, mirrors or similar objects	4414	18%
For Metal Trophies & Awards	Bells Gongs and the like, non-electric of base metal; Statuettes and other ornaments, of base metal; Photograph, picture or similar frames, of base metal; mirrors of base metal	8306	
	Trophies	83062920	12%
	Others	83062990	12%
	Photograph, picture or similar frames	83063000	12%
For Trophies made of POP and other Resins	Articles of Plaster or of compositions based on plaster	6809	
	Other articles	68099000	18%
For Trophies made with combination of the above	??	??	??

03. CONTENTION – AS PER THE CONCERNED OFFICER

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

“I have perused the application submitted by the dealer. It is observed that the dealer is an importer, manufacturer and trader in Trophies. These trophies are made with the combination of Metal, wood, glass etc. The dealer has applied for advance ruling of rate of tax of these articles.

As regards this, I have examined the HSN code classification of these goods. It is observed that – HSN code describes the articles which are made up of only one substance.

For example –

- 1) HSN code 83062920 (Rate of tax 12%) describe trophies, however Chapter Head 83 is specifically meant for the articles made up of Base metal.
- 2) HSN code 70181090 describes articles made up of glass only (Rate of tax 18%).
- 3) HSN code 39261019 is meant for other articles of plastic and articles of other materials (Rate of tax is 18%).
- 4) HSN code Chapter heading 4414 to 4421 applies to articles of the wood (Rate of tax is 18%).
- 5) HSN code 68099000 is meant for articles made up of Plaster of Paris (Rate of tax 18%).

From the above discussion, we can conclude that all the trophies are classified in different Chapter Headings based on the fact that from which material they are made up of?

Obviously, this principle of base material and above entries will not be applicable to the Trophies which are made up of



combination of wood, plastic, base metal etc. which are having different rates of tax. Hence, it is felt that the said article falls under residuary entry no. 453 of Schedule III which bears 18% of tax.”

04. HEARING

The case was taken up for hearing on dt.31.01.2018 and on dt.21.02.2018 when Sh. Murtaza Kanchwala, (Partner of M/s. Acrymold) alongwith Sh. Vishal Sanchla, Consultant attended and reiterated the contention as made in the written submission. During the hearing on dt.07.02.2018, sample copies of invoices and Bills of entry of some persons who were classifying their wooden or plastic trophies differently than as classified by the applicant were submitted and which as per the applicant was confusing and did not appear to be correct -

Photo Frame (Wooden) - 44140000 - BOE for Home Consumption dt.06.01.2018
Medals (Iron & Zinc) - 83062990 - BOE for Home Consumption dt.06.01.2018
Plastic Trophy Cups - 39269099 - BOE for Home Consumption dt.06.01.2018
Glass Blocks & Showpiece - 70189090 - BOE for Home Consumption dt.17.11.2016
Glass Trophy & Trophy Parts - 70189090 - BOE for Home Consumption dt.17.11.2016
Plastic Photo Frame - 39269099 - BOE for Home Consumption dt.06.01.2018
Plastic Trophy Parts - 83062920

Tax Invoices showing following particulars :

- Trophy Wooden - 83062920
- Only Pillar Trophy - 83062920
- Metal Flange and Katory - 83062920
- Customize Wood Pillar - 83062920
- Trophy (-- x -cm wood + box) - 8306
- Trophy (-- x -cm wood + foil + box) - 8306
- Sports Spare Frames - 9506
- Trophy (wooden + metal + glass) - 8306

The concerned jurisdictional officer Sh. Rajendra Gaikwad, Deputy Commissioner of State Tax (E-820), Mumbai attended and furnished a written submission.

05. OBSERVATIONS

We have gone through the facts of the case. We find that by letter dt.24.02.2018 (received on dt.26.02.2018), the applicant has framed the following questions for our decision :

1. *If the word TROPHY is specifically mentioned under 83062920, So can we sell all trophies made of any material under this HSN?*
2. *If different code is allocated to trophies assembled of different material, I would like to know if there is a combination of different materials and about 75% (value terms) is getting used of any one Raw Material, under which HSN should we make bill?*

We shall deal with the questions in the order as follows :

Question 1

If the word TROPHY is specifically mentioned under 83062920, So can we sell all trophies made of any material under this HSN?

To answer the question, we refer to the Customs Chapter 83. This Chapter is for “Miscellaneous articles of base metal”. A base metal is a common and inexpensive metal, as opposed to a precious metal such as gold or silver. Base material is different from base metal. The Harmonized Commodity Description and Coding System Explanatory (HSN) Notes and the



Customs Tariff Notes in respect of SECTION XV about BASE METALS AND ARTICLES OF BASE METAL clarifies thus -

"3. Throughout this Schedule, the expression "base metals" means : iron and steel, copper, nickel, aluminium, lead, zinc, tin, tungsten (wolfram), molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.

Now we may look at the Customs Tariff Heading 8306 thus -

8306		BELLS, GONGS AND THE LIKE, NON-ELECTRIC, OF BASE METAL; STATUETTES AND OTHER ORNAMENTS, OF BASE METAL; PHOTOGRAPH, PICTURE OR SIMILAR FRAMES, OF BASE METAL; MIRRORS OF BASE METAL
8306 10 00	-	Bells, gongs and the like
	-	Statuettes and other ornaments:
8306 21	--	Plated with precious metal:
8306 21 10	---	Statuettes
8306 21 20	---	Trophies
8306 21 90	---	Other
8306 29	--	Other:
8306 29 10	---	Statuettes
8306 29 20	---	Trophies
8306 29 90	---	Other
8306 30 00	-	Photograph, picture or similar frames; mirrors

As can be seen, the Tariff item 83062120 covers "Trophies". This would be the trophies of base metal and not of any other material. The mere mention of the word "trophies" would not mean that trophies of any material would be covered by the Heading. The Chapter 83 is for miscellaneous articles of base metal. Hence, the Heading 8306 falling in the Chapter 83 would have to be understood in that sense only. The HSN Notes and Customs Tariff Notes to Section XV also clarify about "composite articles" thus -

7. Classification of composite articles :

Except where the headings otherwise require, articles of base metal (including articles of mixed materials treated as articles of base metal under the Interpretive Rules) containing two or more base metals are to be treated as articles of the base metal predominating by weight over each of the other metals.

For this purpose:

- (a) iron and steel, or different kinds of iron or steel, are regarded as one and the same metal;
- (b) an alloy is regarded as being entirely composed of that metal as an alloy of which, by virtue of Note 5, it is classified; and
- (c) a cermet of heading 8113 is regarded as a single base metal.

We find that the HSN Notes of the Section XV under the Heading "General" also clarify thus -

GENERAL

This Section covers base metals (including those in a chemically pure state) and many articles thereof. A list of goods of base metal not covered by this Section is reproduced at the end of this Explanatory Note. The Section also includes native metals separated from their gangues, and the mattes of copper, nickel or cobalt. Metallic ores and native metals still enclosed in their gangues are excluded (heading 26.01 to 26.17).

In accordance with Note 3 to this Section, throughout the Nomenclature, the expression "base metals" means : iron and steel, copper, nickel, aluminum, lead, zinc, tin, tungsten (wolfram), molybdenum, tantalum, magnesium, cobalt, bismuth, cadmium, titanium, zirconium, antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium, (columbium), rhenium and thallium.

Each of the Chapters 72 to 76 and 78 to 81 covers particular unwrought base metals and products of those metals such as bars, rods, wire or sheets, as well as articles thereof, except certain specified articles of base metal which, without regard to the nature of the constituent metal, are classified in Chapter 82 or 83, these Chapters being limited to the specified articles.

(A) ALLOYS OF BASE METALS

In accordance with Note 6 to this Section, except where the context otherwise requires (e.g., in the case of steel alloys), any reference to a base metal in Chapters 72 to 76 and 78 to 81 or elsewhere in the Nomenclature also includes the alloys of that metal. Similarly, any reference in Chapter 82 or 83 or elsewhere to "base metal" includes alloys classified as alloys of base metals.

Under Note 5 to Chapter 71 and Note 5 to this Section alloys of base metals are classified as follows :

- (1) Alloys of base metals with precious metals



These alloys are classified as base metals **provided** that no one of the precious metals (silver, gold and platinum) constitutes as much as 2% by weight of the alloy. Other alloys of base metals with precious metals are classified in **Chapter 71**.

(2) **Alloys of base metals**

These alloys are classified with the metal which predominates by weight, with the **exception** of ferro-alloys (see the Explanatory Note to heading 72.02) and master alloys of copper (see the Explanatory Note to heading 74.05)

(3) **Alloys of base metals of this Section with non-metals or with the metals of heading 28.05.**

These are classified as alloys of base metals of this Section provided the total weight of base metals of this Section equals or exceeds the total weight of the other elements present. If this not the case, the alloys are generally classified in heading 38.24.

(4)

(B) ARTICLES OF BASE METALS

In accordance with Section Note 7, base metal articles containing two or more base metals are classified as articles of that metal which predominates by weight over each of the other metals, except where the headings otherwise require (e.g., copper-headed iron or steel nails are classified in heading 74.15 even if the copper is not the major constituent). The same rule applies to articles made partly of non-metals, provided that, under the General Interpretative Rules, the base metal gives them their essential character.

In calculating the proportions of the metals present for the purposes of this rule, it should be noted that :

- (1) All varieties of iron and steel are regarded as the same metal.
- (2) An alloy is regarded as being entirely composed of that metal as an alloy of which it is classified (e.g., for these purposes, a part made of brass would be treated as if it were wholly of copper).
- (3) A cermet of heading 81.13 is regarded as single base metal

As can be seen, the constituent materials, the combination with non-metals, etc. have to be seen to understand the classification. Therefore, even though the word TROPHY is specifically mentioned under 83062920, all trophies made of any material cannot be classified under this HSN and are to be classified as per the applicable provisions of the Customs Tariff Headings.

Question 2

If different code is allocated to trophies assembled of different material, I would like to know if there is a combination of different materials and about 75% (value terms) is getting used of any one Raw Material, under which HSN should we make bill?

We have to say that this again is a very general question. The interpretive rules governing the classification have to be seen. The HSN Notes to Heading 8306 say thus -

(B) Statuettes and other ornaments

This group comprises a wide range of ornaments of base metal (whether or not incorporating subsidiary non-metallic parts) of a kind designed essentially for decoration, e.g., in homes, offices, assembly rooms, places of religious worship, gardens.

It should be noted that the group does not include articles of more specific headings of the Nomenclature, even if those articles are suited by their nature or finish as ornaments.

The group covers articles which have no utility value but are wholly ornamental, and articles whose only usefulness is to contain or support other decorative articles or to add to their decorative effect, for example :

- (1) Busts, statuettes and other decorative figures; ornaments (including those forming parts of clock sets) for mantelpieces, shelves, etc. (animals, symbolic or allegorical figures, etc.); **sporting or art trophies (cups, etc.)**; wall ornaments incorporating fittings for hanging (plaques, trays, plates, medallions other than those for personal adornment); artificial flowers, rosettes and similar ornamental goods of cast or forged metal (usuaklly of wrought iron); knick-knacks for shelves or domestic display cabinets.

(2).....

It can be seen from all the above Notes that the constituent materials of the trophies has to be seen to understand the classification. For Chapter 83, the requirement of one of the constituents being a base metal is necessary. We have seen above that the HSN Notes to Section XV say that articles made partly of non-metals are also covered provided that, under the General Interpretative Rules, the base metal gives them their essential character. We may as well see the Tariff Interpretative Rules as follows :



“2. THE GENERAL RULES FOR THE INTERPRETATION OF IMPORT TARIFF

Classification of goods in this Schedule shall be governed by the following principles:

1. The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:
2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.
(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.
3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:
(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.
(c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.
4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.”

In addition to the above, the Chapter Notes may also be referred to understand the inclusions and exclusions therefrom. We would advise the applicant to understand the above Rules and determine the classification accordingly. In absence of the needful information as to the constituent materials of the trophies, no exact decision can be given. Further, no decision can be given on such a question of a general nature.

06. In view of the 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-12/2017/B-

15

Mumbai, dt.

23/3/2018

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

- Q.1** If the word TROPHY is specifically mentioned under 83062920, So can we sell all trophies made of any material under this HSN?
- A.1** Answered in the negative.



Q.2 If different code is allocated to trophies assembled of different material, I would like to know if there is a combination of different materials and about 75% (value terms) is getting used of any one Raw Material, under which HSN should we make bill?

A.2 The question is of a general nature. In absence of the needful information as to the constituent materials of the trophies, the question cannot be answered.



— sd —
B. V. BORHADE
(MEMBER)

— sd —
PANKAJ KUMAR
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Jurisdictional Commissioner of Central Tax

CERTIFIED TRUE COPY


ADVANCE RULING AUTHORITY
MAHARASHTRA STATE MUMBAI