

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



ADVANCE RULING NO. GUJ/GAAR/R/2022/52
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/41)

Date: 30 / 12 / 2022

Name and address of the applicant	:	M/s. Doms Industries Pvt. Ltd., Plot No. 117, 52 Hector Expansion Area, New GIDC, Umbergaon, Gujarat
GSTIN of the applicant	:	24AAACW6734A1ZP
Date of application	:	25-08-2022
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(b)
Date of Personal Hearing	:	21-10-2022
Present for the applicant	:	Rahul Bhupendra Shah,(CFO), Chintan Shah (C.A.), Devam Sheth (CA), Manish Shah (Advocate)

BRIEF FACTS:

M/s Doms Industries Pvt. Ltd is manufacturer and suppliers of all kind of the stationary items like wooden pencils, sharpeners, erasers, mathematical & drawing instruments, ball point pens, wax crayons & oil pastels and wide range of student art materials.

2. The applicant has submitted that GST council in his 47th Meeting recommended changes in GST rate applicable on specified goods and services. These changes have come into effect vide Not. No. 2/2022-CT (Rate) dated 13-7-2022 w.e.f 18-7-2022 and are as follows:

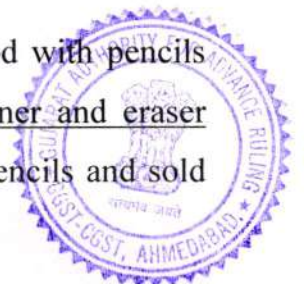
HSN code	Product Covered	Earlier GST Rate	Revised GST Rate
8214	Pencil Sharpener	12%	18%
9017	Scale and Mathematical Instruments Set	12%	18%

2.1 It is submitted that the aforesaid products are sold by the applicant in combination with other products which are liable to GST rate @ 5% and 12%. The applicant is supplying following products in which Pencil Sharpener and Scales are sold as accessories:

(1) Doms A1 Pencil (2) Doms Smart Kit (3) Doms My first Pencil Kit

3. The applicant has submitted the Product description as under:

(1) Doms A1 Pencil: The product contains 10 pieces of pencils made of wood with pencils leads made of graphite. This pack of 10 pencils sold along with a Sharpener and eraser included in the pack as accessories. This product is marketed as a Pack of Pencils and sold



for a single price. The value of eraser and Sharpener provided in this pack is minimal when compared to overall price of pack. The applicant is of the view that the principal products in the above packs are pencils. The applicant submits that the eraser and sharpener are integral to the use and performance of the principal product that is pencil. The pencil cannot be used without sharpening and erasers are specifically used for erasing of writings done with pencils. The sharpener and eraser do not have any utility by itself.

The applicant submits that it has always been trade practice in the Indian Stationery industry to sell a pack of pencil containing one sharpener and one eraser together.

(2) Doms Smart Kit : This product is a gift pack containing combination of nine different products that is, a colouring book, two pack of pencils, one pack of colour pencils, one pack of oil pastels, one pack of plastic crayons, one pack of wax crayons, one eraser, one scale and one sharpener. It is submitted by the applicant that purpose of selling a kit bundled with products complimentary to drawing was to allow purchasing convenience to the consumer. The kit allows young kids to get a drawing book and other drawing / colouring product in a single pack. This kit is sold for a single price of all products bundled together.

The applicant has submitted that they used to sell the said kit under HSN code of the Item with the highest value inside the kit, as it also had the maximum GST Rate. However, with the change in GST rate of pencil sharpener to 18%, sharpener now has the highest tax rate amongst all the products bundled together.

(3) DOMS My first Pencil Kit: This product is combo pack containing a pencil and complementary products like eraser, scale and sharpener. The purpose of selling this as a kit bundled with products complimentary to pencil is to allow purchasing convenience to the consumer. The kit helps the children in learning the basic writing skills and providing the necessary products in on single pack. This kit is sold for a single price of all products bundled together.

The applicant has submitted that they used to sell the said kit under HSN code of the Item with the highest value inside the kit, as it also had the maximum GST Rate. However, with the change in GST rate of pencil sharpener to 18%, sharpener now has the highest tax rate amongst all the products bundled together.

4. The applicant has submitted that Composite Supply is defined under Section 2(30) of CGST Act, 2017 and is read as under :

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;0

Illustration.- Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

4.1 The applicant submits that to qualify as a "composite supply", the following conditions must be satisfied:



- There must be two or more taxable supplies of goods or services or any combination thereof;
- Such supplies of goods or services must be naturally bundled;
- Such supplies of goods or services are made in conjunction with each other in an ordinary course of business; and
- One of such combination of supplies of goods or services is principal/ predominant supply to others which are ancillary to such principal element.

5. Mixed Supply is defined under Section 2(74) of CGST Act, 2017

(74) "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.

Illustration.- A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

6. The applicant submits 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 bundles. It is further submits that where goods are sold in combination with other goods and the same are naturally bundled in the ordinary course of business as per guidance stipulated under the Education guide, such supplies shall be construed as composite supply.

7. Section 8 of CGST Act, 2017 defines taxability of Composite and Mixed Supplies and read as follows:

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

8. The applicant submits that vide Not. No. 6/2022-CT (Rate) dated 13-7-22 w.e. from 18-7-22 the GST Rate has been changes as under :

HSN code	Product covered	GST Rate up to 187-22	Effective GST Rate from 18-7-22
8214	Pencil Sharpener	12%	18%
9017	Scale and Mathematical Instruments Set	12%	18%

9. The applicant has submitted the essential characteristic of their products as follows:

Sr. No.	Product Criteria	Constitute	Components are put together to meet a particular need or carry out a specific activity	Essential Character



1	Doms A1 Pencil	10 Pieces of Pencils, 1 eraser and 1 Sharpener in a single box	<ul style="list-style-type: none"> Pencils are used for making marks on a paper such as for drawing or writing purpose It is well known fact that a pencil in such box cannot be used as such unless the same is sharpened. Thus a sharpener is also provided in the box. The eraser enables mistakes marks to be erased. Hence these components are sold in combination to perform a specific activity i.e. writing or drawing. 	As the objective of the box is to enable writing/drawing, the pencil provides all the components of the box the essential character as the packaging suggests. This also evident considering the role of pencil in the entire set and even its value of compared to other constituent materials.
2.	Doms Smart Kit	1 colouring books, 2 packs of pencils, 1 Pack of colour pencil, 1 Pack of oil pastels, 1 Pack of wax crayons, 1 eraser, 1 scale and 1 sharpener	<ul style="list-style-type: none"> The product in the kit are bundled in a way to enable kids to draw Along with drawing book, pencils, different types of colours, scale, eraser and sharpener are bundled together so that a consumer can buy a single kit for the purpose of drawing and colouring. 	As the objective of the kit is to enable writing/drawing, the drawing book and colouring tools provide the essential character to the entire package. This also evident considering the role of drawing book and colours in the entire set and even its value of compared to other constituent materials.
3.	Doms My First Pencil Kit	1 Pencil, 1 eraser, 1scale and 1 sharpener	<ul style="list-style-type: none"> Similar to the product specified in Sr. No. 1 above, this kit facilities use of pencil by providing an eraser, sharpener and a scale along in the set. Hence, the set is sold to perform a specific activity of writing / drawing. 	As the object of the box is to enable writing/drawing, the pencil provide all the components of the box the essential character.

10. The applicant has submitted that four critical conditions are required to be satisfied for categorization of supply of multiple goods under composite supply. If these conditions are



not satisfied, the said supply shall be considered as mixed supply. Accordingly, submitted as under:

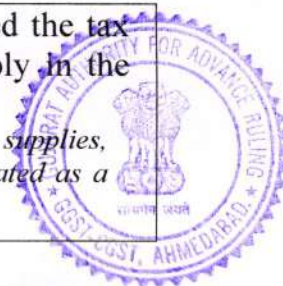
Sr. No.	Conditions for Composite Supply	Analysis
1.	There must be two or more taxable supplies of goods or service or any combination thereof;	In the present case, considering the HSN classification adopted by the Company all the constituents of the multiproduct packs are leviable to GST. Accordingly, the instant condition is fulfilled.
2.	Such supplies of goods or services must be naturally bundled;	Based on the guidance under Education Guide for determining natural bundle and sale of multiple products/ services in ordinary course of business, the following is submitted as under : <ul style="list-style-type: none"> • These multiproduct packs are also generally sold by other major players in the industry. • Further, based on the packaging as well it appears that constituents of the above multiproduct packs are normally advertised as a package. • The consumers are also expect these products to be generally sold together as a package.
3.	Such supplies of goods or services are made in conjunction with each other in an ordinary course of business;	It submits that considering this, these conditions are appears to be fulfilled in respect to these multi product packs.
4.	One of such combination of supplies of goods or services is principal/ predominant supply to others which are ancillary to such principal element	From the combination in which the articles are sold, it is apparent that one of the products i.e. pencil/colours are the main product and rest of the products are merely ancillary i.e. aiding to use of the main product. Accordingly, this condition is also fulfilled.

11. The applicant has submitted that with respect to the above multiproduct packs, all the four conditions are fulfilled, such supplies may qualify as 'Composite Supply'. Accordingly, the GST rate as applicable on the principal product which in the instant case is pencil/colour pencil/crayons will apply to the complete set. Hence, these products shall fall under Heading 9609 and chargeable to GST rate of 12%.

Revenue's Submission

12. The Assistant Commissioner, CGST & C. Ex. Commissionerate, Surat vide letter dated 11-10-2022 has submitted comments on the question on which Advance Ruling is sought and is as follows :

1. Whether the supply of Pencils Sharpener along with Pencils being the Principal supply will be considered as the "Composite Supply" or "Mixed Supply".	Section 8 of CGST Act, 2017 has defined the tax liability on a composite and mixed supply in the following manner : (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a
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supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

1. In the case of Doms A1 Pencils, the applicant has submitted that in India, traditionally, a pack of 10 pieces of Pencils is sold along with the sharpener and eraser in the Pack as Accessories.

1.1 First of all , the items which is to be included in the application have specific classification in the Tariff and so far as the “Accessories“ is concern- an extra item that is added to something and is useful or attractive but not of great importance. Thus, the packing as referred in the application cannot establish the sharpener and eraser as integral part or necessities of the pack. It is only the promotional and also a phenomenon to enhance the sale of the product. Thus, as per Section mentioned above, sale of DOMS A1 Pencils falls under “Mixed supply”.

1.2 As per the submission made by the applicant in the case of DOMS Smart Kit, the applicant has submitted that the purpose of selling a kit bundled with products complimentary to drawing was to allow purchasing convenience to the consumer.

1.3 In this regard, it is submitted that as per section 15(1) of the CGST Act, 2017 the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. However, in the application the applicant referred their sale as per convenience to the consumer “as a gift pack”. First of all, gift pack usually sold occasionally. Further, all the products as mentioned in the application are bundled together, which falls under the category of “Mixed supply” because all the items which have been bundled are also sold individually in the market and they also have specific HSN in the Tariff. Thus, as per Section mentioned above, sale of DOMS Smart Kit falls under “Mixed supply”.

1.4 As per the submission made by the applicant in the case of “DOMS My First Pencil Kit”, in which the applicant has submitted that the product is combo pack containing a pencil and complementary products like eraser, scale and sharpener. Thus complementary word itself constitute these products are not the integral part of the supply but it has been packed for the convenience to the consumer and in these



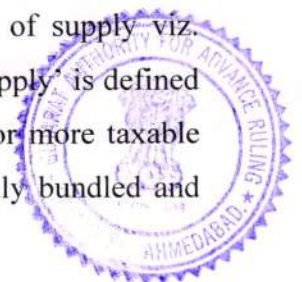
	<p>circumstances the combo pack must be classified under “mixed supply” and a particular supply which attracts the highest rate of tax.</p> <p>1.5 Further, Supply of goods (such as pencils, sharpener, eraser, plastic crayons, wax crayons etc.) in these cases are not naturally bundled. Instead, each of these items can be supplied separately and independent of each other. This scenario is distinguishable from illustration of supply of goods mentioned in Section 2(30) (definition of Composite Supply) where, without packing, transport and insurance, supply of goods cannot be made. Hence, these supplies of goods and services are naturally bundled.</p> <p>Rather, the present case is similar to illustration mentioned in Section 2(74) (definition of Mixed Supply) which mentions supply of package consisting of canned foods, sweets, chocolates etc. which are sold for single price. These items can be supplied separately, independent of each other and are not naturally bundled.</p> <p>Therefore, when sold together for a single price, these products appear to be correctly categorized as Mixed Supply and not Composite Supply.</p>
<p>What will be HSN code to be used by us for the supply of pencils in above case?</p>	<p>In case of mixed supply as per section 8 of the CGST Act, 2017 which specify that mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax. Therefore the HSN code under mixed supply may be HSN of the goods having highest rate of tax.</p>
<p>Whether supply of sharpener having a nominal value along with the kit will have an impact on rate of tax of the kits? If yes, what will be rate of tax and HSN code to be used by us?</p>	<p>As per Section 8 of the CGST Act, 2017 and definition as per section 2(74) of the CGST , Act 2017 "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. Hence, in these circumstances the products mentioned in the application falls under the category of mixed supply therefore the highest rate of the tax is to be levied on such supply.</p>

13. Additional Submission

The applicant vide letter dated 8-11-2022 has submitted the following:

A. Demonstrate that the Products are Naturally Bundled:

1. For the purposes of GST, the taxability and reporting of supply on an invoice involving sale of goods in combination to other goods/ services is guided by the nature of supply viz. ‘Composite Supply’. As per section 2(30) of the CGST Act, a ‘Composite Supply’ is defined to mean a supply made by a taxable person to a recipient comprising two or more taxable supplies of goods or services or any combination thereof, which are naturally bundled and



supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

2. The concept of 'naturally bundled' supplies is not defined under CGST Act. However, the 'Education Guide' issued by the Central Board of Excise & Customs ('CBEC') in the year 2012 explains the 'Bundled service' to mean a bundle of provision of various services wherein an element of one service is combined with an element or elements of any other service or services. Though this reference is given with respect to bundled service it can also be extended to bundled supplies of goods as well under the GST regime. For this, reliance can be placed on the flyer cum FAQ issued by CBIC to explain the concepts of 'composite supply' and 'mixed supply', which also makes reference to the Education Guide issued under service tax regime in determining whether a supply is a composite or a mixed supply under GST regime.
3. Para 9.2.4, the Education Guide discussed that whether a bouquet of services is bundled in the ordinary course of business would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:
 - a) The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
 - b) Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
 - c) Nature of the services offered is such that one is the main service and the other services combined with such a service are ancillary.
 - d) Other illustrative indicators, not determinative but indicative of bundling of services in ordinary course of business are –
 - There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.
 - The elements are normally advertised as a package.
 - The different elements are integral to one overall supply – if one or more is removed, the nature of the supply would be affected.
4. Hence, the above indicators specify the basis for determining if a bundle of goods or services are natural in ordinary course of business.

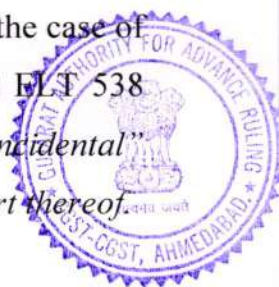
Sr. No.	Product	Constituents	Remarks
1.	Doms A1 Pencil (MRP Rs.40/-)	10 pieces of pencils, 1 eraser and 1 sharpener	• The product is sold at single price.



			<ul style="list-style-type: none"> • These constituents are sold in combination to perform a specific activity i.e. writing or drawing. • The product is normally advertised a package. • It is the perception of consumer to buy the product as a package.
2.	Doms My First Pencil Kit	1 pencil, 1 eraser, 1 sharpener and 1 scale	<ul style="list-style-type: none"> • The product is sold at single price. • These constituents are sold in combination to perform a specific activity i.e. writing or drawing. • The product is normally advertised a package. • It is the perception of consumer to buy the product as a package.
3.	Doms Smart Kit	1 colouring book, 2 packs of pencils, 1 pack of colour pencils, 1 pack of oil pastels, 1 pack of plastic crayons, 1 pack of wax crayon, 1 eraser, 1 sharpener and 1 scale	<ul style="list-style-type: none"> • The product is sold at single price. • These constituents are sold in combination to allow purchasing convenience to the consumer. • The product is normally advertised a package. • It is the perception of consumer to buy drawing book and other drawing/colouring products in a single pack.

B. Demonstrate that the items packed together in product are essential used together:

1. For a combination to be regarded as a composite supply the taxability is determined based on the principal supply i.e. the supply which constitutes the predominant element of such composite supply.
2. Section 2(90) defines the term 'principal supply' as '*principal supply*' means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary'.
3. As can be observed from the above definition, one of the important aspects of a principal supply is that any other supply forming part of the composite supply should be ancillary to such principal supply. Here, it is relevant to note, that the term 'ancillary' is not defined under the CGST Act. Accordingly, reference could be made to the definition of such a term in general parlance.
4. As per Stroud's Judicial Dictionary and the Supreme Court in its decision in the case of the Commissioner of Customs Vs. Spice Telecom, Bangalore [2006 (203) ELT 538 (SC)], the term ancillary is defined as '*A Work is said to be "ancillary or incidental" to a thing, trade or business when it is not necessary thereof or a primary part thereof.*'



5. Further, the Hon'ble Supreme Court in the case of Vareed Jacob vs Sosamma Geevarghese [AIR 1984 SC 744] has accepted the meaning assigned to the word "ancillary" as stated in the Law Lexicon. *'The expression 'ancillary' means aiding, auxiliary subordinate; attendant upon; that which aids or promotes a proceeding as a principal.*
6. Therefore, given the aforementioned definition specified in Stroud's Legal Dictionary, a supply could be regarded as ancillary if it is not necessary for a combination. Also, as per the definition in Law Lexicon, for a supply to be ancillary to another, it should be aiding or supporting or promoting the principal supply.
7. Further it has been always a Trade Practice in the Indian Stationery industry to sell a pack of pencils containing one sharpener & one eraser together. Also, it has been the perception of consumer to reasonably expect sharpener & eraser along with a pack of pencils. The eraser & sharpener are integral to the use and performance of the principal product, that is, pencil. The pencil cannot be used without sharpening and the erasers are specifically used for erasing of writings done with pencils. The sharpener can be used only for sharpening pencils. Other than to be used along with the use of pencils, the eraser and the sharpener do not have any utility by itself.

Sr. No.	Product	Constituents	Remarks	Essential Character
1.	Doms A1 Pencil (MRP – Rs.40/-)	10 pieces of pencils, 1 eraser and 1 sharpener	<ul style="list-style-type: none"> • Pencils are used for the purpose of writing or drawing on paper. • It is a well-known fact that a pencil in such box cannot be used as such unless the same is sharpened. Thus, a sharpener is also provided in the box. • Further, the eraser enables mistaken marks to be eliminated. • Hence, these components are sold in combination to perform a specific activity i.e. writing or drawing. 	As the object of the product is to enable writing/ drawing, the pencil provides all the components of the product the essential character as the packaging suggests. This is also evident considering the role of pencil in the entire set. Further the value of ancillary product namely sharpener is Rs.3/- which is minimal (7.5%) as compared to MRP of overall product. <u>This further highlights that the objective is to sell a pack of pencil to the end consumer and not ancillary products.</u>
2.	Doms My First Pencil Kit (MRP – Rs.12/-)	1 pencil, 1 eraser, 1 sharpener and 1 scale	<ul style="list-style-type: none"> • Pencils are used for the purpose of writing or drawing on paper. • It is a well-known fact that a pencil in such box cannot be used as such unless the same is sharpened. Thus, a 	As the object of the product is to enable writing/ drawing, the pencil provides all the components of the product the essential character as the packaging suggests. This is also evident considering the role of pencil in the entire set. Further the value of ancillary product namely



			<p>sharpener is also provided in the box.</p> <ul style="list-style-type: none"> • Further, the eraser enables mistaken marks to be eliminated. • Hence, these components are sold in combination to perform a specific activity i.e. writing or drawing. 	<p>sharpener is Rs.3/- which is minimal (25%) as compared to MRP of overall product. <u>This further highlights that the objective is to sell a kit with pencil as the principal product to the end consumer and not ancillary products.</u></p>
3.	Doms Smart Kit (MRP – Rs.500/)	1 colouring book, 2 packs of pencils, 1 pack of colour pencils, 1 pack of oil pastels, 1 pack of plastic crayons, 1 pack of wax crayon, 1 eraser, 1 sharpener an 1 scale	<ul style="list-style-type: none"> • The kit contain a paper activity book (to color, draw, design and decorate) • The other constituents i.e. pencils, color pencils, oil pastel and crayons are used for the purpose of colouring, drawing in the activity book. • The above constituents cannot be used as such unless the same is sharpened. Thus, a sharpener is also provided in the box. • Further, the eraser enables mistaken marks to be eliminated. • Hence, these components are sold in combination to perform a specific activity drawing or colouring or designing or decorating. 	<p>As the object of the product is to enable drawing/colouring/designing and decorating, the activity book provides all the components of the product the essential character and other products are ancillary to activity book. Further the value of ancillary product namely sharpener is Rs.10/- which is minimal (2%) as compared to MRP of overall product. This further highlights that the objective is to sell a pack of drawing/colouring essentials to the end consumer and not sharpener.</p>

C. Without prejudice to above we would like state as under:

1. As per Section 9(1) of CGST Act, GST is payable on supply of goods at the prescribed rates. In this regard, GST rates have been prescribed vide Notification No. 1/ 2017 – Central Tax (Rate) dated 30 June 2017 ('GST Rate Notification'). The rate schedule notified under GST follows the HSN classification system to determine GST rates for various products as present under Customs law.
2. Further, the explanation to GST Rate Notification also indicates that the classification along with rules for interpretation of schedules is to be ascertained on the same principles as applicable under Customs law. We have reproduced the extract of such explanation herein below:



“(iv) "Tariff item" "Heading" "Sub-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 (Act No.51 of 1975).

(v) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (Act No.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.

3. As apparent from the above extract, the classification of goods under GST is done in accordance with Customs Tariff Act, 1975. Thus, it is pertinent to evaluate/ understand the principles of classification under Customs Act to determine taxability under GST law. Under Customs Law, the following rules/notes is prescribed for interpretation and classification of rate tariff:
 - a) The General Rules for Interpretation of Import Tariff ('GIR')
 - b) The General Explanatory Notes to Import Tariff ('GIN')
 - c) Section Notes and Chapter Notes (before start of each section/chapter containing items/ products)
4. GIR lays down the principles for classification of goods under import tariff to ensure uniform and consistent legal interpretation. The key principles laid under GIR is given below:
 - As per Rule 1 of GIR, firstly the classification of an article shall be determined in terms of the headings and relative section and chapter notes.
 - As per Rule 3(a) of GIR, if an article is classifiable under two or more headings, the heading which provides the most specific description shall be preferred to headings providing a more general description.
 - As per Rule 3(b) of GIR, composite goods consisting of different materials/ made up of different components and goods put up in sets for retail sale which cannot be classified under Rule 3(a), shall be classified as if they consisted of the material or component which gives them their essential character.
 - As per Rule 3(c) of GIR, when goods cannot be classified under Rule 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which merit equal consideration.
5. Here it is relevant to note that Rule 3 is applied when goods are capable of being classifiable under two or more heading. In such cases, the classification of goods which are put up in sets for retail sale is to be undertaken basis the product providing essential character to the complete set.
6. Considering the industry in which the company operates the goods sold by them shall fall under the ambit of term '**goods put up in sets for retail sale**'. The Indian Customs law does not provide any explanation/ guidance on the said term. Hence, reliance can be placed on the guidance provided by World Customs Organisation (WCO) considering that the entire scheme of customs tariff and classification norms applicable in India are based on the tariff and principles developed by the World Customs Organisation (WCO).



7. The World Customs Organisation has laid down explanatory notes for construal of all the rules specified under GIR. The said explanatory notes define the term 'goods put up in sets for retail sale' to mean, goods which:
- consist of at least two different articles which are prima facie, classifiable in different headings;
 - consist of products or articles put up together to meet a particular need or carry out a specific activity; and
 - are put up in a manner suitable for sale directly to end users without repacking (e.g., in boxes or cases or on boards).
8. The explanatory notes further clarifies that:
- The term 'Retail sale' does not include sales of products which are intended to be re-sold after further manufacture, preparation, repacking or incorporation with or into other goods.
 - The term 'goods put up in sets for retail sale' only covers sets consisting of goods which are intended to be sold to the end user where the individual goods are intended to be used together.
9. Hence, a set containing multiple goods which are sold as such without any further activity and are intended to be used together shall be covered under the term '**goods put up in sets for retail sale**'.
10. Further, another critical element for application of Rule 3(b) is existence of the material/component which provides the essential character to the entire set of products. For identifying the same the explanatory notes provides below guidance:
- 'The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.'*
11. Hence, the component providing essential character to the complete set needs to be determined on a reasonable parameter such as the nature of the component, its role, quantity and value as compared with constituent components etc. Hence once the above two conditions i.e. qualification of set as 'goods put up in sets for retail sale' and determination of 'component providing essential character' are fulfilled, classification of such set needs to be done as per Rule 3(b) of GIR.
12. In case above criteria is not met, Rule 3(c) of GIR shall be applicable i.e. the classification needs to be done under heading which occurs last in numerical order under the tariff. As specified earlier, since the rules/ interpretation as applicable under Customs law are applicable for interpretation of GST tariff, the above principles are very well applicable for determination of GST rate leviable on goods.
13. As apparent from the above discussion, since all the three conditions are satisfied for all the multiproduct packs, they shall qualify as '**goods put in sets for retail sale**'. Further, the product providing essential character can also be identified in relation to all the above specified products, the classification of these products shall be undertaken in terms of Rule 3(b).



14. To support the above view, reference can be made to the below rulings passed under the U.S. Customs Law on classification of stationery sets, considering the scheme of classification and rules for interpretation being are common across various countries. Copy of the same are attached herewith for your ready reference.

Sr. No.	Kit Contents	Judgment Pronounced	Citation
1.	Two pencils, an eraser, a sharpener and a ruler	Kit held as "goods put up in sets for retail sale" since eraser, the sharpener and the ruler are mere adjuncts to the pencils. Further, the pencils provide this item with the essential character to the set.	NY N245467
2.	A spiral-bound note pad, a plastic ruler, an eraser and three long wood-cased pencils	Kit held as "goods put up in sets for retail sale", with the essential character imparted by the note pad.	NY N284316
3.	A Halloween Stationery Kit consisting of 20 Halloween themed coloring books, 20 crayons, 20 mini pens, 20 lithographically printed stickers and 20 erasers.	Kit held as "goods put up in sets for retail sale", with the essential character imparted by the Halloween themed coloring books.	NY N244042
4.	A paper activity book (to color, draw, design and decorate), a sketch pad, crayons, mini markers, small plastic stencil, pencil and ballpoint pen.	Kit held as "goods put up in sets for retail sale", with the essential character imparted by the activity book.	NY K87721

15. Considering the discussion stated above, the company believes that the classification of these multiproduct would fall under Heading 9609 i.e. 'Pencils (including propelling or sliding pencils), crayons, pastels, drawing charcoals and tailor's chalk' and hence will fall under Entry no. 233 of Schedule III of GST rate notification and hence liable to GST of 12%.

16. It is further relevant to note that even if the multiproduct packs do not fulfil the requirements under Rule 3(b) of GIR, classification needs to be done under Rule 3(c) i.e. basis the constituent falling under the heading which occurs last in numerical order. Considering this, even if the classification is done under Rule 3(c) of GIR, these multiproduct packs shall be classifiable under Heading 9609 and hence such packs shall continue to be taxable at 12%.

17. Further, as all the products being essential for the learning purpose, accordingly major consumers of this products are school going children's and due to the increase in rate of tax for sharpener there is increase in the cost of product the burden of same would fall on the consumers.

14. Question on which Advance Ruling sought

- 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 us in above case.
3. Whether supply of Sharpener along with the kit having a nominal value will have an impact on rate of tax. If yes, what will be rate of tax and HSN code to be used by us.

Personal Hearing:

15. Shri Rahul Bhupendra Shah,(CFO), Chintan Shah (C.A.), Devam Sheth (CA), Manish Shah (Advocate) appeared for the hearing and reiterated the contents of the application.

FINDINGS:

16. We have considered the submissions made by the Applicant in their application for advance ruling as well as the additional submissions made by the applicant before this authority. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

17. At the outset we would like to make it clear that the provisions of CGST Act and GGST Act are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the GGST Act.

18. We find that the applicant supplies the different products in single box/pack and in single price. These supplies are made in the name of (i) Doms A1 Pencil (ii) Doms Smart kit (iii) Doms My First Pencil Kit. The main issue here is to decide whether the applicant supplies as mentioned above which consist of different products in single pack is 'composite supply' or 'mix supply'.

19. We refer to Composite supply defined under Section 2(30) and Mix supply defined under Section 2 (74) of CGST Act, 2017:

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.- Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

19.1 To qualify any supply as a "composite supply", the following conditions must be satisfied:

- There must be two or more taxable supplies of goods or services or any combination thereof;
- Such supplies of goods or services must be naturally bundled;
- Such supplies of goods or services are made in conjunction with each other in an ordinary course of business; and



- One of such combination of supplies of goods or services is principal/ predominant supply to others which are ancillary to such principal element.

19.2 In light of the above provision of composite supply, we examine the each supply of the applicant one by one:

(I) Doms A1 Pencil :

(i) The applicant supplies Doms A1 Pencil in a box which consists of 10 Pieces of Pencils, 1 eraser and 1 Sharpener in a single box. All these three goods are classified under separate HSN of Custom Tariff and taxable under GST in different HSN in terms of Notification No. 1/2017-CT (Rate) dated 28-6-2017. This pack consists of more than two taxable supplies of goods. **Hence first condition is satisfied.**

(ii) The applicant in his own has submitted that in the box/pack along with Pencils, sharpener and eraser are included as “accessories”. To supply the accessories with a main product itself defines that these are not essential to the product but are useful to that product. The meaning of ‘accessory’ as defined in dictionary is as follows:

(a) Definition as per Merriam- Webster (<https://www.merriam-webster.com/>):

(a) an object or device that is not essential in itself but adds to the beauty, convenience, or effectiveness of something else

(b) Definition as per Collins (<https://www.collinsdictionary.com/dictionary/english>):

Accessories are items of equipment that are not usually essential, but which can be used with or added to something else in order to make it more efficient, useful, or decorative.

(c) Definition as per Dictionary.com :

an extra item that is added to something and is useful or attractive but not of great importance

- The above dictionary meaning of accessory suggests that Pencil sharpener and eraser supplied with pack is not an integral part of the Pencil but it is useful for the Pencil. The main thing is that Pencil sharpener and eraser are also supplied independently in the open market. Thus the pencil, pencil sharpener and eraser are not naturally bundled but are distinct to each other. **Hence second condition is not satisfied.**

(iii) As already discussed pencil sharpener and eraser supplied with pencil are not naturally bundled and all these products cannot be considered as are made in conjunction with each other in an ordinary course of business. The applicant argument that in this industry all the said three goods are sold together in a single pack is not tenable as such all the three goods viz. Pencil, Pencil Sharpener and Eraser are also sold separately, it means that all the three goods are not essentially supplied together by all the industry but few adopt such marketing practice to increase sale of pencil sharpener and eraser. Customers may and do purchase all the three products separately as and when required instead of purchasing in a pack. Further, customer buy the goods out of the three which he required and other two if not required will



not purchase and will save the money. Thus, we hold that three goods i.e. pencil, pencil sharpener and eraser are not naturally bundled and cannot say supplied in conjunction with each other in an ordinary course of business. **Hence third condition is not satisfied.**

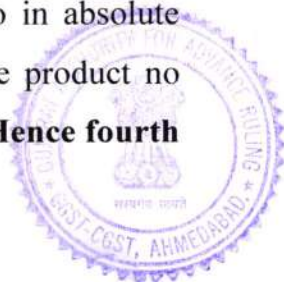
(iv) It is necessary to decide the principal supply among all the products to qualify as composite supply but as already discussed all the three products can supply independently and are not naturally bundled. Also all the three product have their individual identity, therefore among all the three goods no goods can be considered as principal supply and other ancillary. **Hence fourth condition is not satisfied.**

(II) Doms Smart Kit:

(i) The applicant supplies Doms Smart Kit in a box which consists of a colouring book, two pack of pencils, one pack of colour pencils, one pack of oil pastels, one pack of plastic crayons, one pack of wax crayons, one eraser, one scale and one sharpener. All these goods are classified under separate HSN of Custom Tariff and taxable under GST in different HSN in terms of Notification No. 1/2017-CT (Rate) dated 28-6-2017. This pack consists of more than two taxable supplies of goods. **Hence first condition is satisfied.**

(ii) The applicant in his own has submitted that this product is a gift pack and purpose of selling such a kit bundled with all nine products complimentary to drawing was to allow purchasing convenience to the consumer. We observed that the main objective to sell such single pack with nine different products is to attract the potential customer to purchase this gift pack and it is a trade promotion to increase the sale of different goods. Such types of pack in single price look attractive and potential customer easily purchase as a gift item and Applicant Company fulfil their objective to convince the potential customer to purchase such gift kit. Thus all such products are not naturally bundles but are distinct to each other and are supplied independently. This is a one type of trade promotion activity to increase supply of all the goods by the applicant. Also all nine goods are not supplied in conjunction with each other in ordinary course of business as such drawing books, wax colours, pastel colours, oil colour, pencil, sharpener, scale and eraser do not have interlink with each other and usually supplied separately and independently. To supply all such nine products together is not an activity which is followed in ordinary course of business. The applicant has his own admitted in his submission that some of the products in the gift pack are **complimentary to drawing**. Thus the products which are supplied in a pack as complimentary cannot be considered as naturally bundled and also cannot say supplied in conjunction with each other in an ordinary course of business. **Hence second and third conditions are not satisfied.**

(iii) It is next to impossible to determine the principal supply among all the nine products because each product is equally important in their application and uses. Also in absolute terms for any application each product is essential. Therefore, out of the nine product no product is principal supply and others are not ancillary to the principal supply. **Hence fourth condition is not satisfied.**



(III) Doms My First Pencil Kit:

(i) The applicant supplies Doms My First Pencil Kit which consists of a eraser, scale and sharpener. All these goods are classified under separate HSN of Custom Tariff and taxable under GST in terms of Notification No. 1/2017-CT (Rate) dated 28-6-2017. The pack consists of more than two taxable goods. **Hence first condition is satisfied.**

(ii) The applicant own his own has submitted that products eraser and pencil sharpener are supplied complementary to the Pencil. This means that eraser and sharpener are not integral and essential part required for supply of pencil. Also, the applicant has admitted that the purpose of selling this as a kit bundled with products complimentary to pencil is to allow purchasing convenience to the consumer. The main objective behind to sell a single pack with three different products is to advertise and convince the customer that this pack is cost effective as such having three items so that he may easily purchase the kit. Also, all three goods are not supplied in conjunction with each other in ordinary course of business as such pencil, sharpener and eraser do not have interlink with each other and usually supplied separately and independently. To supply all such three products together is not an activity which is followed in ordinary course of business. The applicant has own admitted in his submission that some of the products are **complimentary to pencil**. Thus the products which are supplied in a pack as complimentary cannot be considered as naturally bundled and also cannot say supplied in conjunction with each other in an ordinary course of business. **Hence second and third conditions are not satisfied.**

(iii) It is next to impossible to determine the principal supply among all the three products because each product is equally important in their application and uses. Also in absolute terms for any application each product is essential. **Hence fourth condition is not satisfied.**

19.3 We hold that the applicant supplies Doms A1 Pencil, Doms Smart Kit and Doms My First Pencil Kit in view of the above discussion do not cover under the category of 'composite supply'.

19.4 Now, we refer to Mix supply defined under Section 2 (74) of CGST Act, 2017 and read as under :

(74) "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.

Illustration.- A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

19.5 We find that to qualify any supply under mix supply the following conditions are to be satisfied:

- (i) there should be two or more individual supplies of goods or services or in any combination thereof;



(ii) Such supply should be made in conjunction with each other for a single price

(iii) such supply does not constitute a composite supply.

19.6 In light of the provision of Mix Supply, we examine each supplies of the applicant as follows:

Sr. No.	Product description	Product supplied in a pack	Condition of Mix supply	Conditions of mix supply whether satisfied or not
	Doms A1 Pencil	10 Pieces of Pencils, 1 eraser and 1 Sharpener in a single box	(i) there should be two or more individual supplies of goods or services or in any combination thereof; (ii) Such supply should be made in conjunction with each other for a single price (iii) such supply does not constitute a composite supply	(i) This pack consists of supplies of more than two products in combination and all three products are taxable under GST. Hence First Condition is satisfied (ii) All the three supplies of goods are packed in a single box and supply in combination for a single price. Hence second condition is satisfied. (iii) As already discussed in Para 19.3 such supplies does not constitute under composite supply. Hence third condition is also satisfied.
2.	Doms Smart Kit	1 colouring books, 2 packs of pencils, 1 Pack of colour pencil, 1 Pack of oil pastels, 1 Pack of wax crayons, 1 eraser, 1 scale and 1 sharpener		(i) This pack consists of supplies of more than two products in combination and all three products are taxable under GST. Hence First Condition is satisfied (ii) All the three supplies of goods are packed in a single box and supply in combination for a single price. Hence second condition is satisfied. (iii) As already discussed in Para 19.3 such supplies does not constitute under composite supply. Hence third condition is satisfied.
3.	Doms My First Pencil Kit	1 Pencil, 1 eraser, 1 scale and 1 sharpener		(i) This pack consists of supplies of more than two products in combination and all three products are taxable under GST. Hence First Condition is satisfied (ii) All the three supplies of goods are packed in a single box and supply in combination for a single price. Hence second condition is satisfied. (iii) As already discussed in Para



				19.3 such supplies does not constitute composite supply. Hence third condition is satisfied.
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19.7 We find that the applicant supplies of Doms A1 Pencil, Doms Smart Kit and Doms My First Pencil Kit satisfied all the conditions of mix supply. Further, we observed that the illustration given under the definition of Mix supply is similar to all types of the supplies of applicant. Therefore, we hold that all the three types of supply covers under the category of 'mixed supply' as defined under Section 2(74) of CGST Act, 2017.

20. The Tax rate of mix supply is governed by Section 8(b) of CGST Act, 2017 and is as follows :

Section 8. Tax liability on composite and mixed supplies.-

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

21.1 The above provision specify 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. We hold 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 pack/box.

21.2 The applicant in their addition submission has referred the General Interpretation of Rules of Custom Tariff Act, 1975 and argued that as per the GIR the classification of the pack/box containing multiple of goods will be decided by the essential characteristics of the goods containing in the packet. We find that the argument of the applicant does not hold much water as the present application is filed by the applicant for deciding the nature of supply and not for deciding the classification of all the taxable supplies containing in the box/pack. The applicant all the supplies 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.

21.3 The applicant all the supplies i.e. kit if containing Sharpener and if tax rate of that particular sharpener is highest among all the product containing in that particular supply i.e. kit, in such case the applicant is liable to pay the highest tax rate and HSN code is to be used of that particular supply having highest rate.




22. In light of the foregoing, we rule as under –

RULING

1. The supply of Pencils Sharpener along with Pencils is covered under the category of “Mixed Supply”.
2. As discussed in Para 21.1.
3. Yes, the supply of Sharpener along with the kit having a nominal value will have an impact on rate of tax. As discussed in Para 21.2 and 21.3.


(MILIND KAVATKAR)
MEMBER (S)


(AMIT KUMAR MISHRA)
MEMBER (C)



Place: Ahmedabad
Date: 30.12.2022