M/s Shiva Writing Company Pvt. Ltd. (Appellant), GSTIN 19AAECS4199P1ZE

Appellate Authority for Advance Ruling — West Bengal

Appeal Case No. 06/WBAAAR/APPEAL/2019 dated 17.04.2019; Date of O… Dated **17.04.2019**

Q Questions Before the Authority

- Whether tips and balls, both being pen parts under HSN Chapter Heading 9608 and used in the manufacturing of ball point pens, are taxable at the rate of 12%.
- If tips and balls used in manufacturing ball point pens are not taxable at 12% under HSN 9608, then at what rate they are taxable and under which HSN Chapter.

F Facts

The Appellant manufactures and sells ball point pens and imports and trades in ball point pen tips and balls (refills), which it supplies to dealers. It sought an advance ruling on the GST rate and HSN classification of tips and balls used in making ball point pens. The WBAAR classified them under 9608 99 90 at 18%, and the Appellant appealed, arguing that they are parts of ball point pens taxable at 12%.

H Ruling

Whether tips and balls of ball point pens are taxable at 12% under Chapter Heading 9608	**No. Not taxable at 12%.**	The order affirms the WBAAR ruling. Ball point pens (9608 10) are at 12%, but tips and balls are not classified there.
If not 12%, the applicable rate and HSN for tips and balls	**HSN 9608 99 90, at 18% (CGST 9% and SGST 9%), under Sl. No. 453 of Schedule III.**	Classified as residual 'Other' under 9608 99 because no specific sub-heading covers tips and balls. The order relies on the reasoning that they are parts of refills (9608 60, at 18%).

The Appellate Authority found no infirmity in the WBAAR ruling and dismissed the appeal. **Tips and balls are not taxable at 12%.** They fall under HSN 9608 99 90 (Other) and attract **18% GST** under entry 453 of Schedule III of Notification 01/2017-Central Tax (Rate).

R Reasoning

The Authority held that tips and balls are parts of refills, and refills for ball point pens fall under 9608 60 at 18%, while ball point pens themselves fall under 9608 10 at 12%. Since no specific sub-heading covers tips and balls, they fall under the residual 9608 99 and, by the table in Notification 01/2017-CT(Rate), under entry 453 of Schedule III. The Authority rejected the Appellant's reliance on the HSN digit-limit provisions in Notification 12/2017-CT, holding that they concern invoice reporting by turnover and have no bearing on classification. It also held that the Nalanda Pen Mfg. Co. decision (1998) 102 ELT 289 related to exemption notifications for parts of refills under the pre-GST regime and was not applicable.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

- Section 97 of the WBGST Act, 2017 / CGST Act, 2017 (advance ruling application)
- Section 100(1) of the WBGST Act, 2017 / CGST Act, 2017 (appeal to Appellate Authority)
- Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017, Schedule II Sl. No. 232, Schedule III Sl. No. 447 and Sl. No. 4…
- Notification No. 12/2017-Central Tax dated 28.06.2017 (HSN digit requirements on invoices, by turnover)
- HSN Chapter Heading 9608 (sub-headings 9608 10, 9608 60, 9608 91, 9608 99)
- Minutes of the 14th GST Council Meeting, Para 29.1 (cited by Appellant)
- Nalanda Pen Mfg. Co. Pvt. Ltd. v. Collector of Central Excise, Baroda, 1998 (102) ELT 289 (distinguished)

! For the Practitioner

A practitioner dealing with ball point pen parts can cite this order to show that the appellate forum has upheld 18% and classification under 9608 99 90 for tips and balls. The order also rejects the argument that the invoice HSN-digit notification governs classification. It does not decide the position for other pen components, for fountain or other pens, or for refills and tips that are sold separately or used in different ways, and it does not address the beneficial-interpretation argument on its merits. The order has no separate RULING section; the answers above are taken from its operative conclusion.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> wbaaar_appeal_no._06-2019_dated_17.04.2019.pdf

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