Asian Paints Ltd.

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 44/2018-19/B- 117, Mumbai, dated 17/9/2018 (date partly o… Dated **17.09.2018**

Q Questions Before the Authority

- Whether the following two categories of products will be classifiable under Entry 24 of Schedule IV of Notification No. 1/2017-Central Taxes (Rate) dated 28.06.2017, liable to CGST at 14%, or under Entry 97 of Schedule III of the same Notification, liable to CGST at 9%: (1) Tile Adhesive, in four variants (tile adhesive for normal application, glass tile adhesive, tile-on-tile application, and tile adhesive for stone and heavy tile application); and (2) Tile Grout, in two variants (cement based and epoxy based).

F Facts

Asian Paints Ltd. is a manufacturer and dealer in paints and chemical products. It buys tile adhesives and tile grouts from outside vendors and sells them under its own brand name. It had been paying CGST at 14% under Entry 24 of Schedule IV, and it now seeks a ruling that these products fall under Entry 97 of Schedule III at 9%.

H Ruling

Tile Adhesive (four variants) and Tile Grout (cement based and epoxy based): Entry 24 of Schedule IV (14%) or Entry 97 of Schedule III (9%)	**Classifiable under Entry 24 of Schedule IV of Notification No. 1/2017-CT(Rate) dated 28.06.2017; liable to GST at 28% (14% CGST and 14% SGST)**	Entry 97 of Schedule III at 9% was rejected for all six products. The order does not separately rule on each variant.

The authority held that all six products are classifiable under Entry 24 of Schedule IV, which is Chapter Heading 3214, and are liable to GST at 28% (14% CGST and 14% SGST). The applicant's claim for Entry 97 of Schedule III at 9% was rejected. The authority reasoned that the products are non-refractory preparations used for setting wall and floor tiles, which fall within HSN 32.14.

R Reasoning

The authority relied on HSN Explanatory Notes to heading 32.14, which cover non-refractory surfacing preparations, including powder preparations based on quartz and cement, used after adding water 'for setting wall or floor tiles'. It found that the tile adhesives are used for setting tiles, and that tile grout, though a joint filler, also bonds adjacent tiles, so both fall within Chapter 3214 rather than Chapter 3824. The applicant's common-parlance and dictionary arguments on 'mortar' were not accepted because no evidence of trade or user understanding was placed on record. The authority also held that a trader cannot rely on identical rates under the earlier regime to avoid classification, and that the description of the goods must govern.

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

P Provisions Relied On

- Notification No. 1/2017-Central Taxes (Rate) dated 28.06.2017, Schedule IV Entry 24 (Chapter 3214)
- Notification No. 1/2017-Central Taxes (Rate) dated 28.06.2017, Schedule III Entry 97 (Chapter 3824)
- Explanation (iv) to the Notification, applying First Schedule to the Customs Tariff Act, 1975 and the Chapter and General Expl…
- Customs Tariff Act, 1975, First Schedule: headings 3214 and 3824
- General Rules for Interpretation 1 and 3 of the First Schedule, as cited by the applicant
- HSN Explanatory Notes to heading 32.14 (non-refractory surfacing preparations)
- Case law cited by the applicant and distinguished: Indo International Industries (1981), Ramavatar Bhuadaiprasad (1961), Ja…

! For the Practitioner

A trader selling tile adhesives and tile grouts under its own brand should treat them as Entry 24 Schedule IV goods at 28% unless a different ruling is obtained. The order is useful for the proposition that setting-tile preparations fall under heading 3214. It does not decide the position for other mortars or concretes, does not address products outside the six listed, and does not resolve the 18% rate figure that appears in the applicant's and the officer's submissions.

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 -> maha-gst-ara-44-b-117_dt._17.09.18_asian_paints.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com