M/s. House of Marigold, 22 New Alkapuri Society, Ahmedabad (GSTIN 24AFBPS1985E1ZG)

Authority for Advance Ruling — Gujarat

ADVANCE RULING NO. GUJ/GAAR/R/2018/20 (in Application No. Advan… Dated **10.10.2018**

Q Questions Before the Authority

- Under which heading of the Customs Tariff should jewellery articles of gold, diamond and precious stones, with a small wrist watch fitted into them, be classified for GST: Chapter Heading 7113 (articles of jewellery, taxed at 1.5% CGST and 1.5% SGST as the applicant contended), or Heading 9101 (watches with precious metal case, which would attract a higher rate)?

F Facts

The applicant buys gold, diamond and precious stones, and has a job worker make jewellery such as butterfly-with-ring designs, bracelets, bangles, necklaces and rings to customer order. A small wrist watch, costing about Rs. 1,000 to 2,000 and under 1% of the total value, is fitted into the finished piece before sale. The applicant argues the article is jewellery whose watch is incidental.

H Ruling

Classification of jewellery articles with a fitted wrist watch (Chapter 71 heading 7113 contended by applicant, versus heading 9101)	**Heading 9101**	The ruling covers the Marigold Butterfly Bridal with Watch and similar jewellery products containing a watch. The order does not state a GST rate.

The authority ruled that the Marigold Butterfly Bridal with Watch and similar jewellery products containing a watch, supplied by the applicant, are **classifiable under Heading 9101** . It held that the articles are watches with precious metal cases, so Chapter 71 (and heading 7113) does not apply, and that the jewellery-based arguments and the Rule 3(b) essential-character test do not displace the specific heading.

R Reasoning

The authority held that the Explanatory Notes to Heading 9101, read with Chapter Note 2 to Chapter 91, cover watches with precious metal cases that may be set with gems and fitted to a bracelet, so these articles fall under 9101 as watches. Chapter Note 3(l) to Chapter 71 excludes Chapter 91 articles, so the applicant's jewellery arguments under Chapter Note 9 and common parlance are not relevant. Rule 3(b) is applied only where Rules 1 to 3(a) fail, so the essential-character test was not needed. The authority distinguished the Gujarat High Court's Titan decision and the applicant's own VAT determination because they were decided under the Gujarat VAT Act schedule, not the Customs Tariff-based GST scheme, and relied on the CESTAT decision in Titan Industries (2006).

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 Tax (Rate) dated 28.06.2017, Explanation (iii) and (iv)
- Notification No. 1/2017-State Tax (Rate) dated 30.06.2017, Explanation (iii) and (iv)
- First Schedule to the Customs Tariff Act, 1975: Chapter 71, heading 7113 and Chapter Notes 3(l) and 9
- First Schedule to the Customs Tariff Act, 1975: Chapter 91, heading 9101 and Chapter Notes 1(b) and 2
- General Rules for the Interpretation of the First Schedule, Rules 1 and 3(b)
- HSN Explanatory Notes to headings 9101 and 9102
- Entries 423A and 423B of Schedule III to Notification No. 1/2017-Central Tax (Rate), as amended by Notification No. 41/2017…
- CESTAT, Titan Industries Ltd. v. Commissioner of Central Excise, Chennai (2006) 204 ELT 435
- Supreme Court, L.M.L. Ltd. v. Commissioner of Customs (2010), on the status of HSN Explanatory Notes
- Gujarat High Court, State of Gujarat v. Titan Industries Ltd. (VAT), distinguished

! For the Practitioner

Jewellery-makers and dealers who fit working watches into jewellery should note that this ruling treats such pieces as heading 9101 watches, not heading 7113 jewellery, so the rate question is effectively settled for these products. It does not state the GST rate applicable to heading 9101 goods, and it does not decide the applicability of Entries 423A and 423B, which the applicant raised. It is a ruling binding only on the applicant, though it indicates the authority's view on similar products.

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 -> guj.20-2018-19 dt 10.10.18-house of marigold.pdf

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