

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
**GST Bhavan, 1st floor, B-Wing, Mazgaon, Mumbai - 400010.**  
(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

**BEFORE THE BENCH OF**

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)  
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, ( Member)

GSTIN Number, if any/ User-id		27AACPS8316H1ZI
Legal Name of Applicant		R K INDUSTRIES
Registered Address/ Address provided while obtaining user id		5, SAVITRI BLDG,OPP SION STATION, LBS MARG, SION WEST, Maharashtra Mumbai City 400022
Details of application		GST-ARA, Application No. 140 Dated 26.03.2019
Concerned officer		S.T.O.(MUM-VAT-C-017) Nodal - 11, Mumbai
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Factory/Manufacturing , Wholesale Business
B	Description (in brief)	M/s. R.K. Industries (hereinafter referred as "The Applicant") are manufacturers and exporters of various products consisting of Water Bottles, Lunch Boxes, Pencil box, Milk Mugs, Tea/Coffee Mugs, Milk/Tea/Coffee Mugs with Steel Bidding, Airtight & Leak proof Plastic Food Storage container, Airtight & Leak-proof Steel Food Storage Container, Lunch Boxes with Elegant Pouches, super Lock & Seal Containers, Super Steel Lock container. They also manufacture specially designed <b>Steel mug with plastic outer body</b> thus utilising the beneficial properties of both substances steel and plastic.
Issue/s on which advance ruling required		(i) classification of goods and/or services or both
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

**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" respectively ] by M/s R K INDUSTRIES, the applicant, seeking an advance ruling in respect of the following question.

***1. Whether Steel Mugs with a plastic outer body supplied by the applicant would be classified under SI. No 184 of Schedule II of Notification No 1/2017 of Central Tax (Rate) dated 28th June, 2017 (as amended)?***

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 any 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, the expression 'GST Act' would mean CGST Act and MGST Act.

## **2. FACTS AND CONTENTION – AS PER THE APPLICANT**

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

### **“A. STATEMENT OF RELEVANT FACTS HAVING A BEARING ON THE QUESTION (S) RAISED**

1.1. M/s. R.K. Industries (hereinafter referred as "The Applicant") are manufacturers and exporters of various products consisting of Water Bottles, Lunch Boxes, Pencil box, Milk Mugs, Tea/Coffee Mugs, Milk/Tea/Coffee Mugs with Steel Bidding, Airtight & Leak proof Plastic Food Storage container, Airtight & Leak-proof Steel Food Storage Container, Lunch Boxes with Elegant Pouches, super Lock & Seal Containers, Super Steel Lock container. (The leaflet/brochure of the relevant products are attached with the present application and marked as Annex A)

1.2. They also manufacture specially designed **Steel mug with plastic outer body**, thus utilising the beneficial properties of both substances steel & plastic. (Pg. No 2-6 Ann. A)

1.3. With the introduction of GST, the applicant analyzed the notifications issued by the Central Board of Indirect Taxes and Customs (CBIC). Notification 01/2017-Central Tax (Rate) dated 28.06.2017 as amended from time to time along with the Rules of interpretation of First Schedule to the Customs Tariff Act, 1975 (CTA), including Section Notes and Chapter Notes were used for the purpose of classification under GST.

1.4. As an abundant precaution as well as conservatism, the mugs mentioned hereinabove were classified under Tariff heading 3924 Tableware, kitchenware, other household articles & hygienic or toilet articles, of plastics & accordingly were offered for tax @ 9% (IGST 18%).

However, on further research as well as on observing the competitors, it is noticed that the same steel mugs with an outer plastic body are being classified under Tariff heading 7323 - Table, kitchen or other household articles of iron & steel; Utensils whose applicable rate of tax is 6% (IGST 12%). Since, the aforementioned mugs being supplied by the applicant are same as supplied by its competitors being covered under Sch. II of the said Rate Notification, your applicant are now convinced & are of the opinion & view that their above referred product is covered under Chapter heading 7323.

1.6. Accordingly, the application is made with detailed submission herein below to determine the eligibility of the steel mugs with outer plastic body to be covered under Schedule II and its tax rate thereof.

### **2. Analysis of the case:**

Prior to heading into the classification entry, it is pertinent to first understand the product 'steel mugs with outer plastic outer body and its manufacturing process.



## 2.1 Manufacturing Process

2.1.1 The process is quite technical; however, an attempt is made to discuss it in simple words. It is also pertinent to note that the composition of materials in the mugs as well as the **cost element involved is 75% of STEEL & the rest of plastic and other materials.**

- **Stainless Steel Glass** is made from Stainless Steel sheets. The Stainless Steel sheets are cut into circles which are then pressed in the pressing machine to get the shape of the mug. After getting the shape, the Steel glass are processed into the rolling machine to get stretched of the required height of the mug. After that the Steel mug goes into the buffing process to get polish from both the sides; outside and inside.
- **Plastic Outer Mugs** are manufactured with the help of injection moulding machine. Polypropylene material is used in the form of granules. The same is subjected to heat and pressure in an injection moulding machine.
- **Bonding (Bidding/fixing) of stainless steel mug:** After the manufacturing of Plastic Outer Mug and Stainless Steel Glass, both are combined as one product with the help of bonding (bidding) process. In this process; the Steel mug is placed inside the pre-made plastic moulded outer body. The rim of the mug is made by bending the edge of the steel glass with the plastic body. Thus, **a stainless steel mug gets manufactured with a plastic outer body.** The process is **permanent (inseparable)** in nature. The plastic outer body can be separated only on breaking the same.

## 2.2 Uses/Benefits

2.2.1 The main benefit is that of the steel mug. The material used makes it :

- odourless
- very easy to clean.
- durability

Steel is a malleable material, extremely strong and, unlike plastic, has low thermal expansion. This all mean it is not vulnerable to the varying temperatures of the beverages placed in the mug.

2.2.3 The heart of the mug is the steel. Plastic outer body adds utility and aesthetics to the product. The customer buys it because of the versatility in use of the steel mug.

2.2.4 The Customer/User buys the mug for its versatility a stainless-steel mug and perceives it as a stainless steel mug only.

2.2.5 The Applicant would like to submit that the plastic outer body is just an aesthetic and helps mainly in preventing the user from getting his hand burnt from a hot beverage kept in the steel mug. The plastic outer body is also used for displaying characters/cartoons i.e. just an aesthetic benefit. Plastic has a low temperature point then temperature point



of steel and thus only acts as an insulation so that the person coming in contact with the mug doesn't get burnt.

## 2.3 Classification under GST

2.3.1 Relevant Schedule Entries under Central Tax Rate notification 1/2017 dt. 28th June, 2017 [as amended) are reproduced herein for ready reference.

Schedule	S.No.	Chapter/Heading /Subheading/item	Description of Goods	CGST Rate
II	184.	7323	Table, kitchen or other household articles of iron & steel; Utensils	6%
III	109.	3924	Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics	9%

2.3.2 As stated above, your applicants as an abundant precaution as well as conservatism, classified the steel mugs with plastic outer casing under Tariff heading 3924 Tableware, kitchenware, other household articles and hygienic or toilet articles, of plastics and accordingly were offered for tax @ 9% (IGST 18%).

2.3.3 As stated earlier, on further studies as well as on observing the competitors, it was noticed that that the same steel mugs with an outer plastic body were being classified under Tariff heading 7323 Table, kitchen or other household articles of iron & steel; Utensils whose applicable rate of tax is 6% (IGST 12%).

2.4 Meaning of the term 'utensils':

2.4.1 Utensils is not defined in GST. However, before going to the common parlance meaning of the word, the dictionary meaning of the word "utensils" may be considered as under:

*Shorter Oxford Dictionary*

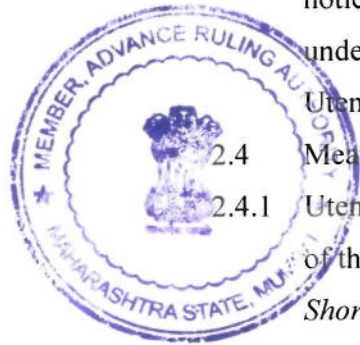
"Utensil. Any article useful or necessary in a household; a domestic implement, vessel, or article of furniture; and instrument or vessel in common use in a kitchen, dairy, etc.,; any vessel or other article serving a useful end or purpose; a tool or implement used by artisans, farmers, etc."

*Stroud's Judicial Dictionary of Words & Phrases, Volume 3, Sixth Edition:*

"Utensil.—Anything necessary for our use and occupation; house- hold stuffe" (cowel).

### 3.B. Legal interpretation of a term:

It is the settled position in law that the terms appearing in the taxing statutes are required to be understood in the manner defined therein & in absence of any such definition, they should be understood in their popular meaning as understood as per common parlance. In *M/s Annapurna Biscuit Manufacturing Co., Kanpur Vs Commissioner of Sales Tax, U.P., Lucknow (1981 AIR 1656, 1982 SCR (1) 149)* on 28 July, 1981 it was held by the Supreme Court



*"It is a well settled rule of construction that the words used in a law imposing a tax should be construed in the same way in which they are understood in ordinary parlance in the area in which the law is in force. If an expression is capable of a wider meaning as well as narrower meaning the question whether the wider or the narrower meaning should be given depends on the context and the background of the case."*

2.4.3 The Supreme Court in the matter of *Mukesh Kumar Aggarwal & Co. v. State of Madhya Pradesh* reported in [1988] 68 STC 324 (SC) has held that (pages 326 and 327 in 68 STC)

*"4. In a taxing statute words which are not technical expressions or words of art, but are words of everyday use, must be understood and given a meaning, not in their technical or scientific sense, but in a sense as understood in common parlance, i.e., 'that sense which people conversant with the subject matter with which the statute is dealing, would attribute to it'. Such words must be understood in their 'popular sense! The particular terms used by the Legislature in the denomination of articles are to be understood according to the common commercial understanding of those terms used and not in their scientific and technical sense for the Legislature does not suppose our merchants to be naturalists or geologists or botanists!"*

2.4.4 The Division Bench of the Karnataka High Court in the matter of *Stovekraft Pvt. Ltd. v. State of Karnataka* reported in [2006] 147 STC 329 (Karn) while examining the similar entry in

respect of the stainless steel vacuum flask & other items held that (pgs 333 and 334 in 147 STC):

*"13. From the aforesaid meaning assigned to the word 'utensil' it is clear that the word 'utensil' includes a vessel and the word 'utensil' is not synonymous with the word 'vessel'. Utensil means any article useful or necessary in a household commonly used in a kitchen. In other words, an implement, tool or vessel fit for use and serving useful purpose. As the entry stands, the words used are 'all utensils' 'including'. The word 'all' and 'including' has special significance. The word 'includes' is often used in interpretation clauses in order to enlarge the meaning of the words or phrases occurring in the body of the statute. When it is so used, these words and phrases must be construed as comprehending not only such things as they signify according to their nature and import, but also things which the interpretation clause declares that they shall include. The words used in an inclusive definition denote extension and cannot be treated as restricted in any sense. When we are dealing with an inclusive definition it would be inappropriate to put a restrictive interpretation upon the terms of wider limitation. As the word 'utensil' is not defined under the Act, but in entry No. 5 the word used is 'all utensils' 'including, it is inappropriate to put a restrictive meaning to the word 'utensil' as understood in common parlance. The word 'utensil' is a term of wider denotation."*

2.4.5 Similar entry came up for consideration before the Chhattisgarh High Court in the matter of *Kamesh Traders v. State of Chhattisgarh* (2012) 52 VST 120 (Chhattisgarh) passed in



*W.P. No. 6975 of 2008 decided on December 2, 2010* wherein the Chhattisgarh High Court has taken the view that entry makes no distinction between the utensils on the basis of the material for making the utensils except precious metals and that the articles used as articles of kitchen and for domestic purpose are covered in it. The Chhattisgarh High Court in the said judgment has taken the view that serving tray, flask, stainless steel tiffin with plastic body, water jug and hot pot (casserole) are covered within the common parlance meaning of utensils.

**In M/s P.K. Plastics V. Commissioner of Commercial Tax, Madhya Pradesh and Others [2012] 55 VST 278 (MP)**, The MP High Court took into consideration the case laws M/s Kamesh Traders, M.s Stovekraft Pvt. Ltd (cited supra) and it was held as follows:

*"It was concluded that Keeping in view the above analysis and considering the material placed before this court, we are of the opinion that in common parlance utensils mean items of daily household use generally used for preparing, serving or keeping food or beverages.*

*The Commissioner, by the impugned order, has taken the view that only the items which are used in the kitchen are covered within the meaning of utensils. The said interpretation of the Commissioner is not correct. It is too narrow an interpretation which cannot be upheld keeping in view the common parlance meaning of utensils. Even otherwise, the view which has been taken by the Commissioner runs counter to the Division Bench judgement of this court in the matter of *Yadav Metal Industries v. Commissioner of Sales Tax, M.P. reported in (1980] 46 STC 30 (MP).**

*Thus, the impugned order passed by the Commissioner under section 70 of the Act restricting the meaning of "utensils" to the items used in the kitchen cannot be sustained and is hereby set aside."*

Therefore, in view of the legal precedents and the settled law position in respect of entries in the schedule, your applicants strongly believes the impugned product **Plastic Bodied Steel Mugs** squarely come under the term "**utensils**".

2.4.6 It is also necessary that while interpreting any item subjected to tax under the erstwhile sales tax laws, the popular meaning or commercial parlance or meaning attached to them by those dealing in them must be considered and one must not only depend on the scientific and legal meaning. The apex court often refers to the common parlance test.

2.4.7 Relying on the observations of the Supreme Court in the case of *Maharaja Book Depot V. State of Gujarat (1979 AIR (SC) 180)*, popular parlance test should also be applied in the present case as well.

2.4.8 In the above case also, if the "popular parlance test" is applied, the product is used for drinking and storing liquids for household/domestic purposes in day to day activities. Hence, even as per common parlance this product falls under the head of "utensils".

2.4.9 On analysis of the chapter heading 73, the utensil must be manufactured from "iron or steel" to fall under the HSN code – 7323 (refer Annexure B of Customs Tariff Headings)

2.4.10 However in the above case, the product is primarily made of steel, but it has plastic outer body, for it to fall under the aforementioned head, the product should be made of iron and steel.

2.4.11 Relying on the verdict of the application made for the determination of rate of tax filed by *M/s. Kraftwares (India) Pvt. Ltd. (DDQ-1187/ADM-5/393/B-5 dt. 6.5.1988)* under Section 52(1)(e) of the Bombay Sales Tax Act, 1959. The applicants had stated that they are manufacturers of stainless steel utensils. However, some of these utensils had copper clad to its bottom to improve the heat conductivity of the utensils and make the utensils more fuel efficient. Also the applicants have clarified that the cost of the copper in the finished utensils amounts to 30% of the cost of the utensil.

2.4.12 The Ld. Commissioner of Sales Tax, Shri. Narayan Valluri stated that the transaction of sale of the aforementioned utensils would be covered by the scope of entry 46 on Part II of Schedule C as the product is **predominantly manufactured from iron and steel and the copper essentially provides other ancillary benefits of good heat conductivity.**

*Reproducing entry C-II-46, "Stainless steel articles and utensils other than those specified elsewhere"*

2.4.13 The impugned products in question is advertised as steel mug only.

2.4.14 Therefore, even in the present case, since the product is manufactured using more than one substance (mainly steel and for outer body plastic), for proving that the product falls under the heading of utensils produced of iron and steel, we consider the composition of the product. In this case, major costs incurred for the product are associated to steel (close to 75%) with plastic and other components amounting to only 25% of the total cost of the product. Moreover, the use of plastic is only to facilitate easy handling & convenient use.

2.4.15 Further in the instant case, the component (weight/volume) of steel is having much more percentage in comparison with component of plastic. Similar view was taken by the Excise Tri. Chennai in the case of *M/s Birla Pericalese v/s Commissioner 214 ELT 440(2007)* where it was held that the product which is predominant even in weight will influence the classification of goods. In view thereof, one can also conclude that the product in question is primarily made of steel.

2.4.16 Therefore, the use of plastic does not alter the position of the product and it still **predominantly remains a product manufactured of iron and steel**, which is why it should be taxed under the chapter 7323 - articles of iron and steel at 6% CGST and 6% SGST rather than it being regarded as a plastic mug and it being taxed under the chapter 3924 – articles of plastic at 9% CGST and 9% SGST.

2.4.17 Also in the judgement of *Neelam Appliances V. Commission of Sales Tax(145:STC:301(BOM))*, the decision of not treating a water filter as a stainless steel utensil was arrived at by using the common parlance test and analysing the product composition.

On the same analogy one can state that the steel mugs as a utensil made of iron and steel.

**Additional submissions on 07.05.2019.**

The GST Rate Schedule Notification No.1/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017 contains an explanation at the end of the notification. It states as under:

*Explanation. – For the purposes of this notification,-*

(i) .....

(ii) .....

(iii) .....

(iv) ***The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975(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.***

The relevant General Rules for The Interpretation of Import Tariff are reproduced hereunder

“2. (a) .....

(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. “***

In the present case, the steel cups with plastic body, the essential character of the cup is that of steel (75% of the total value and composition of product).

Based on the general rules for interpretation, as per rule 3(a), the headings of 7323 are more specific and give a more complete and precise description. Furthermore, the essential





character is that of the steel. Therefore, the product should fall under the HSN 7323 and should be taxed accordingly.”

**03. CONTENTION – AS PER THE CONCERNED OFFICER:**

No written submissions are made by the concerned jurisdictional officer in this matter.

**04. HEARING**

Preliminary hearing in the matter was held on 16.04.2019. Sh. A. R. Talati appeared, and requested for admission of the application. Jurisdictional Officer Sh. Umesh Daberao, State Tax Officer, B.C.P., Mumbai also appeared.

The application was admitted and called for final hearing on 06.05.2019. Sh. A. R. Talati, Authorized Representative, appeared made oral and written submissions. Jurisdictional Officer Sh. Rajendra Aavsiddh, State Tax Officer, B.C.P., Mumbai appeared and requested for time to make submissions. However no submissions are made till the date of passing of this order. We heard both the sides.

**05. OBSERVATIONS AND FINDINGS:**

**5.1** We have gone through the facts of the case, documents on record and submissions made in the matter. The issue before us is one of classification of goods and its tax rate under GST.

**5.2** Applicant is a GST registered person, engaged in the manufacture & export of various products. They also manufacture specially designed **Steel mug with plastic outer body** which according to their submissions, utilizes the beneficial properties of both, steel and plastic.

**5.3** It is their claim that, the product ‘steel mug with plastic outer body’ answers the description provided in Sch.-II, Chapter Heading 7323, Sr. No.184 of the Notification No.1/2017, dt.28.06.2017. For this ,they have strongly argued that the subject products contains around 75% of steel with the balance 25% being plastic & other materials and also are considered as ‘domestic utensil’. They have submitted the process of manufacture and have urged that the weight of the subject products is predominantly due to iron and steel, the weight of the plastic being negligible.

**5.4** We find that the learned Authorized Representative has heavily relied on the ‘common parlance theory’ while arguing that the impugned product is an item of utensil used in kitchen and in support, has relied on various judicial pronouncements. In the backdrop of this specific argument, we will have to examine and decide whether the request for classification of the product made by the applicant is tenable in light of the correct and proper interpretation of the description provided against the Chapter Heading 7323 provided at Sr. No.184 of Schedule II or Chapter Heading 3924 provided at Sr. 109 of Schedule III of the Notification No. 1/2017, dt.28.06.2017. The description provided against HSN Code 7323 and 3924 are reproduced as below:-



Schedule	S. No.	Chapter/Heading/ Subheading/item	Description of Goods	CGST Rate
II	184.	7323	Table, kitchen or other household articles of iron & steel; Utensils	6%
III	109.	3924	Tableware, kitchenware, other household articles & hygienic or toilet articles, of plastics	9%

5.5 Chapter 7323 of the Tariff covers, “**Table, kitchen or other household articles and parts thereof, of iron & steel; .....**”. The subject product, namely, *Steel Mugs with a plastic outer body is neither a table, a kitchen nor household articles of iron and steel*. At the most it can be considered as a household article but it is definitely not made only of only iron or steel. Thus we cannot outrightly classify the subject product under Chapter 7323 because it also contains plastic. The Chapter Notes to CH73 also does not throw any light on whether the subject product is covered under Chapter 7323.

5.6 Chapter 3294 covers “**Tableware, kitchenware, other household articles & hygienic or toilet articles, of plastics**”. The subject product, namely, Steel Mugs with a plastic outer body is can be considered as a tableware, a kitchenware or household articles but we cannot classify the subject product under Chapter 3924 because it also contains iron/steel. The Chapter Notes to CH. 39 also does not throw any light on whether the subject product is covered under Chapter 3924.

The subject product, even though a household article is not manufactured exclusively with the use of a single material. The materials used are iron/steel and plastics. In the present case, the product is manufactured using more than one substance [mainly steel (close to 75%) and for outer body plastic (with plastic and other components amounting to only 25% of the total cost of the product)]. Clause (iv) of the Explanation in GST Rate Schedule Notification No. 1/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017 mentions that: “*The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975(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.*”

5.8 The relevant General Rules for The Interpretation of Import Tariff are reproduced hereunder  
**General Rules**

*There are six General Rules used in interpreting (applying) the Tariff. These are known as the General Rules of Interpretation (GIR) 1 through 6.*

*Rules one to four are related and must be applied in sequence. Rules five and six stand on their own to be applied as needed.*

**RULE 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 [that is, GIRs 2 to 6]:

**Explanation:** This is the first Rule to be considered in classifying any product. Most products are classified according to this rule.

For practical purposes, we can break this rule down into 2 parts:

1) The words in the Section and Chapter titles are to be used as guidelines ONLY to point the way to the area of the Tariff in which the product to be classified is likely to be found. Articles may be included in or excluded from a Section or Chapter even though the titles might lead one to believe otherwise.

2) Classification is determined by the words (terms) in the Headings (the first four numbers) and the Section and Chapter Notes that apply to them unless the terms of the heading and the notes say otherwise. In other words, if the goods to be classified are covered by the words in a heading and the Section and Chapter Notes do not exclude classification in that heading, the heading applies.

So we have to find a Heading that is worded in such a way as to include the product in question. And carefully check the Section and Chapter notes to see if the product is mentioned specifically as being included or excluded.

Many goods should be correctly classifiable by reference to Rule 1 alone. If the results of this process are ambiguous and two or more Headings appear to be applicable, then Rule 3 should be applied. When you read Rule 2 you will see why it would not be next Rule in such cases.

**Simple Example:** If Christmas tree candles were being imported, it would seem logical to classify them under CH 9505.10.00.90 i.e. Articles for Christmas festivities. However, when reading the Notes to Chapter 95, it clearly states this Chapter does not cover Candles. Hence they must be classified under CH 3406 i.e. Candles, tapers and the like.

#### **Rule 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 article 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 failing 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.



**Explanation:**

Rule 2 (a) deals with the classification of unfinished, incomplete, unassembled or disassembled goods. Unfinished and incomplete goods can be classified under the same Heading as the same goods in a finished state provided that they have the essential character of the complete or finished article. As well, unassembled or disassembled goods may also be classified the same as the complete finished product. This rule does not apply if the text of the Heading or the relevant Legal Notes exclude the unfinished or unassembled product in question.

**Example:** An automobile missing only its wheels would be classified the same as if it were complete.

**Explanation:**

Rule 2 (b) lays the groundwork for dealing with products, not classifiable through the use of Rule 1 or Rule 2 (a), which are composed of a mixture of materials or substances. It basically states that a Heading referring to a given material or substance includes mixtures of that substance with others. Similarly, a reference to a product composed of a given material or substance includes products composed either wholly or partly of the material or substance. This means that a mixed product may seem to be eligible for classification under two or more Headings. However, a given product can legally only be classified under one Heading. Rule 3 must be used to decide between alternate Headings.

**Rule 3:**

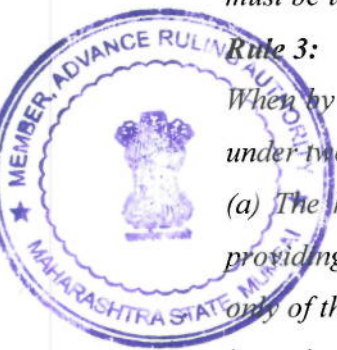
When by application of Rule 2 (b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

(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 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

**Explanation:**



Rule 3 (a) states that where 2 or more Headings seem to apply, the one which provides the most specific description of the product in question should be used. This means that a Heading which names the actual product should be used in preference to one which only names a category to which the product could belong. Similarly, a Heading that describes the whole product should be used in preference to one which describes part of it. However, where two Headings both only describe part of the product, this rule cannot be used to tell which one to use even if one seems more specific or detailed than the other.

**Example:** Mint tea is not stated specifically, as a product, in the Tariff. Although the product descriptions available are mint and tea, mint tea under the appropriate tea Heading because it provides the most specific product description and mint is only the flavour of the tea.

**Explanation:**

Rule 3 (b) applies to mixtures, composite goods and sets that cannot be classified by use of the previous Rules. These should be classified as if they consisted of the material or component which gives them their essential character.

**Example:** An importer bringing in "liquor gift sets" (that include the bottle of liquor and glasses) must classify the goods under the appropriate liquor Heading. The essential character of the item is the liquor itself and not the glasses contained within the set.

**Explanation:** Rule 3 (c) is for use in cases in which a good seems to fit in more than one Heading and the essential character cannot be determined. In this case, the product should be classified under the Heading which occurs last in numerical order.

5.9 Based on the general rules of interpretation we find that, because the subject product is a combination of iron & steel and plastic, as per the provisions of Rule 2 (b), the classification of subject goods consisting of more than one material or substance shall be according to the principles of Rule 3.

5.10 In view of the provisions of Rule 3 (a), and in view of the above made discussions, Chapter Headings 7323 and 3924, both appear to be equally specific in relation to the subject goods, in as much as the subject goods can definitely be treated as household articles and therefore we now have a look at Rule 3 (b), which states that composite goods consisting of different materials or made up of different components, (in this case iron & steel and plastics) 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.

5.11 We find that the subject Steel Mugs with plastic body are advertised and sold as steel mugs, as submitted by the applicant. It is the steel that gives the essential characteristic to the subject product. Liquids specially, is they are boiling are not preferred to be poured in plastic

containers. Hence in such a case it would be appropriate to consider the element of steel as the major element which are used in such conditions. Further, the plastic with its varied colours would seem to be lending to only visual attraction of the steel mugs and the essential characteristic remains to be steel.

5.12 Thus in view of the above discussions and also in view of Rule 3 (b) of the Rules of General Interpretation to classify goods, we find that the subject goods fall under Chapter Heading 7323, since according to us, the material which is giving the essential character to the steel cups with plastic body is the presence of steel, which is 75% of the total value and composition of the subject goods. Further we also find that the said product is therefore covered under Sr. No. 184 of Schedule II of Notification 1/2017 Central Tax (Rate) dated 28th June, 2017.

06. In view of the extensive 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- 140/2018-19/B- 54 Mumbai, dt. 15/5/2019

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

Question 1:- Whether Steel Mugs with a plastic outer body supplied by the applicant would be classified under SI. No 184 of Schedule II of Notification No 1/2017 of Central Tax (Rate) dated 28th June, 2017 (as amended)?

Answer :- **Answered in the affirmative .**



sd  
B. TIMOTHY  
(MEMBER)

sd  
B. V. BORHADE  
(MEMBER)

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax , Mahavikas for Website.

**CERTIFIED TRUE COPY**  
MEMBER  
ADVANCE RULING AUTHORITY  
MAHARASHTRA STATE, MUMBAI

**Note :-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai – 400021.