

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



ADVANCE RULING NO. GUJ/GAAR/R/59/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/32)

Date: 30.07.2020

Name and address of the applicant	:	M/s. Manishbhai Champakbhai Mehta (Legal name) and M/s. Navpad Plastic (Trade Name), Shed No. C-60, D-61, Tirupati Estate, B/H Ambar Cinema, Saraspur, Ahmedabad, Gujarat.
GSTIN/ User Id of the applicant	:	24AOPM7898B1ZE
Date of application	:	11.05.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) Classification of goods and/or services or both. (e) Determination of the liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	09.07.2020 (Through Video Conferencing)
Present for the applicant	:	Shri Kirtibhai Kavani

M/s. Manishbhai Champakbhai Mehta (Legal name) and M/s. Navpad Plastic (Trade Name), Shed No. C-60, D-61, Tirupati Estate, B/H Ambar Cinema, Saraspur, Ahmedabad, Gujarat is a proprietorship company having a GSTIN: 24AOPM7898B1ZE, filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

2. M/s. Manishbhai Champakbhai Mehta, an applicant purchase the plastic scrap, slotting that scrap into color-wise, thereafter grind the said scrap in small pieces.

3. Accordingly, an applicant sought advance ruling on the following question :

What is the HSN code of grinding of plastic material and what is the tax rate of said goods?.

Personal Hearing

4. The authorized representative of the company appeared and reiterated the submission already made in the application filed with the Authority of Advance Ruling.

Findings and Discussion

5. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by authorised signatory, during the personal hearing proceedings on 09-07-2020 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. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

6. We have gone through the facts of the case. The only issue before us is to decide the HSN code of grinding of scrap and GST rate of the said goods. The applicant purchase the plastic scrap of different colors and thereafter said scrap is sorted color-wise. The applicant undertakes the further process on said plastic scrap and new product plastic grinding in small pieces emerges. It is evident that adopting certain process on plastic scrap, plastic scrap loses its identity and new product i.e. plastic grinding comes into existence. The new product plastic grinding in small pieces does not fall under the category of plastic scrap; as such it is the primary form of plastic.

7. Notes 1 and 6 of Chapter 39 "Plastics and articles thereof" of Harmonised System of Nomenclature are read, as under:

1. Throughout the nomenclature the expression "Plastic" means those materials of headings 39.01 to 39.14 which are or have been capable, either at the moment of polymerization or at some subsequent stage, of being formed under external influence (usually heat and pressure, if necessary with a solvent or plasticizer) by moulding, casting, extruding, rolling or other process into shapes which are retained on the removal of the external influences.

6. In headings 39.01 to 39.14, the expression "primary forms" applies only to the following forms:

(a) liquids and pastes, including dispersions (emulsions and suspensions) and solutions;

(b) Blocks of irregular shape, lumps, powders (including moulding powders) granules, flakes and similar bulk forms.

8. In view of the Notes 6 (b) of Chapter 39 of HSN, primary form of plastic covers blocks or irregular shapes of lumps, powders, granules, flakes and similar bulk forms. The product plastic grinding in small pieces are in irregular shapes of lumps and flakes. Therefore, said product i.e. plastic grinding in small pieces is no more scrap and is primary forms of plastic. Therefore, in terms of Notes 6 of Chapter 39 of Harmonised System of Nomenclature product grinding of plastic in small pieces is merit classifiable under heading 39.01 to 39.14. Now to decide HSN code of primary form of grinding of plastic, we have to refer the Heading No. 3901 to 3914 of Custom Tariff Act, 1975. Chapter heading No. 3901 to 3914 of Custom Tariff Act, 1975 is defined as under:

3901 : POLYMERS OF ETHYLENE, IN PRIMARY FORMS

3902 POLYMERS OF PROPYLENE OR OF OTHER OLEFINS, IN PRIMARY FORMS

3903 POLYMERS OF STYRENE, IN PRIMARY FORMS

3904 POLYMERS OF VINYL CHLORIDE OR OF OTHER HALOGENATED OLEFINS, IN PRIMARY FORMS

3905 POLYMERS OF VINYL ACETATE OR OF OTHER VINYL ESTERS, IN PRIMARY FORMS; OTHER VINYL POLYMERS IN PRIMARY FORMS

3906 ACRYLIC POLYMERS IN PRIMARY FORMS

3907 POLYACETALS, OTHER POLYETHERS AND EPOXIDE RESINS, IN PRIMARY FORMS; POLYCARBONATES, ALKYD RESINS, POLYALLYLESTERS AND OTHER POLYESTERS, IN PRIMARY FORMS

3908 POLYAMIDES IN PRIMARY FORMS

3909 AMINO-RESINS, PHENOLIC RESINS AND POLYURETHANES, IN PRIMARY FORMS

3910 SILICONES IN PRIMARY FORMS

3911 PETROLEUM RESINS, COUMARONE-INDENE RESINS, POLYTERPENES, POLYSULPHIDES, POLYSULPHONES AND OTHER PRODUCTS SPECIFIED IN NOTE 3 TO THIS CHAPTER, NOT ELSEWHERE SPECIFIED OR INCLUDED, IN PRIMARY FORMS

3912 CELLULOSE AND ITS CHEMICAL DERIVATIVES, NOT ELSEWHERE SPECIFIED OR INCLUDED, IN PRIMARY FORMS

3913 NATURAL POLYMERS (FOR EXAMPLE, ALGINIC ACID) AND MODIFIED NATURAL POLYMERS (FOR EXAMPLE, HARDENED PROTEINS, CHEMICAL DERIVATIVES OF NATURAL RUBBER), NOT ELSEWHERE SPECIFIED OR INCLUDED, IN PRIMARY FORMS

3914 ION-EXCHANGERS BASED ON POLYMERS OF HEADINGS 3901 TO 3913, IN PRIMARY FORMS

9. In view of the above, it can be stated that the HSN code of goods viz plastic of grind would depend upon the type of primary form of polymers of said goods. Accordingly, GST rate of the goods viz. grind of plastic would be determined according to the classification of the product. To determine the GST

rate of plastic grind of small pieces in primary form, we refer to the Notification No. 01/2017-Ct (Rate) dated 28.06.2017. The relevant entry of the said product i.e. plastic grind, which would fall under the Tariff Heading 3901 to 3914, depends upon the primary form of plastic, as under:

Schedule III -9%

S. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
100.	3901 to 3913	All goods i.e. polymers; Polyacetals, other polyethers, epoxide resins, polycarbonates, alkyd resins, polyallyl esters, other polyesters; polyamides; Amino-resins, phenolic resins and polyurethanes; silicones; Petroleum resins, coumarone-indene resins, polyterpenes, polysulphides, polysulphones and other products specified in Note 3 to this Chapter, not elsewhere specified or included; Cellulose and its chemical derivatives, not elsewhere specified or included; Natural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included; in primary forms
101.	3914	Ion exchangers based on polymers of headings 3901 to 3913, in primary forms

10. In view of the above we rule that goods viz. grind of plastic in small pieces merit classifiable under HSN code of 3901 to 3914 depends upon the primary form of polymer of the goods and GST rate for the heading No. 3901 to 3914 is 18% {9% CGST + 9% SGST} as per the entry No. 100 and 101 of Notification No. 01/2017-CT (Rate) dated 28.06.2017 and corresponding SGST Notification.

11. In view of the above, we pass the order as follows :

Ruling

Question : What is the HSN code of grinding of plastic material and what is the tax rate of said goods?.

Answer : HSN code of grinding of plastic depends upon the type of polymers in primary forms of the heading 3901 to 3914 and GST rate would be 18% {9% CGST + 9% SGST} as per the entry No. 100 and 101 of Notification No. 01/2017-CT (Rate) dated 28.06.2017.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 30.07.2020.