



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri J. Laxminarayana, Additional Commissioner (State Tax)
Sri V. Srinivas, IRS, Joint Commissioner (Central Tax)

A.R.Com/3/2017

Date. 25-03-2018

TSAAR Order No. 2/2018

Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order.

1. M/s. Maheshwari Stone Supplying Co., Tandur,(GSTIN No.36ABNPS1863M1ZX) has filed an application in Form GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 103 of CGST/TGST Rules, 2017 and sought advance ruling on the following issues:

- (i) In which Chapter the commodity called “Polished/Processed limestone slabs” falls?
- (ii) Under which HSN Code the above commodity comes?
- (iii) Can it be classified as “Mineral substances not elsewhere specified or included” which is mentioned under HSN Code 2530?
- (iv) Can it be classified under any of the HSN Codes 2515/2516/2521?
- (v) Can it be retained under HSN Code 25 with inaugural phrase of “Goods not mentioned elsewhere” as mentioned at the start of column of 5%?

2. The applicant submitted the application in Form GST ARA-01 and Statement containing the applicant’s interpretation of law & relevant facts and requested for advance ruling on classification of “Polished/Processed limestone slabs”. They have submitted a copy of Challan evidencing payment of application fee of Rs.10,000/-. They have also submitted their additional submissions vide their letter dated 05.01.2018.

3. A personal hearing was held in this case and Mr. Rajgopal Sarada, Proprietor of M/s. Maheshwari Stone Supplying Co., Tandur have appeared for personal hearing on 27-01-2018 and explained the case, as under:

- a) That there are two kinds of stones available in limestone category. One is BLOCK and the other is SLAB. SAWN is a process performed on Block to derive uniform thickness TILES which are called a CREAM like material and their SSI unit do not do that process and sawn on blocks is mostly practiced in KOTA region of Rajasthan and also in Marble/Granite Industry worldwide.
- b) That surface POLISH is a process which is performed on directly brought rough stone SLABs (minor mineral) of uneven thickness and it is called BUTTERMILK like material which they usually undertake in their small scale industries. The expenses incurred on a swan TILE is higher than combined processes of POLISH & CUT done on a SLAB of same size. In economic terms also any of the two processes combined together cannot match a single process of SAWN which is allowed in written form under HSN Code 2516. Selling price wise and quality wise also there is a huge difference in these both varieties of stones and their cheap polish slabs are mostly used in low budget housing needs. These cheap quality Polish stones are also a last resort for a customer to select from.

- c) Processed or Mirror Polished Marble/Granite SLABs have also not been taken out of Chapter 25 which is evident from the Notification No. 41/2017 issued after GST Council's Guwahati meeting held on 10-11-2017. The rate of GST on these stones have been reduced from 28 to 18 classifying under the same chapter of 25. It does mean that without mentioning of word POLISH or any other process for Marble/Granite under description column, they have been retained in Chapter 25 only and further bear a meaning of such as Polished, Cut etc. Likewise, they are also expecting the same treatment for their processed limestone SLABs. In fact, SAWN & CUT are also the processes which have been written clearly in description under HSN Code 2515/2516 and POLISH had not been written which is also a kind of process and the combined effect of CUT+POLISH or any two kinds of processes are complex and less expensive than a single process of SAWN.
- d) Further, it was contended that, Hon'ble SC while dealing with many appeals and cases upheld that POLISH & CUTTING done on a Stone slab cannot be equated to manufacturing, hence such stone slabs are not liable to Excise Duty (ED for short). Under VAT regime their "Polished limestone slabs" were charged 5% of Tax. Hence, when no ED was charged and VAT was only 5%, then their commodity shall definitely fall in Chapter 25 only, whose GST is also 5% for Limestone category it is also noteworthy for the competent authority to note that ROYALTY is a kind of Tax as decided by majority of Judges of SC so far and the matter is still sub-judice before a larger bench now. And their commodity in its raw form suffers additional juicy fiscal burden in the form of ROYALTY at the hands of Mining authorities of State Government. The process of expensive and luxurious category Marble/Granite is very complex in comparison to their Polish slabs; to such an extent that processing expenses incurred only on SAWN process of Granite/Marble is 2-4 times higher than the entire material cost of Processed Limestone slab itself of same surface area.
- e) Hence, finally it was submitted that at any angle it is appropriate that their commodity called "Polished/Processed limestone slabs" should not be taken out from chapter 25. Therefore, in light of their submissions they request the advance ruling authority to declare that POLISHED or PROCESSED LIMESTONE SLABS comes under any of the HSN Codes of Chapter 25.

4. The applicant is seeking advance ruling in respect of classification of "processed/polished limestone slabs" and with a submission that the said goods are correctly classifiable under chapter 25 of the GST Tariff.

5. Before deciding the classification of goods for which advance ruling was sought it is fair on our part to go through the Rules for Interpretation of Customs tariff which was made applicable to GST Tariff and General rules for Interpretation of the schedule. As per these general rules for interpretation, the heading which provides the most specific description shall be preferred to headings providing a more general description.

6. As the applicant has presented their case with an argument that "processed/polished limestone slabs" are classifiable under chapter 25 of the GST tariff, we would like to draw attention to the Explanatory notes to the Harmonized Commodity Description and coding system:

- Section V of the HSN deals with classification of Mineral products and in Chapter 25 classification of Salt; sulphur; earths and Stone; plastering materials, lime and cement are dealt with.
- As per the chapter notes to chapter 25, the headings of this chapter covers mineral products only in the crude state. Minerals which have been otherwise processed (e.g., made up into articles by shaping, carving etc,) generally fall in latter chapters(for example, chapter 28 or 68).

7. The heading **25.15** covers Marble, Travertine, Ecaussine and other Calcareous Monumental or Building stone of an apparent specific gravity of 2.5 or more and Alabaster whether or not roughly trimmed or merely cut and is restricted to the stones specified, presented in the mass or roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular(including square) shape.

- Blocks, etc., which have been further worked, i.e., bossed, dressed with pick, bushing hammer or chisel, etc., sand-dressed, ground, **polished**, chamfered, etc., are classified in heading 68.02.

8. The subheading explanatory notes for subheading **2515.11** are given below:

- For the purposes of this subheading, 'crude' refers to blocks or slabs which have been merely split along the natural cleavage planes of the stone. Their surfaces are often uneven or undulating and frequently bear marks of the tools used to separate them (crowbars, wedges, picks, etc.).
- This subheading also covers unshaped stone (quarry stone, rubble) obtained by breaking out rocks from the quarry face (using picks, explosives, etc.). They have uneven, broken surfaces and irregular edges. This type of stone often bears the marks of quarrying (blast holes, wedge marks, etc.).

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- "Roughly trimmed" stone is stone which has been very crudely worked after quarrying, to form blocks or slabs, still having some rough, uneven surfaces. This working involves removing superfluous protuberances by means of hammer or chisel type tools.
- **This subheading does not cover blocks or slabs which have been cut to a rectangular (including square) shape.**

9. Similarly, the subheading explanatory notes for subheading 2515.12 are given below:

- To fall in this subheading, the blocks and slabs which have been merely cut by sawing must bear discernible traces of the sawing (by wire strand or other saws) on their surfaces.

10. The heading **25.16** covers Granite, Porphyry, Basalt, sandstone and other monumental or Building stones, whether or not roughly trimmed or merely cut, by sawing or otherwise into blocks or slabs.....

- The stones of this heading may be shaped or processed in the same ways as the stones of heading 25.15 (including building limestone or Portland stone) and that stones in shapes identifiable as road or paving setts, flagstones or curbstones are classified in heading 68.01 even if merely shaped or processed as specified in the text of this heading.

11. The heading **25.21** covers limestone flux and limestone and other calcareous rocks commonly used for the manufacture of lime or cement, not being building or monumental stone (heading 25.15 or 25.16).

12. Thus it is very clear from the above explanatory notes given for heading 25.15, 25.16 & 25.21 that stones which are roughly trimmed or merely cut by sawing or otherwise into blocks or slabs of a rectangular shape are classifiable in headings 25.15 or 25.16 and the blocks or slabs which have undergone the process of polishing are not classifiable under these headings.

13. The applicant in their submissions has stated that their main activity is to bring rough lime stone slabs to their processing unit and POLISHING one of the suitable surface with simple table polish machine and further cut it to square or rectangular shape on a table cutting machine. Since the stones which have undergone the process of polishing are not classifiable under chapter 25, we would like to draw our attention to the Explanatory notes to heading **68.02** which were reproduced below for ease of reference:

- This heading covers natural monumental or building stone (except slate) which has been worked beyond the stage of the normal quarry products of chapter 25.
- The heading therefore covers stone which has been further processed than mere shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring by sawing(square or rectangular faces).
- The heading thus covers stone in the forms produced by the stone-mason, sculptor, etc., viz:
 - (A)
 - (B) Stone of any shape (including blocks, slabs or sheets), whether or not in the form of finished articles, which has been bossed (i.e., stone which has been given a “rock faced” finish by smoothing along the edges while leaving rough protuberant faces), dressed with the pick, bushing hammer, or chisel, etc., furrowed with the drag-comb, etc., planed, sand dressed, ground, **POLISHED**, chamfered, moulded, turned, ornamented, carved, etc.
 - The heading therefore includes not only **constructional stone** (including facing slabs) worked as above, but also articles such as steps, cornices, pediments, balustrades, corbels and supports, door or window frames and lintels, window sills, door steps

14. A complete reading of the above Explanatory notes clearly specifies that limestone slabs which have undergone the processes of cutting and polishing and which have been worked beyond the stage of the normal quarry products of chapter 25 are correctly classifiable under heading 68.02 of the Customs tariff as per the Harmonized Commodity Description and Coding System. As the Rules for Interpretation of Customs tariff was made applicable to GST Tariff and General rules for Interpretation of the schedule, the “Polished/Processed limestone slabs” are correctly classifiable under heading 6802 of the GST Tariff.

15. The issue has been examined with reference to the provisions of the CGST/TGST Act, 2017 and the Rules made there under and the notifications issued till date; and the Advance Ruling is given as under:-

“Polished/Processed limestone slabs” are correctly classifiable under heading 6802 of the GST Tariff.

The application filed by M/s Maheshwari Stone Supplying Co., Tandur, Vikarabad, is disposed accordingly.

Sd/- J. Lakshminarayana
ADDL. COMMISSIONER(State Tax)

Sd/- V. Srinivas
JOINT COMMISSIONER(Central Tax)

To
M/s.Maheshwari Stone Supplying Co.,
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Copy to:

- 1.The Joint Commissioner (State Tax), Nizamabad Division.
- 2.The Assistant Commissioner (State Tax), Sangareddy Circle.

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Additional Commissioner (ST)(Policy)