

**DELHI AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
DEPARTMENT OF STATE TAXES
7TH FLOOR, VYAPAR BHAWAN, IP ESTATE, NEW DELHI -110002**

ADVANCE RULING NO. 05/DAAR/2018 dated 06.04.2018

(In Application No: 05/DAAR/2018 dated 09.01.2018)

Name and Address of the Applicant	:	M/s Sonka Publications (India) Private Limited, A-28/1, 1 st Floor, Mayapuri Industrial Area, Phase-1, New Delhi-110064
GSTIN of the Applicant	:	07AAACS2232H12Q
Date of Application	:	09.01.2018
Clause(s) of Section 97(2) of CGST/DGST Act, 2017, under which the question raised	:	(a) Classification of any goods or services or both (f) Whether applicant is required to be registered.
Date of hearing(s) for admission	:	23.02.2018
Date of Final Hearing(s)	:	09.03.2018, 06.04.2018
Date of receipt of comments from (Centre)	:	21.02.2018
Date of receipt of comments from (State)	:	Not received
Present for the Applicant	:	Shri Vineet Bhatia, Advocate
Present for the Revenue (Centre)	:	Shri Neeraj Aneja, Superintendent, Division Janakpuri, GST West, New Delhi
Present for the Revenue (State)	:	None

Despatch no 202/DAAR/2018 dt 9/4/2018



- a. To teach the child exact formation of Hindi letters (स्वर एवं व्यंजन).
- b. The main problem faced by the children in Hindi subject is the error of 'MATRAS' (मात्राओं की गलतियाँ). This book teaches 'MATRAS' with the concept of "उच्चारण के आधार पर मात्राओं का ज्ञान" with comparison of words and picture presentation. The concept helps the child to learn Hindi 'MATRAS' in the easy way, thus making the Hindi subject easier for the child.
- c. The printed matter given in these books are also aimed at-
 - (i) Teaching the students about various prominent idioms i.e. (मुहावरों का ज्ञान करवाना)
 - (ii) Teaching the students about the art of word formation i.e (शब्द निर्माण सिखाना)
 - (iii) Improving the vocabulary of the students i.e. (हिन्दी शब्दकोश का ज्ञान करवाना)
 - (iv) हिन्दी की गिनती लिखना सिखाना.

9. That besides this, paragraph writing has been given in these books. The purpose of these books is to increase the thinking, imagination and expression capacity of the children.

10. The various topics given in the book specially 'Sulekh Sarita Part 1-5 like- "मेरा घर; मेरा परिवार; मेरा देश; जीवन मूल्य; सच्चा इंसान कौन है; प्रकृति हमें क्या सिखाती है; मुझे सदा याद रखना है आदि का मूल उद्देश्य बच्चों को वो संस्कार प्रदान करना है जो जीवन में उनके काम आएँ और वे एक अच्छा इंसान बनने में उनकी मदद करें।" have been provided in the book with the objective to inculcate ethos and values in the minds of the growing children.

11. Although, the good hand writing not only helps a child to get good marks in examination, it also depicts the personality of a person. However, the book 'sulekh sarita' (सुलेख सरिता) is not just a writing book. The above mentioned objectives which has been kept in mind by the author while writing the book and this makes it a base book for the children in Hindi.

12. All 'printed books' have an author, whereas 'exercise books' or 'note books' do not have any author. As stated above, these 'exercise books' or 'note books' are merely ruled sheets of paper, bound to make it a 'note book/ exercise book'.

13. The 'printed books' like 'Sulekh Sarita' in the present case have a copyright of the content and the printed matter contained therein under The Copyright Act, 1957. However, there is no copyright of the content contained in 'note book/ exercise book', as these 'note books/ exercise books' do not contain any content as such.

14. The basic edition of i.e. 'Sulekh Sarita Part-A (सुलेख सरिता भाग - अ)', 'Sulekh Sarita Part-B (सुलेख सरिता भाग - ब)' also qualify to be a 'picture book' falling under HSN 4903. These books, alternatively, even otherwise would be exempt from tax falling either under HSN 4901 or 4903. The primary level books of 'Sulekh Sarita Part 1-5' definitely qualify to be 'printed books' falling under HSN 4901.



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15. Regarding, the relevance and importance of these books it is mentioned as these books are the first books which a child holds while beginning his process of learning. In the formative years the endeavour is to make learning a fun exercise for a child and therefore, the basic pre-nursery/ nursery and primary books are designed in such a manner that a child gets attracted towards them. For this purpose, the book contains pictures etc. to make the book more attractive. In the initial years a child begins to join dots, draw straight and curved lines and look at pictures as an entertainment which help the child identify the surroundings objects. This way of learning has been scientifically found to be best approach in developing a young brain of a child to control and co-ordinate fine figure movements. Thus these books are nothing else but 'printed books' for pre-nursery, nursery, K.G. and 1st to 5th standard students.

16. The Circular No. 1057/06/2017 – CX dated 07.07.2017 has been issued by the Central Board of Excise and Customs on the same subject. It has been clarified in the said circular that 'exercise books' are more akin to hand writing 'note books' and are nothing but stationery items having blank pages with lining for writing.

17. However, "Books and booklets consisting essentially of textual matter of any kind, and printed in any language or characters include textbooks (including educational workbooks sometimes called writing books), with or without narrative texts have been classified to be 'printed books' falling under HSN 4901.

18. It is a settled law that the principle of ejusdem generis can be applied while interpreting entries in a taxing statute and the words or expressions in a entry derives its meaning, colour and characteristics from the preceding and succeeding words. A particular section of the statute shall not be divorced from the rest of the Act. The Ejusdem Generis rule applies to resolve the problem of giving meaning to groups of words where one of the words is ambiguous or inherently unclear. Even otherwise when the principle of ejusdem generis is applied to these HSN codes then the meaning of 'exercise books' and 'printed books' becomes clear. It can be noticed that the word 'exercise books' (In HSN 4820) is preceded by the word "registers, account books, note books, order books, receipt books, letter pads, diaries and similar other articles" and succeeded by the words "binders, folders, file covers, inter leaved carbon sets, and other articles of stationery of paper and board". Thus the word 'exercise books' as appearing in HSN '4820' is preceded and succeeded by 'stationery items' and therefore the same also has to be constructed as a 'stationery item'. Thus 'exercise books' are nothing else but merely 'note books' or copies used by students. On the other hand 'printed books' take within its ambit all kinds of books used by students of different age groups. Thus even by this principle these books are nothing else but 'printed books' for pre-nursery, nursery, K.G. and 1st to 5th standard students, which are written by subject expert teachers.



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Views of the Applicant on Question No. 2:

19. The provision for registration as contain in Chapter 6 are the CGST Act. Section 22 of the CGST Act deals with persons liable for registration. Section 22 (1) states that every supplier shall be liable to be registered from where he makes a taxable supply, if his aggregate turn over in a financial year exceeds the taxable quantum of Rs. 20.00 lacs.

20. Section 23 of the CGST Act deals with person who is not liable for registration. As per Section 23 (1) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or are wholly exempt from tax then the person is not liable itself to register. Section 23 of the GST Act is reproduced here under for ready reference and the same reads as under:

Section 23(1): *The following persons shall not be liable to registration, namely:-*

(a) *Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act.*

(b) *An agriculturist, to the extent of supply of produce out of cultivation of land.*

21. Section 24 of the CGST Act deals with compulsory registration in certain cases, Section 24 of the CGST Act reads as under:

Section 24: *Notwithstanding anything contained in sub-section (1) of Section 22, the following categories of persons shall be required to be registered under this Act,-*

(i) *Persons making any inter-state taxable supply;*

(ii) *Casual taxable persons making taxable supply;*

(iii) **Persons who are required to pay tax under reverse charge;**

(iv) *Persons who are required to pay tax under sub-section (5) of Section 9;*

(v) *Non-resident taxable persons making taxable supply;*

(vi) *Persons who are required to deduct tax under Section 51, whether or not separately registered under this Act.*

(vii) *Input Service Distributor, whether or not separately registered under this Act;*

(ix) *Persons who supply goods or services or both, other than supplies specified under sub-section (5) of Section 9 through such electronic commerce operator who is required to collect tax at source under Section 52;*

Every electronic commerce operator;



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(xi) Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person;

(xii) Such other person or class of persons as may be notified by the Government on the recommendations of the Council.

22. The issue for decision is that in case person engaged exclusively in supply of goods that are not liable to tax or wholly exempt from tax (say for example 'printed books' or fresh vegetables or fruits) but is also availing the services of Goods Transport Agency or an Advocate and thus liable to pay tax under reverse charge then whether such a person is liable for registration or not?

23. From a plain reading of Section 24 it can be noticed that the opening word of Section 24 states "**Notwithstanding anything contained in the sub-section (1) of section 22**". Thus, it can be noticed that section 24 specifically overrides the provision of section 22 (1), which prescribe the threshold taxable quantum. However, section 24 is silent as far as its overriding effect on section 23 is concerned. Thus section 23 of the CGST Act is an independent code in itself and even section 24 of the CGST Act does not tinker with it.

24. That is the intention of the legislature had been such it wanted section 24 to override the provisions of section 23, it could have very easily stated so in the non-obstante clause stated in the opening sentence of section 24. However, the legislature has consciously choose to override the provision of section 22 (1) and have deliberately silent as far as section 23 is concerned.

25. Thus the applicant which is a body corporate (a Private Limited Company) and thus liable for reverse charge as per Notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017, but dealing exclusively in 'printed books' (which is a wholly exempted item) then whether the applicant would be liable for registration or not?

26. Applying the principle of harmonious constructions and on plain reading of section 22, section 23 and section 24, it appears that section 24 does not override section 23, which is an independent code in itself and thus a person dealing exclusively in supply of goods or services or both that are not liable to tax or wholly exempt from tax would not be required to take a registration under the GST Acts.

Prayer of the Applicant:

27. That the product supplied by the applicant i.e. 'Sulekh Sarita Part-A', 'Sulekh Sarita Part-B' and 'Sulekh Sarita Part 1-5' be classified as 'printed books' falling under HSN 4901 or as 'picture books' falling under 'HSN 4903' and consequently covered by entry No. 119 or 121 of Notification No. 2/2017 – Central Tax (Rate).

28. That the applicant is not liable for registration, if it is engaged in supply of goods or services that are not liable to tax or wholly exempt from tax under the GST Acts.



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Comments of Jurisdictional Officer (Centre):

29. With respect to Question No. 1:

CBEC vide Circular No. 1057/6/2017-CX dated 07.07.2017 has issued a clarification on classification of Printed Workbooks, Exercise Books etc. under erstwhile CETA, 1985. As per para 2 of the said circular, the books "Sulekh Sarita" is an Exercise Book and classifiable under HSN 4820 of the GST Tariff. Thus, as per Entry no. 123 of Schedule II of Notification No. 1/2017- Central Tax (Rate) dated 28.06.2017, GST rate of 6% is applicable on the books "Sulekh Sarita".

30. With respect to Question No. 2:

As per Section 23 (1) of the Central Goods and Services Tax Act, 2017, "the persons who are engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax or an agriculturist, to the extent of supply of produce out of cultivation of land are not liable to register under GST."

31. CBEC Circular No. 1057/6/2017 – CX dated 07.07.2017

Sub: Classification of Printed Workbooks, Exercise books etc. under erstwhile CETA 1985:

(i) Representations have been received from the members of the trade requesting clarification regarding classification of printed workbooks, exercise books, children's drawing book etc. The issue raised in these representations is whether the aforesaid goods are classifiable under Chapter 48 or Chapter 49 of the erstwhile Central Excise Tariff Act (CETA), 1985. Issue was also litigated before the Hon'ble High Court of Delhi. The Hon'ble High Court directed Board to examine the matter and pass appropriate order at its earliest convenience.

(ii) The issue has been examined. Exercise Books have been explained in HSN under explanatory note (2) to Heading 48.20 as, "These may simply contain sheets of lined paper but may also include **printed examples of handwriting for copying in manuscript**". Such exercise Books are specifically classified under heading 4820 of the erstwhile CETA, 1985. These are nothing but stationary items having blank pages with lines for writing and may also include printed texts for copying manually. In common parlance they are more akin to handwriting "note books" for practising rather than "work books" containing printed exercise. This definition of Exercise Books is in harmony with other items specified under Chapter Heading 4820 of erstwhile CETA, 1985 such as registers, note books, diaries, letter pads etc. where **printing is incidental to their primary use i.e. writing**. The fact that printing is incidental to their primary use is the guiding principle for classification of Exercise Books under heading 4820 of erstwhile CETA, 1985.



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(iii) Printed work books on the other hand are books where printing is not merely incidental to the primary use. HSN Explanatory notes (A) to the heading 49.01 reads as, "Books and booklets consisting essentially of textual matter of any kind, and printed in any language or characters....include....textbooks (including educational workbooks sometimes called writing books), with or without narrative texts, which contains questions or exercises (usually with spaces for completion in manuscript)..." Thus, printed work books containing questions followed by spaces for writing or other exercises would fall within the scope of Chapter 49. The said goods are different from Exercise Books falling under Chapter 48 which are stationary items with blank pages with lines for writing and some time may also include printed texts for copying manually, as explained in the preceding para. Further, since printing in case of printed workbooks is not merely incidental to the primary use of the of the goods, such goods are classifiable under Chapter 49, in terms of Chapter note 12 to Chapter 48 of erstwhile CETA, 1985.

(iv) Similarly, HSN Chapter note (6) to Chapter 49 read with HSN explanatory note under heading 49.03 covers children's workbooks consisting essentially of pictures with complementary texts, for writing or other exercises, and children's drawing or colouring books, provided the pictures form the principal interest and are not subsidiary to the text. Thus, children's drawing books which are in harmony with said HSN Chapter note (6) and HSN Explanatory note to heading 4903 would fall under Chapter 49.

The relevant entries of Notification No. 1/2017 – Central Tax (Rate) dated 28.06.2017 are as under:

32. Schedule 1 (2.5 % duty):

S. No.	Chapter/ Heading/ Sub-Heading/ Tariff Item	Description of Goods
201.	4901	Brochures, leaflets and similar printed matter, whether or not in single sheets.

33. Schedule 2 (6% duty):

S. No.	Chapter/ Heading/ Sub-Heading/ Tariff Item	Description of Goods
123.	4820	Exercise book, graph book, & laboratory note book and notebooks.

Also, under Notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017, the of following goods is exempted from the whole of the Central Tax.



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S. No.	Chapter/ Heading/ Sub-Heading/ Tariff Item	Description of Goods
119.	4901	Printed books, including Braille books
121.	4903	Children's picture, drawing or colouring books

Discussions:

35. The main issue for decision in this case is whether the books 'Sulekh Sarita Part-A', 'Sulekh Sarita Part-B' and 'Sulekh Sarita Part 1-5' are classifiable as 'Printed Books' falling under HSN 4901 or as children's 'Drawing Books' under HSN 4903 or as 'Exercise Books' under HSN 4820.

36. The HSN notes for Heading 4820 reads as under:

48.20- Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, exercise books, blotting-pads, binders (loose-leaf or other), folders, file covers, manifold business forms, interleaved carbon sets and other articles of stationery, of paper or paperboard; albums for samples or for collection and book covers, of paper or paperboard.

4820.20 → Exercise books

(2) Exercise Books. These may simply contain sheets of lined paper but may also include printed examples of handwriting for copying in manuscript.

Educational workbooks, sometimes called writing books, with or without narrative texts, which contain printed textual questions or exercises not incidental to their primary use as workbooks and usually with spaces for completion in manuscript are, however, excluded (heading 49.01). Children's workbooks consisting essentially of pictures, with complementary texts, for writing or other exercise are also excluded (heading 49.03).

Some articles of this heading often contain a considerable amount of printed matter but remain classified in this heading (and not in Chapter 49), provided that the printing is incidental to their primary use, for example, on forms (essentially for completion in manuscript or typescript) and diaries (essentially for writing).

37. The HSN notes for Heading 4901 reads as under:

4901- Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets.

(A) Books and Booklets consisting essentially of textual matter of any kind, and printed in any language or characters, including Braille or shorthand. They include literary works of all kinds, text-books (including educational workbooks sometimes called writing books), with or without narrative texts, which contain questions or exercises (usually with spaces for completion in manuscript); technical publications; books for reference such as dictionaries,



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or without printed instructions, for completion by drawing or colouring; sometimes coloured illustrations for guidance are incorporated. They also include similar books with "invisible" outlines or colour which can be made visible by rubbing with a pencil or applying water with a paint brush, and also books in which the small amounts of water colour required for colouring are contained in the books (e.g., in the form of a palette).

39. The issue of classification of text books and printed work text books was subject matter of WP(C) No. 7198 of 2016 before the Hon'ble High Court of Delhi. It was claimed by the petitioner that the said goods are appropriately classifiable in Chapter 49 of the Central Excise Tariff Act, whereas the department was considering classification as exercise books in Chapter 48 (4820) of Central Excise Tariff Act. The Hon'ble High Court of Delhi vide order dated 31.08.2016 had directed CBEC to examine the matter and pass appropriate order. Accordingly, CBEC has clarified the issue vide Circular No. 1057/6/2017 - CX dated 07.07.2017.

40. The goods covered under the relevant headings have been distinguished by Circular No. 1057/6/2017 - CX dated 07.07.2017. The guiding principle for classification has also been laid down.

41. From the above, it is observed that the relevant headings 49.01, 49.03 and 48.20 cover generally the following goods:

(i) Heading 49.01: This heading generally covers textual reading material/books including text-books, catalogues, prayer books etc. The heading 49.01 specifically covers educational workbooks or writing books.

(ii) Heading 49.03: This heading generally covers children's picture, drawing or colouring books wherein pictures form the principal interest in the books.

(iii) Heading 48.20: This heading generally covers stationery books. However, exercise books are specifically covered in this heading. Such exercise books may contain simple sheets with printed lines or may even have printed examples of handwriting for copying by the students.

42. In the case of certain goods of heading 49.01 e.g. workbooks, there may be space for writing in addition to the printed text but printing is of primary use and space for writing is incidental. On the contrary, in case of certain goods of heading 48.20 e.g. diaries, exercise books, there may be considerable amount of printed matter but the printing is incidental to their primary use of writing by hand.

43. It is observed that the main feature which differentiates 'Work Books' of heading 4901 from the 'Exercise Books' of heading 4820 is that whereas the 'Work books' of heading 4901 contain questions or exercise with space for writing the answers whereas, the 'Exercise Books' of heading 4820 contain printed texts with space for copying manually.

44. With the abovementioned difference between the headings 49.01 and 48.20, the samples submitted by the applicant have been examined.



The goods supplied by the applicant 'Sulekh Sarita Part-A', 'Sulekh Sarita Part-B' and 'Sulekh Sarita Part 1-5' have been examined with their feature and it is observed that in the books, in most of the pages, there is a printed text which the child is to copy by

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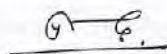
joining dotted text or by writing in the space provided, once or several times in the space provided. Only in very few pages, any printed exercise or questions is given. Hence, in these books, the primary use is writing and printing is incidental. Hence, presence of printed text does not affect their classification under heading 48.20 as exercise books. Further, since, none of the books contain any pages with children's picture, drawing or colouring matter, classification of any of them under heading 49.03 is not possible. Hence, the goods are to be correctly classified under HSN 4820.

45. Regarding, Sections 22, 23 and 24 of CGST Act, 2017 dealing with registration, it is observed that the section 24 deals with compulsorily registration in certain cases. The section 24 requires that if a person is required to pay tax under reverse charge, then he is compulsorily required to get registered. The contention of the applicant that the persons who are engaged exclusively in supply of goods and services that are exempt or not liable to tax shall not be required to take registration is not correct because without registration payment of tax under reverse mechanism would not be possible. The Sections 22, 23 and 24 have to be read together and from the combined reading of the same it is held that the applicant is required to take registration if it has GST liability under reverse charge mechanism. It is also observed that there is no threshold exemption for payment of GST under Reverse charge mechanism.

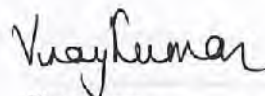
Ruling

47. The products supplied by the applicant 'Sulekh Sarita Part-A', 'Sulekh Sarita Part-B' and 'Sulekh Sarita Part 1-5' are correctly classified under HSN 4820 and not under HSN 4901 or 4903. Hence, they are not covered under entry no. 119 or 121 of Notification No. 7/2017 - Central Tax (Rate) dated 28.06.2017 and parallel notifications of SGST and IGST.

48. The applicant is liable for registration if it has GST liability under reverse charge mechanism irrespective of the situation that it has no liability to pay GST as supplier of goods and/ or services.



Pankaj Jain
Member (Centre)



Vinay Kumar
Member (State)

