

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



ADVANCE RULING NO. GUJ/GAAR/R/10/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/50)

Date: 20.01.2021

Name and address of the applicant	:	M/s. I-tech Plast India Pvt.Ltd., Survey No.108-109, Bhavnagar- Rajkot Highway, Shampara, Bhavnagar.
GSTIN of the applicant	:	24AABCI1401P1ZT
Date of application	:	30.11.2020.
Clause(s) of Section 97(2) of CGST/ GGST Act, 2017, under which the question(s) raised.	:	(a) classification of any goods or services or both; (d) admissibility of input tax credit of tax paid or deemed to have been paid.
Date of Personal Hearing	:	23.12.2020(Through online hearing)
Present for the applicant	:	Shri Nishant Shukla

BRIEF FACTS

The applicant M/s. I-tech Plast India pvt.ltd., Survey No.108-109, Bhavnagar-Rajkot Highway, Shampara, Bhavnagar is engaged in the business of manufacturing and supply of toys made up of plastic and/or rubber or both wherein essentially plastic is the main component. The applicant has stated that as per their understanding, the plastic toys manufactured and supplied by the applicant would squarely be eligible to be classified under Chapter Heading 9503.

2. The applicant has submitted that the Central Government has issued Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 containing Schedules-I to VI which specifies goods which will be levied to tax at the rate of 2.5%, 6%, 9%, 14%, 1.5% and 0.125% and that the said notification has been amended from time to time. The applicant has stated that the relevant entries in the respective Schedules of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 as amended till date, for the purpose of the applicant's product in question reads as under:

Sch.	Sl. No.	Chapter/Heading/Sub-Heading	Description of Goods	Rate of Tax (GST)
II	228	9503	Toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof) [other than electronic toys]	6%

The applicant has stated that the aforesaid Notification contains the following explanation:

(iii) "Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(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.

3. The applicant has submitted that a perusal of the aforesaid provisions read with explanation to the Notification No.01/2017-Central Tax(Rate) shows that in order to determine the rate of CGST leviable on the product in question, it is paramount to determine the classification of the product in question under Customs Tariff Act, 1975; that the Customs Tariff is generally based on the tariff classification adopted by World Customs Organisation in its Harmonized Commodity Description of Coding System (hereinafter referred to as 'HSN'). Hence, wherever a Chapter of Customs Tariff is aligned with the corresponding Chapter of HSN, then the HSN explanatory notes explaining the scope of headings of that Chapter would have persuasive value in the determination of scope of headings of correspondence Chapter of Central Excise Tariff. The aforesaid position has been laid down by the Hon'ble Supreme Court in the following decisions:

- (a) Camlin limited vs. CCE-2008(230)ELT 193 (SC).
- (b) Coen Bharat Limited vs. CCE-2007(217) ELT 165 (SC).
- (c) CCE vs. Bakelite Hylam Limited-1997(91) ELT 13(SC).

4. The applicant has further submitted there is ample jurisprudence available wherein it was held that for classification of goods, harmonized system of nomenclature is a safe and internationally accepted base; that in Collector of Central Excise Shillong vs. Wood Crafts pvt.ltd.(1995) 3 SCC 454, it was held by the Apex Court that:

"12. It is significant, as expressly stated, in the Statement of Objects and Reasons, that the Central Excise Tariffs are based on the HSN and the internationally accepted nomenclature was taken into account to "reduce disputes on account of tariff classification." Accordingly, for resolving any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN."

The applicant has stated that this judgement has further been referred in various other cases wherein the harmonized system of nomenclature along with its explanatory notes has been relied on as a safe guide for matters of classification. The applicant has submitted the relevant entries in the Customs Tariff Heading as under:

9503 TRICYCLES, SCOOTERS, PEDAL CARS AND SIMILAR WHEELED TOYS; DOLLS' CARRIAGES; DOLLS; OTHER TOYS; REDUCED-SIZE ("SCALE") MODELS AND SIMILAR RECREATIONAL MODELS, WORKING OR NOT; PUZZLES OF ALL KINDS

9503 00 - Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not;puzzles of all kinds:

*9503 00 10 --- Of wood
9503 00 20 --- Of metal
9503 00 30 --- Of plastics
9503 00 90 --- Other*

5. The applicant has submitted that as can be noticed from above that Customs Tariff Act, 1975 Chapter Heading No.9503 covers toys of various kinds for children. Tariff Item Nos.9503 00 10, 9503 00 20 and 9503 00 90 cover toys made of wood, plastics and metals. Tariff Item No.9503 00 90 is the residual entry under which other toys for children of similar nature (but not made of metal, wood or plastics) can be classified; that therefore, it is submitted, that the applicant's product i.e. Plastic toys, which are essentially

made of PLASTIC, should be classified under Tariff Item No.9503 00 30 itself; that it can be said that as far as Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 as amended till date broadly classifies toys into two categories i.e. (1) Other than Electronic Toys and (2) Electronic Toys; that toys which are other than Electronic Toys attract CGST 6% and SGST 6% falling under Tariff heading 9503 00 30 whereas Electronic Toys attract CGST 9 % and SGST 9% falling under Tariff Heading 9503 00 90; that entry at Sr.No.228 is in relation to classification of Toys other than Electronic Goods under Tariff Heading 9503 attracting CGST 6% and SGST 6%; that it is apparent that toys manufactured by the applicant being essentially made of plastic fall under Tariff Heading 9503 00 30 and attract CGST 6% and SGST 6%. Therefore, the applicant has requested the Advance Ruling Authority that Plastic Toys other than Electronic Toys manufactured and supplied by the applicant may be held to be classifiable under Tariff Heading 9503 00 30 attracting CGST 6% and SGST 6%.

6. As regards the claim of Input Tax Credit, the applicant has submitted that the supplier of the applicant is seeking to issue debit notes in relation to transactions entered into and goods supplied to the applicant during the period 2018-19; that the debit notes proposed to be issued are in relation to price variation as the supplier had mistakenly charged low price and the said error was noticed by the supplier recently and hence, the supplier desires to rectify the same and proposes to issue debit notes to the applicant whereby CGST and SGST shall be reflected separately. The applicant has further submitted that recently amendment in sub-section 4 of Section 16 has been proposed which has done away with the condition of invoice to debit note correlation; that the earlier language using the words “invoice relating to such” before the words “debit note pertains” have been omitted vide the Finance Act, 2020 No.12 of 2020 and such amendment has received assent of the Honorable President on 27.03.2020; that the applicant believes that the law has been amended and has been made more simple so as to enable the assessee to claim Input Tax Credit of past periods also where the error occurred in past periods is noticed in subsequent periods. The earlier words “invoice relating to such debit note” were restricting the claims to Input Tax Credit to a particular time limit and if for genuine reasons supplier is not able to provide details or recipient is unable to claim Input Tax Credit then it would result in lapse of such Input Tax Credit which otherwise was legitimate right of an assessee; that this anomaly was detected and recognized by Government and vide the Finance Act, 2020 No.12 of 2020, the same has been corrected and in view of the same, assessee like the applicant can now claim Input Tax Credit in such circumstances. The applicant has stated that in the circumstances and in view of the above position of law, they request the Advance Ruling Authority to hold that the applicant shall be entitled to claim Input Tax Credit in relation to CGST-SGST charged separately in debit notes issued by the supplier in current financial year i.e. 2020-21, towards the transactions for the period 2018-19.

7. The applicant has asked the following questions seeking Advance Ruling on the same:

- “(1) What is the appropriate classification and rate of GST applicable on supply of the PLASTIC TOYS under CGST and SGST?*
- (2) Can the applicant claim Input Tax Credit in relation to CGST-SGST separately in debit notes issued by the supplier in current financial year i.e. 2020-21, towards the transactions for the period 2018-19?”*

DISCUSSION & FINDINGS:

8. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by

their representative Shri Nishant Shukla at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

9. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 similar provisions of the GGST Act.

10. Based on the submission of the applicant as well as the arguments/discussions made by the representative of the applicant during the course of personal hearing, we find that there are two issues to be decided i.e. (i) the classification of their product “Plastic Toys” (ii) Whether applicant can claim input tax credit of CGST-SGST charged separately in debit notes issued by the supplier in current financial year of 2020-21 towards transactions for the period 2018-19. We will first determine the classification of the aforementioned product of the applicant but before doing that, we will be required to refer to the Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 containing the headings, sub-headings as well as the rates of Central Tax GST applicable to various goods which are covered under 6 schedules as under:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI

Further, Explanation (iii) and (iv) of the said Notification reads, as under:

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(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.

11. In view of the above, we will be required to refer to the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) in order to find out the correct classification of the said products. Also, since the applicant in his question seeking Advance Ruling has stated that the toys of plastic manufactured by them would fall under 9503 00 30, we find it imperative to refer to Heading 9503 under Chapter 95 (Toys, games and sports requisites; parts and accessories thereof). Headings 9503 reads as under:

9503 TRICYCLES, SCOOTERS, PEDAL CARS AND SIMILAR WHEELED TOYS; DOLLS' CARRIAGES; DOLLS; OTHER TOYS; REDUCED-SIZE ("SCALE") MODELS AND SIMILAR RECREATIONAL MODELS, WORKING OR NOT; PUZZLES OF ALL KINDS

9503 00 - Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds:

9503 00 10 --- Of wood
9503 00 20 --- Of metal

9503 00 30 --- Of plastics

9503 00 90 --- Other

12. Chapter notes of Chapter 95 read as under:

NOTES :

1. This Chapter does not cover :

- (a) Candles (heading 3406);
- (b) fireworks or other pyrotechnic articles of heading 3604;
- (c) yarns, monofilament, cords or gut or the like for fishing, cut to length but not made up into fishing lines, of Chapter 39, heading 4206 or Section XI;
- (d) sports bags or other containers of heading 4202, 4303 or 4304;
- (e) sports clothing or fancy dress, of textiles, of Chapter 61 or 62;
- (f) textile flags or bunting, or sails for boats, sailboards or land craft, of Chapter 63;
- (g) sports footwear (other than skating boots with ice or roller skates attached) of Chapter 64, or sports headgear of Chapter 65;
- (h) walking-sticks, whips, riding-crops or the like (heading 6602), or parts thereof (heading 6603);
- (ij) unmounted glass eyes for dolls or other toys, of heading 7018;
- (k) parts of general use, as defined in Note 2 to Section XV, of base metal (Section XV), or similar goods of plastics (Chapter 39);
- (l) bells, gongs or the like of heading 8306;
- (m) pumps for liquids (heading 8413), filtering or purifying machinery and apparatus for liquids or gases (heading 8421), electric motors (heading 8501), electric transformers (heading 8504), discs, tapes, solid-state non-volatile storage devices, "smart cards" and other media for the recording of sound or of other phenomena, whether or not recorded (heading 8523), radio remote control apparatus (heading 8526) or cordless infrared remote control devices (heading 8543);
- (n) sports vehicles (other than bobsleighs, toboggans and the like) of Section XVII;
- (o) children's bicycles (heading 8712);
- (p) sports craft such as canoes and skiffs (Chapter 89), or their means of propulsion (Chapter 44 for such articles made of wood);
- (q) spectacles, goggles or the like, for sports or outdoor games (heading 9004);
- (r) decoy calls or whistles (heading 9208);
- (s) arms or other articles of Chapter 93;
- (t) electric garlands of all kinds (heading 9405);
- (u) racket strings, tents or other camping goods, or gloves, mittens and mitts (Classified according to the constituent material); or
- (v) Tableware, kitchenware, toilet articles, carpets and other textile floor coverings, apparel, bed linen, toilet linen, kitchen linen and similar articles having a utilitarian function (classified according to their constituent material).

2. This Chapter includes articles in which natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed), precious metal or metal clad with precious metal constitute only minor constituents.

3. Subject to Note 1 above, parts and accessories which are suitable for use solely or principally with articles of this Chapter are to be classified with those articles.

4. Subject to the provisions of Note 1, heading 9503 applies, inter alia, to articles of this heading combined with one or more items, which cannot be considered as

sets under the terms of rule 3 (b) of the General rules for Interpretation of this schedule, and which, if presented separately, would be classified in other headings, provided the articles are put up together for retail sale and the combinations have the essential character of toys.

5. Heading 9503 does not cover articles which, on account of their design, shape or constituent material, are identifiable as intended exclusively for animals, for example, “pet toys” (classification in their own appropriate heading).

SUB-HEADING NOTE

Sub-heading 9504 50 covers :

(a) Video game consoles from which the image is reproduced on television receiver, a monitor or other external screen or surface; or

(b) Video game machines having a self-contained video screen, whether or not portable.

This sub-heading does not cover video game consoles or machines operated by coins, banknotes, bank cards, tokens or by any other means of payment (sub-heading 9504 30).

13. As per the submission of the applicant, Chapter Heading No.9503 of the Customs Tariff Act, 1975 covers toys of various kinds for children; that Tariff Item Nos.9503 00 10, 9503 00 20 and 9503 00 90 cover toys made of wood, plastics and metals; that Tariff Item No.9503 00 90 is the residual entry under which other toys for children of similar nature (but not made of metal, wood or plastics) can be classified; that therefore, the applicant’s product i.e. Plastic toys, which are essentially made of plastic, should be classified under Tariff Item No.9503 00 30 itself.

14. We have gone through the relevant Heading 9503 as well as the Chapter Notes pertaining to Chapter 95 of the First Schedule to the Customs Tariff Act, 1975 which covers various kinds of toys for children such as Tricycles, scooters, pedal cars and similar wheeled toys, dolls' carriages, dolls, other toys, reduced-size (“scale”) models and similar recreational models, working or not as well as puzzles of all kinds. We have also seen the pictures/photographs of some of the Plastic toys given by the applicant alongwith their submission as well as some of the samples of toys shown/produced by the representative of the applicant during the course of personal hearing. After going through the above, and comparing the same to the issue in hand, we find that the said toys are made of plastic meant for children and are not electronic toys, and therefore conclude that the plastic toys manufactured and supplied by the applicant are correctly classifiable under Heading 95030030 of Chapter 95 of the First Schedule to the Customs Tariff Act, 1975(51 of 1975).

15. Having decided the classification of the product manufactured and supplied by the applicant, we are required to find out the tax liability of the said product. In order to find out the tax liability of the aforementioned product, we will be required to refer to Notification No.01/2017-Central Tax (Rate) dated 28.06.2017 which contains the headings, sub-headings as well as the rates of Central Tax GST applicable to various goods which are covered under 6 schedules as under:

- (i) 2.5 per cent. in respect of goods specified in Schedule I,
- (ii) 6 per cent. in respect of goods specified in Schedule II,
- (iii) 9 per cent. in respect of goods specified in Schedule III,
- (iv) 14 per cent. in respect of goods specified in Schedule IV,
- (v) 1.5 per cent. in respect of goods specified in Schedule V, and
- (vi) 0.125 per cent. in respect of goods specified in Schedule VI

On going through the aforementioned notification, we find that Sub-heading 9503 appears at Entry No.228 in Schedule-II of the said notification (wherein GST rate is 12% (6% SGST + 6% CGST). The same reads as under:

Sr.No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of goods
228.	9503	<i>Toys like tricycles, scooters, pedal cars etc. (including parts and accessories thereof) [other than electronic toys]</i>

We therefore conclude that the Toys of plastic manufactured and supplied by the applicant fall under Sr.No.228 of Schedule-II of Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 and the GST applicable on the said product is 12% (6% SGST + 6% CGST).

16. Now, the next issue to be discussed is whether the applicant can claim input tax credit of CGST-SGST charged separately in debit notes issued by the supplier in current financial year of 2020-21 towards transactions for the period 2018-19. As per the submission of the applicant, the supplier of the applicant is seeking to issue debit notes in relation to transactions entered into and goods supplied to the applicant during the period 2018-19 and the debit notes proposed to be issued are in relation to price variation as the supplier had mistakenly charged low price and the said error was noticed by the supplier recently and hence, the supplier desires to rectify the same and proposes to issue debit notes to the applicant whereby CGST and SGST shall be reflected separately. The applicant has further submitted that recently amendment in sub-section 4 of Section 16 has been proposed which has done away with the condition of invoice to debit note correlation; that the earlier language using the words “invoice relating to such” before the words “debit note pertains” have been omitted vide the Finance Act, 2020 No.12 of 2020 and such amendment has received assent of the Honorable President on 27.03.2020; that the applicant believes that the law has been amended and has been made more simple so as to enable the assessee to claim Input Tax Credit of past periods also where the error occurred in past periods is noticed in subsequent periods. The earlier words “invoice relating to such debit note” were restricting the claims to Input Tax Credit to a particular time limit and if for genuine reasons supplier is not able to provide details or recipient is unable to claim Input Tax Credit then it would result in lapse of such Input Tax Credit which otherwise was legitimate right of an assessee and this anomaly was detected and recognized by Government and vide the Finance Act, 2020 No.12 of 2020, the same has been corrected and in view of the same, assessee, like the applicant, can now claim Input Tax Credit in such circumstances. The applicant has stated that in the circumstances and in view of the above position of law, they shall be entitled to claim Input Tax Credit in relation to CGST-SGST charged separately in debit notes issued by the supplier in current financial year i.e. 2020-21, towards the transactions for the period 2018-19.

17. In view of the above submission, we find it necessary to compare the relevant portion of sub-section (4) of Section 16 of the CGST Act, 2017 as it existed prior to assent of the Finance Bill, 2020 by the President of India to that of the relevant portion of the said sub-section after the assent of the Finance Bill, 2020. But, before that, we find it imperative to refer to sub-section(4) of Section-16 of the CGST Act, 2017 as it appeared prior to the enactment of the Finance Bill, 2020 which reads as under:

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due

*date of furnishing of the return under section 39 for the month of September **following the end of financial year to which such invoice or invoice relating to such debit note pertains** or furnishing of the relevant annual return, whichever is earlier.*

We have also gone through the Finance Bill No.12 of 2020 which was introduced in Parliament in 2020. On going through the same, we find that there is a proposal in Section-120 in the said Bill which proposes to omit the words “invoice relating to such” in sub-section(4) of Section-16 of the CGST Act, 2017 and reads as under:

“120. In section 16 of the Central Goods and Services Tax Act, in sub-section (4), the words “invoice relating to such” shall be omitted.”

18. Further, as per the submission of the applicant, the aforementioned amendment has received assent of the President of India on 27.03.2020. We have, therefore, gone through the relevant portion of sub-section(4) of Section-16 as appearing in the updated version of CGST Act, 2017 (updated as on 30.09.2020) i.e. after the assent of the Finance Bill, 2020 and find that the same reads as under:

*“(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September **following the end of financial year to which such invoice or invoice relating to such debit note pertains** or furnishing of the relevant annual return, whichever is earlier.”*

19. On comparing the above, with that of the provisions of sub-section(4) of Section-16 as existing prior to the introduction of the Finance Bill, 2020, we find that the amendment proposed to have been made in the said sub-section does not appear to have been made till 30.09.2020. However, as per Notification No.92/2020-Central Tax(Rate) dated 22.12.2020, the Central Government has appointed 01.01.2021 as the date on which the provisions of Sections 119, 120, 121, 122, 123, 124, 126, 127 and 131 of the Finance Act, 2020 (12 of 2020) shall come into force. The said Notification reads as under:

*“In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2020 (12 of 2020) (hereinafter referred to as the said Act), the Central Government hereby appoints the 1st day of January, 2021, as the date on which the provisions of sections 119, **120**, 121, 122, 123, 124, 126, 127 and 131 of the said Act shall come into force.”*

In view of the above, since Section-120 of the Finance Act, 2020 (12 of 2020) proposes to omit the words “invoices related to such” from sub-section(4) of Section-16 of the CGST Act, 2017, the said sub-section will read as under w.e.f. 01.01.2021.

*“(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September **following the end of financial year to which such invoice or debit note pertains** or furnishing of the relevant annual return, whichever is earlier.”*

20. On comparing the two above, we find that in the fourth line, the words “invoice relating to such” before the words “debit note pertains” have been omitted vide the Finance Act, 2020. In other words, that portion of the sentence which read as “such invoice or invoice relating to such debit note pertains” will now read as “such invoice or debit note pertains”. However, on going through the above as well as the submission of the applicant, we do not find it to be such a drastic or far reaching change affected by the Finance Bill, 2020 as interpreted by the applicant, as, irrespective of the fact as to whether

the words “invoice relating to such” is connected to “debit note” or omitted, the fact remains that a debit note is always connected to the invoice and issued in relation to change in value of an invoice. Just because the words “invoice relating to such” connected to “debit note pertains” was omitted, does not mean that the relation of the debit note with the invoice has been cut off or that omission of the above words means, that the year in which the debit note was issued will be considered as the ‘financial year’ as per amended sub-section(4) of Section 16. Further, nowhere is it forthcoming from a plain reading of the said amended sub-section, that the intention of the Government, by omitting the words “invoice relating to such” from the words **“invoice relating to such debit note pertains”** in the said sub-section, was to disconnect the debit note from the original invoice so that the debit note gains an independent existence so as to entitle the applicant to claim Input Tax Credit in relation to CGST-SGST charged separately in debit notes issued by the supplier in current financial year i.e. 2020-21, towards the transactions for the period 2018-19. It, therefore, appears, that the applicant is interpreting the aforementioned changes in his own way to suit/support his contention. We therefore, completely disagree with the view of the applicant when they state that the earlier words “invoice relating to such debit note” were restricting the claims to Input Tax Credit to a particular time limit and this anomaly was detected and recognized by Government vide the Finance Act, 2020 No.12 of 2020. We are of the opinion that the aforementioned change affected as a result of Finance Act, 2020 has not brought about any drastic or far-reaching change in the interpretation of sub-section(4) of Section 16, and even if a debit note issued by a supplier in connection with an invoice due to increase in price of a particular commodity, is issued in a different financial year than that of the financial year in which the original invoice was issued, the financial year to which the debit note pertains, will always be considered to be the year in which the original invoice was issued. In this regard, in order to bring more clarity to the issue in hand, we find it imperative to refer to the definition of ‘debit note’ as defined in the CGST Act, 2017. As per Section 2(38) of the CGST Act, 2017, ‘debit note’ is defined as under:

(38) “debit note” means a document issued by a registered person under sub-section (3) of section 34;

Sub-section(3) of Section 34 of the CGST Act, 2017 reads as under:

“Section-34(3) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.”

Further, as per the e-flyer issued by the Central Board of Excise and Customs, there is no prescribed format for debit note, but the debit note issued by a supplier to the recipient must contain the following particulars, namely:

- (a) name, address and Goods and Services Tax Identification Number (GSTIN) of the supplier*
- (b) nature of the document (credit note or debit note)*
- (c) a consecutive serial number that is unique and should not exceed 16 characters, be in one or multiple series, contain alphabets, numerals or special characters such as hyphen, dash, symbolised as “-“respectively, and any combination thereof, unique for a financial year.*
- (d) date of issue.*
- (e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient.*

- (f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered.
- (g) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply.**
- (h) value of taxable supply of goods or services, rate of tax and the amount of the tax debited to the recipient and
- (i) signature or digital signature of the supplier or his authorized representative.

21. On going through the particulars to be contained in the debit note as per the e-flyer issued by the Board, it can be seen that as per entry (g) above, serial number and date of the corresponding tax invoice or, as the case may be, the bill of supply is to be provided in the debit note. Therefore, the very purpose of making the aforementioned entry in the debit note is to enable the recipient of the supply to correlate the said debit note with the original invoice issued by the supplier and to take credit of the same in his input tax credit account. Thus from a combined reading of the definition of ‘debit note’, sub-section (3) of Section 34 of the CGST Act, 2017 and the particulars to be provided in a debit note issued under GST, it is amply clear that the debit note is not an independent document or an invoice in itself and is connected to an invoice as it is issued in pursuance to change in value of an invoice. It, therefore, follows that the financial year to which a debit note pertains, is invariably the financial year in which the original invoice (related to the said debit note) was issued. In view of the aforementioned discussions, and in light of the provisions of amended sub-section(4) of Section 16 of the CGST Act, 2017(amended w.e.f. 01.01.2021), we conclude that the applicant shall be entitled to claim the input tax credit only in respect of debit notes issued by the supplier towards the transactions entered into and goods supplied to the applicant during the financial year 2018-19, on or before the due date of furnishing of the return under section 39 for the month of September following the end of the said financial year 2018-19 or furnishing of the relevant annual return, whichever is earlier.

22. In view of the above circumstances, we rule as under :

RULING

Question-1: What is the appropriate classification and rate of GST applicable on supply of the Plastic Toys under CGST and SGST?

Answer: The classification of the product ‘Plastic toys’ manufactured and supplied by the applicant M/s. I-tech Plast India pvt.ltd., Survey No.108-109, Bhavnagar-Rajkot Highway, Shampara, Bhavnagar (as per the First Schedule to the Customs Tariff Act, 1975(51 of 1975) as well as the corresponding rate of GST (as per Notification No.01/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time) is as detailed in the table below:

Sr. No.	Name of the product	Classification as per the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)	Rate of tax(GST)
01.	Plastic toys	95030030	12%(6% SGST + 6% CGST).

Question-2: Can the applicant claim Input Tax Credit in relation to CGST-SGST separately in debit notes issued by the supplier in current financial year i.e. 2020-21, towards the transactions for the period 2018-19?”

Answer: The applicant cannot claim Input Tax Credit in relation to CGST-SGST separately in debit notes issued by the supplier in current financial year i.e. 2020-21, towards the transactions for the period 2018-19 for the reasons discussed hereinabove.

(SANJAY SAXENA)

MEMBER

Place: Ahmedabad

Date: 20.01.2021.

(MOHIT AGRAWAL)

MEMBER