

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri B. V. Borhade, Joint Commissioner of State Tax

(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AABCH2726A1Z5
Legal Name of Applicant	Hafele India Private Limited
Registered Address/Address provided while obtaining user id	Office No. 3, Building "A" Beta, I - Think Techno Campus, OFF J.V.L.R., Opp. Kanjurmarg Station, Kanjurmarg (East), Mumbai - 400 042
Correspondence address, if different from above	Same as above & Mr. Abhishek Rastogi C/o Khaitan & Co. 3rd Floor, 1, One Forbes, VB Gandhi Marg, Kala Ghoda, Fort, Mumbai - 400 023
Details of application	GST-ARA, Application No. 10 Dated 21.12.2017
Concerned officer	Central GST, Range- III, Div-II, Navi Mumbai.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Wholesale business
B Description (in brief)	As per Exhibit A as reproduced in para 01 of the Proceedings below.
Issue/s on which advance ruling required	(i) classification of goods and/or services or both
Question(s) on which advance ruling is required	Whether Caesarstone imported by the Applicant can be classified under HSN Code 2506 or 6810?

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 the MGST Act"] by Hafele India Pvt. Ltd., seeking an Advance Ruling for determination of the correct classification of Caesarstone under the MGST Act.

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 such 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, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

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

"Exhibit A - Statement of Facts



1. M/s Hafele India Private Limited (hereinafter referred to as the "Applicant") is a Private Limited Company having a registered place of business at Office No. 3, Building "A" Beta, I – Think Techno Campus, OFF J.V.L.R., Opp. Kanjurmarg Station, Kanjurmarg (East), Mumbai – 400 042. The Applicant has obtained GST registration in Maharashtra bearing registration number 27AABCH2726A1Z5. The applicant is also registered in other states in India.
2. The Applicant is engaged in the business of importation of kitchen and bathroom fittings along with furniture and other home accessories (*hereinafter called as goods*) for onward selling. The Petitioner while importing these goods is subject to Basic Customs Duty and Integrated Goods and Services Tax ("IGST") under Customs Tariff Act, 1975 on goods cleared for home consumption.
3. The Applicant also imports Caesarstone quartz surfaces (hereinafter referred to as "Caesarstone/impugned goods") for onward sale to domestic customers in India. The Applicant while importing the impugned goods is liable to pay Basic Customs Duty, Integrated Goods and Services Tax ("IGST") under Customs Tariff Act 1975 on goods cleared for home consumption. Further on making the outward supply of the impugned goods, depending on the nature of supply, the applicant is liable to discharge the applicable tax i.e. Central Goods and Services Tax ("CGST") and State Goods and Services Tax ("SGST") or IGST as the case may be.
4. In the pre-GST regime, the Company, being an Importer dealer was not required to pay Excise duty on its sale to customers. It was merely liable to pay VAT / CST on such sale as per the rate schedule provided in the respective States VAT Act. Further, the rate Schedule under the respective VAT / CST laws was not linked to the HSN classification of the commodity. Under the Maharashtra Value Added Tax Act 2005 ("MVAT Act"), Caesarstone was taxed at 13.50% VAT in terms of the residuary entry contained in Schedule E to the MVAT Act.
5. GST has been introduced w.e.f. July 1, 2017 which seeks to subsume most of the existing Indirect taxes. Further, the Government has also released various Schedules for classification of goods / services along with applicable GST rates. It is pertinent to note that unlike the VAT / CST laws, the GST rates have now been aligned to the HSN classification of the goods.
6. It is pertinent to note that the classification of goods as per the GST rate Schedules has been aligned as per the classification adopted in the tariff entries provided under the First Schedule of the Customs Tariff Act, 1975 (hereinafter referred to as the "Customs Tariff Act"). However, in certain cases, there is an inconsistency in classification, resulting in a situation wherein the goods could be classified in a different heading for import whereas the same may fall in the different entry under the respective states schedule for levy of tax on outward supply. Considering the said inconsistency between the classification of the product as per the GST rate Schedule vis-à-vis the Customs Tariff Act Schedule, it becomes necessary for the Applicant to re-determine classification of Caesarstone under the GST regime instead of continuing the classification adopted under the pre-GST era.
7. Based on the examination, the Applicant realized that Caesarstone merits classification under HSN 2506 or 6810 of the GST Schedule. At the time of importation, the same is being classified in chapter 6810 for the purpose of levy of BCD and IGST on the same.
8. Considering the ambiguity in classification, the Applicant has initiated an application for an Advance Ruling before this Hon'ble Advance Ruling Authority for determination of the correct classification of Caesarstone under the Maharashtra Goods and Services Tax Act 2017.
9. The Applicant wishes to submit that Caesarstone can be classified in either of the following tariff entries:

SR NO.	HSN CODE	DESCRIPTION OF GOODS	IGST RATE
1.	2506	Quartz (other than natural sands), quartzite, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape	5%
2.	6810	Articles of cement, of concrete or of artificial stone, whether or not reinforced	18%

Exhibit B – Merits of the case

1. At the outset, the Applicant submits that it has fulfilled all the conditions for filing the Advance Ruling in terms of Section 97 of the Central Goods and Services Tax Act 2017 ("CGST Act"). For ready reference, these conditions are reproduced hereunder:
 - a. The Applicant has obtained registration in Maharashtra and would therefore be covered within the scope of the term "applicant" as defined under Section 95(c) of the CGST Act;
 - b. The question on which advance ruling is sought is in relation to the classification of Caesarstone thereby fulfilling the condition provided under Section 97(2) of the CGST Act; and
 - c. The question raised in the application is neither pending nor decided in any proceedings in the case of the Applicant under any provisions of the CGST Act.
2. Having complied with the pre-requisite conditions for filing the present Advance Ruling Application, we may now proceed to determine the classification of Caesarstone under the GST regime. The guiding principles determining the classification of a product under the GST regime can be broadly bifurcated as under:
 - a. Classification under the Customs Tariff Act 1975 ("Customs Tariff Act") along with relevant Chapter Notes pertaining to Chapter 25 and 68 (attached and annexed as Exhibit C);
 - b. General Rules for Interpretation of the First Schedule to the Customs Tariff Act (hereinafter referred to as the "General Rules for Interpretation") which is attached and annexed as Exhibit D;
 - c. HSN Explanatory Notes released by the World Customs Organization attached and annexed as Exhibit E;
 In this application, we shall independently examine classification under 2506 as well as 6810 to determine the correct classification of the Impugned product.

Classification of Caesarstone under heading 2506 of the Customs Tariff Act

3. At the outset, it is imperative to understand that the composition of Caesarstone contains 93% crushed quartz. Quartz is combined with high-quality polyester resins and pigments and is then compacted under intense vibration, vacuum and pressure into dense and non-porous slabs.



4. The previously mentioned fact is substantiated from the Technical Data Manual – Section 6 (“TDM”) issued by the Applicant’s vendor. A copy of the TDM issued by the vendor is attached and annexed as Exhibit F.
 5. Quartz is a mineral composed of silicon and oxygen atoms in a continuous framework of SiO₄ Silicon-Oxygen tetrahedra. It is the second-most abundant mineral in Earth’s continental crust behind feldspar.
 6. Section V of the First Schedule to the Customs Tariff Act deals with various Mineral Products. Section V is further bifurcated into 3 Chapters viz., Chapter 25, Chapter 26 and Chapter 27. Chapter 25 covers “Salt; Sulphur; earths and stone; plastering materials, lime and cement”. The Customs Tariff provides that quartz of the following description can be classified under Chapter heading 2506 of the Customs Tariff:
“Quartz (other than natural sands); quartzite, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape”
 7. As can be seen from the above that Caesarstone is approximately 90 percent crushed quartz. In this connection, we refer to Rule 2(a) of the General Rules for Interpretation which provides that a reference to a material or substance shall be taken to include a reference to mixture or combination of that material or substance with other materials or substances. Further, as per Rule 3(b) of the General Rules for Interpretation, mixtures, composite goods that consist of different materials or are made up of different components shall be classified as such material or component that gives the product its essential character.
 8. Applying the above criterion, it is beyond doubt that Caesarstone consists of approximately 90 percent crushed quartz. Consequently, Caesarstone imported by the Applicant shall be construed as a Quartz.
 9. Further the tariff entry 2506 specifically excludes natural sand. Sand is a naturally occurring material composed of finely divided rock and mineral particles. Sand is characterized by the size which is finer than gravel and coarser than silt. However, Caesarstone is the processed form of quartz in the form of slabs and thus, the same would not be construed as a natural sand.
 10. Although the GST regime do not seek to classify goods in excess of 4-digit classification, for a better co-relation of classification under the Customs Tariff Act, we are hereby evaluating the 8-digit classification provided under the Customs Tariff Act. In this connection, it is pertinent to note that Quartz under heading 2506 can either be in powder form or in the form of lumps.
 11. The term lump has not been defined under the Customs Tariff Act. Therefore, recourse needs to be made to the dictionary definition of the term lump. This has been defined in The Concise Oxford Dictionary [Pg. 846] as *“A compact mass, especially the one without a definite or regular shape”*. Applying the aforesaid definition, one may construe that Caesarstone can be termed to be in the form of lumps a lump may or may not have a definite shape.
 12. Further, we refer to the Chapter Notes provided under Chapter 25 of the Customs Tariff Act. Chapter Note 1 to Chapter 25 provides the various process that are permitted to be conducted on a product to qualify for classification under this Chapter. The relevant extract of the said Chapter Note 1 is reproduced hereunder:
“1. Except where their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter cover only products which are in the crude state or have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by floatation, magnetic separation or other mechanical or physical processes (except crystallization), but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in that heading.”
 13. In view of the above, it can be construed that only such products that are in crude form or have undergone *inter alia* the mechanical or physical processes are permitted to be classified under Chapter 25 of the Customs Tariff. Thus, while a product may not be supplied in crude form, if the same is subjected to the processes mentioned under Chapter Note 1 to Chapter 25, such product would also be construed to form part of Chapter 25 of the Customs Tariff Act Schedule. For this, it needs to be evaluated whether the processes carried on by the Applicant’s vendor falls within the purview of the term “mechanical process” as specified in Chapter Note 1 to Chapter 25.
 14. The term “mechanical process” has been defined in the Advanced Law Lexicon (5th Edition) as *“A process involving the use of machine”*. While this definition explains the meaning of the term “mechanical process”, we can also refer to the individual meanings of the terms “mechanical” and “process” to understand the meaning in greater depth. For reference, the definitions of the terms “mechanical” and “process” are reproduced hereunder:
 - a. Mechanical: -
 - i. Working or produced by machines [The Concise Oxford Dictionary – Tenth Edition, Page 884];
 - ii. Pertaining to the science of mechanics or mechanism; depending upon mechanism or machinery [Advanced Law Lexicon (5th Edition)];
 - b. Process: -
 - i. A series of actions or steps towards achieving a particular end; perform a series of operations to change or preserve [The Concise Oxford Dictionary – Tenth Edition, Page 1139]
 - ii. A method, operation, or series of actions intended to achieve some end or result; The natural meaning of the word “process” is a mode of treatment of certain materials in order to produce a good result, a species of activity performed on the subject matter in order to transform or reduce it to a certain-stage; “Process” connotes a substantial measure of uniformity of treatment or system of treatment. According to the Oxford English Dictionary, it means ‘a continuous and regular actions, taking place or carried on in definite manner’ [Advanced Law Lexicon (5th Edition)].
- Copies of the relevant extract of the aforesaid definitions have been collectively attached and annexed as Exhibit G.
15. In view of the above, the term mechanical process can be understood to mean a series of operations with the use of machines. We shall co-relate this with the manufacturing processes carried on by the Applicant’s vendor. The entire process of manufacturing Caesarstone is set out hereunder:
 - a. Inspection of raw materials: The manufacturing process begins with a rigorous inspection of all incoming materials so as to ensure only high quality raw materials are used in the manufacture of Caesarstone.
 - b. Feeding and mixing: The best quality raw materials are blended at a ratio of up to 93% natural quartz aggregates with pigments and polymer resins.



- c. Moulding: The blended mixture is then poured into a mold and formed into slab sizes of 3050x1440mm.
- d. Pressing: Subsequently, the slab is compacted by a special vacuum and vibration process at a pressure of 100 tons.
- e. Curing: The slabs are moved to the curing kiln and heated to 90°C for 45 minutes which gives Caesarstone its ultimate strength and solidity.
- f. Polishing: Slabs are then gauged, calibrated and polished to a perfect finish in a wide range of colors and designs in one of our three textural surface finishes: Polished, Honed or Viento.

The processes explained above have also been elaborated by the Applicant's vendor in its website. A copy of the same is attached as annexed as Exhibit H.

16. On a combined reading of the definition of the term mechanical process with the manufacturing process carried on by the Applicant's vendor, it can be construed that entire manufacturing process is within the scope of the term mechanical process. Consequently, in terms of Chapter Note 1 to Chapter 25, the manufacturing operations conducted by the Applicant's vendor are within the ambit of permissible processes.
17. Besides this, the Applicant further submits that the HSN system of coding goods is based on the HSN developed by the World Customs Organization ("WCO"). The WCO, periodically releases an Explanatory Note to each of the Chapters / Products of the HSN.
18. We refer to the Explanatory Notes released by the WCO which are annexed to Chapter heading 2506 of the HSN Code. The relevant extract of the same is as under:

"Quartz is the naturally occurring crystal form of silica.

It falls in this heading only if complying with both of the following two conditions:

- (a) *It must be in the crude state or have not undergone any process beyond that allowed in Note 1 to this Chapter; heat treatment designed solely to facilitate crushing is regarded as a process permitted by Chapter Note 1.*
- (b) *It must not be of a variety and quality suitable for the manufacture of gem-stones (eg. Rock crystal and smoky quartz, amethyst and rose quartz). Such quartz is excluded (heading 71.03), even if intended to be used for technical purposes, eg. As piezo-electric quartz or for the manufacture of parts of tools.*

Quartzite is the name of the very hard compact rock composed of grains of quartz agglomerated by a siliceous binder.

Quartzite falls in this heading when in the crude state or when it has not undergone any process beyond that allowed by Note 1 to this Chapter or when it has been roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape."

19. It is pertinent to note that Chapter Note 1 to Chapter 25 of the HSN is identical to the Chapter Note 1 of the Customs Tariff Act and hence, the same is not replicated again for the sake of brevity. Therefore, on a harmonious reading of the Customs Tariff Act and HSN Explanatory note, it can be construed that the impugned goods merit classification under tariff heading 2506 of the Customs Tariff Act.
20. It may also be noted that the description of the product used by the vendor in its invoice is "Agglomerated Fabricated Quartz Slab". Thus, further substantiating classification under Chapter heading 2506 of the Customs Tariff Act.
21. In light of the aforesaid analysis, it is beyond doubt that Caesarstone merits classification under Chapter 2506 of the Customs Tariff Act. However, before concluding on the classification, it would be imperative to evaluate tariff heading 6810 of the Customs Tariff Act.

Classification of Caesarstone under heading 2506 of the Customs Tariff Act

22. The other heading that merits consideration for determining the classification of Caesarstone is 6810 of the Customs Tariff. Chapter heading 6810 covers "Articles of cement, of concrete or of artificial stone, whether or not reinforced". In this connection, it is humbly submitted that Caesarstone is neither an article of cement nor a concrete article. It can at the maximum be classified only under the entry "Articles of artificial stone".
23. Moreover, tariff entry 6810 *inter alia* covers various products like tiles, flagstones, bricks, prefabricated structural components for building or civil engineering and concrete boulder. While it is beyond doubt that Caesarstone is different from tiles, bricks and prefabricated components for building or civil engineering, it would also be important to understand the meaning of the terms "flagstones" and "concrete boulder".
 - a. As per Rule 22 of the Madhya Pradesh Mineral Rules 1996, Flagstone is a natural sedimentary rock which is used for flooring, roof top, etc. and used in the cutting and polishing industry. The meaning of the term flagstone clarifies that the same is different from Caesarstone.
 - b. We would also refer to the meaning of the term "concrete boulder". The word concrete boulder has not been defined anywhere and thus, we would refer to the dictionary definitions. As per The Concise Oxford Dictionary, the word concrete refers to the building material made from a mixture of gravel, sand, cement and water. Further, the word boulder refers to a large rock. Thus, on a combined reading of both the aforementioned definitions, it can be construed that a concrete boulder would mean a large rock made from a mixture of gravel, sand, cement and water.

In view of the above, the product can merit classification only under the residuary category of tariff entry 68109990.

24. Further, it would be worthwhile to refer to Chapter Note 1 to Chapter 68 which clearly provides that Chapter does not cover goods falling under Chapter 25. The relevant extract of the same is as follows:

"1. This Chapter does not cover:

- (a) *Goods of Chapter 25; ..."*

25. Thus, if Caesarstone qualifies to be classified under Chapter heading 2506, it automatically gets excluded from the applicability of tariff entry 6810. Consequently, the entire issue that merits consideration in the instant case is whether Caesarstone can be classified under Chapter heading 2506 of the Customs Tariff.
26. At the cost of repetition, it is humbly submitted that the manufacturing processes carried on by the Applicant's vendor would be considered to be a mechanical process and therefore, merit classification under heading 2506.



27. Further, we would also refer to Rule 3(a) of the General Rules for Interpretation which provides the manner of determination of classification when the goods are classifiable under two or more headings. The analysis pertaining to the same is as follows:
- At the outset, it is submitted that due to a specific exclusion of goods falling under Chapter 25 in Chapter Note 1 to Chapter 68, it appears that there does not exist a possibility of a scenario where a particular product can be classified under Chapter 25 as well as Chapter 68 of the Customs Tariff Act.
 - Without prejudice to the aforesaid argument, if one intends to apply Rule 3(a) of the General Rules for Interpretation, the said rule provides that a specific description should be prevailed over a generic description. In the instant case, the two headings that merit consideration is Quartz – In lumps (2506) and Other Artificial Stones (6810). In the instant case, the most specific description that relates to the nature of the impugned goods is under tariff entry 2506.
 - The Hon'ble Apex Court, in plethora of judgments held that the heading that provides a more specific description shall be preferred to the headings providing a more general description.
 - In *Indian Metals & Ferro Alloys Ltd., Cuttack vs. Collector of Central Excise, Bhubaneswar*, [1991 Supp (1) SCC 125], the Hon'ble Apex Court held that a residuary item can be referred to and such item can be applied only when goods are shown to be not falling under any other specific item. If they are covered by a specific item, residuary item has no application. It was further held that unless the department can establish that the goods in question can, by no conceivable process of reasoning, be brought under any of the specific items mentioned in the tariff, resort cannot be had to the residuary item.
 - Similarly, the Hon'ble Apex Court in the case of *Speedway Rubber Company vs. CCE, Chandiarh* [2002 (143) ELT 0008 (SC)] has laid down the principle that while determining the classification of a product, the specific entry provided under the Tariff should prevail and overrule a general entry.
28. From the above, it is evident that Caesarstone merits classification under heading 2506 of the GST Schedule on account of the following reasons:
- Although the manufacturing process carried on by the Applicant's vendor involves use of machines, the same is purely within the ambit of the term "mechanical process" and accordingly, is within the scope of the processes permitted by Chapter Note 1 to Chapter 25 of the Customs Tariff;
 - Chapter Note 1 to Chapter 68 specifically excludes goods falling under Chapter 25. Thus, if the goods are capable to be classified under Chapter 25, classification under Chapter 68 is automatically excluded;
 - On analyzing the dominant-composition test, it appears that the product has approximately 90% quartz sand classifiable under Chapter 25 of the Customs Tariff Act. Consequently, applying the Rule 2 / Rule 3(b) of the General Rules for Interpretation, Caesarstone would also be classified under Chapter heading 2506 of the Customs Tariff; and
 - The description used by the vendor is in line with the Explanatory Notes to Chapter 25 issued by the WCO.
29. However, the GST law in India is at its infancy and the Applicant intends to ensure minimum litigations under the GST regime. Therefore, the Applicant has approached this Hon'ble Advance Ruling Authority to determine the correct classification of Caesarstone under the GST regime.
30. In light of the above, the Applicant has approached the Hon'ble Advance Ruling Authority to seek the following reliefs:
- Determination of classification of Caesarstone imported by the Applicant under the GST regime in HSN Code 2506 in light of the discussions made in the forgoing paragraphs;
 - Any other relief as this Hon'ble Advance Ruling Authority may deem fit."

03. CONTENTION – AS PER THE CONCERNED OFFICER

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

"In case of above mentioned Advance Ruling Application No 10 dated 21.12.2017 filed by M/s Hafele India Pvt Ltd. Mumbai 400 042, it is respectfully submitted as under:

- M/s Hafele India Pvt Ltd.(hereinafter referred to as the applicant) are registered with Central Government under GST Act with GSTIN No 27AABCH2762A1Z5.
- The applicant has filed an application with the Advance Ruling Authority (hereinafter referred to as "authority" for brevity) for determination of classification of the product "Caesarstone" imported and sold in domestic market by the applicant.
- The question before the authority is to decide whether the product "Caesarstone" imported by the applicant can be classified under HSN Code 2506 or 6810.
- The applicant while submitting their case before the authority have submitted the manufacturing process by which the product "Caesarstone" is manufactured and it's composition. In para 3 of Exhibit B, it has been submitted by the applicant that the said product is manufactured by combining Quartz with high quality polyester resin and pigments which is then compacted under intense vibration, vacuum and pressure into dense and non-porous slabs. The submission is supported by the technical literature (pg 41) submitted by the applicant alongwith the application.
- The HSN code 2506 & 6810 describes the product as under:

HSN code	Description of Goods
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2506	Quartz (other than natural sands); quartzite, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape
6810	Articles of Cement, of concrete or of artificial stone, whether or not reinforced.

6. The classification of any product is governed by Section & Chapter Notes, HSN explanatory notes and General Rules for interpretation. For classifying any product in particular chapter, the chapter notes are of utmost importance. Therefore it is very much essential to examine the chapter notes of both the chapters i.e. Chapter 25 & Chapter 68 before deciding to classify the product under particular chapter.
7. The Chapter Note 1 of Chapter 25 clearly states that *"...the headings of this Chapter cover only products which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by floatation, magnetic separation or other mechanical or physical processes (except crystallisation), but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading"*.
8. As per chapter note 1 of Chapter 25 only mineral products which are in crude state or have been mechanically or physically processed without changing the character of the mineral product can only be classified under Chapter 25.
9. As submitted by the claimant, the mineral product "quartz" is crushed, combined with pigments and resins and then under intense vacuum and pressure the product caesarstone is manufactured. The processes adopted for manufacturing the said product are not only mechanical or physical but also chemical in nature by which the quartz which is a mineral product gets converted into a differently identifiable product, commercially known as "Caesarstone". As per the literature submitted by the applicant along with the application, it can be seen that the product gets manufactured in high tech industrial plant which can carry out mechanical, physical as well as chemical processes on mineral product. Further, as per chapter note 1 of chapter 25 for classification of the product under any particular sub-heading of Chapter 25, the processes mentioned against the chapter sub heading are only required to be carried out and not beyond that. The processes mentioned against Chapter sub-heading are only cutting or mere trimming by sawing or otherwise and not beyond that. In the instant case as more processes are carried out than mentioned in chapter sub heading 2506, the product cannot be classified under chapter 2506.
10. Thus, the classification of the product under Chapter 25 is ruled out in view of Chapter note 1 of Chapter 25.
11. The Chapter 68 includes Articles of Stone, plaster, Cement, asbestos, mica or similar material. Quartz being similar product, the articles made of quartz i.e. "Caesarstone" can be classified under Chapter 68. Chapter 6810 specifically mentions "Articles of Cement, of concrete or of artificial stone, whether or not reinforced" and includes Tiles, flagstones, bricks and similar articles. The product Caesarstone being similar article as Tiles, the same is correctly classifiable under Chapter 6810.
12. In view of the above submission it is prayed that the authority may give ruling that the product "Caesarstone" is appropriately classifiable under Chapter 6810 and not 2506.
13. As the above submission is interim in nature, we reserve our right to make further submission before the authority give it's ruling."

04. HEARING

The case was taken up for preliminary hearing on dt.31.01.2018. However, none attended on behalf of the applicant. Since one opportunity was decided to be given, the hearing was scheduled on dt.06.02.2018. On dt.06.02.2018 and on dt.15.02.2018 (the final hearing), Sh. Abhishek A. Rastogi (Advocate) attended alongwith Sh. Ankit Shah (Advocate) and reiterated the contention as made in the written submission and also submitted copies of Bill of Entries of their imports during the last three years.

On dt.31.01.2018, Ms. Farah Zachariah, Assistant Commissioner appeared and made oral submission. On dt.15.02.2018, Sh. Sudhakar Pandey, Dy. Commissioner GST & Central Excise, Div- II, Navi Mumbai attended and furnished a written submission.

05. OBSERVATIONS

We have gone through the facts of the case. We have been called upon to decide the classification of the product 'Caesarstone' under the GST Act. Before we move on to determine the classification, we need to understand the product. Let us see how the product has been described -



- Composition** Caesarstone is 90 percent crushed quartz (silicon dioxide – SiO₂), one of nature's hardest minerals. Quartz is combined with high-quality polyester resins and pigments, and then compacted under intense vibration, vacuum, and pressure into dense, non-porous slabs. The slabs are gauged to precise thickness, and polished to an enduring shine or attractive honed finish. After passing inspection, the back of each Caesarstone slab is imprinted with a zigzag trademark to simplify jobsite identification.

Colors and Styles Caesarstone offers the widest spectrum of design options in the quartz surface industry. Our styles range from fine-grained salt-and-pepper patterns to coarse-grained color blends with a variegated visual texture. See our website or contact Caesarstone for color brochures and samples.

Stocked Standards: 59 colors are available with a polished finish – 8 of them are also available in a honed (matte) finish. Three colors are available with a concrete finish.

Finishes Caesarstone offers 4 distinctive surface finishes that offer added character beyond the color offering. Caesarstone can be finished on two faces by special order requiring a minimum order quantity and additional lead-time. Polished surfaces have a silk gloss finish with a ratio greater than or equal to 35% at 50°.

Honed is matte finish surface with the look and feel of natural stone, requiring more maintenance yet no sealants.

Concrete™ matte, textured finish which introduces an industrial aged feel to the surface. This unique finish never requires sealing and is designed to acquire a natural patina over time which adds to the character of the surface, yet remains easy to clean and maintain.

Motivo® is a pattern-design application applying a patented embossed effect.
- Caesarstone®** is the original engineered quartz surface. Use it as an attractive, versatile, and distinctive finish for residential, commercial and institutional buildings.
- Manufacturing Process** Caesarstone has three state-of-the-art production facilities and five fully automated production lines servicing a global distribution network. We use advanced Breton technologies, and employ highly skilled and trained staff members to ensure a quality product that is unrivaled in the industry today. Caesarstone quartz surfaces meet exacting standards of excellence from the initial procurement of raw materials to the final quality control check.

one's manufacturing process begins with a rigorous inspection of all incoming raw materials. **Only the best quality raw materials are blended at a ratio of up to 93% natural quartz aggregates with pigments and polymer resins.** Our strictly monitored automated process includes the following:

Feeding & Mixing
Raw materials are inspected, then fed into mixers and blended together.

Molding
The mixture is then poured into a mould and formed into slab sizes of 3050x1440mm.

Pressing
The slab is then compacted by a special vacuum and vibration process at a pressure of 100 tons.

Curing
The slabs are moved to the curing kiln and heated to 90°C for 45 minutes which gives Caesarstone its ultimate strength and solidity.

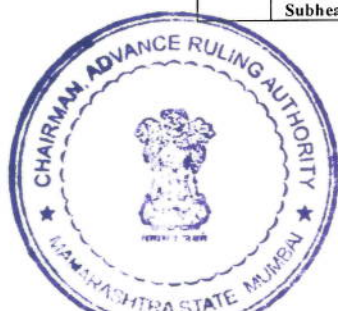
Polishing
Slabs are then gauged, calibrated and polished to a perfect finish in a wide range of colours and designs in one of our three textural surface finishes: Polished, Honed or Viento.

Quality Assurance
Finally, the slabs pass through quality inspection to ensure our customers receive a top quality product.

Labelling
Each slab is then marked and labelled with all relevant information necessary for the smooth operation of fabrication and logistics.
- Use Caesarstone for:**
 - Countertops and backsplashes • Shower and tub surrounds • Lavatory and sinks • Interior wall cladding • Table and desk tops • Wainscots and wall bases • Toilet compartment partitions • Fireplace mantles and surrounds* • Elevator cab walls • Service counters • Stair and mezzanine railing systems*
- Sustainable Standards and Certifications**
ISO 14001 and 9001 Certification: Caesarstone is the first quartz surfacing company to receive ISO 14001 and 9001 Environmental Management Systems certification.
- Sustainable Composition of Product**
 - Approximately 90% quartz, an abundant natural resource and by-product from mining other minerals.
 - Low volatile organic compound (VOC) emissions, contributing to indoor-air quality.
 - Less toxic than wood according to the UPITT standard in New York City building code.
 - Continually developing recycled colors to add to our product line.

Having seen as above, let us reproduce the schedule entry in respect of which claim is being laid and also, the entry which is claimed as being not applicable –

S. No	Chapter / Heading / Subheading / Tariff item	Description of Goods	GST Rate [CGST + MGST]
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114.	2506	Quartz (other than natural sands); quartzite, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.	5% [2.5% + 2.5%]
181.	6810	Articles of cement, of concrete or of artificial stone, whether or not reinforced	18% [9% + 9%]

It can be seen that the Heading 2506 covers "Quartz". However, the entry says that the quartz would be one which may or may not be roughly trimmed or merely cut. The process of trimming or cutting is further specified as being by the method of sawing or otherwise. Such quartz would be in blocks or slabs of a rectangular (including square) shape. A look at the information reproduced above reveals that the impugned product is not "quartz" *per se*. "Quartz" is one of the raw materials to produce the impugned product which is an engineered quartz surface and which has use as an attractive, versatile, and distinctive finish for residential, commercial and institutional buildings. Such a finished product containing polyester / polymer resins and pigments alongwith quartz is but certainly not envisaged by the description of the Heading 2506. Any arguments about composition of quartz in the impugned product being about 90% would lead to no different inference than the one had in the preceding sentence. It would be far-fetched a proposition to say that the impugned product surface containing quartz as its major raw material is covered by the natural quartz as falling in the Heading 2606. What we say finds confirmation from the Harmonized Commodity Description and Coding System Explanatory Notes (HSN) Notes of Chapter 25 –

1. Except where their context or Note 4 to this Chapter otherwise requires, the headings of this Chapter cover only products which are in the crude state or which have been washed (even with chemical substances eliminating the impurities without changing the structure of the product), crushed, ground, powdered, levigated, sifted, screened, concentrated by flotation, magnetic separation or other mechanical or physical processes (except crystallization), but not products that have been roasted, calcined, obtained by mixing or subjected to processing beyond that mentioned in each heading.

The impugned product is not in the crude state. The addition of polyester / polymer resins and pigments alongwith quartz changes the structure of the product. The impugned product is obtained by the process of mixing quartz with other substances. The impugned product contains quartz as a raw material. The final product cannot be said to be one which has been washed, crushed, ground, powdered, levigated (*polish, smooth, to grind to a fine smooth powder*), sifted, screened, concentrated by flotation, magnetic separation or other mechanical or physical processes. The words "other mechanical or physical processes" in the Note cannot be taken to cover the manufacturing of the impugned product. These words take colour from the words "crude state, without changing the structure of the product, crushed, powdered, etc.". The Chapter Note, by specific mention, states that it does not cover products that have been roasted, calcined or obtained by mixing. The impugned product is obtained by blending the raw materials which consist of quartz aggregates, pigments and polymer resins in a mixer. This mixture is put through processes which includes heating in a kiln. We see above that even roasting is not allowed by the Chapter Note. The General Notes of this Chapter further say that-

"Minerals which have been otherwise processed (e.g., purified by re-crystallisation, obtained by mixing minerals falling in the same or different headings of this Chapter, made up into articles by shaping, carving, etc.) generally fall in later Chapters (for example, Chapter 28 or 68)."



As can be seen the above General notes throw light on the words “otherwise processed”. It can be seen that these words do not cover activities such as mixing with other minerals, let alone polymers or pigments. Further, the words “otherwise processed” do not cover activities such as making up of articles by shaping, curving, etc. HSN Notes of the Heading 2506 make things clearer when they say –

“Quartz is the naturally occurring crystal form of silica.

It falls in this heading only if complying with both of the following two conditions :

- (a) *It must be in the crude state or have not undergone any process beyond that allowed in Note 1 to this Chapter; for this purpose, heat treatment designed solely to facilitate crushing is regarded as a process permitted by Chapter Note 1.*
- (b) *It must not be of a variety and quality suitable for the manufacture of gem-stones (e.g., rock crystal and smoky quartz, amethyst and rose quartz). Such quartz is excluded (heading 71.03), even if intended to be used for technical purposes, e.g., as piezo-electric quartz or for the manufacture of parts of tools.”*

All above help us understand that the Chapter 25 covers the naturally occurring quartz which has undergone changes without changing the structure of the product. The way the impugned product comes into existence should leave no doubt that the same would not be covered by the Chapter 25 and the Heading 2506. The rules for interpretation of the Customs Tariff would not apply herein as the Chapter 25 specifically excludes goods of the nature as the impugned product. None of the arguments and case laws in support of this Heading fail to make a point. Without any further discussion, we would conclude that the impugned product would not be covered by the Heading 2506.

The applicant has argued that the impugned product would not be covered by the Heading 6810 as it falls in Heading 2506. Import documents submitted by the applicant reveals import from Caesarstone, Israel thus-

- Agglomerated Fabricated Quartz Slab of different grades is under Customs Tariff Heading (CTH) 68109990.
- Agglomerated Slabs (Artificial Slabs) of different grades under Customs Tariff Heading (CTH) 68109100.

Let us look at the Customs Tariff Heading 6810 –

6810	ARTICLES OF CEMENT, OF CONCRETE OR OF ARTIFICIAL STONE, WHETHER OR NOT REINFORCED
	- <i>Tiles, flagstones, bricks and similar articles :</i>
6810 11	-- <i>Building blocks and bricks :</i>
6810 11 10	--- Cement bricks
6810 11 90	--- Other
6810 19	-- <i>Other :</i>
6810 19 10	--- Cement tiles for mosaic
6810 19 90	--- Other
	- <i>Other articles :</i>
6810 91 00	-- Prefabricated structural components for building or civil engineering
6810 99	-- <i>Other :</i>
6810 99 10	--- Concrete boulder
6810 99 90	--- Other

We have reproduced hereinabove the description against the Heading 6810 for the purposes of the schedule entry under the GST Act. The entire description as appearing in the Customs Tariff Heading 6810 has been taken for the purposes of the GST entry. It, therefore, means that all item falling in the Customs Tariff Heading 6810 would fall in the description against the Heading 6810 for the purposes of the schedule entry under the GST Act.

Now, we see that the Heading covers artificial stone. Artificial stone is understood thus-



https://en.wikipedia.org/wiki/Artificial_stone

Artificial stone is a name for various kinds of synthetic stone products used from the 18th century onward. As well as artistic uses, they have been used in building construction, civil engineering work, and industrial uses such as grindstones.

Engineered stone[edit]

See also: *Engineered stone*

*Engineered stones are the latest development of artificial stones, it was invented in the early 1980s and have since been continuously developed by the Italian company **Breton S.P.A.**'s late founder Marcello Toncelli.*

Engineered stones are a mix of marble powder, resin, and pigment cast using vacuum oscillation to form blocks. Slabs are then produced by cutting, grinding, and polishing. Some factories have developed a special, low-viscosity, high-strength polyester resin to improve hardness, strength, and gloss and to reduce water absorption.

*There are two major varieties of engineered stones based on the main composition of its aggregates (stone powders), **marbles** and **quartz**. The process is more or less similar except in certain details, however the two product have different commercial applications.*

Engineered marbles are most commonly used as flooring for large commercial projects. Engineered quartz is widely used in the developed world for counter tops, window sills, and floor and wall coverings.

<http://www.stone-tech.com.au/stone-products/reconstituted-stone.htm>

Reconstituted Stone

Reconstituted stone (also known as Engineered, re-composed agglomerated and synthetic stone) is manufactured from a mix of stone aggregate chips (most commonly quartz or marble, but also igneous rocks such as granite and basalt); mineral fillers (generally the ground aggregate); a resin binder (typically an unsaturated polyester); pigments and additives.

The impugned product is described as “Caesarstone® is the original engineered quartz surface”. It also contains quartz aggregates, pigments and polymer resins. We may also view some other information as available on the Internet -

https://www.washingtonpost.com/realestate/with-countertops-quartz-has-supplanted-granite-as-the-peoples-choice/2017/01/19/16a89ac2-dcc9-11e6-acdf-14da832ae861_story.html?utm_term=.1d10fd5c785f

To fabricate the artificial stone, manufacturers such as Caesarstone, Silestone and Cambria blend crushed quartz with resins and pigments, pour the mixture into molds and apply pressure to compact the slabs, which are cured and polished into the final product. The quartz is then cut and finished like real stone.

<http://www.veritas.lt/en/artificial-stone/caesarstone/>

The Caesarstone® artificial stone surface is very comfortable in size and lightness.

<http://townsvillestone.com.au/articles/natural-stone-vs-engineered-stone-kitchen-bathroom>

Engineered stone is a man-made product and was introduced into the market in the late 1980's.

The need for a manufactured stone arose due to a demand for more consistency in the look of the finished product, and a denser product. The main component in engineered stone is naturally forming quartz which is a highly strong mineral.

Engineered stone has general consistency in colour and style due to each piece being made to exact recipes. It contains almost nil porosity which makes it resistant to scratches, chips and stains, giving it an added hygiene factor when used in a kitchen setting.

As the product is made primarily from naturally forming quartz, a difference of up to two shade tones can be viewed between sample and slab, i.e. the sample you see may not be exactly the same as the slab. This is an important consideration if choosing engineered stone – which is a different process to if selecting natural stone, (where you can chose the specific slab).

A look at all above helps understand that the impugned product is an article made from artificial stone. It is a product made using artificial or engineered stone. The product certification explains things, beyond doubt -



It can, therefore, be understood as to why the impugned product is being cleared under the Heading 6810. We have also found a Ruling dt.27.08.2002 in respect of the product classification of Silestone™ (as seen above) agglomerated stone slabs under the Harmonized Tariff Schedule of the United States (HTSUS). The information about the product was thus – *The slabs are composed of 93% quartz and 7% resin binder. After the slabs are imported, they are sold only to U.S. distributors who use them to produce various counter tops, vanities and fireplace surrounds. It was held that the agglomerated quartz sheets are classified under subheading 6810.99.00, HTSUS, which provides for other articles of artificial stone. We have also come across an article explaining the nuances of classification of stones as can be seen thus -*

http://stonebusiness.us/index.php?option=com_content&view=article&id=380:us-customs-classification-of-building-stone&catid=22&showall=1&limitstart=&Itemid=234

PUBLISHED: 18 DECEMBER 2008 - By Jacob Bunin - National Import Specialist - U.S. Customs and Border Protection
Generally, Chapter 25 of the Harmonized Tariff Schedule of the United States (HTS) covers crude stone and minerals, as well as stone and minerals worked in very simple physical ways (e.g., crushed, ground, powdered, washed, etc.). Stone worked beyond the point allowable in Chapter 25 is classifiable in Chapter 68. Importations of worked stone classifiable in Chapter 68 are more common than importations of crude and slightly worked stone classifiable in Chapter 25.

Chapter 25 vs. Chapter 68

While headings 2515 and 2516 cover crude or roughly trimmed monumental/building stone and monumental/building stone merely cut into rectangular (including square) blocks or slabs, stone worked beyond this point is classifiable in heading 6802. Any cutting that goes beyond simple cutting from the quarry block requires classification in Chapter 68.

Operations that dictate classification in Chapter 68 include honing and other processes designed to create a smooth or flat surface; the same operations applied to the edges of a stone; polishing applied to either the face or edges of the stone; dressing, grinding, chamfering, molding, carving, etc. All workings which goes beyond the simplest cutting associated with the quarry shifts the classification of stone from Chapter 25 to Chapter 68.

Heading 6802 covers monumental or building stone worked beyond the point allowed in Chapter 25 – i.e., stone processed beyond the stage of simple shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring. Heading 6802 covers the forms of stone created by the mason or sculptor. This heading includes roughly sawn blanks and non-rectangular sheets.

The 6802 forms also encompass any stone (including blocks, slabs or sheets) that has been polished, dressed, furrowed, planed, ground, chamfered, molded, carved, ornamented, beveled, edge worked, etc. In addition to worked monumental or building stone, heading 6802 covers articles of monumental and building stone. A significant exception to this rule involves articles of precious or semiprecious stone classifiable in Chapter 71.

Heading 6802 (Worked Natural Stone) vs. Heading 6810 (Artificial Stone)

Worked monumental/building stone is classifiable in heading 6802, assuming the stone is natural. However, artificial stone is classifiable in heading 6810.

Artificial stone is formed when pieces of natural stone, or crushed or powdered natural stone, is agglomerated with plastic resins, cement or other binders. In artificial (agglomerated) stone, the binding material and the natural stone are uniformly agglomerated throughout the body of the article.

The classification of floor and wall tiles of agglomerated stone is dependent on the precise type of binding material used in the products. Subheading 6810.19.12 provides for floor and wall tiles of stone agglomerated with binders other than cement (e.g., plastic resins). Floor and wall tiles of stone agglomerated with cement are classifiable in subheading 6810.19.14.

All above leads to the inevitable inference that the impugned product would merit classification in Chapter 68 and the Heading 6810.

05. 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-10/2017/B-

13

Mumbai, dt.

20/3/2018


For reasons as discussed in the body of the order, the question is answered thus –



Q. Whether Caesarstone imported by the applicant can be classified under HSN code 2506 or 6810?

A. Caesarstone imported by the applicant is to be classified under HSN code 6810.




B. V. BORHADE
(MEMBER)


PANKAJ KUMAR
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Jurisdictional Commissioner of Central Tax

CERTIFIED TRUE COPY


ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI