



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH

Goods and Service Tax

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

Present

1. Dr. K. Ravi Sankar, Commissioner of State Tax (Member)
2. B. Lakshmi Narayana, IRS, Joint Commissioner of Central Tax (Member)

ORDER

(Under sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017 and Section 98 of Central Goods and Services Tax Act, 2017)

Advance ruling No.14/AP/GST/2024, dated:28.11.2024

1	Name and address of the applicant	M/s R.V Hydraulic Services.
2	GSTIN	37DZIPR3608R1ZG
3	Date of filing of Form GST ARA-01	02.09.2024
4	Personal Hearing	21-10-2024
5	Represented by	M. Nagesh, Manager (Kireeti Indenting & Exim Services Pvt Ltd)
6	Jurisdictional Authority - Central	The Superintendent, CGST , Sheela nagar Range, Visakhapatnam Central Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	97(2)d) Admissibility of input tax credit tax paid or deemed to have been paid within the meaning of that term;

1. In terms of Section 103(1) of the Act, Advance ruling pronounced by the Authority under chapter XVII of the act shall be binding only-
 - a) On the applicant who had sought it in respect of any matter referred to in subsection (2) of Section 97 for Advance ruling.
 - b) On the concerned officer or the jurisdictional officer in respect of the applicant.

2. In terms of Section 103(2) of the Act, this Advance ruling shall be binding unless the law, facts or circumstances supporting the original advance rulings have changed.
3. Advance ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts shall render such ruling to be void ab initio in accordance with Section 104 of the act.
4. The provisions of both the CGST act 2017 and APGST 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 the same provisions under the APGST Act 2017.

1. Preamble:

The present application has been filed under Section 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. R.V Hydraulic Services., GSTIN 37DZIPR3608R1ZG (hereinafter referred to as applicant).

2. Brief Facts of the case:

M/s. RV Hydraulic Services, located at Revenue Ward 60, 6-38-8/1, L.V Nagar, Patha Gajuwaka, Visakhapatnam, Andhra Pradesh, herein after referred as "The Applicant", offers specialized steel plate processing services and registered under GST act with GSTIN 37DZIPR3608R1ZG. Their main focus is on precision cutting, rolling, and bending of steel plates, producing pipes, bucket shells, and other custom-formed components for supply to various industries. The company with advanced machinery emphasizes stringent quality standards, ensuring each parties crafted accurately to client specifications, working with a wide range of materials for custom designs.

The Applicant placed a purchase order on M/s Promau SRL, Italy, a foreign supplier for 4 Rolls Davi MCB F30 (built year 2022) with specific inclusions as mentioned in the said purchase order on September 29, 2023, which is confirmed on November 8, 2023, for a total cost of EURO 80,000. The company initially paid EURO 8,000 through HDFC foreign

remittance on December 5, 2023 to Promau SRL, Italy. Meanwhile, the machinery was imported to India by Promau SRL c/o IMTEX show Bangalore, INDIA on December 18, 2023, under Bill of Entry No. 9280751. As M/s Promou SRL is not having any GST registration in India, the machinery was cleared from Customs by M/s RE Rogers India Pvt. Ltd by quoting Customs Notification 08/2016, dt. 05-12-2016 which exempts importers from payment of applicable duties as the same is imported for Exhibition purpose and is to be returned. The Machinery which was imported for exhibition purpose was displayed at the International Machine Tool and Manufacturing Technology (IMTEX) exhibition held at the Bangalore International Exhibition Centre (BIEC) from January 19 to 23, 2024. Further, the Applicant after overcoming financial delays paid the remaining EURO 72,000 on January 18, 2024 to M/s Promau SRL, Italy through UCO bank foreign remittance.

Following the exhibition, The applicant remitted the applicable customs duty of Rs.20,92,682/- vide Ch.no-R-86/91 and MCM-050347458, dt.05-03-2024. Further, A No Objection Certificate (NOC) was issued by Chennai Customs on March 7, 2024 duly mentioning the amounts paid head wise under customs duty of Rs.5,48,100/-, SWS Rs.54,810/-, IGST amounting to INR 14,23,964 along with applicable interest of Rs.65,808/- through TR-6 Challan No. 050347458, dt. 07-03-2024. The above certificate is issued by custom authorities for No Objection with respect to the clearance of the said item Davi Full Hydraulic Plate Roll (Model MCB F30) with Accs (1set) as the importer has paid the applicable duty along with applicable interest.

M/s Promau SRL, Italy issued foreign supplier invoice to the Applicant vide invoice No.300/137, Dt:06.02.2024 for an amount of EUR:80,000. Further, the e-way bill for the machinery was issued on March 20, 2024, and M/s Promau SRL confirmed the sale to the Applicant on March 22, 2024. The applicant pointed out that the machinery was installed in the factory premises and that they have already claimed ITC in the month of July, 2023, which was not reflected in the Credit Ledger.

3. Questions raised before the authority:

The applicant sought advance ruling on the following:

- Whether payment of IGST on purchase of goods even if Bill of entry not in the name of the applicant and that they can claim Input Tax Credit under GST.

4. Proceedings if any pending:

4.1. On Verification of basic information of the applicant, it is observed that the applicant is under Central Administrative jurisdiction i.e, Sheelanagar Range, Visakhapatnam Central Division. Accordingly, the application has been forwarded to the Central and State Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

4.2 In response, remarks are received from the Central/State tax authorities concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Admissibility of the application:

The question raised as above appeared to fall under section 97(2)(d) of CGST/SGST Act, 2017 and the same is extracted here under as:

97(2)(d) admissibility of input tax credit of tax paid or deemed to have been paid ;

The application, is admitted as no proceedings on the same is pending, and the applicant has paid required Rs.5,000/- under SGST CPIN: No: 24093700022028 Dt:13-09-2024 and Rs.5,000/-under CGST CPIN No: 24083700154475 dt:31-08-2024.

6. Applicant's Interpretation of Law Or Facts Of the Case As Submitted By The Applicant:

We paid Integrated Tax Rs.14,23,964/- on 05-03-2024 through TR-6 Challan to Govt vide Challan No - 050347458. As per Section 16 of CGST Act, 2017, We received machinery and paid applicable duties to the Government. This machinery we had purchased is for Business Purpose.

7. Personal Hearing:

A personal hearing notice was fixed on October 21, 2024. The applicant's authorised representative Mr. M. Nagesh, Manager at M/s Kireeti Indenting & Exim Services Pvt Ltd, has appeared through authorization letter. The authorized person presented the following submissions:

- The machinery has come for exhibition purpose in the name of M/s Promau SRL C/o. IMTEX Show Bangalore. Subsequently, it was sold to M/s RV Hydraulics.
- Payment of the GST liability under TR-6 challan by M/s RV Hydraulics, fulfilling the applicable duty payments.
- The Authorized Representative (AR) requested ruling on the Input Tax Credit (ITC) claim that had been paid in TR6 challan.
- The applicant requested whether the payment of IGST on the purchase of goods, even if the bill of entry not in the name of the applicant and whether he claim can ITC under GST.

8. Discussion and Findings:

We have carefully gone through the submissions made by the applicant in the advance ruling application, additional submissions made by the Authorised representative during the course of Personal hearing. The Applicant placed an order with M/s Promau SRL, Italy, for a Davi Full Hydraulic Plate Roll (Model MCB F30). Meanwhile, the machinery was imported to India by M/s Promau SRL on December 18, 2023, under Bill of Entry No. 9280751 by claiming duty Exemptions under Customs Notification 08/2016 dtd 05-12-2016, without payment of any applicable duties. The Machinery which was imported for exhibition purpose was displayed at the International Machine Tool and Manufacturing Technology (IMTEX) exhibition held at the Bangalore International Exhibition Centre (BIEC) from January 19 to 23, 2024. Further, the Applicant paid the remaining EURO 72,000 on January 18, 2024 to M/s Promau SRL, Italy.

Following the exhibition, The Applicant paid the applicable customs duty of Rs.20,92,682/- vide Ch.no-R-86/91 and MCM-050347458, dt.05-

03-2024 through TR-6 Challan No. 050347458, dt. 07-03-2024 on behalf M/s Promau SRL, Italy. No Objection Certificate with respect to the clearance of the said Item Davi Full Hydraulic Plate Roll (Model MCB F30) with Accs (1set) was given by the customs as the necessary duties have been paid along with applicable Interest.

The sale Invoice was Issued/raised by M/s Promou SRL, Italy to the Applicant vide Invoice No.300/137, Dt:06.02.2014 for an amount of EUR:80,000. Further, the e-way bill for the machinery was issued on March 20, 2024, and Promau SRL confirmed the sale to the Applicant on March 22, 2024. The applicant stated that the machinery was installed in the factory premises and that they have already claimed ITC in the month of July, 2023, which was not reflected in the Credit Ledger.

The query raised by the taxpayer on the eligibility of the taxpayer's claim of ITC on TR6 challan is taken up for discussion and analysis. For ease of reference the following legal provisions are reproduced herein as noted below.

Section 5 of IGST Act, 2017 – stipulates Levy and Collection provisions. The relevant portion is as noted below:

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

Supply as per Section 7 of IGST Act, 2017 stipulates treatment of import of goods as Inter state supply which reads as:

(1) Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in--
(a) two different States;

(b) two different Union territories; or

(c) a State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce.

(2) Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.

Further Section 3(7) and 3(8) of the Customs Tariff Act 1975 imposes levy of applicable duties as extracted below:

(7) [Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding forty per cent. as is leviable under section 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported article as determined under sub-section (8) [or sub-section (8A), as the case may be] [Substituted by Notification No. 18 of 2017, dated 4.5.2017.]

(8) For the purposes of calculating the integrated tax under sub-section (7) on any imported article where such tax is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of –

(a) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

(b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include the tax referred to in sub-section (7) or the cess referred to in sub-section (9).

Section of 16 of CGST Act stipulates the provision or Eligibility and conditions for taking input tax credit which reads as:

Every registered person is entitled to take credit of input tax charged on any supply of goods or services or both which are used or intended to be used in the course or furtherance of his business.

As per 16(2): ITC cannot be availed unless the taxpayer:

- **Is in possession of a Tax Invoice or Debit note or such other taxpaying documents as may be prescribed.**
- **Has received the goods or services or both**
- **Tax charged in respect of such supply has been actually paid to the government.**

- Has furnished the return under Section 39.

In addition as per Section 16(4) the last date for availment of ITC for particular financial year is due date of furnishing GSTR-3B for the month of September/ November of next year or relevant annual return whichever is earlier.

Rule 2(62) of APGST rules 2017 stipulates that the term Input Tax includes Integrated Tax paid on Imports.

Rule 36. provides for **Documentary requirements and conditions for claiming input tax credit.**

- (1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-
- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
 - (b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
 - (c) a debit note issued by a supplier in accordance with the provisions of section 34;
 - (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made there under for the assessment of integrated tax on imports;

Section 20 of the IGST Act 2017 implies applicability of provisions of CGST/APGST Act relating to (iv) Input Tax Credit and the said provisions apply *Mutatis Mutandis* in relation to Integrated tax as if they are enacted under IGST Act.

Based on the above mentioned detailed provisions, the following facts are crucial to address the question of whether the applicant can claim Input Tax Credit (ITC) on the IGST paid for the purchase of the imported machinery. The machinery (a Davi Full Hydraulic Plate Roll) was imported by M/s Promau SRL, C/o IMTEX a foreign supplier and displayed at the International Machine Tool and Manufacturing Technology (IMTEX) exhibition held on January 19th to 23rd in Bangalore. The Bill of Entry No. 9280751, dated December 18, 2023, was in the name of M/s Promau SRL, C/o. IMTEX, not in the name of the applicant. The goods were cleared from customs by claiming exemption under Customs Notification 08/2016 from payment of applicable duties (Customs, SWS, IGST) by M/s Promau SRL, C/o. IMTEX.

It is pertinent to mention here that the Customs Exemption Notification 08/2016, dated December 5, 2016, issued by the Government of India provides specific customs duty exemptions on goods imported for exhibitions or fairs in India. The goods imported in the present case were exempted from payment of duties relying on the above notification. The notification offers conditional exemptions from customs duties for certain goods imported temporarily for events such as exhibitions, fairs, conventions, and similar gatherings, including trade shows and demonstrations. This exemption helps companies avoid high customs duties on goods that are not intended for permanent sale or use in India but are displayed temporarily. To qualify for this exemption, the importer (in this case, M/s Promau SRL) shall submit a declaration to the effect that the goods imported are intended for display or use at an event in specified formats at the time of filing Bill of Entry.

- The goods must be re-exported out of India within six months (or an extended period if approved).
- The goods are subject to a bond or bank guarantee that ensures re-export, meaning they cannot remain in India indefinitely without duty payment.
- The goods must solely be used for display or demonstration purposes, without any intent for sale during the exhibition.

M/s. Promau SRL, C/o IMTEX imported the Davi Full Hydraulic Plate Roll under this notification to display it at the IMTEX exhibition from January 19-23, 2024. The exemption notification allowed M/s Promau SRL C/o IMTEX to bring the equipment into India without immediate customs duty payments. The goods are generally cleared through a bond executed with customs. Any exemption claimed requires documentation, such as import invoices, Bill of Entry, and evidence that the goods are for exhibition purposes. This exemption under Notification 08/2016 applies only to temporary imports and is subject to scrutiny. M/s Promau SRL, not being registered for GST in India and a foreign supplier could import the machine under this exemption without affecting its tax status in India, adhering to the re-export requirement.

The Bill of Entry was in M/s Promau SRL's name, C/o IMTEX and not The the Applicant and out of charge issued on the goods imported. Under Section 16(2) (a) read with rule 36(1) (d) of the CGST Act, a claimant for ITC should have relevant documents like the Bill of Entry in their name to establish ownership and entitlement to claim tax credit.

After the International Machine Tool and Manufacturing Technology (IMTEX) exhibition, The Applicant paid customs duty, SWS (Social Welfare Surcharge), and IGST on March 5, 2024, amounting to Rs.14,23,964/-(IGST), through TR-6 Challan on behalf of M/s Promau SRL.

The permissibility of claim for Input Tax Credit (ITC) by R.V. Hydraulic Services on the Integrated Goods and Services Tax (IGST) paid for imported machinery can be determined based on the statutory documentary requirements as discussed above. The charging section of levy of IGST on Interstate supply of goods is section 5 of IGST act and the present transaction falls under Interstate supply of goods as the import of goods is treated as interstate supply as per section 7 of IGST act. Further the custom tariff act 1962 specifically provides for applicable duties which are required to be payable as per the provisions mentioned supra. The essential documentary requirements and the conditions to claim ITC are enumerated under section 16 of CGST act read with Rule 36 which apply mutadis mutandis under IGST. In the present scenario the claim for ITC by the applicant must have such essential documentation in their name to establish entitlement. Here, the Bill of Entry was in the name of M/s Promau SRL, C/o IMTEX and out of charge has been issued for the aforesaid goods. Section 16 (2)a read with Rule 36(1)d of the provisions of APGST Act, 2017 and Sec 20 of IGST act. Rule 36 (1) (d) stipulates that a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made there under for the assessment of integrated tax on imports. The manual TR-6 challan used for IGST payment does not fulfill the documentation requirements outlined in rule 36 of the CGST Act for claiming ITC claim. Therefore, the Appellant is not eligible to claim ITC.

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

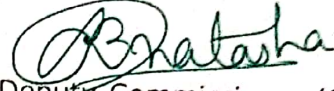
Question: Whether payment of IGST on purchase of goods even Bill of entry not in the name of the applicant shall claim Input Tax Credit under GST

Answer : Negative

Sd/- K. Ravi Sankar
Member

Sd/-B. Lakshmi Narayana
Member

//t.c.f.b.o//


Deputy Commissioner (ST)

Registrar
Authority for Advance Ruling
O/o. Chief Commissioner (State Tax)
Andhra Pradesh, Vijayawada

To

M/s. RV Hydraulic Services, (GSTIN 37DZIPR3608R1ZG), Revenue Ward 60, 6-38-8/1, L.V NAGAR, Patha Gajuwaka, Visakhapatnam, Andhra Pradesh- 530026
(By Registered Post and Mail)

Copy to

1. The Assistant Commissioner (ST), Gajuwaka Circle, Visakhapatnam-II Division (through mail) with a direction to communicate the copy to the Central Tax authorities.
2. The Joint Commissioner (ST), Visakhapatnam-II Division (through mail) with a direction to inform the Central Tax authorities.
3. The Superintendent (CT), Sheelanagar Range, Visakhapatnam Central Division (through mail).

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Kunchanapalli, Guntur District, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. (through mail)

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.