


<b>GUJARAT AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX</b> <b>D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,</b> <b>AHMEDABAD – 380 009.</b>	
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**ADVANCE RULING NO. GUJ/GAAR/R/2025/10**  
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2024/AR/11 )

**Date: 25/03/2025**

Name and address of the applicant	:	M/s. Inox Air Products P Ltd., Block-102, 106P, Vermadi Road, Vadodara, Gujarat-391240.
GSTIN of the applicant	:	24AAACI5569D1ZQ
Jurisdiction Office	:	Office of the Assistant Commissioner of State Tax, Unit-45, Range- 12, Division- 5, Vadodara.
Date of application	:	08.05.2024
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(d), (e), (g)
Date of Personal Hearing	:	3.1.2025
Present for the applicant	:	Shri Gopal Krishna Mundhra, Advocate and Shri Krunal Jadwani, Dy Manager (Accounts).

**Brief facts:**

M/s. Inox Air Products P Ltd., Block-102, 106P, Vermadi Road, Vadodara, Gujarat-391240 [for short – ‘applicant’] is registered under GST and their GSTIN is 24AAACI5569D1ZQ.

2. The applicant is engaged in the manufacture & supply of industrial gasses including Oxygen, Nitrogen, Argon etc., both in liquid and gaseous form, which are removed in special vacuum insulated cryogenic transport tanks. At times, the delivery vehicle, may contain goods to be delivered to more than one customer, which according to the applicant is termed as a *milk run*.

3. Since a portion of the liquid gas may evaporate during transit from the factory to the customer's premises, the exact quantity of liquid gases received by the customer is unascertainable at the time of removal. It can only be ascertained after the goods are actually decanted from the tanker

into the special storage tank (installed at the buyer's premises) & quantity accepted by the buyer. During transit, certain quantity of the liquid gas is converted to gaseous form and evaporates thereby leading to **transit loss**.

4. During the legacy regime, in terms of circular No. 569/6/2001-Cx dated 9.2.2001, excise duty was to be determined & paid in terms of Rule 8 of the Central Excise Rules, 1994 on the total quantity of liquid gasses actually delivered to the customer including the transit loss, if any. The applicant therefore, during this period, was discharging excise duty even on the gases lost in transit.

5. Presently, under the GST regime, they follow the procedure for removal of liquid gases as envisaged in Rule 55 of the CGST Rules, 2017; that the liquid gas is removed under the cover of delivery challan; that since the quantity to be received by the customer is not known at the time of removal, the tax invoice is raised after actual delivery of the gas to the customer. Further, the applicant is discharging GST on the gases lost during transit, out of abundant caution. The formulae adopted for calculating the transit loss, is as under:

*Total quantity dispatched (-) quantity accepted by customer (-)  
residual quantity left.*

The applicant, at the end of the month, prepares a consolidated tax invoice for the entire quantum of transit loss & discharges the applicable GST.

6. The applicant however, feels that they are not required to pay GST on the transit loss, owing to the following reasons *viz*

- that under GST, the taxable event is 'supply';
- that supply in terms of Section 7 of the CGST Act, 2017, includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration;
- that supply also covers within its purview activities specified under Schedule I of the CGST Act, 2017;
- that in light of the above there is no supply of gasses lost in transit, owing to the fact that it was lost in transit rather than having been supplied to the customer;
- that they would like to rely on the below mentioned rulings *viz*
  - Rajrathnam's Jewels<sup>1</sup>
  - National Highway Authority of India<sup>2</sup>

<sup>1</sup> 2018 (15) GSTL 623 (AAR-GST)

<sup>2</sup> 2019 (27) GSTL 155 (AAR-GST)



- Tako Holding GMBH<sup>3</sup>
  - Deccan Mining Syndicate P Ltd<sup>4</sup>
- that the applicant has recorded the value of lost gases as cost in the books of accounts; that assuming that they are including the value charged to customer, even in such a case, the applicant has discharged GST on the entire value of liquid gases removed from the factory premises.

7. The applicant further feels that they are not required to reverse ITC in terms of Section 17(5)(h) of the CGST Act, 2017, owing to the following:

- that in terms of section 17(5)(h), *ibid*, ITC is not admissible in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;
- that at the time of availment of ITC, the goods were intended to be used in the manufacture of finished goods & therefore legally the ITC was eligible; that once the ITC is legitimately availed there is no enabling provision to demand the same back;
- that there is no provision to demand the ITC availed on inputs which have been issued in the manufacture of finished goods that are thereafter lost, stolen or destroyed;
- that in the absence of a provision, the reversal of ITC on inputs already used for manufacture of finished goods that are lost or stolen or destroyed, once it is legitimately availed, it cannot be demanded back;
- that they would like to rely on the below mentioned judgements *viz*
  - M/s. ARS Steel & Alloys International P Ltd<sup>5</sup>
  - Eastman Exports Global Clothing P Ltd<sup>6</sup>
  - M/s. R Ganpathy Chettiar<sup>7</sup>
  - M/s. Sardhambika Paper & Board Mills P Ltd<sup>8</sup>
- that the transit loss is not a loss akin to the one contemplated u/s 17(5)(h), *ibid*;
- that the gases which were lost in the transit were finished goods which were never supplied to the customer and accordingly, provisions of section 17(5)(h), *ibid* are not applicable.

8. In view of the foregoing, the applicant raised the following questions seeking a ruling, *viz*

- (i) Whether GST is payable on goods lost in transit;
- (ii) If GST is payable, what should be the value of supply for the purpose of payment of GST;
- (iii) If GST is not payable, whether the applicant is required to reverse the ITC in terms of section 17(5)(h) of the CGST Act, 2017;
- (iv) If the applicant is required to reverse ITC in terms of section 17(5)(h) of the CGST Act, on what basis should the applicant be required to reverse.

9. Personal hearing was granted on 4.12.2025<sup>4</sup> & 03.01.2025 wherein Shri Gopal Krishna Mundhra, Advocate and Shri Krunal Jadwani, Dy Manager (Accounts) appeared on behalf of the applicant and reiterated the facts as stated

<sup>3</sup> 2018 (19) GSTL 692 (AAR-GST)

<sup>4</sup> 2021 (90) GSTR 391 (KAR)

<sup>5</sup> 2021 (6) TMI 957 (Mad)

<sup>6</sup> 2023 112 GSTR 106 (Mad)

<sup>7</sup> 2022 (56) GSTL 129 (Mad)

<sup>8</sup> 2021 (7) TMI 341 (Mad)



in the application. They submitted additional submissions containing the following viz

- [a] sample summary report containing details of transit losses incurred in September 2023 along with the corresponding documentation [including transit loss invoices, GST invoices and loss documentation];
- [b] sample copies of transit loss invoices generated for September 2023;
- [c] copy of Chartered Accountant's certificate dated 24.12.2024 and
- [d] copy of insurance policy covering loss of gases due to accidents.

### **Discussion and findings**

10. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 provisions under the GGST Act.

11. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

12. Before advertng to the submissions made by the applicant, we would like to reproduce the relevant provisions for ease of reference:

### **CENTRAL GOODS & SERVICES TAX ACT, 2017**

#### **• Section 7. Scope of supply.-**

*(1) For the purposes of this Act, the expression - "supply" includes-*

*(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;*

*[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.*

**Explanation** :-*For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]*

(b) import of services for a consideration whether or not in the course or furtherance of business; [and]

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;

• **Section 17. Apportionment of credit and blocked credits.-**

5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

**CENTRAL GOODS & SERVICES TAX RULES, 2017**

• **Rule 55. Transportation of goods without issue of invoice-**

(1) For the purposes of-

(a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,

(b) to (d) .....  
the consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:-

(i) date and number of the delivery challan;

(ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;

(iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;

(iv) Harmonised System of Nomenclature code and description of goods;

(v) quantity (provisional, where the exact quantity being supplied is not known);

(vi) taxable value;

(vii) tax rate and tax amount - central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;

(viii) place of supply, in case of inter-State movement; and

(ix) signature.

(2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:-

(a) the original copy being marked as ORIGINAL FOR CONSIGNEE;

(b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and

(c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

(3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.

(4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

13. In the additional submission provided during the course of personal hearing, the applicant submitted a brief in respect of the three gases ie Argon,



Oxygen, Nitrogen, their properties, how the liquified gases are stored, a write up on the manufacturing of the said liquid gases, further stating that the liquification of gases only involves atmospheric air and cooling equipment; that the manufacturing process is fundamental to industrial gas production & is used worldwide to produce these essential gases for medical, industrial and scientific applications.

14. As far as supply of liquid gases and transit loss is concerned, the applicant, in his additional submission, has further stated as follows:

- before the supply, the empty vehicle [VICTT<sup>9</sup>], is weighed at the factory premises;
- once the liquid gas is loaded, the weighment is done to determine the quantity of liquid gases filled in the VICTT;
- the dispatch team generates single or multiple delivery challans in terms of Rule 55 of the CGST Rules, 2017;
- the dispatch team initiates a trip sheet document simultaneously in SAP to record movement of the vehicle, distance travelled, etc.;
- the finished goods is provisionally reduced in the SAP system; that an E-way bill is generated for the transaction;
- the goods are unloaded in the tank at the customers premises;
- after unloading/decanting at the customers premises weighment of the vehicle is done;
- upon return of the vehicle at the applicants premises, the weighment of the empty vehicle is carried out to ascertain the delivered quantity, the loss, the return/residual etc.;
- the trip sheet document is closed in SAP;
- the tax invoice is raised by the applicant on the customer to the extent of the gas delivered by the applicant;
- the transit loss entry is accounted in SAP to capture the financial cost of inventory;
- the applicant follows the same accounting practice at all locations; that the cost of production on account of the transit loss of liquid gas and the GST paid on the transit losses is debited to P&L account;
- that they have not obtained any insurance to cover loss due to evaporation; that they have only obtained insurance to insure loss VICTT & goods therein on account of accidents or other damages; that a copy of the marine cargo open policy was also enclosed with the additional submissions.

15. Enclosed with the additional submission, is a certificate dated 24.12.2024, Exhibit F, from M/s. S C Bandi & Co, Chartered Accountants. Consequent to verification, checking of sample documentation, the Certificate mentions the detail of transit loss of liquid gases during the FY 2023-24; that the value of transit loss is expensed out in the applicant's book; that there is no separate recovery for the transit loss made by the applicant from their customer

<sup>9</sup> Vacuum Insulated Cryogenic Transport Tanks

or transporter; that the coverage of marine insurance is in respect of transportation of liquid gas limited to accidental coverage and not normal loss.

16. Unlike for the legacy period wherein Central Excise duty was to be discharged on the loss in terms of circular No. 569/6/2001-Cx dated 9.2.200, as far as GST is concerned, levy is on supply. The loss nomenclatured as 'transit loss', which occurs during the course of transportation and during the course of delivery at buyers premises, as is evident from the paras above, is on account of the low boiling point and volatility of the goods. It happens before the supply takes place *ie* during the course of transportation from applicant's premises to the buyer's premises.

17. In terms of section 10 of the IGST Act, 2017, the place of supply of goods other than supply of goods imported into or exported from India, where the supply involves movement of goods, shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, irrespective of whether the movement of the goods is by the supplier or the recipient or by any other person. Thus, the transit loss, as is evident, is before the place of supply of goods.

18. As far as the time of supply of the goods is concerned, in terms of section 12 of the CGST Act, 2017, it shall be earlier of the following dates namely,

- (a) the date of issue of invoice by the supplier or the last date on which he is required, under section 31, to issue the invoice with respect to the supply; or
- (b) the date on which the supplier receives the payment with respect to the supply:

The applicant is on record, that the invoice is generated post the supply of goods, before which, the transit loss has occurred.

19. As far as the scope of supply is concerned, section 7, [reproduced supra], clearly states that that supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It is evident that there is no supply of the said goods by the applicant to its customer more so since the loss is before the goods are

handed over to the customer. Even on the parameters of *place of supply* and the *time of supply*, since the loss occurs prior to both the place of supply and the time of supply, in this peculiar situation, we hold that there is no supply as far as transit loss is concerned.

20. In view of the foregoing, we find merit in the claim of the applicant that they are not liable to pay GST on the transit loss of the gas.

21. Now moving on to the second issue *ie* reversal of ITC, we find that the provisions of section 17(5)(h), states that ITC is not eligible on goods lost, stolen, destroyed, written off or disposed off by way of gift or free samples. The goods as mentioned above is lost/destroyed during the course of transit. It is not a manufacturing loss. Section 16 of the CGST Act, 2017, clearly states that a registered person shall be entitled to avail ITC charged on any supply of goods or services or both which are used/intended to be used in the course or furtherance of business. In this case, as far as the goods lost during the course of transit is concerned, it cannot be said that the inputs involved [involved in the goods manufactured & subsequently lost in transit] have been used in the course of furtherance of business, as we have already held above that there is no supply involved, as far as the transit loss is concerned. This renders the credit availed on the inputs used in the goods lost in transit to fail the vesting condition attached to the validity of the credit taken under section 16(1) being proper end use of the inputs. Credit is not a vested right at the time of receipt of inputs but can only be availed on satisfying all vesting conditions, including its participation in a taxable outward supply. This not being the case, we find that the applicant is hit by blocked credit as per section 17(5), *ibid*.

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

### **RULING**

(i) Whether GST is payable on goods lost in transit;  
**Ans:** No GST is payable on the goods lost in transit.

(ii) If GST is payable, what should be the value of supply for the purpose of payment of GST;  
**Ans:** Not applicable.



(iii) If GST is not payable, whether the applicant is required to reverse the ITC in terms of section 17(5)(h) of the CGST Act, 2017;

**Ans:** The applicant is not eligible for the ITC in respect of inputs used in the goods lost in transit & hence is required to reverse the ITC in terms of section 17(5)(h) of the CGST Act, 2017.

(iv) If the applicant is required to reverse ITC in terms of section 17(5)(h) of the CGST Act, on what basis should the applicant be required to reverse.

**Ans:** The applicant is required to reverse the ITC involved in the inputs used in the outward supply which was lost in transit, in terms of section 17(5)(h) read with section 16 of the CGST Act, 2017.

  
(Kamal Shukla)  
Member (SGST)

  
(P.B. Meena)  
Member (CGST)



Place: Ahmedabad  
Date: 25.03.2025