

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



ADVANCE RULING NO. GUJ/GAAR/R/2025/17
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2024/AR/31)

Date: 30/04/2025

Name and address of the applicant	:	M/s. Enerzi Microwave Systems P Ltd 243, RJD Integrated Textile Park, Ground and 1 st floor, Ichhapor, Surat, Gujarat-394510.
GSTIN of the applicant	:	24AABCE8744K1ZF
Jurisdiction Office	:	Office of the Assistant Commissioner of State Tax, Unit-57, Range-15, Division-7, Surat.
Date of application	:	26.10.2024
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(d)
Date of Personal Hearing	:	08.04.2025
Present for the applicant	:	Shri Rupesh Agashimani, Director.

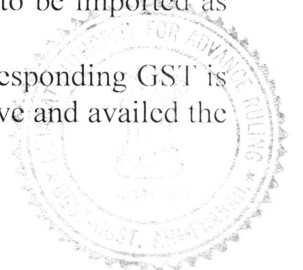
Brief facts:

M/s. Enrzi Microwave Systems P Ltd, 243, RJD Integrated Textile Park, Ground and 1st floor, Ichhapor, Surat, Gujarat-394510 [for short –‘applicant’] is registered under GST and their GSTIN is 24AABCE8744K1ZF.

2. The applicant has entered into a Dealership and Service Representation agreement with M/s. MUEGGE GmbH, Germany. In terms of the said agreement, the applicant is providing warranty services to the customers of M/s. MUEGGE GmbH in India.

3. The applicant, vide his aforementioned application has further stated as follows

- M/s. MUEGGE GmbH, Germany is the original supplier of industrial microwave;
- M/s. MUEGGE GmbH, has provided warranty to buyers against the sale of said microwaves and executed the warranty service agreement with the applicant who will provide the warranty services to its buyers;
- That in case of replacement of any parts under warranty they are required to be imported as industrial microwaves was also imported;
- the service under the warranty scheme is free of cost and no charges & corresponding GST is collected from actual customers who have purchased the industrial microwave and availed the warranty service;
- the service charges however, are collected from M/s. MUEGGE GMBH;



- that a sample copy of commercial invoice no. EMS/EXP/24-25/006 dated 30.9.2024, is enclosed with the application;
- that since the place of supply of service is in India, such services rendered for which invoice is raised on M/s. MUEGGE GmbH cannot be considered as export of service;
- that applicable GST is paid on services charges collected from M/s. MUEGGE GmbH;
- the IGST on import of parts, is paid by M/s. MUEGGE GmbH.

4. The applicant has further stated that the IGST on the import of parts has been paid by M/s. MUEGGE GmbH. However, as there is no clarity about the eligibility of the ITC which is reflected in their GSTR-2B statement, the applicant seeks a ruling on whether they are eligible for the said ITC. Further, as a temporary measure the said ITC is reversed every month in table 4B(2) of GSTR 3B return, in terms of point no. 4.3 C of circular no. 170/02/2022-GST dated 6.07.2022.

5. In view of the foregoing, the applicant, has sought a ruling on the following question viz

- Whether the IGST on import of parts which has been paid by the foreign supplier M/s. MUEGGE GmbH is available to the applicant.

As the applicant has not framed the question properly in Sr. No. 14 of his application, the same has been re-framed.

6. Personal hearing was granted on 08.04.2025 wherein Shri Rupesh Agashimani, Director, appeared on behalf of the applicant and reiterated the facts as stated in the application. He also submitted a copy of the Dealership and Service Representation agreement between M/s. MUEGGE GmbH and the applicant. The salient features of the agreement are as under viz

Dealership and Service Representation Agreement

by and between

Muegge GmbH

Hochstraße 4-6, 64385 Reichelsheim,

Germany - hereinafter referred to as

"Supplier" -

and

Enerzi Microwave Systems Pvt. Ltd.

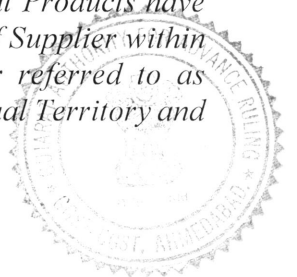
Plot No.: 99/107, Survey No.: 343A/335, Udyambag, Belagavi-590008, Karnataka, INDIA

- hereinafter referred to as **"Dealer" -**

8 **Scope of Services**

8.1 *The Dealer- as Authorized Service Representative of the Supplier- shall provide the Services in this Section for the Contractual Products within the Contractual Territory. Service shall include any activities related to preventive ad corrective maintenance & repair or the like of the Contractual Products.*

8.2 *The Dealer shall provide the Services regardless whether the Contractual Products have been purchased from the Dealer himself, or the Supplier or an affiliate of Supplier within the meaning of Section 15 seq. German Corporation Act (hereinafter referred to as "Affiliate") of any other sales organization inside or outside the Contractual Territory and*



also in case the Contractual Products have been purchased before the execution of this agreement.

8.4 Upon request by Supplier, the Dealer shall also perform Services by order and on behalf of the Supplier in accordance with Section 9 of this Agreement, whereas Supplier as the sole contractual partner of the customer shall remain in charge for the conclusion and execution of the contract with the customer.

8.5 In case the Supplier or any Affiliate of the Supplier is under any contractual warranty obligation towards a customer in relation to a Contractual Product, the Dealer is obligated to perform such warranty services in accordance with Section 10 of this Agreement.

10. Warranty Services

10.1 In case the Dealer is asked to perform any Services on a Contractual Product, which fall or may fall within the scope & period of a contractual warranty granted by Supplier or an Affiliate of Supplier (hereinafter together "Supplier's warranty obligations") or if any customer requests any Services to be performed under Supplier's Warranty Obligations, the Dealer shall immediately inform the Supplier thereof, providing all necessary details for the Supplier to assess, whether or not the requested Service falls within the scope of Supplier's Warranty Obligations. The Dealer shall also inform Supplier about any indications, if any, that any damage may have been caused by reasons that do not fall within the scope of Supplier's warranty obligations, such as but not limited to extreme environmental conditions, misuse, failure of other equipment, improper, negligent or extreme operation, insufficient maintenance and service, use of other than original spare parts.

10.2 If and to the extent any requested Services fall within the scope of Supplier's Warranty Obligations and the Supplier has given his prior written approval thereof, the Dealer will perform the necessary Services to the extent approved by Supplier free of charge for the customer as if the Parties had concluded a respective Service contract in accordance with Section 9.

[emphasis supplied]

Discussion and findings

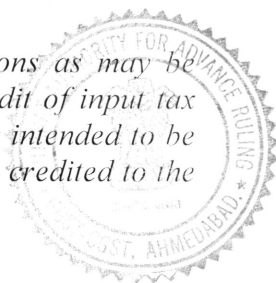
7. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

8. 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.

9. Before dwelling further on to the submission, we deem it appropriate to reproduce the relevant sections viz

Section 16. Eligibility and conditions for taking input tax credit-

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

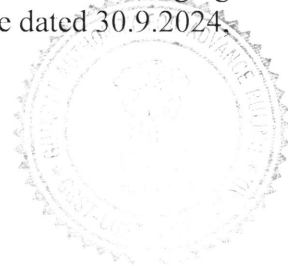


10. To recapitulate, the applicant has entered into a Dealership and Service Representation agreement with M/s. MUEGGE GmbH, Germany, as a consequence of which, they are obliged to provide warranty service to the customers of M/s. MUEGGE GmbH. As a part of the warranty service, the applicant requires parts for the microwaves, which are imported. The IGST in respect of the said imports is paid by M/s. MUEGGE GmbH. Since warranty is free, the applicant, in respect of the said supply, raises the invoice against M/s. MUEGGE GmbH for the supply of warranty service. The above arrangement comes forth on going through the Agreement between the applicant and M/s. Muegge, Germany.

11. Significantly, the applicant in his application at paragraph 5, states that the place of supply of service, [in respect of warranty service] the invoice of which is raised on M/s. MUEGGE GmbH, is India, as such services are not considered as export of services. In terms of Section 97(2) of the CGST Act, 2017, determination of place of supply is not a question on which an advance ruling can be sought, since it does not figure amongst the seven issues mentioned therein. However, since the applicant himself has accepted that it is not an export of service and is not disputing it, we move forward to decide the question posed before us.

12. The applicant, we find has provided a copy of the invoice, raised on M/s. MUEGGE GmbH towards warranty service, as mentioned *supra*. As is evident, the invoice is towards repairs and service charges and does not include the cost of spare parts. The application is also silent on the crucial aspect of whether the invoice raised on M/s. MUEGGE GmbH, includes the cost of parts also. We find that spare parts does not form part of the invoice, more so since it is M/s. MUEGGE GmbH who is discharging the payment in respect of the IGST at the time of import, though the import is in the name of the applicant, as is evident from a sample bill of entry provided with the application. However, as far as availment of ITC as is reflected in the GSTR 2B is concerned, we find that the applicant would not be entitled to avail the same, in view of the following *viz*

- that the IGST is borne by M/s. MUEGGE GmbH;
- that credit is not a 'vested right' at the time of receipt of inputs but only on satisfying all 'vesting conditions', including its participation in a taxable outward supply, would it become available;
- the applicant while raising invoice on M/s. MUEGGE GmbH, in all likelihood is not charging the price of parts in the supply, as is evident from the sample copy of invoice dated 30.9.2024, enclosed with the application;

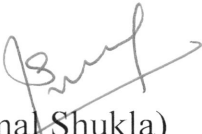


- the inputs therefore do not participate in the taxable outward supply in so far as the value of inputs does not form part of the value of taxable supply;
- the question of availing the ITC because it reflects in their GSTR 2B is not a valid argument, more so since the goods on which the tax stands paid has not participated in a taxable outward supply;
- we need to remember the fundamental principle that availment of ITC is also to avoid the cascading effect. Since no tax is paid on the parts in the outward supply, i.e. it is not a part of the warranty charges invoice, the question of cascading effect also does not arise.

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

Ruling

The applicant is not eligible for IGST on imports of parts paid by the foreign supplier M/s. MUEGGE GmbH, in terms of section 16 of the CGST Act, 2017.


(Kamal Shukla)
Member (SGST)

Place: Ahmedabad
Date: 30.04.2025




(P.B. Meena)
Member (CGST)

