

T. No-389/2019-20

**THE AUTHORITY FOR ADVANCE RULINGS IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 13/ 2020 Dated:18th March, 2020

Present:

- Dr.RaviPrasad M.P.**
Additional Commissioner of Commercial Taxes ...Member (State Tax)
- Sri. Mashhood ur Rehman Farooqui**
Joint Commissioner of Central Tax ...Member (Central Tax)

1.	Name and address of the applicant	M/s. Kardex India Storage Solution Private Limited, No. 507, Brigade Rubix, 5 th Floor, HMT Watch Factory Road, Peenya 1 st Stage, Bangalore - 560 022.
2.	GSTIN or User ID	29AADCK5377L1ZW
3.	Date of filing of Form GST ARA-01	24.10.2019
4.	Represented by	Sri. Jayaram, Authorised Representative
5.	Jurisdictional Authority - Centre	Commissioner of Central Tax, North West Commissionerate, Bangalore
6.	Jurisdictional Authority - State	LGSTO-050 Bangalore
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act CIN No. HDFC19102900409682, Dated 24-10-2019 and Rs. 5,000-00 under CGST Act vide CIN No. HDFC 19102900337274 Dated 21-10-2019

**ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS
AND SERVICES TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF
SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017**

- M/s. Kardex India Storage Solution Private Limited, No. 507, Brigade Rubix, 5th Floor, HMT Watch Factory Road, Peenya 1st Stage, Bangalore - 560022, is private limited company registered with GSTIN:29AADCK5377L1ZW, filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of the CGST Rules and Section 97 of the KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 and discharged the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



2. The Applicant is the importer of storage solutions and vertical storage solutions (machines) from Germany and distributes the imported goods to Industrial customers all over India. Presently, applicant is transporting the imported goods from the port of import to applicants' registered place of business at Bangalore and then supplying the same to the customer's place. During this process of transportation, the applicant came across lot of logistical problems and found it costly. In view of this, the applicant intends to import the goods to the port nearest to the customer's place and supply directly to customer's location from the said port of import. However, the applicant intends to issue the bill/ tax invoice for the said transaction from the registered place of business.
3. In view of the above, the applicant seeks advance ruling in respect of the following issues:
 - 1) Whether the applicant can take credit of IGST paid on import of goods?
 - 2) Whether applicant can issue tax invoice with IGST to the customer?
 - 3) Whether applicant needs to obtain registration in the state where the port of clearance is located?

APPLICANT'S INTERPRETATION OF LAW:

4. The Applicant submitted that the place of supply, in case of import of goods, is the location of the importer, in terms of Section 11(a) of the IGST Act 2017. Further, applicant submitted that according to IEC, the location at which importer files the bill of entry for clearance of goods and where the importer is registered under GST is treated as location of the importer. Therefore applicant contends that location of the importer is the place of business of the importer and not the state in which the port of import is located unless the importer has some permanent establishment or business place in the port of import. In view of this, the applicant submitted that place of supply for the imported goods would be the registered place of business premises.
5. The applicant further submitted that in terms of section 7(2) of the IGST Act 2017, the 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. He has further submitted that as per the provisions of the IGST Act, 2017 though the imported goods are supplied directly from the port of import to the customer's place, it is deemed that imported goods are received at the registered place of business of the importer and then supplied to the customer's place. Such being the case, the applicant has opined that there is no need to shift the imported goods physically to the place where the registration is obtained and also no need to take registration in the state where the port of import is located.

6. In support of this, the applicant has placed reliance on the Rulings of the Advance Ruling Authority, Maharashtra in the case of

a) M/s Aarel Import Export Private Limited.

b) M/s Sonkamal Enterprises Private Limited.

In view of the above, the applicant submitted that imported goods can be supplied directly from the port of import to customer's place without obtaining registration in the state where goods are imported.

PERSONAL HEARING

7. Sri. Jayaram, Authorised Representative of the M/s. Kardex India Storage Solution Private Limited, appeared for personal hearing proceedings before this authority and made the submissions as narrated above.

DISCUSSION AND FINDINGS

8. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and KGST, Act 2017 are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Jayaram, Authorised Representative during the personal hearing. We also considered the issues involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.



10. On verification of the nature of the activity carried out by the applicant, it was observed that the applicant is an importer of storage solutions and vertical storage solutions (machines) from Germany and supplied to Industrial customers all over India. During this process, applicant is shipping the imported goods (machines) to the registered place of business at Bengaluru and then supplying to the customer place. Due to this process of transportation, applicant has come across various logistic problems and found it becoming costly. In view of this, the applicant intends to import goods to the port nearest to the customer's place and supply the same to customer's location directly from the port of import. With this in background applicant has sought advance ruling on the questions as mentioned in para 3 above.

11. Further, goods imported into the territory of India till they cross the customs frontiers of India, shall be treated as supply of goods in the course of inter-State trade or commerce in terms of subsection (2) of section 7 of IGST Act 2017. The applicant being the importer of storage solutions and vertical storage solutions (machines) from Germany is liable to pay the integrated tax on goods imported into India in accordance with the provisions of section 3 of the Customs Tariff Act, 1975, on the value as determined under the aforesaid Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, in terms of proviso to the subsection (1) of section 5 of the IGST Act, 2017. In view of the said provisions applicant is liable to pay IGST on the value of the goods imported into India on reverse charge basis.

12. Further, section 20 of the IGST Act, 2017 read with section 16 of the CGST Act 2017 provides that IGST paid on import of goods can be utilized as the credit of the input tax if such imported goods used in the course or furtherance of his business. The section 16(1) of the CGST Act, 2017 reads as follows;

"16(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."

It is admitted by the applicant that imported goods are further supplied to various industrial customers in India and this implies that imported goods are used in the course or furtherance of his business. Hence the applicant is entitled to claim the credit of IGST paid on imported goods in terms of section 20 of the IGST Act 2017 read with section 16 of the CGST Act, 2017.

13. The applicant is having the permanent business establishment only in the state of Karnataka and obtained the registration under the Goods and Service Tax Act 2017 in the state of Karnataka bearing GSTIN: 29AADCK5377L1ZW. The applicant uses this GSTIN for the purpose of import of goods from Germany and also for the payment of IGST on import of goods.
14. The 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 in terms of section 7(1) of the IGST Act, 2017 and supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply in terms of section 8(1) of the IGST Act, 2017 subject to the provisions of section 10 of the IGST Act, 2017.

15. The place of supply in case of import of goods, is the location of the importer in terms of section 11(a) of the IGST Act 2017 and in the case of applicant the location of the importer is the state of Karnataka where the applicant has obtain the GST registration. Therefore, the applicant though import the goods to the port nearest to the location of the recipient, said imported goods are deemed to have been supplied to the location of the importer i.e., Karnataka and then further supplied to customer. Hence imported goods supplied directly from the port of import to the customer located in other states or Union territories other than state of Karnataka, such transaction shall be treated as a supply of goods in the course of inter-State trade or commerce in terms of section 7(1) of the IGST Act, 2017 and is liable to issue IGST tax invoice in terms of section 20 of the IGST Act 2017 read with section 31 of the CGST Act 2017. Further, if the

applicant supplies the goods to the customers within the state of Karnataka, such transaction shall be treated as intra-State supply in terms of section 8(1) of the IGST Act, 2017 and liable to issue the CGST and SGST tax invoice as per section 31 of the CGST Act 2017.

16. Further, with regard to obtain the registration under GST Act, by the applicant in the place where the port of import is located, it is observed that applicant is the registered dealer in the state of Karnataka having GSTIN: 29AADCK5377L1ZW and uses this GSTIN in the bill of entry for import of goods and also for the a payment of IGST on imported goods. Since the applicant already registered under GST Act, no provisions under the CGST or SGST or IGST Act 2017 mandates any person to obtain the registration again in the place of port where applicant obtain the custom clearance for further supply of goods. Hence, there is no need for the applicant to obtain the separate registration in the state where port of clearance located, if he does not have an establishment in that State and effecting supplies from that location.


17. In view of the foregoing, we rule as follows

RULING

1. The applicant is eligible to claim credit of IGST paid on import of goods as per section 20 of the IGST Act 2017 read with section 16 of the CGST Act, 2017.
2. The applicant can issue tax invoice with IGST to the customer as per section 20 of the IGST Act 2017 read with section 31 of the CGST Act 2017 for the interstate transaction as provided under section 7(1) of the IGST Act 2017, when the goods are directly dispatched from the port of import with invoicing done from the registered place of business.
3. The applicant need not obtain registration in the state where the port of clearance is located, if he is not making any supply from the State in which the port is located.




(Dr.M.P.Ravi Prasad)
Member


(Mashhood ur Rehman Farooqui)
Member

Place: Bengaluru
Date: 18-03-2020
Karnataka Advance Ruling Authority
Bengaluru - 560 009

MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Commissioner of Central Tax, North West Commissionerate, Bangalore.
4. The Asst. Commissioner, LGSTO-050, Bengaluru.
5. Office Folder.

