

**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 35/ 2020

Dated:20-05-2020

Present:

1. Dr.M.P.RaviPrasad
Additional Commissioner of Commercial Taxes ...Member (State Tax)
2. Sri. Mashhoodur Rehman Farooqui
Joint Commissioner of Central Tax ...Member (Central Tax)

1.	Name and address of the applicant	M/s.Dolphine Die Cast (P) Ltd., No.266-B, KIADB Industrial Area, 4 th Phase, Bommasandra Jigani Link Road, Bangalore-562106
2.	GSTIN or User ID	29AAACD5294L1Z6
3.	Date of filing of Form GST ARA-01	06.12.2019
4.	Represented by	Sri. S. Raju, Manager Accounts and Authorised Representative
5.	Jurisdictional Authority – Centre	The Principal Commissioner of Central Tax, SouthCommissionerate, Division-8, Bangalore
6.	Jurisdictional Authority – State	LGSTO-090 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 vide CIN: SBIN19122900018686 Dated 03.12.2019 and Rs. 5,000-00 under SGST Act vide CIN: SBIN18112900014180 Dated 03.11.2019

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

1. M/s. Dolphin Die Cast (P) Ltd.,No.266-B, KIADB Industrial Area, 4th Phase, Bommasandra Jigani Link Road, Bangalore-562106, (hereinafter referred to as “the applicant”) is private limited company registered with GSTIN: 29AAACD5294L1Z6, 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 a manufacturer and exporter of Aluminium and Zinc die Castings. The applicant first manufactures the Steel Die as per the requirement and specifications given by the foreign customer. After seeking the approval from the foreign customer, the applicant uses Steel Dies for making Aluminium and Zinc Die Castings. These manufactured Aluminium and Zinc Die Castings are exported to the overseas customer along with sub-assemblies and other components against the order. However, the applicant retains the Steel Die till the completion of the export order or completion of the life of the die.

3. The applicant has raised the tax invoice for the steel die in the name of overseas customer in foreign currency for receipt of payment though the die not physically exported to the foreign customer. However, after the completion of the export order or completion of the life of the die, the applicant either export the dies to the overseas customer or scrap the die at the applicant's end as per the instructions of the customer.

6. In view of the above, the applicant has sought an advance ruling in respect of the following issues:

- a) Whether the applicant raise the tax invoice addressed to the foreign buyer and delivery to applicant works by paying output GST and claiming back by the applicant as input GST?

OR

- b) Whether applicant raise self-invoice by paying the output GST and claiming back by the applicant as input GST?

OR

- c) Whether the applicant raise the tax invoice addressed to the foreign buyer by paying the output GST under reverse charge mechanism?

OR

- d) Applicant seeks the procedure to be followed under GST Act for discharging GST liability.

7. Further, the applicant submitted that the applicant places an order for manufacture and supply of Aluminium casting and pressure die Casting component of Aluminium to Thailand supplier (Foreign supplier). Thailand supplier first manufactures the die as per the requirement and specification given by the applicant and after seeking the approval for dies, the Thailand supplier manufactures and supplies the Aluminium casting and pressure die Casting component of Aluminium to the applicant. However, the Thailand supplier retains the steel die till the completion of the order or completion of the life of the die.

8. Further, the applicant submitted that the Thailand supplier raised the tax invoice for this die in the name of the applicant though the die is not physically imported. However, after the completion of the order or completion of the life of the die, the applicant either imports the Dies and returned to the domestic customer or as per the instruction of the domestic customer or the applicant informs the Thailand supplier to scrap the Die at their end.

9. In view of the above, the applicant seeks advance ruling in respect of the following issues:

- a) Whether the applicant account the purchase commercial invoice and pay the GST under reverse charge mechanism?

OR



b) Applicant seeks the procedure to be followed under GST Act for discharging GST liability.

PERSONAL HEARING

10. Sri. S. Raju, Manager Accounts and Authorised Representative of the M/s. Dolphin Die Cast (P) Ltd., appeared for personal hearing proceedings before this authority and made the submissions as narrated above.

DISCUSSION AND FINDINGS

11. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and KGST, Act 2017 are in *parimateria* 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.

12. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri. S. Raju, Manager Accounts and the authorised representative during the personal hearing. We also considered the issues involved, on which advance ruling is sought by the applicant and relevant facts of the case.

13. On verification of the nature of the activity carried out by the applicant, it was observed that the applicant is a manufacturer and exporter of Aluminium and Zinc die Castings to the overseas customer. The applicant first manufactures the die mould as per the requirements and specification given by the customer. This die retained by the applicant and used for the manufacture and supply of Aluminium and Zinc die Castings. The applicant raises the tax invoice for this die in the name of overseas customer in foreign currency for receipt of payment though the die is not physically exported to the customer. However, after the completion of the export order or completion of the die life, applicant either export the Dies to the overseas customer or scarp the Die at applicant's end as per the instruction of the customer.

13. Similarly, sometimes, the applicant is an importer of the Aluminium casting and pressure die Casting component of Aluminium from Thailand. The Thailand supplier first manufactures die as per the requirement and specifications given by the applicant, retained them and uses the same for the manufacture of the Aluminium casting and pressure die Casting component of Aluminium to the applicant. The Thailand supplier raises the tax invoice in the name of the applicant though the die not physically imported. After the completion of the order or completion of the die life, the applicant either imports the Dies and returns to the domestic customer or as per the instruction of the domestic customer the applicant inform the Thailand supplier to scarp the Die at their end. With this in background applicant has sought advance ruling on the questions as mentioned in para 4 and 7 above.

14. As per the IGST Act 2017, the “export of goods” and “import of goods” are defined as under:

Section 2(5) of the IGST Act defines the export of goods as - “export of goods” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India; and

Section 2(10) of the IGST Act defines the import of goods as - “import of goods” with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

15. Further, the time of supply of goods as per section 12 of the CGST Act, 2017 is as under:

12. Time of Supply of goods.-

(1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of goods shall be the 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 sub-section (1) of 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:

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

Explanation 1. For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2.—For the purposes of clause (b), “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely: —

(a) the date of the receipt of goods; or

(b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

16. Further, clause (c) of sub section (1) 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, shall be as under,—

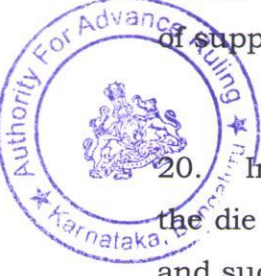
(c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

17. Further as per sub section (1) of section 8 of the IGST Act 2017

8(1) - Subject to the provisions of section 10, 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:

18. From the above it was observed that the applicant manufactures the Die as per the requirement and specifications given by the foreign buyer and using this die applicant manufacture and export the Aluminium and Zinc die Castings to the foreign buyer by retaining the Die with them till the completion of the export order or completion of Die life. However, applicant raised the tax invoice for this die immediately after the manufacture in the name of overseas customer in foreign currency for receipt of payment though the die not physically moved out of India to the place outside India. Hence manufacture and supply of die to the foreign customer does not amounts to export as per section 2(5) of the IGST Act, 2017.

19. Further, it is rightly admitted by the applicant that the tax invoice is raised after the manufacture of the Die in the name of the foreign customer in foreign currency for receipt of payment. The date of issue of tax invoice by the applicant is the time of supply of Die to the foreign customer as per section 12 of the CGST Act, 2017. Further, on date of issue of tax invoice the die is with the applicant and it is not moved either by the applicant or by the foreign customer. Hence the place of supply of goods, other than supply of goods imported into, or exported from India, shall be the location of such goods at the time of the delivery to the recipient as per clause (c) of sub section (1) of section 10 of the IGST Act 2017. Therefore, the place of supply of die in this case is the location of the applicant.



20. In view of the above, the location of the supplier of die and place of supply of the die to the foreign customer are one and the same i.e., location of the applicant and such being the case said transaction shall be treated as intra-State transaction as per sub section (1) of section 8 of the IGST Act 2017 and the applicant has to issue the CGST and SGST tax invoice to the foreign customer and liable to collect and pay the CGST and SGST tax. Further if the said steel die is scrapped at applicant's end without moving out of the country, as per the instruction of the overseas customer, the applicant has to issue intra/interstate tax invoice depending upon the nature of the transaction and collect and pay the applicable tax as per the provisions of the GST Act 2017, while supplying the die scrap.

21. Similarly, applicant is an importer of the Aluminium casting and pressure die Casting component of Aluminium from Thailand. The Thailand supplier first manufacture die as per the requirement and specifications given by the applicant,

retained with them and used for the manufacture of the Aluminium casting and pressure die Casting component of Aluminium to the applicant. Thailand supplier raise the tax invoice in the name of the applicant though the die not physically imported by the applicant. Hence said transaction does not amounts to import as per section 2(10) of the IGST Act, 2017. However, after the completion of the order or die life if applicant physically imports the Die from the place outside India to a place in India then the applicant liable to pay the IGST tax on reverse charge mechanism and claim the IGST tax paid as input tax credit, if eligible. Further if the steel die belonging to the applicant is scrapped at the location of the overseas supplier without die coming to India then such transaction is a transaction occurring outside the taxable territory, i.e. India and hence is not under the purview of GST.

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

RULING

1. In the case of manufacture of Die by the applicant and invoiced to the recipient, without moving the goods, the applicant has to raise the tax invoice addressed to the foreign buyer. Since it is an intra-State supply, he has to collect the CGST and SGST and discharge the liability. The applicant is not eligible to claim said payment as input tax credit on the invoice raised by him as he is not the recipient. Further if the said steel die is scrapped at applicant's end as per the instruction of the overseas customer without moving out of the country, while supplying the die scrap to the third party, the applicant has to issue intra/interstate tax invoice depending upon the nature of the transaction and collect and pay the applicable tax as per the provisions of the GST Acts.
2. In the case of manufacture of Die by the Thailand supplier, if applicant physically imports the Die to a place in India then applicant has to pay the IGST on reverse charge mechanism and claim the IGST tax paid as input tax credit, subject to conditions applicable. Further if the steel die belonging to the applicant is scrapped at the location of the overseas supplier without die

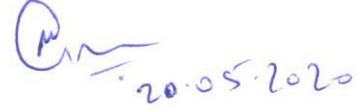
coming to India, then such transaction is occurring outside the taxable territory, i.e. India and hence not under the purview of GST Acts.


20/5/2020

(Dr.M.P.Ravi Prasad)

Member
MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

Place: Bengaluru,
Date: 20-05-2020


20-05-2020

(Mashhoodur Rehman Farooqui)

Member
MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009



The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, South Commissionerate, Division-8, Bangalore.
4. The Asst. Commissioner, LGSTO-090, Bengaluru.
5. Office Folder.