

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
**GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.**  
**(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

- (1) **Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)**  
(2) **Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

GSTIN Number, if any/ User-id		<b>27AAAFK3484E1ZG</b>
Legal Name of Applicant		<b>M/s. Kamdhenu Agrochem Industries LLP</b>
Registered Address/Address provided while obtaining user id		410, Sai Infotech, Patel Chowk, R. B. Mehta Road, Ghatkopar (E), Mumbai - 400077.
Details of application		GST-ARA, Application No. 112 Dated 24.02.2020
Concerned officer		<b>Division IX, Commissionerate Mumbai East</b>
<b>Nature of activity(s) (proposed/present) in respect of which advance ruling sought</b>		
A	Category	Supply of imported goods
B	Description (in brief)	Applicant is an importer & reseller of chemicals
Issue/s on which advance ruling required		Whether applicant is required to be registered under the Act
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

**NO.GST-ARA- 112/2019-20/B- 87**

**Mumbai, dt. 02.11.2021**

**PROCEEDINGS**

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

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively ] by **M/s. Kamdhenu Agrochem Industries LLP** , the applicant, seeking an advance ruling in respect of the following questions.

- 1) **Whether the Applicant is required to obtain the registration in importing States other than Maharashtra, if goods are imported, sold and delivered directly from CFS (Container Freight Station) / DPD (Direct Port Delivery) which is under the Customs Boundaries to customers from those States?**
- 2) **Whether the Applicant is required to obtain registration in State where the applicant is proposing to open a warehouse for sale of imported goods from such warehouse?**

3) **Whether issuing invoices under Maharashtra GSTIN is permissible in law for supply of imported goods from the proposed warehouse located in the State where the Applicant is not registered under GST?**

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. **FACTS AND CONTENTION – AS PER THE APPLICANT**

*The submissions made by the applicant are as under:-*

- 2.1. *The Applicant is an importer and reseller of chemicals, having main place of business in the State of Maharashtra and further having warehouses in the State of Gujarat and State of Kerala.*
- 2.2. *The Applicant is registered under the GST law in the State of Maharashtra under the GSTIN 27A4AFK3484E1ZG. The Applicant is also holding GST registration in the States of Gujarat and Kerala.*
- 2.3. *The Applicant has been getting orders for imported chemicals from customers located in States where the Applicant is not registered under GST. One such purchase order dated 16.10.2019 was received from M/s. Greenpanel Industries Ltd for supply of 300 MT of urea at their place of business located in the State of Andhra Pradesh.*
- 2.4. *Pursuant to the aforesaid purchase order, Applicant placed further order for the required quantity of goods on the foreign exporter, who vide invoice dated 20.11.2019 sold the 300 MT of urea to the Applicant and consigned the goods to Krishnapatnam Port in the State of Andhra Pradesh.*
- 2.5. *Applicant cleared the goods by filing the Bill of Entry dated 11.12.2019 at the Krishnapatnam port in the State of Andhra Pradesh on payment of requisite amount of customs duty and IGST under the Maharashtra GSTIN.*
- 2.6. *Thereafter, Applicant directly sold the goods from port (DPD) to customer M/s. Greenpanel Industries Ltd. vide invoice dated 17.12.2019 issued under the Maharashtra GSTIN charging applicable IGST in the said invoice.*
- 2.7. *Apart from the above transaction, the Applicant also operates warehouses near the ports in Gujarat and Kerala State where the Applicant would store the imported goods in those States. Thereafter, the goods are sold to customers from those warehouses by issuing invoices under the respective State's GSTIN by charging CGST + SGST or IGST, as the case may be.*



- 2.8. *The Applicant is proposing to take a new warehouse on the eastern coast of India near a port. The Applicant would import the goods in bulk and store the same in the warehouse after clearing the goods from the Customs Authorities. The Applicant would thereafter sell the goods from the said proposed warehouse as and when the customer approaches. The Applicant is proposing the supply the goods from the said proposed warehouse by issuing invoices under the Maharashtra GSTIN and charging IGST.*

**B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW**

*The Applicant is not liable for registration in the importing States:*

- 2.9. *The Applicant submits that Section 22 of the CGST Act, 2017 provides for the registration of a person. The relevant portion of Section 22 is reproduced below for ready reference:*

*22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees*

- 2.10. *From a plain reading of the said Section 22(1), the Applicant will be liable to obtain registration in the State from where the Applicant makes the taxable supply of goods or services.*

- 2.11. *In the present case, the Applicant is making supplies from the State of Maharashtra only. Though the goods are imported at other State ports, the Applicant will be clearing the goods under GSTIN of Maharashtra and the supply of the said goods are commissioned from the office of the Applicant in the State of Maharashtra.*

- 2.12. *The Applicant relies on the two advance rulings as under for where in it has been held that Registered Person in Maharashtra is not liable for registration in other States from where the imported goods are sold:*

- a. *Aarel Import Export Pvt. Ltd. - GST ARA No. 114/2018-19 dated 24.04.2019.*
- b. *Gandhaar Oil Refinery (India) Ltd. - GST ARA No. 112/2018-19 dated 15.04.2019.*

- 2.13. *The ratio laid down in the said Advance Rulings are equally applicable in the facts of the present case.*

*The Applicant is not required to obtain registration in State where the applicant is proposing to open warehouse.*

- 2.14. *The Applicant further submits that the Applicant is not required to obtain registration in the states where the Applicant has opened warehouse for importing and supplying imported goods.*

- 2.15. *The Applicant submits that the said warehouse is only used for supplying imported goods. The Applicant is not carrying out any business in the said State so as to be supplying from that State.*

- 2.16. *The Applicant further states that, whether the applicant supplies to local customers in those States where warehouse is located or the inter-State customers, the Applicant will be charging IGST on in its invoice. Thus, tax will be flowing to the consumption state where the customer is located.*
- 2.17. *Issuing invoices under Maharashtra GSTIN shall be considered as sufficient compliance of the GST law for supply of imported goods from the proposed warehouse located in the State where the Applicant is not registered under GST.*
- 2.18. *The Applicant submits that it is sufficient compliance of Section 31 where the invoice is raised under Maharashtra GSTIN. The said invoice contains all the details as required under prescribed rules.*

**03. CONTENTION – AS PER THE CONCERNED OFFICER:**

The jurisdictional/ concerned officer has made no written or oral submissions.

**04. HEARING**

- 4.1 Preliminary Hearing in the matter was held on 07/09/2021. Shri Rahul Thakkar, learned Advocate appeared, and requested for admission of the application on the basis of oral/written submissions made. The Jurisdictional Officer was absent. We heard the applicant regarding admission of the subject application. On 26/10/2021 the matter was finally heard and one more opportunity was offered to applicant to explain their case. The jurisdiction officer was absent.

**05. DISCUSSIONS AND FINDINGS:**

- 5.1 We have considered the submissions, both oral and written, made by the applicant.
- 5.2 The applicant, M/s. Kamdhenu Agrochem Industries LLP, has its principal place of business at Mumbai, Maharashtra where it is also registered under the GST Act. The applicant is an importer and reseller of chemicals. The applicant has been getting orders for imported chemicals from customers located in States where the applicant is not registered under the GST and pursuant to such purchase orders, the applicant has further placed orders for the required quantity of goods on the foreign exporter. The applicant has stated that in a particular case, it has cleared the goods by filing the Bill of Entry at Krishnapatnam port in the State of Andhra Pradesh on payment of requisite amount of customs duty and IGST under the Maharashtra GSTIN i.e 27AAAFK3484E1ZG. Thereafter, the applicant directly sold the goods from port to customer and invoices were issued under the Maharashtra GSTIN charging applicable IGST. The applicant produced sample import purchase Bill No. ur004e dated 20/11/2019 for 280455 AED.



The port of delivery is Krishnapatnam Port, Nellore, Andhra Pradesh and BL is dated 19/11/2019. The said goods were sold to M/s Greenpanel Industries Ltd, Chittoor, Andhra Pradesh GSTN 37AAHCG1211B1ZB. The said goods were sold as per Bill No. 450 dated 17/12/2019 and 18% IGST was paid on Maharashtra GSTN IGST number. The e-way bill was generated on date of sale with 'from supplier of Maharashtra and to the said dealer from Andhra Pradesh' and dispatch was shown from Andhra Pradesh Port. There is purchase order from customer viz M/s Greenpanel Industries Ltd before import of the goods.

5.3 The applicant also operates warehouses near the ports in Gujarat and Kerala State where imported goods are stored. Thereafter, the goods are sold to customers from those warehouses by issuing invoices under the respective State's GSTIN by charging CGST + SGST or IGST, as the case may be.

5.4 The applicant is proposing to take a new warehouse in a state other than Maharashtra and particularly in the eastern coast of India and desires to import goods in bulk and store the same in the warehouse. And after clearing the goods from the Customs Authorities, such goods will be stored in the concerned warehouse. The Applicant would thereafter sell the goods from the said proposed warehouse as and when the customer approaches. The Applicant is proposing to supply the goods from the said warehouse by issuing invoices under the Maharashtra GSTIN and charging IGST.

5.5 In view of the above, the subject questions have been raised by the applicant and therefore we will now discuss the questions and the relevant provisions of the GST Act, 2017.

5.6.1 Question No. 1:- ***Whether the Applicant is required to obtain the registration in importing States other than Maharashtra, if goods are imported, sold and delivered directly from CFS (Container Freight Station) / DPD (Direct Port Delivery) which is under the Customs Boundaries to customers from those States?***

5.6.2 From a reading of the question and oral/written submissions made by the applicant, it is felt that the said question pertains to a situation where the imported goods are sold by the applicant before the Bill of Entry is filed/before the goods are cleared for home consumption on payment of Customs duty and IGST.

5.6.3 With respect to the Question No.1, it is found that, considering the submissions of the applicant, as per the provisions of Section 7(2) of the IGST Act, 2017, supply of goods imported into India shall be treated as supply of goods in the course of inter - state trade or commerce and as per Section 5(1) of the Act, liable to IGST at the point when duties of Customs are levied on the said goods under Section 12 of the Customs Act, 1962. In respect of goods imported into India, as per provisions of Section 11(a) of the IGST Act, 2017, the place of supply shall be the location of

the importer. In the present case since the importer is registered in Mumbai, the place of supply will be Mumbai, Maharashtra.

5.6.4 Further, we find that in the present case with respect to import of the goods, the place of supply is the location of the importer situated in Maharashtra. Since the applicant will be selling the goods before clearing the same for home consumption from the port of import, the place of supply shall be the place from where the applicant makes a taxable supply of goods which, in this case will be the Maharashtra Office. Hence, the applicant can supply the goods on the basis of invoices issued by the Maharashtra Office and, therefore, they need not take separate registration in the State of Import.

5.7.1 Question No. 2:- *Whether the Applicant is required to obtain registration in State where the applicant is proposing to open a warehouse for sale of imported goods from such warehouse?*

5.7.2 The second question raised by the applicant is with respect to a proposed opening of warehouse in a State other than Maharashtra. From the applicant's submissions, it appears that, the applicant after importing goods will be clearing the same for home consumption on payment of appropriate Customs Duty as well as IGST. After clearing the said goods for home consumption, the applicant would be storing the said goods in warehouse to be opened by them in the State where the import of goods is taking place. Further, sale of the goods would happen from the said warehouse. The sale of goods from such warehouse by the applicant is a transaction different from the import of goods by the applicant.

5.7.3 As per clause (a) of section 10 of the Integrated Goods and Service Tax Act 2017, -

**10.(1)** The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—

**(a)** where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

Further as per sub-section (1) of section 8 of the Integrated Goods and Service Tax Act 2017,-

**8(1) Intra-State supply.** — 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.

Further, a reference can be made to Section 22 of the CGST Act. It reads as under:

*22. (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees.*



5.7.4 From the above sections, it is clear that in respect of goods the subsequent sale after the import is important factor, in respect of which the applicant is not paying attention. The applicant is more focused on import of goods. But there is also a subsequent sale/supply of said goods in the same State where import happens and in that case, above sections shall apply, which requires for registration to be obtained in that State from where taxable supply originates. It is an origin based provision, requiring the registration to be taken in that State.

5.7.5 The applicant has relied on the Advance ruling orders passed by the Maharashtra Advance Ruling Authority in the case of

*a. Aarel Import Export Pvt. Ltd. - GST ARA No. 114/2018-19 dated 24.04.2019. and*

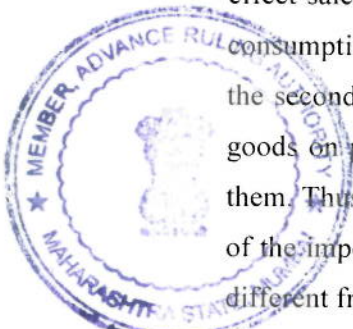
*b. Gandhaar Oil Refinery (India) Ltd. - GST ARA No. 112/2018-19 dated 15.04.2019.*

5.7.6 We find that, in the case of Aarel Import Export Pvt. Ltd., it was the submission of the applicant that it did not have any office in State of Odisha and that the goods would be cleared from the Rented Customs Warehouse at Paradip Port, Odisha. Thus in the said case the applicant was to effect sale of goods from the Customs warehouse i.e. prior to the good being cleared for home consumption on payment of Customs Duty and IGST. However in the subject case, in respect of the second question raised by the applicant, it is seen that they would be clearing the imported goods on payment of Customs Duty and IGST and store them in warehouse to be procured by them. Thus in the subject situation the question is related to further domestic sales after clearance of the imported goods into the country. Hence the facts in the Aarel Import Export Pvt. Ltd. are different from the facts of the subject case so far as question no. 2 is concerned.

5.7.7 Further, in the Gandhaar Oil Refinery (India) Ltd. case, the applicant had given stepwise transaction details wherein under Step 7 it was mentioned as *“When the goods reach the port we unload the same at Port warehouse and remove the goods from the port warehouse to customer. We do not have any godown or storage facility in the state.* Thus the facts, in the Gandhaar Oil Refinery (India) Ltd. case are also different from the facts of the subject case, in as much as, in that case, the applicant submitted that they would remove the goods from the port warehouse to customer and that they did not have any godown or storage facility in the said State, whereas in the subject case the question is related to further domestic sales from their warehouse after clearance of the imported goods into the country.

5.7.8 In view of the above, the decisions made in the Aarel Import Export Pvt. Ltd. and Gandhaar Oil Refinery (India) Ltd. cases are not applicable to the subject case so far as question no. 2 is concerned.

5.7.9 After conjoint reading of the above provisions mentioned in 5.7.3 above, it appears that if the situs of supply is determined on the basis of movement of goods and delivery of goods, the



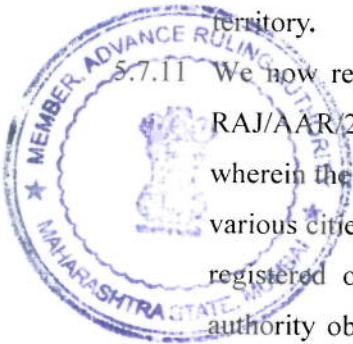
criteria of location of supplier of goods cannot be a deciding factor for determining nature of supply. In the present scenario the applicant has submitted that it is proposing to take a new warehouse on the eastern coast of India near a port where imported goods in bulk would be stored after clearing the goods from the Customs Authorities and from where the Applicant would thereafter sell the goods as and when the customer approaches. Thus, if the applicant has procured a warehouse, say in Andhra Pradesh and stores the imported goods in the said warehouse and further supplies the said goods by way of sale in the state of Andhra Pradesh, the same would be considered as intra-state supply in the State of Andhra Pradesh as provided in sub-section (1) of section 8 read with clause (a) of sub-section (1) of section 10 of the Integrated Goods and service Tax Act 2017.

5.7.10 Further it is also important to go through the provision of section 96 of the Central Goods and Service Tax Act 2017 which states that the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

5.7.11 We now refer to the decision given by the Rajasthan Advance Ruling Authority vide Order RAJ/AAR/2018-19/29 dated 09.01.2019 in the case of M/s K. M. Trans Logistics (P) Ltd. wherein the issue raised was whether having vacant lands on lease for parking of trailers/trucks at various cities for operational purpose required registration in various cities when billing, control, registered office, head office and management was centralized located at Jaipur. The said authority observed that, *"The authority for advance ruling is created under SGST/UTGST Act and thus rulings are applicable within the particular state only, it is for this reason that question relating to registration of vacant lands taken on lease by the applicant is out of purview of the authority and hence no ruling is given on this aspect"*.

5.7.12 Thus, in view of the above discussions, if the situs of transaction in question is not within the state of Maharashtra, then as per provisions of section 96 of the Central Goods and service Tax Act 2017 (and similar provision under the MGST Act), the Maharashtra Advance Ruling Authority cannot acquire the jurisdiction over the questions raised, hence no ruling can be given on this question.

5.7.13 Further, the applicant is proposing to take a new warehouse on the eastern coast of India near a port, may be in Andhra Pradesh. As the proposed activity of taking a warehouse for the purpose of supply of imported goods is outside the state of Maharashtra, therefore, as per the provisions of section 96 of the Central Goods and service Tax Act 2017, the Maharashtra Advance Ruling





Authority cannot acquire the jurisdiction over the question raised, hence no ruling can be given on this question.

5.8.1 Question No. 3 :- *Whether issuing invoices under Maharashtra GSTIN is permissible in law for supply of imported goods from the proposed warehouse located in the State where the Applicant is not registered under GST?*

5.8.2 As the supply of imported goods is from a state which is outside the state of Maharashtra, therefore, as per the provisions of section 96 of the Central Goods and service Tax Act 2017, this Authority cannot acquire the jurisdiction over the question raised. Further, we also find that, the said question is whether invoices can be issued under Maharashtra GSTIN. Such question, being a question relating to a procedure to be adopted, does not fall under the purview of Section 97 of the CGST Act and therefore in view of the above, this question is not answered.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

#### **ORDER**

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

For reasons as discussed in the body of the order, the questions are answered thus –

**Question 1:-**

Whether the Applicant is required to obtain the registration in importing States other than Maharashtra, if goods are imported, sold and delivered directly from CFS (Container Freight Station) / DPD (Direct Port Delivery) which is under the Customs Boundaries to customers from those States?

**Answer:-**

In the present case, as per this question, since the applicant will be selling the goods before clearing the same for home consumption from the port of import, the place of supply shall be the place from where the applicant makes a taxable supply of goods which, in this case will be the Maharashtra Office. Hence, the applicant can supply the goods on the basis of invoices issued by the Maharashtra Office and therefore they need not take separate registration in importing States other than Maharashtra.

**Question 2:-**

Whether the Applicant is required to obtain registration in State where the applicant is proposing to open a warehouse for sale of imported goods from such warehouse?

**Answer:-**

In view of the above discussions, no ruling can be given as the question is beyond the jurisdiction of the Maharashtra Advance Ruling Authority.

**Question 3:-** Whether issuing invoices under Maharashtra GSTIN is permissible in law for supply of imported goods from the proposed warehouse located in the State where the Applicant is not registered under GST?

**Answer:-** Not answered in view of the discussions made above.



**RAJIV MAGOO**  
(MEMBER)

**T.R. RAMNANI**  
(MEMBER)

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint Commissioner of State Tax, Mahavikas for Website.

**Note:-**An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.