

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, 8th floor, H-Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAKCA4628H1ZK
Legal Name of Applicant	AAREL IMPORT EXPORT PRIVATE LIMITED
Registered Address/Address provided while obtaining user id	A2/29, Shah & Nahar Industrial Estate, Dhanraj Mill Compound, Lower Parel West, Mumbai - 400013.
Details of application	GST-ARA, Application No. 114 Dated 25.01.2019
Concerned officer	Asstt. Commissioner of State Tax (MUM-VAT-D-847) Nodal - 4, Mumbai
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Wholesale Business
B Description (in brief)	TRADING ACTIVITY : Applicant is importer and exporter trader of products such as Black Matpe, Toor Whole, Coke, Agarbatti, etc.
Issue/s on which advance ruling required	(vi) whether applicant is required to be registered under the Act
Question(s) on which advance ruling is required	As reproduced in para 02 of the Proceedings below.

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 AAREL IMPORT EXPORT PRIVATE LIMITED, seeking an advance ruling in respect of the following questions.

(i) Whether the procedure to raise the invoice from Mumbai Office for imports received at Paradip Port, Odisha where we do not have any separate GST Registration and Charge IGST from Mumbai to our Customers is correct? or do we have to take separate Registration in the State of Odisha for the below mentioned transactions?

(ii) If we do not need separate registration in Odisha, can we do the transaction on Mumbai Office GSTIN, then in case of issuance of e way bill is it correct to Mention the GSTIN of Mumbai and Dispatch place as Paradip Port?

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.



02 FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

2a. STATEMENT OF RELEVANTS FACTS HAVING A BEARING ON THE QUESTIONS RAISED:

Aarel Import Export Private Limited is a Company having its head office at Mumbai, Maharashtra and is registered under the GST Act. Applicant is importer and exporter/ trader of products such as Black Matpe, Toor Whole, Coke, Agarbatti, etc. Applicant wishes to import the Coke (Processed product from Coking Coal) either Lam Coke or Nut Coke from Indonesia at Paradip Port in the State of Odisha, HSN code of which is 2704. Goods would be stored at a rented Customs warehouse (Ex-bond) at Paradip Port; do not have any separate establishment or place of operation in the State of Odisha; endeavours to clear the goods from that warehouse in the name of our Mumbai office using Maharashtra GSTIN where the importation will be completed on payment of custom duties, if any, and IGST in the name of Mumbai office and wish to sell the goods directly from Paradip Port warehouse (EX-BOND) to the customers in Odisha and accordingly charge IGST to our customers by raising bill from Mumbai office itself and not Odisha.

Further, facts of the case and questions involved resembles to the one of the case decided by the Maharashtra Authority of Advance Ruling in NO.GST-ARA-48/2018-19/B-123, Mumbai dated 27th September, 2018 in Sonkamal Enterprises Private Limited in which observation of the authority is reproduced below:

We are of the opinion that place from the applicant makes a taxable supply of Goods shall be his location, in this case, the Mumbai Head Office and since the applicant does not have any godown in the state of West Bengal and we feel that the applicant can clear the goods on the basis of invoice issued by the Mumbai Head Office and therefore they need not take separate registration in the State of West Bengal. This would be the answer to the first question mentioned above.

Now we deal with the second question raised by the applicant, which is mentioned above. In view of the discussion made in respect of question no.1, we find that, since as an importer the place of supply for the applicant in this case will be Mumbai, and the goods also will be cleared on the name of the Mumbai registered address while paying IGST at the time of Custom Clearance, it would follow that they can do the further transaction mentioning the GSTIN of their Mumbai office. Hence we of the opinion that they can do the transaction on Mumbai Head Office GSTIN and can mention the GSTIN of Mumbai Head Office in the E-way bill and dispatch place as Customs Warehouse, Kolkata.

Further the answer to the questions raised in case of Sonkamal Enterprises Private Limited as per order is reproduced below:

Question 1: Whether the procedure to raise the invoice from Mumbai Head Office for imports received at Haldia Port Kolkata where we do not have any separate GST Registration and Charge IGST from Mumbai to our Customers is correct? or do we have to take separate Registration in the State of West Bengal for the below mentioned transactions?

Answer: Answered in the affirmative as per detailed discussion above. For this transaction, no separate registration in the State of West Bengal is required.

Question 2: If we do not need separate registration in West Bengal, can we do the transaction on Mumbai Head Office GSTIN, then in case of issuance of e-way bill is it correct to mention the GSTIN of Mumbai and Dispatch place of Haldia Port?

Answer: Answered in the affirmative subject to following procedure and payment of taxes as per law.

2b. STATEMENT CONTAINING APPLICANTS INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAYBE, IN THE CASE OF THE AFORESAID QUESTIONS:

(i) As per provisions of Section 7(2) of the IGST Act, 2017, such supply of goods imported into India shall be treated as supply of goods in the course of inter-state trade or commerce.

(ii) As per the provisions of Place of Supply provided in Section 11 (a) of the IGST Act, 2017 the place of supply for the goods imported into India is the location of importer, therefore in the present case since the importer is registered in Mumbai, the place of supply shall be Mumbai, Maharashtra.

Therefore the place from where the supplier makes a taxable Supply of Goods shall be the location of the supplier i.e. Mumbai office, since the applicant do not have any godown in the state of Odisha as per their application and hence separate registration need not be taken in state of Odisha.

(iii) Since we are only registered at Maharashtra and are supplying the goods on our Maharashtra GSTIN Registration number for this transaction, it is an inter-state supply of goods as defined in Section 7(2) of the IGST Act, 2017 and therefore the transaction attracts IGST. Hence we are not required to have separate GST registration in the state of Odisha.

(iv) If we do not need registration in the State of Odisha, we can generate e-way bill from the Mumbai office GSTIN and dispatch place as customs warehouse situated at Paradip Port, Odisha.

Relevant Extract of Bare Act of the sections quoted above is reproduced below for easy reference:

Section 7(2) of the IGST Act, 2017:

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."

Section 11(a) of the IGST Act, 2017:

"The place of supply of goods,—

(a) imported into India shall be the location of the importer;"

03. CONTENTION – AS PER THE CONCERNED OFFICER

The submissions of the Concerned office, could be seen thus,-

"The following questions have been raised by the applicant M/s Aarel Import Export Private Limited in this application:

(i) Whether procedure to raise the invoice from Mumbai Head office for imports received at Paradip Port, Odisha where they do not have any separate GST registration and charge IGST from MUMBAI to our customer in Odisha is correct? Or do they have to take separate registration in the state of Odisha for the above mentioned transactions?



(ii) If they do not need separate registration in Odisha, can they do the transaction on Mumbai Head Office GSTIN, then in case of e-way bill, is it correct to mention the GSTIN of Mumbai and Dispatch place as Paradip Port.

In respect of 1st question, since the applicant is an importer, the place of supply of goods shall be the location of importer as per section 11(a) of the IGST Act, 2017. Further the applicant doesn't have any office in State of Odisha as per the application. And goods will be cleared from Rented Customs Warehouse at Paradip Port, Odisha. As per section 22(1) of CGST Act, 2017, every supplier is liable to be registered under this Act in the state or UT, 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. In this case, the applicant makes taxable supply of goods from Mumbai Head Office, as he doesn't have any establishment or office in the state of Odisha as per his application. Hence, place from where supplier makes a taxable supply of goods shall be the location of the supplier i.e. Mumbai, since the applicant do not have any godown in the state of Odisha as per their application and **hence it appears that separate registration need not be taken in the State of Odisha.**

Coming to the 2nd question, asking if they do not have separate registration in the state of Odisha, Can they do the transaction on Mumbai Head Office GSTIN, and then In case of issuance of e-way bills. it correct to mention the GSTIN of Mumbai and dispatch place of Paradip Port? **The answer appears to be positive**
i.e. the applicant need not take separate registration in Odisha and they can do the transaction on Mumbai Head Office GSTIN and it appears to be correct to mention the GSTIN of Mumbai in the E-Way Bill and Dispatch place as Customs warehouse situated at Paradip, Odisha. However the aforesaid is subject to issuance of an invoice and paying applicable IGST or CGST+SGST or compensation Cess etc., as applicable as per the CGST/SGST/UTGST/IGST Acts respectively.

04. **HEARING**

Preliminary hearing in the matter was held on 26.02.2019. Sh. Ruparelia P H, C.A., appeared and requested for admission of application as per contentions made in their application. Jurisdictional Officer Sh. Suryakant Kate, Asstt. Commissioner of State Tax (D-847), Nodal – 4, Mumbai also appeared.

The application was admitted and called for final hearing on 27.03.2019. Sh. Ruparelia P H, C.A., appeared made oral and written submissions. Jurisdictional Officer Sh. Suryakant Kate, Asstt. Commissioner of State Tax (D-847), Nodal – 4, Mumbai, appeared and made written submissions. We heard both the sides.

05. **OBSERVATIONS**

We have gone through the facts of the case, and written submission given by both the parties. The issue put before us is in respect of liability for registration under Section 22 of the GST Act on a future transaction.

The applicant, a Company having its head office at Mumbai, Maharashtra and also registered under the GST Act in the state of Maharashtra is an importer and exporter trader of products etc. Applicant is importer and exporter/ trader of products such as Black Matpe, Toor Whole, Coke,

Agarbatti, etc. Applicant wishes to import the Coke (Processed product from Coking Coal) either Lam Coke or Nut Coke from Indonesia at Paradip Port in the State of Odisha. They will be storing goods at rented Customs warehouse (Ex-bond) at Paradip Port. They do not have any POB/establishment or place of operation in State of Odisha. Therefore they clear the goods from that warehouse in the name of their Mumbai office using Maharashtra GSTIN. The importation will be completed on payment of Custom Duties, if any and IGST in the name of Mumbai office.

The applicant wishes to sell the goods directly from Paradip Port warehouse (EX-BOND) to the customers in Odisha and accordingly charge IGST to their customers by raising bills from their Mumbai office and not from Odisha. Applicant does not have any warehouse or storage facility in the State of Odisha, other than the Paradip Port Customs Warehouse.

Therefore, applicant is seeking the answers on the following questions which are as follows.

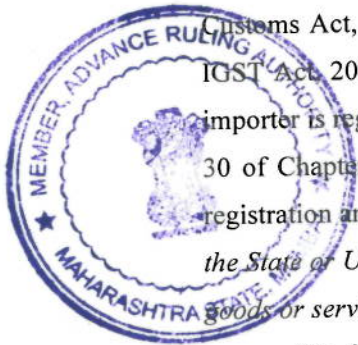
1. *Whether the procedure to raise the invoice from Mumbai Office for imports received at Paradip Port, Odisha where we do not have any separate GST Registration and Charge IGST from Mumbai to our Customers is correct? or do we have to take separate Registration in the State of Odisha for the below mentioned transactions?*

2. *If we do not need separate registration in Odisha, can we do the transaction on Mumbai Office GSTIN, then in case of issuance of e way bill is it correct to Mention the GSTIN of Mumbai and Dispatch place as Paradip Port?*

With respect to the Question No.1, it is found considering the facts of the case that 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. The Sections 22 to 30 of Chapter VI deal with registration under GST. Section 22 speaks of persons who are liable for registration and as per Section 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*”

We find that in the present case as mentioned above, the place of supply is the location of the importer who is situated in the State of Maharashtra and hence the applicant will be clearing the goods by paying IGST using GSTIN issued to them in Mumbai, Maharashtra. Since the applicant has no establishment or place of operation or any godown or GSTIN in the State of Odisha, Paradip Port i.e. at the port of import, we are of the opinion that the place of supply shall be the place from where the applicant makes a taxable supply of goods which, in this case is the Mumbai Head Office, we find that the applicant can clear the goods on the basis of invoices issued by the Mumbai Head Office and therefore they need not take separate registration in the State of Odisha.

Now coming to the second question raised by the applicant, mentioned above, in view of the discussions made in respect of question no. 1, we find that, since, as an importer the place of supply for



the applicant in this case will be Mumbai, Maharashtra and the goods also will be cleared on the name of the Mumbai registered address while paying IGST at the time of Customs Clearance, it would follow that they can do the further transaction mentioning the GSTIN of their Mumbai office. As a corollary, they can do the transaction on Mumbai Head Office GSTIN and can mention the GSTIN of Mumbai Head Office in the E-way Bill and dispatch place, as Customs Warehouse, Odisha, Paradip Port.

The applicant has invited our attention to the decision of this Authority issued vide NO.GST-ARA-48/2018-19/B-123, Mumbai dated 27th September, 2018 in Sonkamal Enterprises Private Limited. We find that the facts of the present case are identical and similar to the facts in the said case already decided by this authority.

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)

NO.GST-ARA- 114/2018-19/B- 42 Mumbai, dt. 24/4/2019

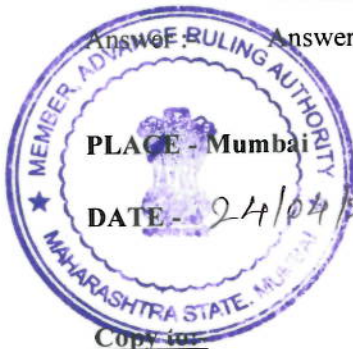
For reasons as discussed in the body of the order, the questions are answered thus –

Question :- 1. Whether the procedure to raise the invoice from Mumbai Office for imports received at Paradip Port, Odisha where we do not have any separate GST Registration and Charge IGST from Mumbai to our Customers is correct? or do we have to take separate Registration in the State of Odisha for the below mentioned transactions?

Answer :- Answered in the affirmative as per detailed discussions above. For this transaction, no separate registration in the State of Odisha is required.

Question :- 2. If we do not need separate registration in Odisha, can we do the transaction on Mumbai Office GSTIN, then in case of issuance of e-way bill is it correct to Mention the GSTIN of Mumbai and Dispatch place as Paradip Port?

Answer :- Answered in the affirmative.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY
MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Commissioner of Central Tax, Churchgate Mumbai
5. 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, 15th floor, Air India building, Nariman Point, Mumbai – 400021.