

TAX INFO

Dated 13/11/2021

Latest update on GST Law: Information regarding **No need for separate registration at the place of Importation apart from Registered Place of Business when goods are directly dispatched from such place of importation** as given in **Ruling by AAR-Karnataka**.

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Name of Applicant	Pine Subsidiary Industry
Authority	GST AAR Karnataka
Date of Ruling	29.10.2021
Ruling No.	KAR ADRG 57/2021

Brief Facts Of The Case:

The applicant is having Registered Office in Bangalore (Karnataka) and does not maintain any office/fixed establishment in Chennai (Tamil Nadu) or any other state in India other than Karnataka.

The applicant is engaged in import and trading of Gum Rosin and Damar etc. The applicant custom clears the said goods from Chennai Sea Port and supplies the same to various states directly from the Customs Sea Port in Chennai. While filing the bill of Entry, the applicant furnishes the GSTIN of Bangalore location and custom clears these goods. After clearance these goods are sold in Tamil Nadu or Andhra Pradesh or surrounding states to its customers directly from the Customs Port.

The primary reason for transporting the goods directly to customer location (either in Tamil Nadu, Andhra Pradesh, etc.,) is to save on the time and the transportation cost, else the dealer would have to bring the goods to Karnataka and then re-deliver the goods to Andhra and Tamil Nadu.

Questions on which the Ruling is sought:

- Whether it can raise an invoice from its registered office in Bangalore (Karnataka) for supply of the imported goods received at the Chennai port (Tamil Nadu), to customers directly situated in another state, charging IGST?
- Whether the registration in Bangalore (Karnataka) can be considered as the location of supplier for the purpose of raising the invoice?
- Whether Input tax credit would be available to the registration in Bangalore (Karnataka) u/ s 16(2) even though the goods have not been physically received in the premises of the applicant but directly transported to the customer from Chennai (Tamil Nadu)? What is the required documentation to avail input tax credit in such cases?

Contention of Applicant:

- The applicant states that, at the time of import, though goods are not physically received in the premises of the Bangalore office (Karnataka), in terms of the provisions of Section 7(2) of the IGST Act, 2017, such supply of goods imported in India shall be treated as supply of goods in the course of inter-state trade or commerce. As per the provisions of Place of supply under Section 11(a) of the IGST Act, 2017, the place of supply for the goods imported in India is the location of importer. **Therefore, in the present case, since the importer is registered in Bangalore (Karnataka) and does not have any establishment elsewhere, the place of supply will be Karnataka.**

- b. The applicant states that, at the time of supply from the Chennai Port (Tamil Nadu), the movement takes place from the Port but the billing would take place from Bangalore office (Karnataka). The e-way bill would be raised from Bangalore with despatch address being from Chennai Port. Since, while receiving the goods at the time of import was Bangalore registration, the 'from' location for the outward supply would also be the Bangalore office. **Accordingly, the location of the supplier, i.e. Bangalore would raise an invoice and charge IGST from the customer either in Tamil Nadu/ Andhra Pradesh or any other State and if the customer is in Karnataka, then it will charge CGST+SGST. Since the applicant does not have any warehouse in the state of Tamil Nadu, and hence, separate registration under Section 22 need not be taken in the state of Tamil Nadu. The applicant is eligible to make an inter-state supply by directly raising an invoice from its Bangalore office at Karnataka Registration.**
- c. Section 16(2) provides that the goods should be received in order to avail input tax credit. The explanation to the said section also provides that where goods are directly delivered to a customer under a bill to ship to model then it would be deemed to have received the goods even though the goods are shipped to the end customer location directly. **The bill of entry obtained at the customs port would be sufficient documentation of having paid the IGST on the importation of goods and hence be proof of eligible credit.**

Ruling:

- a. **The applicant has stated that he does not have any place of business in Tamil Nadu and does not maintain any office / fixed establishment in Tamil Nadu or any other state in India other than Karnataka, the applicant is not required to take any separate registration at the place of importation. The applicant can issue tax invoice with IGST to the customer outside Karnataka for the interstate transaction when the goods are directly dispatched from the port of import (Chennai) with invoicing done from the registered place of business (Bangalore) and a separate registration need not be obtained at the place of importation (Chennai).**
- b. **The applicant can do the transaction using Karnataka GSTIN. In case of issuance of e-way bill, where the goods are directly delivered to a customer under bill to ship to model, then it would be deemed to have received the goods even though the goods are shipped to the end customer location directly. It is correct to mention the GSTIN of Karnataka and the place of dispatch as Chennai Sea Port.**
- c. **Yes, Input tax credit would be available to the registration in Karnataka u/s 16(2) even though the goods have not been physically received in the premises of the applicant but directly transported to the customer. The bill of entry obtained at the customs port (Chennai) would be sufficient documentation of having paid the IGST on the importation of goods and hence be proof of eligible credit.**

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