

# TAX INFO

*Dated 14/11/2021*

Latest update on GST Law: Information regarding AAR cannot decide whether for valuation purposes “subsidy from Government is to be reduced from the value of import for the purpose of levying GST?” As given in Ruling by AAR-Karnataka.

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<b>Name of Applicant</b>	HDL Industries
<b>Authority</b>	GST AAR Karnataka
<b>Date of Ruling</b>	29.10.2021
<b>Ruling No.</b>	KAR ADRG 59/2021

## **Brief Facts Of The Case:**

The applicant is a construction firm and is a registered PWD Civil Government Contractor. They are into setting up of silk reeling industry in Mysore for which they are importing machineries from China. The Department of Sericulture, Government of Karnataka, has sanctioned 90% subsidy and an escrow account has been opened with a Bank jointly with the applicant and the Department. Payments have been made to the Chinese vendor out of this escrow account by opening FLC (foreign letter of credit).

## **Questions on which the Ruling is sought:**

- Whether the subsidy from Government of Karnataka is to be reduced from the value of import of plant and machinery from China, for the purpose of levying GST?
- Whether valuation of supply of goods under the GST Act or any other relevant Act in respect of import of goods excludes government subsidy?
- Whether GST will be levied on imports of plant & machinery after reducing Government subsidy from the CIF value of the imports?

## **Contention of Applicant:**

The Applicant is of the view that as per Section 15 of CGST Act, subsidies provided by the Central or State Governments does not form a part of the valuation of taxable supplies. Thus, GST is to be charged only on the amount paid by the beneficiary/customer i.e., 10% of total invoice value, i.e. 90% GST should be waived as that is part of subsidy from the Government.

## **Ruling:**

For the import of goods, the importer has to pay custom duty and IGST as per Customs Act, 1962 and Customs Tariff Act, 1975 on the value as determined under the Customs Tariff Act, 1975 at the point when the duties of customs are levied on the said goods. Thus it is evident that the value for levy of IGST on imports is governed by Customs Act, 1962 and Customs Tariff Act, 1975.

**The applicant is importing silk reeling machineries from China and is supposed to pay IGST on import of goods. The applicant wishes to know whether the subsidy given is to be reduced from the value of import of plant and machinery to pay IGST. Since the value for levy of IGST on imports is governed by Customs Act, 1962 and Customs Tariff Act, 1975 answering the questions of the applicant does not come under the purview of this authority.**

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