

# TAX INFO

Dated: 25.09.2020

Latest update on GST Law: Information regarding **Applicant is entitled to claim ITC of IGST paid on Bill to Ship to model** based on the **Judgement issued by Rajasthan Authority for Advance Ruling.**

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## Applicant is entitled to claim ITC of IGST paid on Bill to Ship to model

<b>Name of Applicant</b>	M/s Umax Packaging
<b>Name of Court</b>	AAR-Rajasthan
<b>Appeal Number</b>	RAJ/AAR/2018-19/23
<b>Date of Judgement</b>	02/11/2018

### **Facts of the Case:**

The applicant is engaged in manufacture of plastic pouches in Jodhpur. The applicant proposes to purchase goods from M/s Uma Polymers Ltd, Guwahati and will further supply the said goods to M/s Pratap Snacks Ltd., Guwahati

### **Question on which Ruling is sought**

1. Whether M/s Uma Polymers Ltd. Guwahati was liable to charge CGST & SGST, Guwahati instead of IGST?
2. Moreover, whether appellant is entitled for availing the credit of IGST charged by M/S Uma polymers Ltd., Guwahati in case of bill to/ship to model?

### **Contention of Applicant:**

As regards provision contained in section 10(1)(a) is concerned, applicant submitted that it states that where supply involve movement of goods, irrespective of the fact that who causes movement of goods, the place of supply will be location of goods at the time at which movement of goods terminates for delivery to the recipient. However, it is being opined that this provision is applicable only where 'bill to' and 'ship to' parties are the same and does not covers third person which is being covered in section 10(1)(b).

The applicant submits that the definition of recipient clearly states that where consideration is payable for supply of goods, person liable to pay consideration is the recipient. In the present case, consideration is payable to M/s Uma Polymers Ltd. by M/s Umax Packaging-A unit of Uma Polymers Ltd. and so the receiver is M/s Umax Packaging-A unit of Uma Polymers Ltd. Moreover, as per Explanation to section 16(2) of the CGST Act, 2017, a deeming fiction is created so as to presume that the recipient paying consideration has received the goods so as to ensure that there is no leakage of credit. Consequently, the place of supply should be aptly governed by the provision contained in section 10(1)(b) of the IGST Act, 2017 and the place of supply should be the principal place of business of the person who had directed the goods to be delivered to a different location. Therefore, the place of supply is in Jodhpur (Rajasthan) whereas the supplier is situated in Guwahati, by applying the provision contained in section 10(1)(b) of the IGST Act, 2017. Hence, the applicant should charge IGST from Umax Packaging-A unit of Uma Polymers Ltd., Jodhpur.

### **Ruling:**

M/s Uma Polymers Ltd., Guwahati has to charge IGST instead of CGST & SGST, Guwahati. The appellant can take credit of such IGST and can further charge IGST form M/s Pratap Snacks Ltd., Guwahati.

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