

**BEFORE THE AUTHORITY FOR ADVANCE  
RULINGS FOR THE STATE OF UTTARAKHAND  
(Goods and Services Tax)**

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)

Present:

Shri Vipin Chandra (Member)

श्री विपिन चन्द्र (सदस्य)

Shri Amit Gupta (Member)

श्री अमित गुप्ता (सदस्य)

The 04 day of May, 2018

Ruling No 03/2018-19

अग्रिम विनिर्णय संख्या.

In

Application No: 07/2017-18

आवेदन संख्या. 07/2017-18

1	Applicant आवेदक	M/s Bahl Paper Mills Ltd., 5 KM Stone, Aliganj Road, Kashipur, Uttrakhand. सर्वश्री बहल पेपल मिल्स लि0, 5किमी. स्टोन, अलीगंज रोड, काशीपुर, उत्तराखण्ड।
2	Jurisdictional Officer अधिकारिता अधिकारी	Deputy Commissioner, CGST Kashipur. डिप्टी कमिश्नर, सी.जी.एस.टी., काशीपुर।
3	Present for the Applicant आवेदक की ओर से उपस्थित	Shri Nitin Adlakha, C.A. श्री नितिन अदलक्खा, अधिकृत प्रतिनिधि
4	Present for the Jurisdictional Officer अधिकारिता अधिकारी की ओर से उपस्थित	None कोई नहीं
5	Date of receipt of application आवेदन प्राप्ति की तिथि	13.03.2018 13.03.2018
6	Date of Personal Hearing सुनवाई की तिथि	02.04.2018 02.04.2018

**Note :** Under Section: 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section- 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

**नोट :** इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवा कर अधिनियम 2017 की धारा- 99 के अन्तर्गत गठित अग्रिम विनिर्णय अपील प्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

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1. This is an application under Sub-Section (1) of Section 97 of the CGST Act and the rules made thereunder filed by Bahl Paper Mills Ltd., 5 KM Stone, Aliganj Road, Kashipur, Uttarakhand seeking an advance ruling on the question:

- (a) Whether under Reverse Charge Mechanism, IGST should be paid by the importer on ocean freight in case of CIF basis contract, when service provider and service recipient both are outside the territory of India.
- (b) If point no. answer is yes, then what will be the supporting document for importer under RCM to take the credit of IGST paid on ocean freight under CIF basis contract
- (c) Whether credit will be available in GST of office fixtures & furniture, A.C. plant & sanitary fittings on newly constructed building on its own account, for furtherance of business and accounting entry is capitalized in books of account

2. Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

3. As per the said subsection (2) of Section 97 of the CGST Act advance ruling can be sought by an applicant in respect of :

- (a) Classification of any goods or services or both
- (b) Applicability of a notification issued under the provisions of this Act,
- (c) Determination of time and value of supply of goods or services or both,
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid
- (e) Determination of the liability to pay tax on any goods or services or both
- (f) Whether the applicant is required to be registered
- (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term

4. Queries raised by the applicant are covered under clause (b), (d) and (e) above. Therefore, in terms of said Section 97(2) of CGST/SGST Act, 2017, the present application is hereby admitted.

5. Accordingly opportunity of personal hearing was granted to the applicant on 2.4.2018. Shri Nitin Adlakha, C.A. appeared for personal hearing and made submissions in this regard. For A.C. Plant and furniture & fixtures he stated that all these goods are received by them after implementation of GST. This is not with respect of transitional provisions.

6. In the present application, applicant has requested for advance ruling on the questions mentioned at 1(a), 1(b) and 1(c) above which are discussed as under :

**(a) Whether under Reverse Charge Mechanism, IGST should be paid by the importer on ocean freight in case of CIF basis contract, when service provider and service recipient both are outside the territory of India :**

In this regard it is observed that vide notification no. 8/2017- Integrated Tax (Rate) dated 28.6.2017 and notification no. 10/2017- Integrated Tax (Rate) dated 28.6.2017 an importer is required to pay IGST on the ocean freight. Therefore as on date, even if the importer has already paid IGST on CIF value imported goods, he is still required to pay IGST on ocean freight. Authority also observe that the applicant has also submitted a copy of Special Civil Application No. 726 of 2018 filed by Mohit Minerals (P) Ltd. before Hon'ble High Court of Gujarat in this regard. Authority observes that mere filing of an application before the Hon'ble High Court does not render a notification issued by the Central Government ultra vires until or unless the same is turned down by the competent court.

**(b) supporting document for importer under RCM to take the credit of IGST paid on ocean freight under CIF basis contract**

Credit of IGST paid can be taken on the basis of invoice/challan issued

**(c) Whether credit will be available in GST of office fixtures & furniture, A.C. plant & sanitary fittings on newly constructed building on its own account for furtherance of business and accounting entry is capitalized in books of account**

As per explanation to the Section 17 of CGST Act, 2017 credit is not available in respect of land, building or any other civil structure ..... Therefore, in view of the aforesaid provisions of law, Cenvat Credit of GST

paid in relation with building or any other civil structure is not available and since sanitary fittings are integral part of building or any other civil structure, cenvat credit of GST paid on such sanitary fittings is not available. However, credit of GST is available on office fixtures & furniture, A.C. plant. To further strengthen the view, the authority rely on the CBIC Board Circular No. 943/04/2011-CX dated 29<sup>th</sup> April 2011 wherein it was clarified that the goods such as furniture and stationery used in an office within the factory are goods used in the factory and are used in relation to the manufacturing business and hence the credit of the same is allowed. Further the Hon'ble CESTAT, Principal Bench, New Delhi in the case of M/s Balkrishna Industries Ltd Vs CCE, Jaipur-I vide its Final Order No. A/53217-53218/2015 dated 09.10.2015 reported in 2016 (335) ELT 559 (Tri-Del) has held that the credit on duty paid on air-conditioners installed in the office of factory is admissible. Therefore the credit of input tax charged on the supply of fixtures & furniture and A.C. plant is admissible under CGST/SGST Act. 2017, provided that the registered person has not claimed depreciation on the tax component of the cost of the capital goods and plant and machinery under the provisions of the Income-Tax Act 1961

VIPIN CHANDRA (MEMBER)

AMIT GUPTA (MEMBER)

**AUTHORITY FOR ADVANCE RULING**  
**GOODS & SERVICE TAX, UTTRAKHAND**

F.NO. : 07/ 2017-18/ Advance Ruling/ Dehradun

Dated : 04.05.18.

D No:- 537/ 04-05-2018.  
Copy to :

1. The Chief Commissioner, CGST, Meerut Zone, Meerut.
2. The Commissioner, CGST, Commissionerate Dehradun.
3. The Commissioner, SGST, Commissionerate Uttarakhand.
4. Assistant Commissioner, CGST, Division Dehradun.
5. Deputy Commissioner, CGST Kashipur.
6. Guard File.