

INA Bearing India Private Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 04/2018-19/B- 60 Mumbai

Dated 09.07.2018

Q Questions Before the Authority

- Whether the sale of goods, which are located outside India, would be liable to tax in India under section 7(5) (a) of Integrated Goods and Services Tax Act, 2017?
- If answer to (a) is yes, then whether the recipient, to whom such goods are sold, be eligible to avail the input tax credit of such goods?

F Facts

The Applicant purchases specialized manufacturing tools from a supplier in Germany, with the tools remaining physically in Germany for production purposes. The Applicant subsequently sells and invoices these same tools to its Indian customers while the tools physically remain located in Germany without entering India. The question arose whether this transaction of selling goods located abroad to an Indian buyer constitutes a taxable supply under Section 7(5)(a) of the IGST Act, 2017.

H Ruling

Liability to IGST on sale of goods located outside India u/s 7(5)(a)

Answered in the Negative

Goods do not cross Indian customs frontier

Eligibility of recipient to avail Input Tax Credit

Not relevant in view of answer to Question No. 1 above

Redundant as principal supply is not taxable

The Authority held that the sale of goods located outside India where the goods never cross the customs frontiers of India is **not liable to tax in India**. Consequently, the second question regarding input tax credit eligibility became redundant.

R Reasoning

Although the transaction falls under Section 7(5)(a) read with Section 10(1)(c) of the IGST Act as an inter-State supply because the supplier is in India and the place of supply is outside India, taxability is governed by the proviso to Section 5(1) of the IGST Act. As per the proviso to Section 5(1), IGST on imported goods is levied and collected only when customs duties are levied under Section 12 of the Customs Act, 1962 upon physical import into India. Since the goods are delivered and retained outside India without crossing Indian customs frontiers, no customs duty or IGST can be collected. Thus, such out-and-out merchant trade transactions constitute a **non-taxable supply** under Section 2(78) of the CGST Act.

P Provisions Relied On

Section 5(1) proviso of IGST Act, 2017

Section 7(2) of IGST Act, 2017

Section 7(5)(a) of IGST Act, 2017

Section 10(1)(c) of IGST Act, 2017

Section 2(47) of CGST Act, 2017

Section 2(78) of CGST Act, 2017

Section 12 of Customs Act, 1962

Section 3 of Customs Tariff Act, 1975

Circular No. 3/1/2018-IGST dated 25.05.2018

! For the Practitioner

This ruling establishes that **out-and-out sales of goods located outside India** (merchant trade) are not subject to IGST as they do not cross Indian customs boundaries. It confirms that levy under Section 7(5)(a) is constrained by the customs import threshold under Section 5(1) proviso. Note that later amendments (Schedule III Entry 7 of CGST Act) statutory codified this treatment.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> [maha-gst-ara-04-b-60 dt. 09.07.18 inabipl.pdf](#)

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