# M/s Indian Institute of Science Education and Research, Berhampur (GSTIN 21AABAI0732K1Z5)

Authority for Advance Ruling — Odisha

**ORDER NO.07/ODISHA-AAR/2018-19** Dated **13.02.2019**

## Q Questions Before the Authority

- Whether Notification No. 51/1996-Customs dated 23.07.1996, read with Notification No. 43/2017-Customs dated 30.06.2017 and the Minutes of the 14th GST Council meeting dated 18th/19th May 2017, applies to specified imported equipment delivered to eligible institutions, so that the Applicant is not liable to pay the IGST charged on such equipment by the OEM suppliers of imported equipment.
- Whether the decision of the GST Council granting the exemption is binding on the Department in the absence of a corresponding notification by the Central or State Government giving effect to that decision.
- Whether the concessional rate of GST/IGST at 5% under Notification No. 45-CGST(Rate) dated 14.11.2017 and Notification No. 47-IGST(Rate) dated 14.11.2017 applies only to supply of specified indigenous equipment to eligible institutions meeting the conditions in column (4), with effect from 15.11.2017.

## F Facts

The Applicant is a science education and research institute that is building teaching and research laboratories with scientific equipment. It procures that equipment either by direct import from the original equipment manufacturer or through the Indian agents of OEM suppliers. On direct import it claims the customs concession and IGST exemption, but the OEM agents in India charge IGST at 28% from 01.07.2017 and at 5% from 14.11.2017, because no corresponding IGST exemption notification has been issued.

## H Ruling

| | | |
|---|---|---|
| **Q1: Customs and IGST exemption under Notification 51/1996 read with 43/2017 and the 14th GST Council minutes, for imported equipment supplied by OEM suppliers** | **Applicable to the Applicant for import of specified equipment. Not applicable to OEM suppliers of imported equipment.** | The Applicant can claim the exemption only on its own direct import. The OEM supplier's domestic supply is taxable on the supplier, and the supplier's earlier import does not carry the exemption through. |
| **Q2: Whether the GST Council decision is binding on the Department absent a corresponding notification** | **Not decided. The authority held that this question is not within the scope of an advance ruling.** | The authority said a ruling on this point is outside the scope of Section 97(2) and the mandate of the Authority constituted under Section 96. |


Prepared as a reading aid. Where this summary and the original order differ, the order governs.

| | | |
|---|---|---|
| **Q3: Concessional rate under Notification 45-CGST(Rate) and 47-IGST(Rate) dated 14.11.2017** | **The 5% rate (IGST 5%, CGST 2.5%, SGST 2.5%) applies to the specified goods whether imported or indigenous.** | The specified goods are scientific and technical instruments and apparatus including computers, accessories, parts, consumables, live animals for experiments, computer software, CD-ROMs, magnetic tapes, microfilms and microfiches, and proto-types with CIF value not exceeding Rs. 50,000 in a financial year. The rate applies only to the eligible institutions and conditions in column (4). |

The authority held that Notification No. 51/1996-Customs, as amended by Notification No. 43/2017-Customs and read with the GST Council minutes, applies to the Applicant for import of the specified equipment. The same notifications do not apply to the OEM suppliers of imported equipment, who remain liable for GST on their domestic supply. The authority declined to rule on whether the Council decision binds the Department, as that question lies outside its competence under Section 97. It also held that the 5% concessional rate applies to the specified goods whether imported or indigenous.

## R Reasoning

The authority relied on Section 5(1) proviso of the IGST Act and Section 2(10), which tie IGST on imports to the point of customs clearance, to hold that the customs-linked exemption attaches to the importer. It treated the OEM supplier's later domestic supply as a separate, taxable transaction, so the exemption could not be claimed through the supplier. It rejected the Applicant's reliance on the Explanation to Section 6 of the IGST Act and Section 11 of the CGST Act as a basis for exempting the OEM's domestic supply. On the Council question, it held that Section 97 does not extend to ruling on the binding effect of Council decisions. On the 5% rate, it read Notifications 45 and 47 as covering specified goods without distinguishing imported from indigenous goods.

## P Provisions Relied On

- Section 97 of the CGST Act, 2017 and OGST Act, 2017 (scope of advance ruling)
- Section 98 of the CGST and OGST Acts (procedure for advance ruling)
- Section 96 of the OGST Act (Authority for Advance Ruling constituted)
- Section 100 of the CGST and OGST Acts (appeal to Appellate Authority)
- Section 20(xviii) of the IGST Act (application of CGST provisions to advance rulings)
- Section 5(1) proviso of the IGST Act
- Section 2(10) of the IGST Act (import of goods)
- Section 6(1) of the IGST Act
- Explanation to Section 6 of the IGST Act (cited by the Applicant)
- Section 11(1) of the CGST Act (cited by the Applicant)
- Section 3 of the Customs Tariff Act, 1975
- Notification No. 51/1996-Customs dated 23.07.1996
- Notification No. 43/2017-Customs dated 30.06.2017

Notification No. 45-CGST(Rate) dated 14.11.2017

Notification No. 47-IGST(Rate) dated 14.11.2017

Minutes of the 14th GST Council meeting dated 18th/19th May 2017

## ! For the Practitioner

This order is useful for research institutions that buy scientific equipment through Indian agents of foreign OEMs. It settles that the customs-linked exemption attaches to the institution's own direct import and that the 5% rate covers specified equipment whether imported or indigenous. It does not decide whether a GST Council decision binds the Department absent a notification, and the Authority expressly declined that question. Because it is a ruling in the Applicant's own case, other institutions should check the scope of the notifications and their own supply chain before relying on it.

### 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 -> odisha_aar-07-2018_dtd_13.02.19-iiser.pdf

Prepared 29-10-2026.

### About Patron Accounting LLP

Patron Accounting LLP is a CA and CS-led accounting and compliance firm working with businesses across India since 2019 — bookkeeping, GST, income tax, payroll, company and LLP compliance, audit and the certificates banks and regulators ask for.

**Pune (HQ)**
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

**Mumbai**
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

**Delhi**
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

**Gurugram**
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

**Ahmedabad**
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com