

M/s Bahl Paper Mills Ltd., 5 KM Stone, Aliganj Road, Kashipur, Uttarakhand

Authority for Advance Ruling — Uttarakhand

Ruling No 03/2018-19

Dated 04.05.2018

Q Questions Before the Authority

- 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.
- 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.
- 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.

F Facts

The applicant imported goods on a CIF basis where both the shipping service provider and recipient were located outside India, raising questions on RCM liability for ocean freight. Additionally, the applicant constructed a building on its own account for business furtherance, capitalized office fixtures, furniture, A.C. plant, and sanitary fittings in its books of account, and sought clarification on the availability of input tax credit (ITC) for these items.

H Ruling

IGST liability under RCM on ocean freight for CIF imports	Yes, importer must pay IGST	Mandated under Notification No. 8/2017-IT(Rate) and 10/2017-IT(Rate) regardless of pending High Court challenges.
Supporting document to claim ITC on RCM ocean freight	Invoice/challan issued	Documentary proof of tax payment under RCM.
ITC on office fixtures, furniture, A.C. plant, and sanitary fittings for newly constructed building	Allowed for fixtures, furniture, and A.C. plant; disallowed for sanitary fittings	Provided depreciation on the tax component has not been claimed under the Income-Tax Act, 1961.

The authority held that importers are **liable to pay IGST on ocean freight** under RCM in CIF contracts, and the credit of such tax can be claimed based on the **invoice or challan issued**. Furthermore, ITC is **not available on sanitary fittings** as they form an integral part of the building/civil structure under Section 17, but ITC is **admissible on office fixtures, furniture, and A.C. plant** provided depreciation on the tax component is not claimed under the Income-Tax Act, 1961.

R Reasoning

Under Notification No. 8/2017-Integrated Tax (Rate) and Notification No. 10/2017-Integrated Tax (Rate), an importer is statutorily required to pay IGST on ocean freight under RCM, and mere challenge before a High Court does not render a notification ultra vires until struck down. Regarding ITC, explanation to Section 17 of the CGST Act, 2017 restricts credit on land, building, or civil structures, making sanitary fittings ineligible as they are integral to the civil structure. However, relying on CBIC Circular No. 943/04/2011-CX and precedent from CESTAT (M/s Balkrishna Industries Ltd), office furniture and A.C. plants used in factory offices qualify as capital goods used in relation to business, making ITC admissible under CGST/SGST Act, 2017 if depreciation on tax is not claimed.

P Provisions Relied On

Section 17 of CGST Act, 2017

Section 97 of CGST Act, 2017

Notification No. 8/2017-Integrated Tax (Rate) dated 28.06.2017

Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017

CBIC Board Circular No. 943/04/2011-CX dated 29.04.2011

Income-Tax Act, 1961

! For the Practitioner

Confirms the obligation of importers to pay RCM on ocean freight under CIF contracts based on existing notifications despite legal challenges. It also establishes a clear boundary under Section 17 for immovable property exclusions: **sanitary fittings are blocked as civil structures**, whereas **severable office equipment, furniture, and A.C. plants qualify for ITC** if depreciation on tax is not claimed.

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 -> 03-2018-19 dtd 04-05-18 uttrakhand.pdf

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