Silgan Dispensing Systems India Private Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 26/2018-19/B- 89 Dated **14.08.2018**

Q Questions Before the Authority

- Whether on transfer of machines & moulds (being "capital goods"), from the premises of the job-worker to another job-worker, which were originally received by said job-worker under the erstwhile Central Excise Act, 1944 will constitute as "supply" under GST.

F Facts

The applicant acquired a manufacturing business via slump sale, including capital goods (machines and moulds) that had been transferred to a job worker (M/s. Shaily Engineering) during 2012–2014 under the erstwhile Central Excise regime. The capital goods remained with the job worker for more than three years without being returned to the principal manufacturer, and CENVAT credit was not reversed. The applicant now proposes to transfer these capital goods directly from the first job worker to a second job worker (M/s. Vasanth Tools Crafts) under the GST regime without declared transitional coverage in FORM GST TRAN-1.

H Ruling

Transfer of pre-GST capital goods from first job worker to second job worker	**Answered in the affirmative**	Constitutes a supply liable to GST as transitional requirements were not satisfied.

The Authority held that the transfer of capital goods from the first job worker to the second job worker **will constitute a "supply" under GST** and is liable to tax. Because the goods exceeded the statutory return timelines under CENVAT Credit Rules and were not transitioned into the GST regime via TRAN-1, job work procedural concessions do not apply.

R Reasoning

Under Rule 4(5)(b) of the Cenvat Credit Rules, 2004, capital goods sent for job work were required to be returned to the principal within two (later three) years, failing which CENVAT credit was required to be paid back. The goods remained with the first job worker beyond three years without any duty payment or credit reversal by the original or successor principal manufacturer. Furthermore, the applicant did not declare or carry forward these capital goods into the GST regime using FORM GST TRAN-1 under Rule 117 of CGST Rules, 2017. As the goods were not brought into the GST fold through transitional provisions, the proposed transfer constitutes an independent fresh transaction amounting to a **taxable supply under Section 7 of the CGST Act, 2017** .

P Provisions Relied On

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

Section 7 of CGST Act, 2017	Section 141 of CGST Act, 2017
Rule 117 of CGST Rules, 2017	Rule 4(5)(a) of Cenvat Credit Rules, 2004
Rule 4(5)(b) of Cenvat Credit Rules, 2004	Circular No. 38/12/2018 dated 26.03.2018
Circular No. 637/28/2002-CX dated 08.05.2002	

! For the Practitioner

This ruling highlights that tax-free movement of job work goods between job workers under GST cannot be claimed for pre-GST capital goods unless pre-existing CCR 2004 return timelines were met and the goods were properly transitioned via **FORM GST TRAN-1** . Taxpayers attempting to shift legacy capital goods without transitional compliance face risk of the movement being treated as a **fresh taxable supply** .

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-26_dt.14.08.18_sdsipl.pdf

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