

WEST BENGAL AUTHORITY FOR ADVANCE
RULING GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Dr Tanisha Dutta, Joint Commissioner, CGST & CX Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	PARAGON POLYMER PRODUCTS PVT LTD
Address	73,89,94,98,99- Keola Warehouseing Corporation, NH-6 Bombay Road, Alampur, Howrah, Pincode-711302
GSTIN	19AABCP3052F1ZN
Case Number	WBAAR 23 of 2023
ARN	AD1909230066504
Date of application	September,18, 2023
Jurisdictional Authority (State)	Large Tax Payers Unit
Jurisdictional Authority (Central)	Sakrail Division, Howrah Commissionerate
Order number and date	27/WBAAR/2023-24 dated 20.12.2023
Applicant's representative heard	Mr. Sibin Mathew John, Authorized Representative

1.1 At the outset, we would like to make it clear that the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant is stated to be engaged in the business of trading of footwear in the state of West Bengal in the brand name of 'Paragon'. The applicant intends to manufacture footwear through independent outsource units under sale and buyback model where raw materials for production will be sold by the applicant to the outsourced vendors and the applicant will buy back the manufactured goods from the said vendors. The applicant expresses its willingness to settle these mutual debts through book adjustments and the net dues through bank transfer.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following question vide serial number 14 of the application in FORM GST ARA-01 as to:

In case of sale and buyback transactions, whether the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment against the debt created on outward supplies to these vendors.

1.4 The aforesaid question on which the advance ruling is sought for is found to be covered under clause (d) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the question raised in the application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

Submission of the Applicant

2.1 The applicant submits that in the proposed 'sale and buyback model', the raw materials required for manufacturing of footwear will be supplied first by the applicant to the outsourced vendors against issue of tax invoice. The vendors will manufacture footwear using the inputs

received from the applicant along with other materials as may be purchased from other suppliers. Thereafter the finished goods i.e., footwear will be supplied by the vendors to the applicant for which the vendors will also issue tax invoices. So, the business model will involve two distinct supplies. The first supply is to be made by the applicant to the outsourced vendors and the second supply will be made by the vendors to the applicant.

2.2 The applicant draws attention to the second proviso to sub-section (2) of section 16 of the GST Act, 2017 which provides that " where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed."

2.3 The expression 'consideration' has been defined in clause (31) of section 2 of the GST Act. The applicant argues that the definition of 'consideration' cast the net so wide that almost no form of payment is excluded. For example, a mix of money and monetary value of the goods offered together with it is a valid 'consideration'. Similarly, if the payee owes the payer a debt, and accepts a reduction in such a debt liability as a valid form of payment, that should also be regarded as a valid 'consideration' for a supply. In other words, reduction in book debt (an asset in the payer's books of accounts) is a valid 'consideration'.

2.4 The applicant submits that payment through books of accounts is a prevalent commercial practice in market. Banking on the para 42 of Indian Accounting Standard 32, the applicant states that a financial asset and a financial liability shall be offset and the net amount presented in the balance sheet when, and only when, an entity (a) currently has a legally enforceable right to set off the recognized amounts; and (b) intends either to settle on a net basis, or to realize the asset and settle the liability simultaneously.

Submission of the Revenue

3.1 The officer concerned from the revenue has refrained from offering any comment regarding this issue.

Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representative of the applicant during the course of personal hearing.

4.2 The applicant intends to enter with agreements with different vendors to whom he outsources the process of manufacturing of footwear/parts of footwear. In this process, applicant procures raw materials and supplies to those outsourced vendors raising tax invoices. In return, vendors make outward supplies of finished goods to applicant for which payment is settled through book adjustment against debt created on buy back model. In this proposed scenario, applicant plays as supplier while supplying raw materials and emerges as recipient when purchases finished goods from those outsourced vendors.

4.3 Section 16 of the GST Act deals with eligibility and conditions for taking input tax credit. Sub-section (1) of section 16 entitles a registered person to take input tax credit on supply of inputs as well as capital goods made to him subject to certain conditions and restrictions which have been prescribed. Sub-section (1) of section 16 reads as follows:

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

4.4 Further, sub-section (2) of section 16 of the GST Act has laid down conditions for entitlement of input tax credit. The second proviso to sub-section (2) of section 16 speaks that 'where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed'. The aforesaid provision of the GST Act thus restricts credit of input tax to the recipient unless he pays the consideration to the supplier for inward supplies received by him along with tax payable thereon within the stipulated time of one hundred and eighty days from the date of issue of invoice.

4.5 The term 'payment' has not been defined in the GST Act. In Senco Gold Ltd, [2019] 105 taxmann.com 143 (AAR-WEST BENGAL), the West Bengal Authority for Advance Ruling observed as follows:

"A payment is a transfer of an asset to the payee for discharging an obligation arising out of transactions involving goods, services or other legal obligations. The most common asset class used for such payment is money, although other assets unless specifically excluded by law, maybe

used provided the payee accepts payment by such assets other than money as good and sufficient discharge of the obligation. Of course, in the payer's books of account, such transfer will be reported as a reduction in the book value of the asset being transferred.”

4.6 The term ‘consideration’ has been defined in clause (31) of section 2 of the GST Act in an inclusive manner that extends the scope and range for mode of payment. Further, as per the said definition, it is immaterial whether the payment is made by the recipient or by any other person. Further, when there is barter of goods or services, the same activity constitutes supply as well as a consideration. For example, when a barber cuts hair in exchange for a painting, hair cut is a supply of services by the barber. It is a consideration for the painting received. Similarly, supply of painting is supply by painter and the painting is the consideration for hair cut.

4.7 We therefore hold that settlement of mutual debts through book adjustment is a valid mode of payment under the GST Act. Recipient can pay the supplier by way of setting book debt since the provision of the Act has not put any restriction in this regard. Therefore, claiming credit of input tax cannot be denied on the sole ground that consideration is paid through book adjustment.

In view of above, we rule as under:

RULING

Question: In case of sale and buyback transactions, whether the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment against the debt created on outward supplies to these vendors.

Answer: In case of sale and buyback transactions, the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment against the debt created on outward supplies to those vendors.

(Dr TANISHA DUTTA)
Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 20th December, 2023

To,

Paragon Polymer Products Pvt Ltd

73,89,94,98,99- Keola Warehouseing Corporation, NH-6 Bombay Road,

Howrah, Pincode-711302

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Special Commissioner, Large Tax Payer Unit, 14, Beliaghata Road, Kolkata-700015
- (4) The Commissioner, Howrah Commissionerate, CGST & CX, M.S. Building, Customs House, 15/1, Strand Road, Kolkata-700001
- (5) Office folder