

# S.MURUGAPPAN

ADVOCATE, HIGH COURT

**ASSISTED BY:**

K.NANCY B.COM, B.L. (HONS.),

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**CONSULTANTS:**

GST, CUSTOMS, FOREIGN TRADE LAWS,  
FOREIGN EXCHANGE MANAGEMENT ACT.

## OPINION

1. **Queriest :**

M/s. Proteck Machinery Private Limited,  
No.15, Medavakkam Road,  
Sholinganallur,  
Chennai – 600 119.

2. **Facts :**

- 2.1 A company in China has a branch factory in Chennai. Chinese company places the purchase order on the queriest to deliver the machine to their branch factory in Chennai.
- 2.2 Payment for the machine is being wire transferred by Chinese company from China.

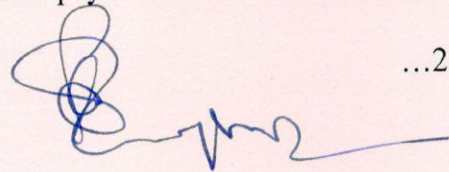
3. **Query :**

- 3.1 Since payment is received from China and machine is being invoiced locally by the queriest and delivered to their branch factory in Chennai, queriest would like to know whether there is any FERA violation?
- 3.2 In the books of RBI, the bill (advance payment received) will not get closed and this can be a concern.

4. **Opinion :**


- 4.1 Payment from abroad in the present case can be received, subject to the condition that goods are exported out of India. For the payment received, it is necessary that the queriest shows evidence of export so that the transaction is regularised. In the absence of such regularisation the payment received as advance will be outstanding and that will be a violation of FEMA provisions.
- 4.2 It also may be noted that when the goods move locally from the queriest's factory to the Chinese company's branch in India it is necessary that they move with a local invoice raised by the queriest along with GST/IGST payment. Essentially, since the goods are being supplied to another entity in India, it will be a local sale and should get reflected in GST returns and payment of GST/IGST will be involved. In the local invoice payment terms also have to be indicated.

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- 4.3 The appropriate way will be to ask the Chinese parent company to send money to their Indian entity by way of investment etc. as permissible under the FEMA provisions and FDI rules and then get the payment from the Indian entity for the supply made locally.

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

**S. MURUGAPPAN**

sm/ss

**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.