

OPINION

1. **Queriest :**

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

2. **Facts :**

- 2.1 The queriest is a manufacturer of laser cutting machines, among others. It is reported that they have manufactured one such machine for their own assessment and internal use. It is reported that this machine has been manufactured by using raw materials and component and parts on which input tax / input services tax credit has been taken. Now the queriest intends to permanently convert the said machine for their own captive use. In this regard, the queriest also has further clarified that they are not supplying any exempted goods or exempted services.

3. **Query :**

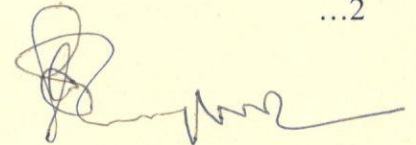
In the above background, the queriest wants to know the GST implication and the procedure to be followed.

4. **Opinion :**

- 4.1 As per the GST law, using the goods for own consumption is not treated as 'supply'. When there is a supply for consideration and there are 'suppliers' and 'recipients', then only tax liability will arise. In the present case, there will not be any tax liability in view of own consumption.
- 4.2 As far as availment of credit of tax paid in respect of raw materials and components used in the manufacture of these goods, it may be noted that there is no bar for availment of such credit in terms of Section 17(1) of CGST Act 2017. Section 17(1) reads as follows:

“(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.”

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- 4.3 It may be noted that the raw materials and components in the present case have been used to produce the machine, which is captively used in turn, in the course of business as distinct from personal use.
- 4.4 Further, in terms of Section 17(5) of the CGST Act referred to above the raw materials and components used in the manufacture of the subject machine will not get excluded for the purpose of availment of credit.
- 4.5 Section 17(5)(c) and Section 17(5)(d) specify the excluded categories as follows:

“(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

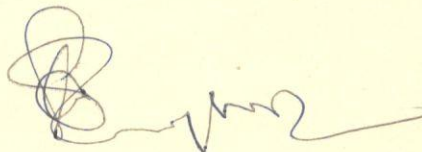
(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;”

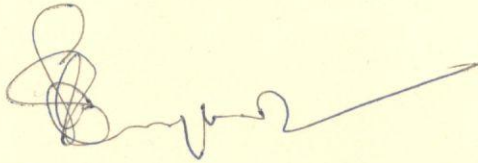
- 4.6 Further, the scope of plant and machinery is explained in the Explanation appended to Section 17. This is reproduced below:

Explanation.—For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

- (i) land, building or any other civil structures;
- (ii) telecommunication towers; and
- (iii) pipelines laid outside the factory premises.”



- 4.7 From the above, it may be noted that in respect of goods or services used in the manufacture of plant and machinery, there is no bar for availment of tax credit.
- 4.8 Accordingly, there will not be any requirement, in our view, to reverse any credit availed in respect of services and goods used in the manufacture of such machine taken for captive use.
- 4.9 The goods manufactured can be recorded and shown as taken for captive use under the relevant columns "for other than supplies or other clearances".



S. MURUGAPPAN

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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.