

OPINION

1. Queriest :

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

2. Facts :

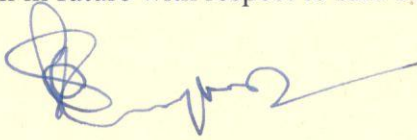
- 2.1 Queriest has a GST registration in Chennai / Tamilnadu.
- 2.2 Queriest is in the manufacturing and trading of machinery and supply throughout India.
- 2.3 Queriest does not have any other GST registration other than their Chennai factory.
- 2.4 Now, queriest has secured an order for import of machinery and then supply from one of their customers located in Kolkata. The machine is being shipped from Germany to Kolkata and the queriest wants to clear the machine from Kolkata Port directly and supply it to their customer located in Kolkata to avoid damage to the goods and save freight costs.

3. Query :

In this connection, the queriest seeks clarification on the following:

- 3.1 Can the queriest clear the machine from Kolkata Port directly and despatch the same to their customer even though they do not have a separate GST registration in Kolkata?
- 3.2 Can the queriest raise invoice from Chennai office?
- 3.3 How to make the e-way bill?
- 3.4 The machine may arrive in the next financial year. So the queriest wants to follow the e-invoicing procedures.
- 3.5 Will there be any problem in future with respect to sale of goods?

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4. **Opinion :**

4.1 In terms of Section 7(2) of IGST Act 2017 "*Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce*".

4.2 Further Section 11 of the IGST Act referred to above reads as follows:

"11. Place of supply of goods imported into, or exported from India.

The place of supply of goods,—

(a) imported into India shall be the location of the importer;

(b) exported from India shall be the location outside India."

4.3 From the above, it can be seen that in respect of goods imported into the country, the place of supply of goods will be the location of the importer. Or in other words, if an importer located in Chennai imports goods at Mumbai and clears them through Mumbai port and then supplies to a local buyer either within Maharashtra State or to other person in any other State then as per the above provisions, the place of supply will be Chennai, Tamil Nadu and the supply as above will constitute inter-State supply when it is effected to a recipient outside Tamil Nadu State. In the light of the above provisions, there does not appear to be any need for registering separately at the place of import.

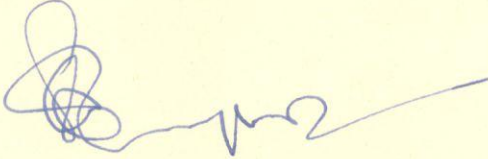
4.4 Considering the above provisions, in our view, the querist can clear the machine from Kolkata port directly and despatch to the customer located in Kolkata itself and there may not be a need to have a separate GST registration at Kolkata. It is also to be noted that at the time of filing of the bill of entry the import documents will show the querist's GST registration at Chennai. Based on such a registration when documents are filed and goods are cleared and supplied to a party in Kolkata then such supply will be inter-State supply and IGST will be payable.

4.5 In this background, invoice can be raised from Chennai office and there will be payment of IGST as supply is from Tamil Nadu to a recipient located at Kolkata i.e. another State.

4.6 For this view, we have the support of two Advance Rulings given by the Authority for Advance Ruling in Karnataka in the case of Kardex India Storage Solution Pvt. Ltd. and the Ruling given by the Authority for Advance Ruling in Maharashtra in the case of Aarel Import Export Pvt. Ltd. Copies of these Rulings are attached.



- 4.7 It also may be noted that the e-invoicing procedure is being implemented in stages and from 1st April 2021 the assessee having a turnover in excess of Rs.50 crores will be required to do e-invoicing. In this connection, a copy of the recent Notification No.05/2021-Central Tax dated 08.03.2021 is attached. Otherwise, if turnover is less, e-way bill with regular commercial invoice, as is being done should be sufficient. In the e-way bill the actual transport details will be from Kolkata to the address of the recipient within Kolkata.



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.