

2019 (24) G.S.T.L. 103 (A.A.R. - GST)

BEFORE THE AUTHORITY FOR ADVANCE RULING UNDER GST, KERALA
S/Shri S. Anilkumar, Member (Central Tax) and B.S. Thyagarajababu, Member (State Tax)

IN RE : POLYCAB WIRES PRIVATE LIMITED

Advance Ruling No. KER/30/2019, dated 2-3-2019

Input Tax Credit - Valuation (GST) - Reimbursement of GST paid by dealer - Free supplies to State Electricity Board under CSR Activity for reinstating electricity connectivity in flood ridden areas - In instant case, distributor of applicant on its instructions has supplied goods as above free of cost but has paid GST on value determined by it by showing 100% discount - Since consideration in this case is not wholly in money, valuation has to be done under Rule 27 of Central Goods and Services Tax Rules, 2017 for payment of GST - Thereafter, if applicant reimburses its distributor in full, he would be entitled to claim Input Tax Credit of GST paid by distributor - Section 17 (5) of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017. [paras 4, 5]

Input Tax Credit (ITC) - Free distribution of Electrical Items to flood effected people under CSR Activity - For these free direct supplies as gift, etc., ITC credit not admissible to applicant - Section 17(5)(h) of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017. [paras 4, 6]

Ruling in favour of assessee

REPRESENTED BY : Shri P.J. Jorney, FCA, for the Assessee.

[Order]. - The applicant is a dealer in electrical goods, cables of all kinds including winding wires, pipes, etc. They had supplied electrical items to Kerala State Electricity Board through their distributors spread across the State in connection with reinstating connectivity in the flood ridden areas as part of the "mission reconnect". The materials are supplied free of cost as a CSR activity. In order to ascertain the impact of GST on such goods supplied on free of cost, the applicant required advance ruling on the following :

(i) Determination of GST liability with respect to goods provided free of cost by the distributors of M/s. Poly Cab Wires Private Limited to KSEB for reinstating connectivity in flood ridden areas; and admissibility of input tax credit in relation to such goods.

(ii) Applicability of Sec. 17(5) of CGST Act, 2017 on CSR expenses.

2. The authorized representative was heard. It is stated that Kerala State Electricity Board has requested from the distributors of the applicant to supply electrical goods for the restoration of power supply at flood ridden areas. These materials are supplied by the distributors at free of cost being CSR Activity for reinstating connectivity in flood ridden areas. In addition to this supply to Kerala State Electricity Board, the applicant has distributed electrical items like, switches, fan, cables, etc., to flood affected people under CSR expenses on free basis without collecting any money.

3. The distributors raised bills to M/s. Polycab Wires Private Limited, in relation to the materials supplied free of cost to Kerala State Electricity Board. The distributors issued tax invoices to Kerala State Electricity Board showing sale value, GST and total amount with 100% discount. However the GST liability was paid to Government. The applicant pointed out that since, the GST liability is completely paid on such free supply, they are eligible to avail full claim of input tax credit on such supplied items. M/s. Polycab Wires Private Limited reimbursed the total amount to the distributors and account the same as donation in kind towards CSR expenses for Kerala Flood Relief, 2018.

4. The transactions put forth in the application and contended at the time of hearing are analyzed in detail. As per Section 17 of GST Act, '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 purpose of his business'. As per Sec. 17(5)(h) input tax credit shall not be available in respect of goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. In this case after availing input tax credit, the applicant disposed goods as free supply for CSR activities. Hence, the applicant is liable to reverse the input tax credit already availed. However the petitioner is pointed out that with regard to billing of free of cost materials, distributors issued tax invoices showing sale value, GST and total amount with 100% discount and pay the GST liability to Government. In such scenario, input tax credit can be availed only if, the output tax liability towards the outward supply was remitted to the Government. The applicant instructed its distributors to provide the goods at free of cost to Kerala State Electricity Board for flood renovation work. The distributors billed the goods to Kerala State Electricity Board and paid GST to Government. In the invoice so issued, the distributor had valued the goods for the purpose of tax and value was shown as discount. As per Rule 27 of GST Rules where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall be the open market value of such goods. If the open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply. If the value of supply is not determinable as stated above, the value of supply of goods or service or both of like kind and quality.

5. In view of the observations stated above, the following rulings are issued :

- (i) Determination of GST liability with respect to goods provided free of cost by the distributors of M/s. Polycab Wires Private Limited to KSEB for reinstating connectivity in flood ridden areas; and admissibility of input tax credit in relation to such goods.

In order to operationalize the commitment of the applicant to provide goods at free of cost to Kerala State Electricity Board for flood renovation work, the applicant instructed its distributors to provide the goods. The distributors billed the goods to Kerala State Electricity Board and paid GST to Government. In the invoice so issued, the distributor had valued the goods for the purpose of tax and value was shown as discount. In this supply, since the consideration is not wholly in money, Rule 27 of the CGST/KSGST Rules would apply for valuation. After the goods are supplied to Kerala State Electricity Board, distributor would raise claim to the applicant who will reimburse the value to the distributor. This being the case, the distributor would be entitled for input tax credit on the goods supplied to Kerala State Electricity Board on instructions from the applicant.

- (ii) Applicability of Sec. 17(5) of CGST Act, 2017 on CSR expenses.

6. The applicant distributed electrical items like, switches, fan, cables, etc., to flood affected people under CSR expenses on free basis without collecting any money. For these transactions input tax credit will not be available as per Sec. 17(5)(h) of the KSGST and CGST Acts.