

**THE AUTHORITY FOR ADVANCE RULING
 IN KARNATAKA
 GOODS AND SERVICES TAX
 VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
 GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 59/ 2021

Dated: 29.10.2021

Present:

1. Dr. M.P. Ravi Prasad
 Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
 Joint Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. HDL INDUSTRIES, Dadamahalli Lingamaiah Harshith, No.1/19, Near Bannur Ring Road, Manasinagar, Mysore-570 029.
2.	GSTIN or User ID	29ANIPH6306F1Z2
3.	Date of filing of Form GST ARA-01	13/08/2021
4.	Represented by	Sri M. Perumal, Chartered Accountant and Duly Authorised Representative
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Taxes, Mysore GST Commissionerate, Siddharthanagar Division, Nazarbad Range, Mysuru
6.	Jurisdictional Authority - State	ACCT, LGSTO-205, Mysuru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act & Rs.5,000-00 under SGST Act vide CIN SBIN21042900444742 Dated 27/04/2021

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
 & UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. HDL Industries, Dadamahalli Lingamaiah Harshith, No.1/19, Near Bannur Ring Road, Manasinagar, Mysore-570 029 having GSTIN 29ANIPH6306F1Z2 have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



2. The Applicant is a Proprietary concern registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The applicant is registered PWD Civil Government contractor.

3. The applicant has sought advance ruling in respect of the following questions:

- a. *Whether the subsidy from Government of Karnataka is to be reduced from the value of import of plant and machinery from China, for the purpose of levying GST?*
- b. *Whether valuation of supply of goods under the GST Act or any other relevant Act in respect of import of goods excludes government subsidy?*
- c. *Whether GST will be levied on imports of plant & machinery after reducing Government subsidy from the CIF value of the imports?*

4. **Admissibility of the application:** The question is about “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2)(e) of the CGST Act 2017.

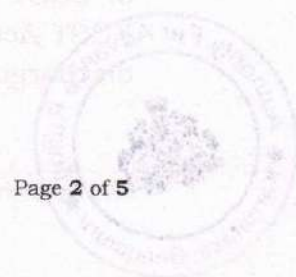
5. **BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that he is a construction firm and is a registered PWD Civil Government Contractor. He is proposing to start a new manufacturing factory having automatic reeling machine unit in Kadakola Industrial Area, Mysore and in that they propose to manufacture and export quality raw silk. He is proposing to import major portion of plant and machineries from China.

5.2 The applicant states that Department of Sericulture, Government of Karnataka, has sanctioned 90% subsidy and an escrow account has been opened with a Bank jointly with the applicant and the Department. Payments have been made to the Chinese vendor out of this escrow account by opening FLC (foreign letter of credit).

6. **Applicant's Interpretation of Law:**

The Applicant is of the view that as per Section 15 of CGST Act, subsidies provided by the Central or State Governments do not form a part of the valuation of taxable supplies. Thus, GST is to be charged only on the amount paid by the beneficiary/customer i.e., 10% of total invoice value, i.e. 90% GST should be waived as that is part of subsidy from the Government.



PERSONAL HEARING / PROCEEDINGS HELD ON 08-09-2021

7. Shri M. Perumal, Chartered Accountant & Authorised Representative of the applicant appeared for personal hearing proceedings held on 08-09-2021 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and KGST Act, 2017 are in *pari-materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by applicant and his authorized representatives during the hearing. We have also considered the issues involved on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law.

10. The applicant states that they are into setting up of silk reeling industry in Mysore for which they are importing machineries from China. The applicant has stated that Department of Sericulture, Government of Karnataka, has sanctioned 90% subsidy and an escrow account has been opened with a Bank jointly with the applicant and the Department and the payments have been made to the Chinese vendor out of this escrow account by opening FLC.

11. The applicant wishes to know whether the subsidy given by the Government of Karnataka is to be reduced from the value of import of plant and machinery for the purpose of levying GST.

12. Subsection 10 of Section 2 of IGST Act 2017 defines 'import of Goods' as below:

"import of goods with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;"

13. The importer of goods will have to pay tax on reverse charge basis as per sub section 3 of section 5 of IGST Act, 2017 and the same is reproduced below:

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for



paying the tax in relation to the supply of such goods or services or both.

14. Section 5(1) of IGST Act 2017 authorizes levy of IGST on goods imported into India in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act. Subsection 1 of Section 5 is reproduced below:

Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

15. For the import of goods, the importer has to pay custom duty and IGST as per Customs Act, 1962 and Customs Tariff Act, 1975 on the value as determined under the Customs Tariff Act, 1975 at the point when the duties of customs are levied on the said goods. Thus it is evident that the value for levy of IGST on imports is governed by Customs Act, 1962 and Customs Tariff Act, 1975.

16. The applicant is importing silk reeling machineries from China and is supposed to pay IGST on import of goods. The applicant wishes to know whether the subsidy given is to be reduced from the value of import of plant and machinery to pay IGST. Since the value for levy of IGST on imports is governed by Customs Act, 1962 and Customs Tariff Act, 1975 answering the questions of the applicant does not come under the purview of this authority.

17. In view of the foregoing, we rule as follows

RULING

The application filed by the applicant for advance ruling is disposed off as rejected.


(Dr. M.P. Ravi Prasad)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

HDL Industries


(T. Kiran Reddy)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Place: Bengaluru,
Date: 29.10.2021

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Mysore GST Commissionerate, Nazarbad Range, Mysore.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-205, Mysore.
5. Office Folder.

