

Body

AUTHORITY FOR ADVANCE RULING TSAAR Order No.22/2022, A.R.Com/02/2021, Dated 08th April, 2022

TELANGANA STATE AUTHORITY FOR ADVANCE RULING

CT Complex, M.J Road, Nampally, Hyderabad-500001.

(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE
TELANGANA GOODS AND SERVICES TAX ACT, 2017.]**

1. M/s. Euroflex Transmissions (India) Private Limited, Plot No.92, CIE Phase-II, Gandhinagar, Balanagar, Hyderabad, Medchal Malkajgiri, Telangana - 500 037 (36AAACE5313K1ZS) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.

2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.

3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.

4. Brief facts of the case:

The applicant M/s. Euroflex Transmissions (India) Private Limited wishes to supply some of the imported goods directly from the port of importation to the customers located across different states in India without bringing such goods to the Applicant's registered premises located in the State of Telangana by raising tax invoice from Telangana location. Hence this application

5. Questions raised:

1. Whether the Applicant is required to obtain registration in the state in which goods are imported if the said goods are directly sold from the port of importation to the customers located across different states in India.
2. Whether the Applicant is entitled to avail Input Tax Credit of IGST paid on import of goods if the said goods are sold directly from the port of importation to the customers located across different states in India, without bringing such goods into Telangana?

6. Personal Hearing:

The Authorized representatives Sri. Ashwani, CA and Sri. Nikhil, CA attended the personal hearing held on 24.03.2022. The authorized representatives reiterated their averments in the application submitted and requested to dispose their application based on merits at the earliest.

7. Discussion & Findings:

The liability for registration arises under Section 22 of the CGST Act, 2017 if the supplier makes taxable supplies the aggregate turnover of which exceeds Rs. 20 Lakhs in a financial year. Such registration is to be obtained in the State from which the taxable supply is made.

Further, in the case of supply of goods made from a customs warehouse, such supply is not treated as supply of goods under Entry 8 of the Schedule III to the CGST Act, 2017 if it is a:-

- a. Supply of warehoused goods to any person before clearance for home consumption.
- b. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

As seen from the material papers submitted by the applicant it is observed that they are not seeking clarification on supplies which are in nature described in Entry 8 of Schedule III to the CGST Act, 2017. Evidently, after clearing the goods by paying customs duty and IGST the applicant is making inter-state supply of the same from the customs warehouse without taking such goods to their own business premises.

The transactions made by the applicant after clearing them from customs in their own account are subsequent sales and not sales in course of import, where the customs clearance will be made by the purchaser in which case the transactions will be covered under Entry 8 of Schedule III to the CGST Act, 2017 prescribed above. Therefore this subsequent sale when made to a customer within the State of Telangana will be an intra State sale liable to CGST & SGST and when such sale is made to a customer in other States of a country it will be a Inter-State sale liable to IGST. Being a taxable sale the person making such taxable sales is liable to take registration under CGST Act, 2017. It is seen that the applicant has already obtained a registration with GSTIN: 36AAACE5313K1ZS. Therefore this registration is sufficient to cover the transactions or supplies

in nature described by the applicant.

Under Section 16 of the CGST Act, 2017 read with Section 20 of IGST Act, the IGST paid on imports is eligible to be availed as Input Tax Credit (ITC) both on intra-state and inter-state sales.

8. The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Whether the Applicant is required to obtain registration in the state in which goods are imported if the said goods are directly sold from the port of importation to the customers located across different states in India.	The applicant is already having the registration in the State of Telangana with GSTIN: 36AAACE5313K1ZS which will cover all taxable transactions.
2. Whether the Applicant is entitled to avail Input Tax Credit of IGST paid on import of goods if the said goods are sold directly from the port of importation to the customers located across different states in India, without bringing such goods into Telangana?	Yes.

S. V. Kasi Visweshwar Rao

B. Raghu Kiran

ADDL. COMMISSIONER (State Tax)

ADDL. COMMISSIONER (Central Tax)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

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