

GIB/MH/General Manager/24.12.2018/AAR-413

Advance Ruling Category : Others

State : Maharashtra

Order No.: GIB/MH/General Manager/24.12.2018/AAR-413

Name of Entry :

General Manager Ordnance Factory Bhandara

Date : 24-12-2018

Breif Issue :

Facts & Issue Of The Case :

The Applicant, Ordnance Factory Bhandara (OFBa) is a unit under the Ordnance Factories Description Board (OFB) functioning under the Department of Defence Production of Ministry of Defence, Government of India. The main business of OFBa is to manufacture propellants and commercial explosives for use by sister factories for production of finished products like arms and ammunitions that are ultimately supplied to Indian defence and military forces. Thus OFBa majorly acts as a feeder factory for goods such as explosives and propellants for its sister Ordnance Factories that use such goods for their production and manufacturing process.

The applicant has submitted that they send samples of the finished goods, for quality testing, to proof establishment set up under the Ministry of Defence outside the factory where such samples are completely destroyed during the testing process.

Advance Ruling was sought on various questions , out of which Question.5 states:

Whether Input Tax credit is to be reversed on finished goods that are destroyed during testing?

Section 17 (5) (h) of the Central GST (CGST) Act 2017, reads that “input tax credit shall not be allowed in respect of goods lost, stolen, destroyed, written off, or disposed of by way of gift or frees samples.

The bare analysis of this section makes it clear that this section has an overriding effect and it states that the ITC shall not be available in respect of goods lost, stolen, destroyed or written off.

The above provision however does not talk of the cases wherein the said inputs, capital goods or inputs services have already been utilized for further production of final products. In other words, the question of reversal will arise only if the inputs or capital goods are themselves lost, stolen or destroyed. If the finished goods are destroyed, lost or stolen then reversal should not be required. The definition of input and capital goods uses the phrase “used or intended to be used in the course of furtherance of business”. Since this condition is to be checked at the time of admissibility of ITC and at that time goods lost, stolen or destroyed were intended to be used in the course furtherance of business, the ITC was legally availed.

It is to be noted here that once ITC is legitimately availed, it cannot be demanded back without a specific provision in this regard. There is no provision for demanding the ITC on inputs, capital goods and input services that have been used for manufacture of finished goods that are lost, stolen or damaged.

It is important to note here that the value of raw materials used in the sample goods so destroyed is included in the value of finished goods that are manufactured and thus included in the value of taxable goods supplied on which GST is levied by OFBa.

Decision of Advance Ruling Authority :**Decision :**

It is therefore concluded that once input are used in the manufacture of final products, which are then sent for testing purpose, then in such a case the said inputs cannot be considered to have been destroyed. Hence, No ITC to be reversed.