

GIB/MH/BASF/21.05.2018/AAR-435

Advance Ruling Category : Input Tax Credit

State : Maharashtra

Order No.: GIB/MH/BASF/21.05.2018/AAR-435

Name of Entry :

M/s. BASF India Ltd.

Date : 21-05-2018

Breif Issue :

Facts & Issues Involved:

BASF India Limited having its corporate head office at, 3rd Floor, Shree Sawan Knowledge Park, Plot No D 507, MIDC, Turbhe, Navi Mumbai, India-400705, is a subsidiary of BASF Germany and is engaged in the business of manufacturing and trading of, inter alia, chemicals and allied products

The Applicant was registered under the erstwhile tax regime, and was discharging excise duty, service tax and value added tax (VAT) on the manufacture, on commission and sale of the products, as applicable.

the applicant, seeking an advance ruling in respect of the following questions :

1. The Applicant will be purchasing the goods from its overseas related party situated abroad based on purchase order received from its customers. While the goods are in transit, the goods will be sold by the Applicant to its customers before the goods are entered for customs clearance in India. Whether IGST will be leviable on such sale effected by the Applicant to customers who are known to them at the time of placing order on the overseas party?
2. Whether input tax credit will have to be reversed, to the extent of inputs, input services and common input services used by the Applicant, in case the above transaction is not subjected to the levy of IGST by treating the same as an exempt supply for the purpose of Section 77 of the CGST Act ?

Decision of Advance Ruling Authority :

Decision:

Authority held that goods sold on high seas sales basis, while being inter-state supplies, were an exempt supply being non-taxable supplies in as much as no duty is leviable on these goods and duty if any becomes applicable only after they cross the customs clearance. Therefore, input tax credit of inputs or input services to the extent of such high sea sales would have to be reversed.

