

**GIB/GA/CHOWGULE/21.05.2019/AAR-209**

**Advance Ruling Category :** Input Tax Credit

**State :** Goa

**Order No.:** GIB/GA/CHOWGULE/21.05.2019/AAR-209

**Name of Entry :**

Chowgule & Co. pvt ltd

**Date :** 21-05-2019

**Breif Issue :**

**Issue & Fact of the Case:**

Whether IGST at 5% of assessable value is applicable on import of iron for conversion into pellets and export the resultant product back to the same supplier in view of the fact that import duty is not applicable?

Whether applicant is liable to pay IGST?

Whether the applicant can avail the input tax credit for the IGST so paid?

Whether the applicant can claim refund of unutilized input tax credit on export of services.?

1. The applicant proposes to enter into a contract with a non-resident party for rendering service of conversion of iron ore into pellets.
2. The NR will arrange for iron ore from abroad and the same would be imported in India by the applicant using its own GSTIN.
3. The applicant will carry job work at their plant, the applicant will export the pellets to NR and send the invoice for the same.
4. **As per IGST Act Section 2(6) “Export of services”** means the supply of any service when, –
  - (i) the supplier of service is located in India.
  - (ii) the recipient of service is located outside India.
  - (iii) the Place of supply of service is outside India(**also refer sec 13 of IGST ACT** )
  - (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange
  - (v) the supplier of service and the recipient of service are not merely establishments of a distinct person

5. **As per sec 5(1) of Integrated Tax Act , 2017** 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**.

6. **Section 16(1) of CGST ACT , 2017** Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

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

##### **Decision:**

For point 1&2 The applicant is liable to pay IGST on import of iron ore.

The applicant is eligible to avail the input tax credit towards payment of IGST under section 16 of IGST Act.

The applicant is not eligible for refund of unutilized input tax credit on export of goods or services as per the second proviso to sub section 3 of section 54 of the CGST Act.