

Hon'ble Karnataka Authority for Advance Ruling (AAR) has given a ruling in the matter of "M/s Dolphine Die Cast (P) Ltd." holding that no export or import can be made unless there is actual physical movement of goods outside or inside the territory of country. It has been held that GST is not applicable on the transactions which are occurring outside India, they are clearly outside the purview of GST. Relevant facts of the case along-with relevant legal provisions leading to captioned ruling are analysed below:

A. FACTS OF THE CASE

- Appellant "M/s Dolphine Die Cast (P) Ltd" (to be referred as "Company") is a private limited company engaged in the business of manufacture and export of aluminium and zinc die castings to customers located outside India (Foreign Buyer).
- The Company has manufactured Steel Dies for seeking approval from the foreign buyer for manufacturing Aluminium & Zinc Die Castings. The Company has raised the tax invoice for the steel die in the name of foreign buyer in foreign currency for receipt of payment though the die was not physically exported to the foreign buyer.
- At the end of useful life of die, the die would either be exported to foreign buyer or scrapped by the Company in India as per the directions of foreign buyer.
- Similarly, the Company has purchased die from foreign supplier. Die was retained by foreign supplier for manufacturing final products. At the end of useful life of die, the die would either be imported by the Company or scrapped at the foreign supplier's end as per the directions of the Company
- The applicant sought ruling on GST implications on above mentioned transactions.

B. OBSERVATIONS AND ORDER OF THE AAR

The AAR referred the definition of export and import of goods which defined under section 2(5) and 2(10) of IGST Act, 2017 as under:

- *Export of goods:* Taking goods out of to a place outside India
- *Import of goods:* Bringing goods into India from a place outside India

AAR held on the two separate transactions under GST Laws as follows:

S.NO.	TRANSACTION	AAR DECISION
1.	Sale of die to foreign buyer	<ul style="list-style-type: none"> • AAR observed that the taxpayer raises the tax invoice in the name of foreign buyer immediately after the die gets manufactured. • It was further observed by AAR that since the die is not physically moved out of India, it does not amount to export of goods. • By applying the provision under Section 10(1)(c) of the Integrated GST Act, 2017 ('IGST Act'), AAR held that the

		<p>since, it is an intra-state supply, the Company has to collect the CGST & SGST and discharge the liability.</p> <ul style="list-style-type: none"> • Further, if the dies are scrapped by the Company to the third party in India, the Company is required to issue Tax invoice depending on the nature of transactions and collect & pay taxes.
2.	Purchase of die from foreign buyer	<ul style="list-style-type: none"> • AAR observed that since the die is not physically imported into India, the transaction does not amount to import of goods under the IGST Act. • It is, however, held by the AAR that if on the completion of order the die is imported into India by the taxpayer, it would be chargeable to IGST under Reverse Charge Mechanism ('RCM'). • Further, if the dies have been scrapped by the foreign buyer at its own location then such transaction is occurring outside the taxable territory of India and hence would not come under the purview of the GST act.

C. OUR COMMENTS

AAR ruling is prima-facie correct considering the relevant provisions of GST Acts relating to place of supply and time of supply. However, it has failed to consider the underlying intent of parties and the reason for not carrying out the physical import/ export of Dies. In domestic transactions also between Component Manufacturer (CM) and Original Equipment Manufacturer (OEM), the similar modus operandi is followed, however clarity on taxability and Input eligibility was provided through CBIC circular in June 2018. That has ensured availability of ITC in the hands of OEMs and eased the process. Government should issue similar clarification on this specific issue which can impact large number of businesses operating in Auto Part/ component manufacturing.

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