
	<b>KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM</b>	
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**BEFORE THE AUTHORITY OF:** Dr.S.L. Sreeparvathy, IRS &  
Shri.Abraham Renn S, IRS

Legal Name of the applicant	M/s.PARAGON POLYMER PRODUCTS PRIVATE LIMITED
GSTIN	32AABCP3052F1ZZ
ARN	AD320321003791R
Address	PB No.61, Paragon Buildings, Sreenivasa Iyer Road, Chalukunnu, Kottayam, Kerala - 686001.
Advance Ruling sought for	In case of sale and buy back transactions, whether the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment, against the debt created on outward supplies to these vendors.
Date of Personal Hearing	20/07/2022
Authorized Representative	Mr. Jiji Varghese



**ADVANCE RULING No.KER/03/2023 Dated 02-03-2023**

1. M/s. Paragon Polymer Products Private Limited (**hereinafter referred to as the applicant**) is in the business of manufacturing and trading of footwear.

2. At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules, and the notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules, and the notifications issued there under.

**3. Applicant requested advance ruling on the following:**

In case of sale and buy back transactions, whether the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment, against the debt created on outward supplies to these vendors.

**4. The contentions of the Applicant**

4.1. The applicant submitted that in the course of manufacturing of footwear, the applicant outsources some activities to outside vendors. In few such cases the applicant are planning to sell few raw materials required for the production to these vendors. The supply of materials by the applicant to these vendors will be made as sale by raising taxable sales invoice. The vendors along with the raw materials purchased from the applicant and other materials directly procured by them, manufactures footwear / parts of footwear as per the applicant's requirement and return to applicant. This transfer is also made as sale



by vendor to the applicant under the cover of taxable sales invoice. The applicant intends to settle these mutual debts through book adjustments and settle the net dues only through bank transfer.

**4.2.** The applicant submits that second proviso to Section 16(2) of the GST Act provides that *“where a recipient fails to pay to the supplier of goods or services of both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed.*

**4.3.** Apart from the above proviso, the GST Act nowhere makes availing of input tax credit dependent upon the payment to be made for the inward supply. The captioned proviso also does not prescribe or restrict the mode in which the payment has to be made.

**4.4.** It is further stated that the definition of the term ‘*consideration*’ under Section 2(31), cast the net so wide that almost no form of payment is excluded. It provides the scope and ambit for modes of payment. It includes, in relation to the supply of goods or services, any payment, made or to be made, whether in money or otherwise, and also the monetary value of any act or forbearance. For example, a mix of money and monetary value of the goods offered together with it is a valid ‘*consideration*’. Similarly, if the payee owes the payer a debt, and accepts a reduction in such a debt liability as a valid form of payment, that should also be regarded as a valid ‘*consideration*’ for a supply. In other words, reduction in book debt (an asset in the payer’s books of



accounts) is a valid 'consideration'. Also, payment through adjustment of the books of accounts is a prevalent commercial practice. Para 42 of Indian Accounting Standards 32 provides that a financial asset and a financial liability shall be offset and the net amount presented in the balance sheet when, and only when, an entity (a) currently has a legally enforceable right to set off the recognized amounts; and (b) intends either to settle on a net basis, or to realize the asset and settle the liability simultaneously. The applicant also draws the attention of the authority to the ruling made by the West Bengal Authority for Advance Ruling in a similar case in case of Senco Gold Ltd.

**5. Comments of the Jurisdictional Officer:**

**5.1.** The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer has not offered any comments and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that there are no proceedings pending on the issue against the applicant.

**6. Personal Hearing:**

**6.1.** The applicant was granted an opportunity for a personal hearing on 20/07/2022 via virtual mode. Sri Sabin Mathew, Authorized representative of the applicant attended the personal hearing. The representative reiterated the contentions made in the application.

**7. Discussion and Findings:**

**7.1.** The issue was examined in detail. The application is admissible as per subsection (2) of section 97. The issue raised before the authority is regarding the admissibility of the ITC in respect of the goods purchased from out-sourced vendors, when the payment is settled



through book adjustment against the debt created on the outward supplies effected to these vendors itself.

**7.2.** The relevant provisions of Section 16 of the CGST Act that provides for the eligibility and conditions for taking Input Tax Credit reads as follows: -

(1) *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.*

(2) *Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, —*

(a) *he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;*

(aa) *the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;*

(b) *he has received the goods or services or both.*

*Explanation. —For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—*

(i) *where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*



*(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.*

*(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;*

*(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and*

*(d) he has furnished the return under section 39:*

*PROVIDED that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:*

*PROVIDED FURTHER that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:*

*PROVIDED ALSO that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.*

**7.3.** The second proviso to subsection (2) of Section 16 specifies that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services with tax payable thereon. The provision clearly limits



the recipient's entitlement to input tax credit only to transactions where he has paid the consideration for the supply received, along with the tax payable thereon. Such input tax may be provisionally credited to the recipient's electronic credit ledger, but the same will be reversed in terms of the second proviso to section 16(2) by an equivalent amount being added to his output tax liability unless he makes the payment within one hundred and eighty days from the date of issue of the invoice. It is, therefore, clear that no input tax credit is admissible unless the recipient pays the supplier the consideration for the supply received.

**7.4.** The term 'consideration', as defined under clause (31) of section 2 of the CGST Act reads as follows;

"Consideration" in relation to the supply of goods or services or both includes, —

*(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*

*(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:*

*PROVIDED that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;*



**7.5.** Accordingly, from the above definition it is revealed that the term consideration includes, in relation to the supply of goods or services, any payment, made or to be made, whether in money or otherwise, and also the monetary value of any act or forbearance. Thus, definition of 'consideration' is an inclusive definition which covers in its ambit any form of payment. Therefore, if the payee owes the payer a debt, and accepts a reduction in such a debt liability as a valid form of payment, that should also be regarded as a valid 'consideration' for a supply.

**8.** The relevant provisions of Section 12 and 13 of the CGST Act, 2017 which governs the time of supply of goods and time of supply of services is reproduced below;

**SECTION 12 - Time of supply of goods.** — (1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of goods shall be the earlier of the following dates, namely :—

(a) the date of issue of invoice by the supplier or the last date on which he is required, under section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply :

Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.





Explanation 1. — For the purposes of clauses (a) and (b), “supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2. — For the purposes of clause (b), “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely :—

- (a) the date of the receipt of goods; or
- (b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier :

**SECTION 13 - Time of supply of services** — (1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of services shall be the earliest of the following dates, namely :—

- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under section 31 or the date of receipt of payment, whichever is earlier; or



(b) the date of provision of service, if the invoice is not issued within the period prescribed under section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply :

Provided that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

Explanation. — For the purposes of clauses (a) and (b) —

(i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;

(ii) “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely :—

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier :



Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

**8.1.** On a plain reading of the above referred provisions namely; Explanation 2 to sub-section (2) and clause (b) of sub-section (3) of Section 12 and Explanation (ii) to sub-section (2) and clause (a) of sub-section (3) of Section 13 it is evident that the entry in the books of accounts of the supplier / recipient is recognised as a mode of payment under GST law.

**8.2.** Therefore, on a combined reading of the above referred provisions and the definition of consideration in Section 2 (31) of the CGST Act, 2017 it is evident that the settlement of the mutual debts through book adjustment by the applicant is a valid mode of payment of consideration for the receipt of goods and / or services and it satisfies the requirement of the second proviso to sub-section (2) of Section 16 of the CGST Act, 2017.

In view of the observations stated above, the following rulings are issued:

### **RULING**


**Question:** In case of sale and buy back transactions, whether the input tax credit is admissible in respect of goods purchased from outsourced vendors, when payment is settled through book adjustment, against the debt created on outward supplies to these vendors.

**Ruling:** Yes, The input tax credit is admissible when consideration is paid through book adjustment as detailed above, subject to the other



conditions and restrictions prescribed in Sections 16, 17 and 18 of the CGST Act, 2017 and the rules made there under.

~~S.L.Sreeparvathy~~  
Additional Commissioner, CGST  
Member

  
Abraham Renn S  
Additional Commissioner, SGST  
Member

To

M/s.PARAGON POLYMER PRODUCTS PVT. LTD.  
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Copy to:

- 1) The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin-682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
- 2) The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
- 3) The Assistant Commissioner of Central GST and Central Excise, Kottayam Division.[E-mail ID:cgst.kottayamdivn@gov.in]
- 4) The Superintendent of Central GST and Central Excise, Kottayam I Range [E-mail ID:cgst.kottayam1rng@gov.in]

