MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax, (Member)

GSTIN Number, if any/ User-id		27AAACL1978K125 User-id - 271800000648ARE
Legal Name of Applicant		Lear Automotive India Private Limited
Registered Address/Address provided while obtaining user id		Plot No. E-25,26 & 27, MIDC Bhosari, Pune - 411026
Details of application		GST-ARA, Application No. 19 Dated 03.05.2018
Concerned officer		DY.COMMISSIONER , DIVISION – III(BHOSARI), GST PUNE-I, COMMISSIONERATE
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Factory/Manufacturing
B	Description (in brief)	Whether amortized value of the tool received on FOC basis from the customer is required to be included in the value of finished goods manufactured and supplied by the applicant to the customer?
Issue/s on which advance ruling required		(iii) determination of time and value of supply of goods or services or both
Question(s) on which advance ruling is required		As reproduced in para 02 of the Proceedings below.

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] **by Lear Automotive India Private Limited**, the applicant, seeking an advance ruling in respect of the following questions:

Whether amortized value of the tool received on FOC basis from the customer is required to be included in the value of finished goods manufactured and supplied by the applicant to the customer?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

Statement of relevant facts having a bearing on the question on which advance ruling is required.

1. Lear Automotive India Pvt. Ltd. (hereinafter referred to as Applicant) is having its office at E-25, 26 & 27, MIDC Bhosari, Pimpri-Chinchwad, Maharashtra - 411 026 and also having various regional offices located at various other places in India. The Applicant is engaged in the manufacture of automotive seats', which is manufactured in its various plants located in the state of Maharashtra.

2. The present application is filed in respect of valuation of supply of automotive parts (hereinafter referred to as "final goods"), which are manufactured out of tools provided by the customers on Free of Cost (FOC) basis to manufacture the products as per their requirements.

3. The Applicant manufactures automotive seats for various customers, such as Ford Motor Private Limited, Volkswagon India Private Limited, M/s Mahindra & Mahindra Ltd, General Motors, etc. (hereinafter referred to as customers') by using tools/moulds either provided by them or owned by them.

4. Generally, the Applicant gets the tool manufactured from third party manufacturer as per the requirements of the customer. Thereafter the property in the said tool gets transferred from third party manufacturer to the Applicant and from the Applicant to the customer. Though the property in tool gets transferred to the customer eventually, the possession remains with the Applicant and it uses the same to manufacture the products as per the requirement of the customers.

5. There are also cases where customers direct the Applicant to procure specific part from a third-party manufacturer. For manufacture of the said tool, the customers give tooling advance to the said third-party manufacturer. Thereafter, the tool is developed and invoice is raised on the customer. The third-party manufacturer manufactures parts by using above tools and supplies the said parts to the Applicant. The Applicant makes the payment to third party manufacturer for components supplied. In above scenario, the third-party manufacturer may include Tool amortization value in components supplied to the Applicant.

6. There is a further possibility that the customers provide the tools to the Applicant on FOC basis to manufacture the products as per its requirement.

7. Similarly, the Applicant also engages another component manufacturer to manufacture the products for the Applicant which are used by the Applicant for its final products and in this regard, the tooling cost is first absorbed by the Applicant and then recharged to the OEM. In such cases, the possession of the tool would remain with another component manufacturer.

8. The present application seeks to understand whether the amortized value of the tool cost needs to be added to the value of the final goods supplied to the customers under the GST laws.

9. Under the erstwhile regime of Central Excise, Rule 6 of the Central Excise Valuation Rules, 2000 required an assessee to calculate the intrinsic value of the excisable goods by including any additional consideration flowing directly or indirectly from the buyer to the assessee. In view of the same, the Applicant was amortizing the value of such tools supplied/provided by the customers on FOC basis and was including the same in the assessable value of the final goods for discharging applicable Central Excise Duty.

10. However, w.e.f. 1st July 2017, Central Goods and Service Tax Act, 2017 (hereinafter referred to as "CGST Act") has replaced the erstwhile Central Excise Regulations and does not include any pari-materia provision, similar to Rule 6 of Central Excise Valuation Rules, 2000.

11. Under the aforesaid circumstances, the Applicant seeks the present advance ruling to understand whether the amortized value of the tool cost needs to be added to the value of the final goods supplied to the customers under the GST laws.

Statement containing applicant's interpretation of law and/or facts, as the case may be, in respect of question(s) on which advance ruling is required.

2. <u>Question requiring advance ruling.</u>

2.1. This advance ruling is sought to ascertain whether the amortized value of the tool cost which are provided/supplied on FOC basis by the customer needs to be added to the value of the final goods supplied to the customers under the GST laws?

3. **Applicant's Interpretation-**

3.1. In order to analyse the present issue, reference is made to Section 7(1)(a) of the CGST Act, which defines the term 'supply' as under:

7. (1) For the purposes of this Act, the expression "supply" includes (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,

3.2. Section 7(1)(a) of CGST Act defines the term 'supply' widely to include all forms of supply of goods or services or both such as sale, transfer, disposal, etc made or agreed to be made for a consideration in the course or furtherance of business.

3.3. In the present case, supply of automotive parts or final goods, which are manufactured out of the tools developed by the Applicant or the unrelated vendors at the behest of the customers, are squarely covered under the definition of supply defined under Section 7 as there is supply for a consideration, which is undertaken in the course or furtherance of business.

3.4. In so far as the valuation of the supply of final goods is concerned, the erstwhile Central Excise regime under Rule 6 of Central Excise Valuation Rules, 2000 required adoption of intrinsic value as the excise duty was levied on the activity of manufacture and whatsoever activity was contributing to the said manufacturing activity was included in the assessable value irrespective of the fact as to who owned the inputs and capital goods.

3.5. However, under CGST Act, Section 15 governs valuation of the supply, which in pertinent part provides as under:

"15. (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. (2) The value of supply shall include

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both; "

.... Emphasis Supplied

3.6. In terms of Section 15(1) of the CGST Act, value of taxable supply shall be the transaction value (which is the price paid or payable by the recipient) provided the supplier and recipient are unrelated parties and price is the sole consideration for the supply.

3.7. Further, Section 15(2)(b) specifically states that where any amount which the supplier is liable to pay in relation to a supply but the same is incurred by the recipient on behalf of supplier, then such value is required to be included in the transaction value.

3.8. To determine whether in the present case, value of taxable supply paid by recipient to the supplier is the 'sole consideration, it is necessary to refer to the definition of the term 'consideration

3.9. In this regard, the term 'consideration has been defined under Section 2(31) of the CGST Act, to mean any payment (in money or otherwise) or monetary value of any act or forbearance which is made in respect of, in response to or for the inducement of supply. Such consideration can flow from the recipient of supply or any other person and it could be either monetary or non-monetary consideration. Further to the above, the supply and the payment of consideration thereof must have reciprocity with each other. In other words, the term 'consideration' means a reasonable equivalent or other valuable benefit passed on by the promisor to the promisee or by the transferor to the transferee.

3.10. Reading of the above sections indicates that the transaction value agreed between the parties is only relevant for purposes of GST. However, in terms of Section 15(2)(b) of the Act, if any amount which the supplier is liable to pay but the same has been incurred by the receiver of the supply, then the said amount has to be added while determining the transaction value.

3.11. Thus, it is a matter of commercial arrangement between the parties as to what is in the scope of both the parties. Once it is clear that a particular activity is in the scope of receiver of the supply, then there is no question of adding the value of the same for determining the transaction value. The question of addition would arise only in the cases where something was in the scope of the

supplier and the same has been provided by the receiver then in such cases the amount so spent by the receiver would be added in the transaction value.

3.12. As a consequence, once the arrangement is clear from the beginning as to what is in the domain of the supplier and the receiver and both the parties are fulfilling their own obligations, then there should not be any notional addition in the transaction value for the purposes of GST

3.13. In the present case, the Applicant and its customers are not related parties. The only question which requires examination is whether price paid by the customers is the sole consideration for the supply of parts made by the Applicant. In this regard, providing of the tool which is in the domain of the receiver of the supply as per the contractual terms cannot said to be non-monetary consideration provided by the receiver of the supply to the provider of the supply since upon paying the tool development charges, the customers are not incurring any expenses, which the Applicant was liable to incur. Further, the ownership in the tool remains with the customers and the development of tool was always meant to be borne by the customers. Thus, Section 15(2)(b) of the CGST Act 2017 will not be applicable in the facts of the present case and the value of the supply of final goods should be based on transaction value as provided under Section 15(1) of the CGST Act 2017.

3.14. In addition to the above, there is no specific provision provided in the CGST Act or the Rules made thereunder to make such inclusion in the value as it existed under the erstwhile Central Excise Regulations. Unless there exists a specific provision for inclusion of free of cost supplies received from the buyer of the goods or to add the amortized value of the tool or dies provided by the receiver of the goods on FOC basis, such an addition cannot be made to the value of the taxable supply.

3.15. Reliance in this regard is placed upon the judgment of Hon'ble Supreme Court in the case of Moriroku UT India (P) Ltd vs State of U.P. [2008(224) ELT 365 (SC)], wherein the Hon'ble Supreme Court in the context of UP Sales Tax held that the price of moulds manufactured by customer so that the vendor could use the same in manufacture of final components as per the specifications of the customer, would not be includible in the assessable value of the final components sold by the vendor to the customer as the cost of the same has been incurred by the customer and not the vendor. The Hon'ble Apex Court further held that the amortization cost calculated in terms of Rule 6 of Central Excise Rules cannot be included for the purposes of taxation under Section 3 of the U.P. Sales Tax Act as there is no law or provision to that effect under the U.P Sales Tax Act. The Hon'ble Apex Court held as under in this regard:

....Therefore, when excise law seeks to tax the value, the concept therein cannot be bodily lifted and incorporated in Section 3 of the U.P. Trade Tax Act, 1948, which essentially deals with ascertainment of the price-structure depending upon the negotiations between the parties. Moreover, the effect of clause (ii) of Explanation I to Rule 6 of Excise Valuation Rules, 2000 is that where any tools or dies or moulds are supplied by the buyer free of charge or at a reduced costs for use in connection with production of the goods, the value apportioned as appropriate to such tools, moulds etc., to the extent such value has not been included in the price paid or payable, has to be treated as the money value of additional consideration flowing directly or indirectly from the buyer/customer to the assessee in relation to sale of goods being valued and aggregated accordingly..... For levy of excise duty, "value" is to be determined per unit of excisable goods. Tools, dies, moulds etc. have their own life span and will be used for estimated production during their useful life. Consequently, depending upon the expected useful life and/or expected number of units likely to be produced, value of tools, dies, moulds etc. supplied by the buyer/customer free of charge to the appellant is to be appropriately apportioned per unit of production. This is where the concept of amortisation comes in specifically in Rule 6. The amount so apportioned is required to be added to the price/transaction value as per clause (ii) of Explanation I to Rule 6 read with Section 4(1)(b). The important thing to be noted is that this entire exercise of loading/adding to the transaction value is exclusively for determination of assessable value for central excise purposes and to fulfill the requirement of Section 4 which provides for measure for levy of excise duty. To the same effect is our judgment in the case of CoC v. Ferodo India Pvt. Ltd. vide Civil Appeal No. 8426/02 under Rule 9(1)(c) of Customs Valuation (Determination of Price of Imported Goods) Rules, 1988, which also refers to the addition of the cost of royalty payment to the transaction value. Therefore, Rule 6 of Excise Valuation Rules, 2000 creates the deeming fiction only for the purposes of Section 4(1)(b) of the 1944 Act and for laying down the measure for levy of excise duty. It provides for items which constitute additional consideration. There is no such provision in Section 3 of the 1948 Act. Therefore, one cannot borrow and automatically apply the concept of amortised cost to Section 3 of the 1948 Act.

20. Before concluding, it may be clarified, that, in the present case, moulds were manufactured by the buyer/customer so that the auto components could be manufactured by the appellant in terms of the specifications given by the buyer. Therefore, the cost of manufacture of these moulds was incurred by the buyer/customer and not by the appellant. In our judgment, we have termed the "amortisation cost" as notional in the sense that it is not the cost in the hands of the appellant. As stated above, Rule 6 of Excise Valuation Rules, 2000 refers to items of additional consideration. But for Rule 6 it was not possible for the Department under the 1944 Act to load such items to the transaction value of the final product. It is for above reasons, particularly because cost of manufacture is not incurred by the appellant but by the customer, such cost cannot be added to the price of the final product, particularly when there is no law to that effect.

21. Accordingly, we hold that the High Court had erred in holding that the amortization cost calculated in terms of Rule 6 of the excise Valuation Rules, 2000 is includible in the sale price of auto components sold by the appellant herein to its customer, M/s. Honda Siel Cars India Ltd."

.... Emphasis Supplied

3.16. It is submitted that the current GST provisions are aligned with the VAT/Sales Tax Regulations as existed in as much as the assessable value is a transaction value agreed between the parties barring few specific instances which are not the subject matter of present case. Hence the law laid down by the Hon'ble Supreme Court in the above said case would squarely applicable in the present case.

3.17. In terms of above judgment of Hon'ble Apex Court and the applicable provisions of CGST Act and the Rules made thereunder, the amortized value of the tool should not be added to the value of the final goods as there is no specific provision under the CGST Act or rules made thereunder to that effect.

Conclusion

3.18. In view of the above discussion, it is clear that in the present case, there should not be any notional addition of the amortized value of the tool in the taxable value of the supply of final goods to the customers by the Applicant and also by its vendor to the Applicant as well.

Additional Submissions made on 18.07.2018 by the Applicant-

A. **Under the GST regime, goods which are supplied free of cost would not form a part of the value of the supply under Section 15 of the CGST Act.**

A.1 The Applicant submits that goods which are supplied free of cost (FOC) would not form a part of value of the taxable supply under the GST regime. Hence, the tools that are provided FOC to the Applicant by its customer would also not be included in the value of the supply. In this regard, reference is made to the Section 15(1) of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as "CGST Act") which defines the value of supply as under:

"The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply."

..... Emphasis supplied

A.2 A close reading of the afore-stated provision provides that the value of supply is the price which is actually paid or payable for the supply of goods or services or both between two non-related persons. Further, such price paid or payable should be the sole consideration for the value of supply. In the present fact scenario, the Applicant and its customers agree to a certain price before placing the purchase order on the Applicant and such price is the only consideration that the Applicant is entitled to receive for the goods supplied by it.

A.3 Further Section 15(2) of the CGST Act enlists the things which are to be included while calculating the value of supply. These are provided as under

"(2) The value of supply shall include

*a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the **supplier**;*

***b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services** or both;*

c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation. For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy."

..... Emphasis supplied

A.4 Clause (b) of the above section lays down that any such amount which the supplier is liable to pay in relation to the supply but if the same is incurred by the recipient of the supply then such amount will be includable in the value of the supply. It is pertinent to note here that the amount to be included in the value of the supply is only such an amount which the supplier was liable to pay but the same was incurred by the recipient of the supply.

A.5 To substantiate the position of the Applicant, reliance is placed upon a sample agreement (Agreement dated 01.08.2015 between Mahindra & Mahindra and Applicant) (attached herewith as Annexure-1) entered into between the Applicant and its customer. The said agreement clearly states that it is the responsibility of the customer i.e. M&M to bear the cost of the tools or give the Applicant its own tools for the purpose of manufacturing products for M&M. The relevant portion of the said agreement reads as under:

1. PROVISION OF EQUIPMENT

M&M hereby agrees to (pay the Toolcost for development & manufacture of toolings/ give the vendor its own (Dies, tools, jigs, fixtures, SPMs, etc.) more particularly described in Annexure I attached hereto (hereinafter referred to as the "Equipment"), for use by the Vendor, immediately upon the execution of this Agreement, and the Vendor hereby agrees to use the money for the Equipment for the said use."

A.6 Thus, the customer has itself agreed to bear the cost of the tools and assumed the responsibility of providing the same either through the way of providing the funds for tools or providing the tools itself.

A.7 In this regard, the Applicant also places reliance upon the purchase order raised by the one of the Applicant's customer i.e. Mahindra & Mahindra (attached herewith as Annexure-2) wherein para 16 of the terms & conditions of the purchase order reads as under:

"Any raw material or components, if given to you as vendor aid on "no charge basis" to enable you to execute this order/contract/scheduling agreement will remain our property without any title in your favour. You will not hypothecate such material with any bank or agency. The cost of material spoilt by you over and above the permissible wastage allowed by us will be debited to you. In the event of rejection due to defective castings, forging or partly processed material given by us we will pay you for the actual operations carried out by you on defective material after taking into account identical reciprocal percentage allowance towards defective material supplied by us as the permissible wastage allowance given to you a quarterly statement, showing material issued to you and supplies made by you MUST be submitted to us in duplicate."

.... Emphasis supplied

A.8 Reliance is also placed upon the terms and conditions of the PO raised by General Motors on the Applicant. A copy of the said PO is attached herewith as Annexure-3.Para 22 of the said PO clearly states that the tools, dies, jigs etc. that are provided by the buyer i.e. GM will remain under the ownership of GM and will be provided to the Applicant only for the limited purpose of manufacturing goods for GM.

A.9 The above-referred paras clearly demonstrate that it is not the liability of the Applicant to pay for such tools, rather, the customer is itself providing the said tools on "no charge basis" and incurring the cost for the same. Further, the customer even retains the ownership of the tools which indicates that there is no intention between the parties that the tools are to be procured by the Applicant as the customer itself provides the tools and retains the ownership for any future use. In any case, the Applicant submits that even if it bears the cost of the tools at the start of the assignment the same is charged back to the customer only. Therefore, the tools that are provided by the customer

on FOC basis to the Applicant are not includible in the value of the goods supplied by the Applicant.

A.10 The above view of the Applicant is further supported by the recent Circular No.47/21/2018-GST dated 08.06.2018 issued by the CBIC. The relevant extract of the circular is reproduced below:

Sl.NO.	ISSUE	CLARIFICATION
1.	Whether the moulds and dies owned by Original Equipment manufacturer (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax whether OEMs are required to reverse input tax credit in this case?	1.1 Moulds and Dies owned by the original equipment manufacturer (OEM) which are provided to a component (the two Manufacturers not being related or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further since the moulds and dies are provided on FOC basis by OEM to the component manufacturer in the course or and furtherance of his business, there is no requirement of reversal of input tax credit availed on such moulds and dies by the OEM. **1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus does not merit inclusion in the value of supply in terms of Section 15(2)(b) of the Central Goods and Service Tax Act, 2017 (CGST Act for short)** 1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the value of components. In such cases, the OEM will be required to reverse the credit availed on such moulds/dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of former's business.

A.11 Thus, the circular refers to the situation where the recipient gives moulds, jigs etc. on free of cost basis to the supplier who uses such moulds, jigs etc. to manufacture and supply the finished goods to the recipient of supply does not constitute a supply under GST since no consideration is charged by the recipient for the moulds, jigs etc.

A.12 Further the Circular also clarifies that value of usage of moulds, jigs etc. (given on FOC basis) shall not be factored or amortized in the value of supply in a situation where the contract stipulates that the recipient of supply shall supply moulds, jigs etc. which would be used by the supplier to manufacture the goods, since the said situation is not covered by Section 15(2)(b) of the CGST Act.

A.13 Therefore, it is submitted that value of goods supplied on FOC basis cannot be included in the value of the supply as per the existing provisions of CGST Act read in conjunction with the aforesaid circular.

<u>The principle of business efficacy is applicable in the present fact scenario</u>

4.14 The Applicant further submits that there may be scenarios wherein the customer has raised the PO on the Applicant for supply of goods however, the said PO or the terms of agreement between the parties do not expressly state the conditions or responsibility in respect of the provision of tools. In this regard, it is submitted that as a general principle of the principle of "business efficacy" a slight deviation from the plain meaning of the language of contract would be justified so as to the intention of the parties could be justified. In the case Satya Jain v. Anish Ahmed Rushdie reported at AIR 2013 SC 434 the concept of business efficacy was explained as under

"The principle of business efficacy is normally invoked to read a term in an agreement or contract so as to achieve the result or the consequence intended by the parties acting as prudent businessmen. Business efficacy means the power to produce intended results. The classic test of business efficacy was proposed by Lord Justice Bowen in The Moorcock (1889) 14 PD 64. This test requires that a term can only be implied if it is necessary to give business efficacy to the contract to avoid such a failure of consideration that the parties cannot as reasonable businessmen have intended. But only the most limited term should then be implied - the bare minimum to achieve this goal. If the contract makes business sense without the term, the courts will not imply the same.

A.15 Hence, if the contract between the parties is not clear or the same is ambiguous, then certain terms can be implied/ read into the contract so as to make business sense. The Applicant submits that the present transaction of customer providing the tools FOC is an industry vide practice. Goods manufactured in the auto sector are customised items as each car model has different design and features. Therefore, the tools required to manufacture such goods are provided by the customer itself to suit their own needs and specifications. The customers also intend to retain the ownership of the tools so as to be able to use the tools for future manufacturing and hence they take the responsibility of providing the tools to the Applicant. In case where the contract between the Applicant and its customer does not expressly state the responsibility, it should very well be understood under the common business standards which indicate that the customer would always take up the responsibility of bearing the cost of the tools and not the Applicant.

A.16 **Further in the case of United India Insurance Company Ltd. v. Manubhai Dharmasinhbhai Gajera and Ors., reported at AIR 2009 SC 461 citing the case of Shirlaw v. Southern Foundries (1926) Ltd. [1939] 2 K.B. 206, it was observed as** under:

> *"Prima facie that which in any contract is left to be implied and need not be s something so obvious that it goes without saying; so that, if, while the parties were making their bargain, an officious bystander were to suggest some express provision for it in their agreement, they would testily suppress him with a common 'Oh of course!'.*

A.17 Therefore, even though the contract between the Applicant and the Customer would not expressly states the provision to provide the goods on FOC basis, however, it can be inferred from the principle concept of business efficacy that the intent of the parties is that the tools shall be provided by the customer only and the responsibility of providing the tools does not lie with the Applicant.

<u>The legislature intends to exclude the value of goods which have been supplied FOC by the recipient of the supply</u>

A.18 The Applicant further submits that the contention made by the Applicant in the above submissions is further supported by the legislative history of Section 15(2)(b) of the CGST Act. In this regard, reference may be taken from the Model GST Law, 2016 (hereinafter referred as "Model GST"). Section 15(2)(b) of the Model GST was specifically worded to include the goods supplied on FOC basis in the value of supply under GST. The relevant provision under the Model GST is reproduced herein-under:

> *"15(2) The transaction value under sub section (1) shall include:*
>
> *b) the value apportioned as appropriate of such goods and/or services as are supplied directly or indirectly by the recipient of supply free of charge or at reduced cost for use in connection with supply of goods and/or services being valued to the extent that such value has not been included in the price actually paid or payable."*

A.19 The Applicant submits that the above provision proposed to include the value of goods which had been supplied FOC in the value of supply under the GST laws. However, the above provision had been reworded/changed when the CGST Act was enacted. This highlights the intention of the legislature to purposefully omit the aforesaid provision from the CGST Act so as to not include the value of goods which have been supplied FOC by the recipient of the suppl. Further, the subsequent change that was made focused on the fact that only such amount which was to be incurred by the supplier but was borne by the recipient of the supply will be included in the value of the supply. Therefore, it is very clearly established that the legislature only intends to include such amounts which are to be borne or agreed to be borne by the supplier and therefore form a part of the consideration to be received by the supplier. The legislature clearly does not want to include the FOC supply of goods in the value of the supply.

A.20 **In this regard reliance is placed upon Maxwell on Interpretation of Statutes (12th Edn.)** at para 33 which provides as under:

"Omissions not to be inferred-It is a corollary to the general rule of literal construction that nothing is to be added to or taken from a statute unless there are adequate grounds to justify the inference that the legislature intended something which it omitted to express. Lord Mersey said: 'It is a strong thing to read into an Act of Parliament words which are not there, and in the absence of clear necessity it is a wrong thing to do.' 'We are not entitled,' said Lords Loreburn L.C., 'to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself.' A case not provided for in a statute is not to be dealt with merely because there seems no good reason why it should have been omitted, and the omission in consequence to have been unintentional."

A.21 Relying upon the above, the Applicant humbly submits that when the legislature chose to reword the provision as it existed under the Model GST and deleted the requirement to include FOC supply in the value of the goods then it is necessary to subscribe to the legislature's intent and not read into words which are not there.

A.22 Reliance is further placed upon the case of CIT, Delhi v. National Raj Traders, reported at AIR 1980 SC 485, wherein it has been held that as per the principle of casus omissus, omissions cannot be supplied by the Court except in the case of clear necessity and when reason for it found in the four corners of the statute itself.

A.23 Therefore, it is submitted that since the requirement for inclusion of goods supplied on FOC basis in the value of supply has been expressly omitted by the legislature itself DI therefore, the same cannot be inferred into the statute unless an arbitrary position is created within the statute. In light of the above, the Applicant submits that the value of tools supplied by the customer to the Applicant are not includable in the value of the goods supplied by the Applicant.

Difference between Central Excise and GST regime

A.24 Under the Rule 6 of the erstwhile Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (hereinafter the referred to as "erstwhile Valuation Rules"), wherein, the price was not the sole consideration for sale, the value of such goods was deemed to be aggregate of such transaction value plus amount of money value of any "additional consideration" flowing directly or indirectly from the buyer to the assessee.

A.25 As per the pre-GST regime where the customer supplied certain material (tools, moulds, designs, etc.) to the manufacturer for free, the value of such given free of charge was includible in the assessable value of goods as monetary value of additional consideration for payment of excise duty since the intention was to levy excise duty on intrinsic value of goods as per Section 4(1)(b) of the Central Excise Act, 1944 read with Rule 6 of the erstwhile Valuation Rules. However, a provision similar to the erstwhile Rule 6 of the Valuation Rules does not exist under the present value added tax-based regime.

A.26 It is pertinent to note here that the erstwhile sales tax regime was also a value added tax regime similar to the present GST law. In fact, under the erstwhile sales tax regime, the states denoted the tax levied by them as VAT in light of the nature of such tax. Similarly, GST is also a value added tax and has been modelled on the VAT based regime. The idea of GST was first mooted by the Kelkar Task Force in 2003 which suggested the introduction of GST on the principles of VAT. Therefore, the erstwhile sales tax regime and the present GST regime being founded on similar principles, Supreme Court decision passed in respect of the sales tax laws is directly applicable to the facts of the present application.

A.27 The Applicant in this regard places reliance upon the case of Moriroku UT India (P) Ltd. v. State of U.P reported at 2008 (224) ELT 365 wherein the Supreme Court in context of UP Sales Tax had held that, price of moulds manufactured by customer so that vendor could use the same in manufacture of final components as per the specifications of the customer, would not be includible in the assessable value of the final components sold by the vendor to the customer as the cost of the same has been incurred by the customer and not the vendor and accordingly, the same is not includible in the absence of a specific provision providing for the same.

A.28 The facts involved in the above case were that the appellant was a manufacturer of plastic automobile components for use in the Honda Siel Cars manufactured by Honda Siel Cars Ltd. (hereinafter called the "customer") as per designs and specifications given by it. The customer supplied tools, dies, moulds etc. (toolings) free of cost to the appellant herein to enable it to

manufacture automobile components. The Sales tax department issued notice to the appellant was called upon to show cause why amortization cost in respect of toolings and moulds should not be taxed under Section 3 of the UP Trade Tax Act, 1948. Subsequently, tax was imposed on the amortization cost on the ground that sale price of the auto components should be the same both for purposes of Central Excise Act, 1944 and for UP Trade Tax Act, 1948. The basic issue in the above case was whether Section 4 of the 1944 Act read with Rule 6 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 ("Excise Valuation Rules 2000") can be read into Section 3 of the UP Trade Tax Act, 1948.

A.29 The Hon'ble Supreme Court held that valuation is matter of principle. Under Section 4 of the 1944 Act, the basis for valuation is the transaction value for each removal. Section 4 lays down the method of arriving at the assessable value of for levying excise duty. The Hon'ble Supreme Court further relied upon its own decision in the case of **M/s Chhotabhai Jethabhai Patel v. UOI, (AIR 1962 SC 1006 at p. 1018), wherein** the court held that a duty of excise is a tax levy on home produced goods of a specified class or description, the duty being calculated according to quantity or value of the goods and which duty is levied because of the event of manufacture which gives a vital difference between excise laws and sales tax laws. This was further explained in the **case of UOI v. Bombay Tyre International Ltd., (AIR 1984 SC 420) wherein it was** stated that levy of excise tax is on manufacture and sales tax arises beyond the stage of manufacture. The court also held that accounting differs from enactment to enactment; therefore, the regime under Central Excise, 1944 cannot be applied identically in the UP Trade Tax, 1948.

A.30 It was further held that the UP Trade Tax, 1948 is a self-contained code for levy of tax on the sale or purchase of goods in Uttar Pradesh. It is leviable on the act of sale, whether actual or deemed for a consideration. On the other hand, excise duty is leviable on the event of manufacture and it is calculated on the value of manufactured goods. Further excise duty is independent of ownership. However, for sales tax what is to be taken into consideration is the consideration for transfer of property from seller to buyer and thus manufacture is irrelevant. As a result, goods supplied free of cost though included in the Excise law regime could not be identically included in the sales tax regime provided the differences between both the forms of taxation. The relevant portion of the above-referred case has already been relied upon by the Applicant in its application and the same is not being repeated here for the sake of brevity.

A.31 Further, owing to the difference in the excise law under the previous regime and the existing GST regime, the position adopted under the previous law cannot be relied upon for the purpose of valuation under the present law. Hence, the value of the tools supplied on FOC basis by the customer are not includable in the value of supply under the GST regime and present application of the Applicant should be decided accordingly.

B. **<u>Tools received from the customer on FOC basis do not form a part of consideration and hence the same is not includable in the value of supply under the provisions of the CGST Act.</u>**

B.1 Under the CGST Act, the intention is to tax the "consideration" received in respect of a supply. Section 15 of the CGST is worded in a manner that it provides for inclusion of any amount which the supplier is liable to pay/incur, however the same is paid by recipient. In this regard, the Applicant has already made a detailed submission in its application as to what constitutes consideration under the CGST Act.

B.2 **In this regard, the Applicant further invites attention to the case of Commissioner of Service Tax v. Bhayana Builders (P) Ltd.** reported **at 2018 (10) G.S.T.L 118 (SC)** wherein the issue before the Apex Court was whether the goods and/or services supplied free by a service recipient and used for providing the taxable service of construction would be included in the computation of the gross amount, for valuation of taxable service. It was held that the value of the goods and the materials supplied free of cost by a service recipient to the provider of the taxable construction service would be outside the taxable value or gross amount charged as such amounts did not accrue to the benefit of the service provider, being neither monetary or non-monetary consideration paid or flowing from the service recipient. In paragraph 16 of the aforesaid judgment it was observed as under:

16 "..... The value of taxable services cannot be dependent on the value of goods supplied free of cost by the service recipient. The service recipient can use any quality of goods and the value o such goods can vary significantly. Such a value has no bearing on the value of services provided by the service recipient. Thus on

the first principle itself, a value which is not part of the contract between the service provider and the service recipient has no relevance in determination of the value of taxable services provided by the service provider."

B.3 Therefore, it is submitted that the value of goods provided free of cost by the customer to the supplier is not required to be factorized or amortized in the value of supply.

B.4 Further reference is also made to **Para 90 of Australian GST Ruling 2001/6** (hereinafter referred to as "GSTR 2001/6") which provides that the recipient of a supply may provide or make a thing available for the supplier to use in making the supply. However, the thing does not necessarily form consideration. The example provided in GSTR 2001/6 is reproduced below.

"Things used in making a supply

*Eddie Engineer ('Eddie) agrees to supply services to Mountain Miners ('Mountain) at a rate of $100 per hour. **Under the agreement, Eddie must perform the services on Mountain's premises in Melbourne. Mountain agrees to allow Eddie to use its computer facilities, stationery and safety equipment on Mountain's premises to perform the services.** Mountain also agrees to fly Eddie to Melbourne and provide accommodation and meals during the period Eddie performs the services. There is monetary consideration for Eddie's services ($100 per hour). **The provision of the use of computer facilities, stationery and safety equipment and the transport, accommodation and meals is not part of the price paid for the services as it is not a payment or of value to Eddie in return for his services. They are rather conditions of the contract that go to defining the supply made by Eddie, and are used in providing the services, rather than being supplied to Eddie in return for the services.** They do not provide economic value to Eddie in return for his supply. The provision of these things in these circumstances is not consideration in connection with the supply by Eddie. There is no nonmonetary consideration for Eddie's supply." (Para 91 and 92) 19. GSTR 2001/6 goes on to explain that "if Mountain agreed in addition to provide holiday accommodation for Eddie at the Gold Coast, this would constitute nonmonetary consideration. It is not something required for Eddie to supply the services to Mountain and it provides Eddie with economic value in return for his supply. Further, had Eddie incurred the costs of the transport, accommodation and meals and on-charged those expenses to Mountain as part of the cost of his services, GST is payable on this on-charge as they represent additional costs for the supply of Eddie's services." (Para 93 and 94)*

W. Accordingly, it can be said that supplies made by recipient which are consumed within activities undertaken for making the output supply by the provider (which might be a condition to the contract and used in providing output supply), however, the same is not accrued to the benefit of supplier, would not amount to non-monetary consideration. However, supplies made by the recipient, consumed by the provider at its own will and accrued to the benefit of supplier, beyond providing supplies to the recipient, can amount to nonmonetary consideration. GSTR 200176 provides further clarity with a factual example covering dependent goods and services. "Dependent Services Large Ltd ('Large) outsources its accounting area to Fast & Friendly Accounting Pty Ltd ('Fast). The agreement is on the basis that Large will provide the premises and equipment that Fast needs to perform the services. Fast is to use the premises and equipment only for the purpose of performing the services for Large. Fast acknowledges in the agreement that the amount it is charging for the services is reduced to take account of the fact that it does not have to use its own premises and equipment. The use of the premises and equipment is not consideration for Fast's supply as there is no nexus between it and the supply by Fast. It does not have an independent identity such that it provides Fast with any value in return for its services.

dependent goods

Pretty Paint agrees to paint the interior of Peng's offices for $10,000. Peng agrees to provide Pretty Paint with 1,000 cans of pink shimmer paint that Pretty Paint has advised will be enough to paint the offices.

The paint provided by Peng is not consideration for Pretty Paint's supply. Pretty Paint's supply is the service of painting the offices. Although Pretty Paint would have charged more money if it had to also supply the paint, this is not relevant in this particular transaction."

B.5 The Australian GST regime does not envisage that goods and/or services made available by the recipient and consumed by the supplier for making a supply to the said recipient would amount to non-monetary consideration, based on the direct nexus test.

B.6 The tools that are supplied by the customer hold no value in the hands of the Applicant other than using the same for manufacture of the customer's seats. The tools that are supplied by the customer in any case customized to the customer's preference, thus, making it unusable for the Applicant in any other goods. Thus, it cannot be said that the tools that are supplied by the customer in lieu of

some consideration as the same hold no value in the hands of the Applicant except for the supply of goods to the said customer.

B.7 The above example of Pretty Paint given under the aforesaid ruling is directly applicable to the present case. A similar position is established in our case, wherein the Customer is providing goods on FOC basis to the Applicant for the production of seats which is to be used by the Customer, thereby making it non-includable in the value of supply since no consideration is paid for it.

C. **<u>If goods supplied on FOC basis are included in the value of supply, it would lead to double taxation.</u>**

C.1 Notwithstanding anything stated above, assuming without admitting if the value of goods supplied on FOC basis is included in the value of supply, then it would amount to double taxation and the same would be contrary to the very scheme of GST law. It is submitted that the very purpose of bringing the GST law into force was to avoid the malice of double taxation. In the present case, it is an established fact that the tools that are provided FOC by the customer have already suffered the incidence of tax. In this regard, the Applicant places on record the invoices raised in respect of tools wherein the applicable GST has been levied. The copy of such invoices are collectively attached herewith as Annexure-4. Therefore, once the tools have already suffered tax and there is no further value addition to the said tools, the inclusion of the value of such tools in the subsequent supply would amount to double taxation and the same is against the principles of the GST law.

C.3 In the present case, the customers either procure the tools themselves and send to the Applicant or direct the Applicant to procure the same on their behalf. Such transactions wherein the tools are procured by the customer or the Applicant for the use in the manufacture of the final goods are already under the ambit of taxable supplies and the same have suffered the liability of tax. Further, after the tools reach the Applicant there is no value addition to the said tools and they are merely used for manufacturing the seats for the respective customer. In the absence of any value addition to the tools, if the value of the tools are further included in the value of the final supply of goods it would amount to double taxation in so far as the tools would have already suffered tax once.

C.4 The Applicant has already explained in the aforesaid paras that the GST law is a value added tax regime and tax is levied only on value addition thereby removing the cascading effect of taxes. Provided the present factual scenario, if the cost of goods provided on FOC basis is included in the value of supply it would lead to a cascading effect, thereby the defeating the objective of the GST legislation.

C.5 In light of the above, it is submitted that the value of tools is not includable in the value of the supply as determined under the GST law.

Further Additional Submissions made by applicant on 07.08.2018.

1. Lear Automotive India Pvt. Ltd. (hereinafter referred to as 'Applicant') has filed an application before this Hon'ble Authority on 03.05.2018. The Applicant in this regard was granted an opportunity of personal hearing on 28.06.2018 wherein the Applicant through its authorized representative made submissions for the admission of the application.

2. Pursuant to the admission of the application made by the Applicant, an opportunity of personal hearing was granted to the Applicant on 18.07.2018. In this regard, the Applicant through its authorized representative made detailed submissions substantiating its case. Further, the Applicant also submitted a copy of written submissions before this Hon'ble Authority in support of its contention. In light of the above fact, the Applicant now wishes to make certain additional submissions on merit apart from the submissions already made:

3. At the outset, the Applicant submits that the present additional submissions are being made in light of the specific queries/points raised by the Hon'ble Advance Ruling Authority during the course of the Personal hearing held on 18.07.2018. The said queries/points are reproduced below for reference:

   1. *Who produced the tools as per the Annexure-1 of the tooling agreement dated 10.02.2016 and also requested to produce a copy of the Agreement dated 26.05.2015 as mentioned in the above tooling agreement,*

II. *Clarifications with respect to the ownership of the tools in light of the Circular No. 47/21/2018-GST dated 08.06.2018 issued by the CBIC.*

III. *Whether the price of the final products is affected in case where the tools are provided by the customer or in case where the tools are procured by the Applicant and the cost is recovered from customer.*

4. Therefore, in light of the above queries, the Applicant submits as follows:

SUBMISSIONS

A. At the outset, the Applicant submits that goods which are supplied free of cost (FOC) would not form a part of the value of supply under Section 15 of the CGST Act. In this regard, the Applicant has already made detailed arguments vide its written submissions dated 18.07.2018 substantiating the above and therefore the same are not being repeated here for the sake of brevity.

B. *Response to Query 1.*

Who produced the tools as per the Annexure-I of the tooling agreement dated 10.02.2016 and also requested to produce a copy of the Agreement dated 26.05.2015 as mentioned in the above tooling agreement.

B.1 During the course of the hearing held on 18.07.2018 as well as in written submissions dated 18.07.2018, the Applicant had drawn attention towards a sample agreement (Agreement dated 10.02.2016 between Mahindra & Mahindra and Applicant) (attached herewith as Annexure-1) entered into between the Applicant and its customer.

B.2 In light of the discussion regarding the above-referred agreement, the Applicant wishes to further explain the transaction in detail to support its contention.

Business transaction taking place in the present matter

B.3 The Applicant humbly submits that the seats developed, manufactured and sold by the Applicant are highly customized products since every seat model that is produced by the Applicant is made as per the individual demands and requirements of the particular customer. The business practice adopted by the Applicant is totally reliant on the customer's needs as the products i.e. the seats/seating systems have to be manufactured as per the specifications provided by the customer. The Applicant undertakes the design, development and the manufacture process of such seats at its own manufacturing facilities. Since the seats and other related products manufactured by the Applicant are highly customized, the Applicant procures certain tools, moulds, dies, fixtures, jigs etc. which are required for manufacturing the desired products.

B.4 This being a highly customized product, the Applicant and its customers engage in a series of discussions and meeting to finalize the design of the products. This practice is very prevalent in the automobile industry. Hence most of the times, the minutes of the meetings captured during the discussion and circulated over the email have been relied upon for finalizing the agreements/ business transaction. Such transactions are normally undertaken between the two parties based on their trust, relationship and the commercials involved and not by entering into formal agreements at all the times.

B.5 In the Applicant's case, similar to the above pattern, the Applicant approached Mahindra & Mahindra Ltd. (hereinafter referred to as "M&M") for production and improvement of their seats for the Bolero model. The Applicant's offer was accepted and confirmed by M&M vide their e-mail dated 26.05.2015 (A copy of the same is attached herewith as Annexure-2) (Please note that since the said email contains the actual agreed price between the Applicant and its customer and the same is a market sensitive information, the Applicant has blacked out the figures which denote the price to maintain confidentiality. Rest of the material details have been kept intact and only the figures have been hidden).

B.6 In the above e-mail dated there are 8 types of tools that were ordered by M&M. In this scenario, while the Serial nos. 1 to 6 are crucial for the productions process and highly costly, therefore, the costs associated with the same is borne by M&M. The Applicant procures the tools from third-party vendors and uses the same in the production process and simultaneously charges the cost to the customer i.e. M&M. The relevant PO raised by the Applicant on its vendor and the invoices raised by the vendor on the Applicant are enclosed herein as Annexure 3 & 4. Also, the invoice raised by the Applicant on M&M for the sale of the said tools is enclosed as Annexure-5.

B.7 As already explained above, the customer retains the ownership in such tools and bears the cost for commercial purposes as the same makes business sense.

B.8 Further, for the Serial Nos. 7 & 8 the cost is borne by the Applicant since these tools are very generic in nature and can be used in any products. The cost of these tools is negligible when compared with the other tools or the manufactured products, therefore this cost is absorbed by the Applicant and the same is consequently included in the cost of the manufactured products.

B.9 It is therefore submitted that in all the cases the obligation to provide tool is on the receiver of the supply and wherever it is an obligation on the Applicant to bear the tool cost (i.e. tool meant for manufacturing generic products and not specific products- as stated above), the value of the same has already been adjusted while calculating the sale price of the component so manufactured by the Applicant. Once it is established that the Applicant had no obligation to use its own tool then the question of adding the amortized value of the tool supplied by the receiver of the supply of FOC basis does not arise.

B.10 In any case, on the cost of repetition, it is submitted that the tool so procured by the Applicant and sold to M&M has already attracted applicable taxes and hence any proposal to add the amortized value of the tool would amount to double taxation which is purely against the spirit of the GST Legislation.

C. *Response to Query 2.*

Clarifications with respect to the ownership of the tools in light of the Circular No. 47/21/2018-GST dated 08.06.2018 issued by the CBIC.

C.1 In order to respond to the present query, the relevant extract of the recent Circular No. 47/21/2018-GST dated 08.06.2018 issued by the CBIC is reproduced above in the given earlier submission.

C.2 Thus, the circular clarifies that value of usage of moulds, jigs etc. (given on FOC basis) shall not be factored or amortized in the value of supply in a situation where the contract stipulates that the recipient of supply shall supply moulds, jigs etc. which would be used by the supplier to manufacture the goods, since the said situation is not covered by Section 15(2)(b) of the CGST Act.

C.3 It is submitted that the case of Applicant is covered by para 1.2 of the Circular referred above and not in Para 1.3. In this regard, we draw your attention to the agreement dated 10.02.2016 between M&M and the Applicant.

C.4 The above agreement between M&M and the Applicant was executed between the parties for the procurement and use of tools. This agreement dated 10.02.2016 clearly states that it is the responsibility of the customer i.e. M&M to bear the cost of the tools or give the Applicant its own tools for the purpose of manufacturing products for M&M. The relevant portion of the said agreement reads as under:

1. PROVISION OF EQUIPMENT

M&M hereby agrees to (pay the Toolcost for development & manufacture of toolings/ give the vendor its own __ (Dies, tools, jigs, fixtures, SPMs, etc.)] more particularly described in Annexure 1 attached hereto (hereinafter referred to as the "Equipment"), for use by the Vendor, immediately upon the execution of this Agreement, and the Vendor hereby agrees to use the money for the Equipment for the said use."

C.5 Thus, the customer has itself agreed to bear the cost of the tools and assumed the responsibility of providing the same either through the way of providing the funds for tools or providing the tools itself. Thus, the cost is borne by M&M itself and the same is thus supplied to the Applicant on FOC basis and the present case squarely fall under the scope of the Serial No. 1.2 of the above circular. Since the present case falls under Serial No. 1.2 of the above circular it is necessary to establish that the present transaction does not fall under the ambit of Serial No. 1.3. In this regard we submit as follows:

<u>According to the agreement between the parties, the components are to be manufactured using tools belonging to the OEM/Customer itself and the same are not in the scope of supply of the Applicant.</u>

C.6 It is submitted that wherever the tools are supplied by M&M i.e. the customer itself to the Applicant, it is undisputed that the tools are owned by the customer and the same are provided to the Applicant for the sole purpose of use in the manufacture of goods to be supplied to the said customer. Further, as soon as the production process is completed the tools are returned to the customer. In this regard, the Applicant humbly submits that wherever the customer itself has

supplied the tools to the Applicant, there is no question of including the value of the said tools in the value of the supply as under Section 15(2) of the CSGT Act.

C.7 It is further submitted that in most of the cases, the Applicant gets the tool developed from the third party by involving its engineers and upon receipt of the tool and also ensuring that the tool is capable to manufacture the desired products, the same is sold to the OEM which is M&M in the present case. However, the physical possession of the tools remain with the Applicant as the tools are to be used in the manufacturing process.

C.8 Thus, it is conclusive from the above facts that the tools, when used in the actual commercial production of the goods by Applicant, are actually owned by the customers. Therefore, since the ownership of the tools is with the receiver of the supply and the same is not in the scope of the supplier, the value of the said tools is not includable in the value of the supply.

C.9 Attention in this regard is also invited to the Annexure-1 of the agreement dated 10.02.2016 wherein the tools as involved in the agreement are mentioned. Further, the said Annexure-1 of the aforesaid agreement also contains the Purchase order no. **A003/A6X/3200094768 (attached herewith as Annexure-6). Page 2 of the above** referred purchase order lays down the terms and conditions as follows:

"TERMS & CONDITIONS

1. ***The above toolings will be the property of Mahindra & Mahindra Ltd.*** *In case of any unforeseen circumstances MS Mahindra & Mahindra has the right to lift the toolings from your premises.*
2. *In the above event, excise duty will be paid by you at the time of physical dispatch of the toolings.*
3. ***Toolings should bear the following words inscribed on them - "Property of Mahindra & Mahindra Limited".***
4. *You shall not hypothecate or charge or pledge or create any incumbent whatsoever on the tooling.*
5. *All the expenses incurred in maintaining above toolings in good running condition will be borne by you.*
6. *You will be responsible for maintaining the required quality of the components produced from the above toolings.*
7. ***The components produced from the above toolings will be sold to Mahindra & Mahindra Ltd. only.***
8. *You will assign all right to the representative of the Mahindra & Mahindra Ltd., to verify and confirm the condition of the above toolings at any point of time.*
9. *At the end of every financial year you will confirm in writing that, above toolings are lying at your end in good running condition & used for regular production.*
10. *Above mentioned toolings will be insured by you at your cost.*
11. *You have to pay excise duty on accessible value which should include normal excise duty for piece plus the excise on the tooling cost over its tool life.*
12. *Terms & Condition defined in detail in the tooling agreement made/ to be made separately will be applicable*
13. *Taxes extra as applicable.*
14. *All other Terms & Conditions are mentioned in LoBA/ DSA (Development Supply Agreement)."*

... Emphasis Supplied

C.10 The above-referred terms & conditions in the purchase order clearly demonstrate that the any tools if procured by the Applicant in light of the tooling agreement would be the property of M&M and the said tools can only be sold to M&M. This very fact is evidence enough that even in case wherein the customer does not provide his own tools, the tools procured from outside or developed by Applicant are the property of the customer only and this has been agreed well in advance. It is not the case that it was the responsibility of the Applicant to bring its own tool and the same has been brought by the receiver of the supply.

C.11 Reliance in this regard is also placed upon the Chartered engineer's certificate dated 06.04.2016 wherein it has been categorically stated that the tools procured/developed vide the above-referred

Purchase order No. **A003/A6X/3200094768** are being used by the Applicant and are the property of M&M. A copy of the certificate dated 06.04.2016 is attached herewith as **Annexure-7.**

C.12 From the above discussion, it is conclusive that when the tools are to be procured/developed by the Applicant the ownership is transferred and thus it cannot be said that the Applicant has used his own tools for the supply of goods. Additionally, in cases where the tools are supplied from the customer itself the ownership is with the customer by default. Therefore, the value of tools supplied FOC to the Applicant is not includable in the value of supply of seats by the Applicant since the ownership of the said tools are with the customer and the supply of such tools is not covered in the scope of the supplier.

C.13 Further, the ownership of the said tools involved in the manufacturing process lies with the Original Equipment Manufacturers (OEM). The underlying intention behind assuming the ownership of the tools is two-fold. Firstly, the OEM's interest and the huge cost involved in the tools are safeguarded in the event of any breach/termination of contract with the component manufacturer like the Applicant. Secondly, since the tools are customized to the OEM's needs, the component manufacturers do not prefer to undertake the expenses and risks associated with the development and procurement of the same as it increases its manufacturing cost significantly and the tools cannot be used for any other process/products other than that of the respective customer. And, the risk is also associated if the said OEM stops procuring the components manufactured by the component manufacturers due to change in design and any other reasons. Therefore, the ownership of the tools would remain with the OEMs/ customer as that is the only viable business practice in the present transactions.

C.14 The Applicant further submits that there may be scenarios wherein the customer has raised the PO on the Applicant for supply of goods however, the said PO or the terms of agreement between the parties do not expressly state the conditions or responsibility in respect of the provision of tools. In this regard, it is submitted that as a general principle of the principle of "business efficacy" a slight deviation from the plain meaning of the language of contract would be justified so as to the intention of the parties could be justified. In this regard, detailed submissions have already been made in submissions dated 18.07.2018 and the same are not being repeated here for the sake of brevity.

C.15 Reliance in this regard is also placed upon the case of N.M. Goel and Company Vs. **Sales Tax officer, Rajnandgaon, [1988 (38) ELT 733 (SC)].** In the above-mentioned case, the appellant company was a building contractor and a registered dealer under Madhya Pradesh General Sales Tax Act. The appellant company's tender, being an item rate tender, was accepted by CPWD for construction of godown and ancillary buildings. The tender so submitted included the prices of materials such as iron, steel and cement. However, PWD had agreed to supply these materials for construction and deduct their prices from the final bill of the appellant. As per Clause 10 of the contract, all the materials supplied to the contractor remained the Government's property.

C.16 The issue presented before the Hon'ble Supreme Court in light of the above facts was that whether there was a sale when the construction materials were supplied by PWD and whether the property in goods passed to the appellant company or it continued to remain with PWD despite the fact that they have debited the cost of the construction supplied from the final bill.

C.17 The Hon'ble Supreme Court upon a careful perusal of the facts and the relevant case law had held that in order for a transaction to be a taxable sale, mere passing of property in the goods is not sufficient and there should also exist a separate and distinct contract for the sale and purchase of such goods. Consequently, it was held that the materials provided by PWD for use in the performance of the contract and the value of the same was debited from the final bill and thus it was a sale which was inherent from the transaction in light of the clause 10.

C.18 The Applicant submits that in the present case is not the case where the customer of the Applicant i.e. M&M has deducted any amount from the Applicant while making supply of the tool rather there exists a specific contract for the supply of tools and the same categorically states that the tools shall remain the property of the Customer. It is important to note that such an understanding is agreed from the very beginning. Further, the supply of tools does not in any way affect the price of the final goods, thus the same would not form a part of the value of taxable supply of goods in the present case.

C.19 In light of the above, the Applicant submits that the present transactions are squarely covered by Serial No. (ii) of the Circular No. 47/21/2018-GST dated 08.06.2018 and cannot said to be covered

by Sr. No. (iii) of the said Circular. Accordingly, the value of the tools should not be included in the value of supply.

D. *Response to Query 3.*

Whether the price of the final products is affected in case where the tools are provided by the customer or in case where the tools are procured by the Applicant and the cost is recovered from customer.

D.1 The Applicant humbly submits that in both the scenarios viz. the Applicant procures the tools and charges to the customer, and, where the customer provides the tools to the Applicant, the cost of the final products remains the same. There is no change in the price of the final products based on the mode of procurement of the tools.

D.2 The Applicant submits that there does not exist a scenario wherein the tools are developed/procured by the Applicant and the cost is borne by the Applicant itself. In all the cases, either the customer provides the tools or the Applicant procures the tools themselves, however, the cost in both case is borne by the customer and it is the settled industry norm that it is always the responsibility of the customer to provide the same. The Applicant therefore submits that once there is no transaction handled by the Applicant wherein it uses its own tool (except the generic tools which are insignificant in the transaction and generally the said tools belong to the Applicant only and value of the said tool is inbuilt in the price charged from the customer), therefore it is not possible for the Applicant to provide any such comparison.

D.3 It is therefore submitted that price charged to the customer for the finished products is not altered whether the tools are provided by the customer or procured by the Applicant and charged to the customer as in both the cases the property in the tool belongs to the customer only and the same is agreed well in advance as per the Industry norms.

03. CONTENTION – AS PER THE DEPARTMENTAL CONCERNED OFFICER--

2. M/s. Lear Automotive India Pvt. Ltd, has applied for Advance Ruling in proforma GST ARA 01 and this office has been directed to represent the case along with relevant record on 20.06.2018 at 1100 am. Subsequently, an e-mail has been received from Advance Ruling Authority on 06.06.2018 conveying re-scheduling of the hearing in the case on 27.06.2018 at 0200 pm.

3. In this connection, the point-wise reply on the said matter is as under:

4. Kind Attention is invited to the Circular No. 47/21/2018-GST issued by Commissioner (GST), CBIC, New Delhi, vide F.No. CBEC-20/16/03/2017-GST dated 08.06.2018 (copy enclosed), which clarifies the issue involved in the present case, reiterated as below:

Sl. No.	*Issue*	*Clarification*
1	*Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case ?*	*1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.* *1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/ dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).* ***1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business."***

5. Further, Assistant Commissioner (Tech), CGST, Pune I Comm'te vide their letter F.No. VGN(19)20/P-I/Tech/Advance Ruling/18-19 dated 07.06.2018 with the approval of Commissioner, CGST, Pune I Comm'te, informed that "the amortization value of tools received free of cost is required to be added in value of finished goods."

04. HEARING

The Preliminary hearing in the matter was held on 27.06.2018, Sh. Sandeep Sachdeva, Advocate along with Sh. Arpit Chaturvedi, Advocate and Sh. Chaitanya Bhatt, C.A., duly authorized appeared and made contentions as per their ARA. Jurisdictional Officer Sh. A.Y. Jadhav, Suptt. Pune I Commissionerate appeared and stated that they have made written submissions.

The final hearing was held on 18.07.2018, Sh. Sandeep Sachdeva, Advocate along with Sh. Arpit Chaturvedi, Advocate and Sh. Sanjay Bhalerao, Manager, Indirect Taxes appeared and made contentions as per their written submissions and application. It was requested to the applicant to clarify with documentary evidence as to who developed and manufactured the tools as given in Annexure-I for which payment is made by M & M as per agreement No. MOS/MM/F/16- Rev 02 01.08.2015 Dt.10th Feb, 2016. They were also requested to give detailed agreement dated 26th May, 2015 (LOBA date) for Bolero Sheets comfort improvement. They were also requested to give copies of agreement for manufacture of components wherein they provide their own tool to the vendor with relevant documentary evidence along with documentary evidence and value of components supplied in two cases separately. (1) Wherein tool is supplied by M & M. (2) wherein tool is itself manufactured or and arranged by components manufacturer. Jurisdictional Officer Sh. A.Y. Jadhav, Suptt. Pune I Commissionerate appeared and stated that they have already made their submissions.

05. OBSERVATIONS

We have perused the records on file and gone through the facts of the case and the submissions made by the applicant and the department. We find that:-

Lear Automotive India Pvt. Ltd. (hereinafter referred to as Applicant) is registered person under the GST ACT. The Applicant is engaged in the manufacture of automotive seats which are manufactured in its various plants located in the state of Maharashtra and for various customers such as Ford Motor Private Limited, Volkswagen India Private Limited, M/s Mahindra & Mahindra Ltd, General Motors, etc. (hereinafter referred to as customers by using tools/moulds either provided by them or owned by them.

1. The Applicant submitted that it undertakes the design, development and the manufacture of such seats at its own manufacturing facilities. Since the seats and other related products manufactured by the Applicant are highly customized, the Applicant procures certain tools, moulds, dies, fixtures, jigs etc. on its own which are required for manufacturing the desired products.
2. Applicant submitted that the tools are manufactured from third party manufacturer as per the requirements of the customer. Thereafter the property in the said tool gets transferred from third party manufacturer to the Applicant and from the Applicant to the customer as per the agreed terms. Though the property in tool gets transferred to the customer eventually, the possession remains with the Applicant and it uses the same to manufacture the products as per the requirement of the customers. It is used in the production process and simultaneously charges the cost to the customer i.e. M&M.
3. The applicant has submitted the documentary evidences which represent the transactional facts as under:-

- The POs of customer in the name of Applicant for tooling
- The relevant PO raised by the Applicant to its vendor for manufacturing of Tools.
- copies of agreement which represent the case and transaction,
- The invoices raised by the vendor in the Applicant's name for tools.
- The invoice raised by the Applicant in customers name for the sale of the said tools.

On the basis of above, the issue to be decided in present proceeding is whether the goods which are claimed to be supplied free of cost (FOC) would form part of value of taxable supply. It is the case of applicant that the tools that are provided by the customer on FOC would not be included in the value of supply.

It is worth here to mention that several representations were received by CBEC seeking clarification on issue such as 'whether moulds and dies owned by Original equipment manufacturer (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?

The issue was examined by CBEC and a clarification vide circular No. 47/21/2018-GAT dated 08/06/2018 has been issued in the matter. The relevant para is reproduced as below:-

Sl. No.	*Issue*	*Clarification*
1	*Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case ?*	*1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.* *1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/ dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).* ***1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/ dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business."***

It is thus clear from the above clarification that goods owned by the OEM that are provided to a component manufacturer on FOC basis do not constitute supply as there is no consideration. The Board further clarified that the value of goods provided on FOC basis shall not be added to the value of supply of components. However, the case is different where the contractual obligation is cast upon the component manufacturer to provide moulds/dies but the same have been supplied by OEM on FOC basis and in such cases, the amortised cost of such moulds and dies shall be added to the value of supply of component.

Having regard to the clarification issued by the CBEC as mentioned above, and in the facts of the case we have to ascertain the contractual obligation to provide tools in terms of the contract executed between the applicant and the customer of the applicant. Once it is established that the obligation to provide tools on FOC basis is on the customer then the question of adding the amortised value of tools supplied by the customer does not arise. However, the situation is reverse where the obligation to use tools is on the applicant but provision for the same is made by the OEM on FOC basis. In view of this, we now examine the relevant clauses of the agreement made between applicant and Mahindra and Mahindra

Ltd. on 10th February, 2016 (which is made pursuant to agreement dated 26th May 2015 (LOBA Date) for Bolero Comfort Improvement agreement to purchase components.) The relevant clauses of the agreement dated 10th February, 2016 are as under:-

1. **Provision of Equipment**

Mahindra and Mahindra Ltd hereby agrees to (pay the Toolcost for development and manufacturer of toolings/ give the vendor its own (Dies, tools, jigs, fixtures, SPMs, etc.) more particularly described in Annexure I attached hereto (herein referred to as the "Equipment"), for use by the Vendor, immediately upon the execution of this Agreement and the Vendor hereby agrees to use the money for the Equipment for the said use."

2. **Vendor's Warranties**

The Vendor warrants that till the Equipment is returned to Mahindra and Mahindra Ltd., it shall:

i) Retain and maintain the Equipment, at all times, in its possession and control at its plant (disclosed and approved sub suppliers location) and not remove the same therefrom without prior written permission of Mahindra and Mahindra Ltd.

ii) Paint the Equipment with blue colour on all the edges of the top and bottom plates, for clear identification. The die number and supplier ----- (Equipment manufacturer name) will be indicated in white/yellow colour on the top plate from face.

iii) Affix a nameplate or other mark on the Equipment identifying the sole and exclusive ownership of Mahindra and Mahindra Ltd. And not allow or permit the same to be removed or defaced;

iv) Hold the Equipment as the agent of Mahindra and Mahindra Ltd. And not claim any right, title or interest in the Equipment to the detriment or prejudice of Mahindra and Mahindra Ltd.;

v) Use the equipment exclusively for the manufacturer of the Products for Mahindra and Mahindra Ltd.

vi) Inform Mahindra and Mahindra Ltd. in writing if any major repairs involving high technology and replacement of parts or addition of new part is required for the Equipment, prior to affecting the change. Any change will be made only on receipt of written confirmation from Mahindra and Mahindra Ltd., signed by duly authorized person. The costs incurred on making these changes or repairs will be treated separately on a case-to case basis;

3. Insurance

In the event of any damage to the premises where the Equipment is located or to the Equipment itself, the Vendor shall promptly give written notice thereof to Mahindra and Mahindra Ltd., take all steps to protect the Equipment, and comply with all instruction of Mahindra and Mahindra Ltd. in connection therewith and take all steps, action and proceedings as may be necessary and if so required by Mahindra and Mahindra Ltd (in short M&M). to receive any money payable in respect thereof under any insurance policies for the same for and on behalf of and in trust for M&M. The Vendor shall pay to M&M immediately any shortfall to make good the total quantum of damage to the Equipment less the amounts received by M&M from its insurance protection from the Equipment, without claiming any part thereof on any account whatsoever and generally give effectual receipt and discharge and act for and on behalf of M&M for the benefit and in trust for M&M may direct, from time to time.

b) Notwithstanding anything contained in sub-section (a) hereinabove, M&M may, at its sole option, decide to apply the claim amount received from the insurance company in making good the damage. However, in the event of irreparable loss of damage to the Equipment, M&M shall be entitled to terminate this Agreement, repossess the Equipment in any state as it may be, to retain the claim amount for such Equipment, and receive the shortfall on demand from the Vendor to make good the total quantum of damage to the Equipment less the amounts received by M&M from its insurance protection for the Equipment.

4. **Non- Encumbrance**

a) The Vendor shall not transfer or otherwise dispose of or purport to transfer or dispose of the Equipment or its rights or obligations or interest hereunder, by way of mortgage, charge, lien, sub-lease, sale, hypothecation, pledge, license or otherwise in any manner encumber or part with the possession on the Equipment or on any part thereof.

b) The Vendor shall in any event ensure by giving such notice to any third party about the ownership of Equipment belonging to M&M as may be necessary, that any such sale, mortgage, charge, demise, or other disposition as the case may be is subject to the rights of M&M, as the sole and exclusive owner of the Equipment, to repossess the Equipment at any time (whether or not the same or any part thereof shall have become affixed to the said land or building) and for that purpose, to enter upon such land or building and reclaim and repossess the equipment lying there at.

5. **Taxes and Statements**

It is agreed between the parties that the transaction covered by this Agreement is not a sale liable to tax under the existing sales tax laws. If, however, by reason of any amendment of Central or State law or any interpretation of the transaction by the sales tax authorities, this transaction or any Input or material or the Equipment used or supplied in execution of or in connection with this Agreement is held to be liable to tax, the Vendor shall pay such tax immediately upon the same becoming payable and further indemnify and keep M&M indemnified in connection with all liabilities there against.

6. **Consequences of Expiry/Termination**

a) Upon expiry or termination of this Agreement the Vendor shall forthwith return to M&M Equipment in good working order and condition. (Normal wear and tear expected), at such time and at such place as may be directed by M&M in writing. In case the Vendor fails to so return the Equipment to M&M, M&M shall without any notice, be entitled to remove & repossess the Equipment and for that purpose, enter upon nay land, building or premises where the equipment is located or is reasonably believed by M&M to be so located, and detach and dismantle the same. M&M shall not be liable for any damage which may be caused by any such detachment or removal of the Equipment and the Vendor be caused by any such detachment or removal of the Equipment and the Vendor agrees not to object or create any obstacle or resistance for the said purpose.

b) The Vendor shall pay to M&M the cost and expense incurred by M&M towards repossessing the Equipment and enforcing the remedies hereunder and also towards repairs of the Equipment to render it in good working order and condition.

7. **Relationship between the parties**

Nothing in this Agreement is to be construed to make either party a partner, as agent or legal representative of the other party for any purpose. Neither party has any right or authority to accept any service of process or to receive any notices on behalf of the other party or to enter into any commitments ,undertaking, or agreements purporting to obligate such other party in any way, or to amend, modify or vary any existing agreements to which such other party may be a party.

From the scrutiny of the terms of the agreement we clearly see that the customer is liable to pay applicant the tool cost for development and manufacture of tooling. Accordingly applicant undertakes the design, development of tools. Applicant has categorically submitted that in most of the cases applicant gets the tool developed from the third party by involving its engineer. On receipt of the product from the third party same is sold to the OEM which is M&M in the present case.

Further from the perusal of purchase order raised by Mahindra and Mahindra and also another customer M/s. General Motors on the applicant and the corresponding invoices it is seen that the tools so procured by the applicant are supplied to customer like M&M and GM for which tax invoices are raised in respect of said supply of tools along with levy of applicable GST.

In view of the details as above, it is clearly indicated that the tools procured by the applicant from third party vendor, are ultimately supplied to customer for which tax invoice is raised and applicable GST has been charged. Thus the absolute ownership of the tools get

transferred to the OEM. However the physical possession of the tool remains with the applicant during the manufacturing process or till the time they are removed by the customer from the premises of the applicant. The tools which are supplied to M&M and GM by the applicant in this case are on payment of GST and are further supplied by the customer to the applicant for use in the process of the manufacture clearly indicate that the supply of tool is of goods owned by M&M and GM to appellant which is on FOC basis. And thus the transaction is not covered by the scope of section 15(2) which reads as under :-

15. Value of taxable supply.

(1) --------

(2) The value of supply shall include---

(a) ------

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) ------

(d) ------

(e) -------

In view of above discussion we are of the opinion that the case of applicant is covered by para 1.1 and 1.2 of the circular referred above and not by para 1.3.

06. In view of the deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 19/2018-19/B- 80 **Mumbai, dt.** 31/07/2018

For reasons as discussed in the body of the order, the questions are answered thus –

Question 1. **Whether amortized value of the tool received on FOC basis from the customer is required to be included in the value of finished goods manufactured and supplied by the applicant to the customer?**

Answer: Answered is in the negative in view of the facts of the case and as per detailed discussions above.

MEMBER, ADVANCE RULING AUTHORITY ★ MAHARASHTRA STATE, MUMBAI

PLACE- Mumbai

DATE- 31/7/2018

B. V. BORHADE
(MEMBER)

PANKAJ KUMAR
(MEMBER)

Copy to:-
1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax
5. Joint commissioner of State tax, Mahavikas for Website.

CERTIFIED TRUE COPY

MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.