AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Ms. Manasa Gangotri Kata IRS., Joint Commissioner/Member, Office of Commissioner of GST & Central Excise, Chennai.

2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST) / Member Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

ORDER No. 11 /AAR/2019 DATED : 27.02.2019

GSTIN Number, if any / User id		33AABFT1899B1ZC
Legal Name of Applicant		M/s. Texmo Industries
Registered Address/Address provided while obtaining user id		P.O. Box 5303, G.N. Mills Post, Mettupalayam Road, Coimbatore-641029
Details of Application		Form GST ARA –01, Application Sl.No.39, dated :28.06.2018
Concerned Officer		State : The Assistant Commissioner (ST), Thudiyalur Assessment Circle Ground Floor, Chinthamani Complex, 12/1, Krishnaswamy Road, RS Puram, Coimbatore Centre : Coimbatore- Division-I
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Manufacturing
B	Description (in Brief)	Manufacture of power driven pump primarily designed for handling water and electric motor and parts thereof.
Issue/s on which advance ruling required		Applicability of Input Tax Credit of tax paid.

Question(s) on which advance ruling is required	1. Whether it is admissible to take input tax credit in respect of an input (invoice) at any time within the limitation prescribed under Section 16(4 2. Whether, in cases of inverted duty structure as that of the Applicant, it is admissible to avail input tax credit on an input(invoice) before the period prescribed for taking credit under Section 16(4) of GST Act. 3. Whether, in cases of inverted duty structure as that of the applicant, it is admissible to claim refund of the accumulated credit availed before the period prescribed for taking credit under Section 16(4) of GST Act.

Note : Any appeal against the advance ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Texmo Industries, P.O. Box 5303, G.N. Mills Post, Mettupalayam Road, Coimbatore- (hereinafter called Texmo or Applicant) is a partnership firm engaged in the manufacture of power driven water pumps. They are registered under GST with GSTIN33AABFT1899B1ZC. The Applicant has submitted the copy of application in Form GST ARA – 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017. The applicant has sought Advance Ruling on:

i. Whether it is admissible to take input tax credit in respect of an input (invoice) at any time within the limitation prescribed under Section 16(4) i.e., before the due date of furnishing of return under Section 39 of the TNSGST/CGST Act, for the month September following the end of the financial year to which such return relates or furnishing annual return whichever is earlier.

ii. Whether, in cases of inverted duty structure as that of the applicant, it is admissible to avail input tax credit on an input (invoice) before the period prescribed for taking credit under Section 16(4) of GST Act.

iii. Whether, in cases of inverted duty structure as that of the applicant, it is admissible to claim refund of the accumulated credit availed before the period prescribed for taking credit under Section 16(4) of GST Act.

2.1 The Applicant has stated that the inputs for the pumps manufactured by the applicant are procured after paying appropriate CGST, SGST, IGST. The majority of such inputs used in the manufacture of pumps are liable to tax at rates of 18% - 28%, which is higher than the rate of tax of the output Viz., power driven pumps for which the tax rates are at 12%. Due, to the above inverted duty structure, wherein the tax paid on inputs is higher than the tax paid on the output, there is an accumulation of excess credit. Prior to the introduction of Goods and services Tax, under the erstwhile VAT regime too, the tax structure was inverted resulting in an accumulation of credit. They have submitted that the input tax credit (ITC) availed by them can be used to set off the liability under GST, however, due to the inverted duty structure the ITC continues to accumulate perennially. Section 54(3)(ii) of the SGST and CGST enables a registered person to claim refund of any

unutilized input tax credit at the end of any tax period, where the credit has accumulated on account of the rate of tax on inputs being higher than the rate of tax on output supplies.

2.2 The Applicant has submitted that in respect of an input received, credit on such invoice for inputs can be availed under the Goods and Service Tax at any time within the limitation prescribed under section 16(4) of CGST Act and they are admissible to avail input tax credit on an input(invoice) received, as per the above section. The applicant seeks to utilize the credit that had accumulated under the pre GST regime to discharge the taxes that are due under GST. On exhausting the ITC accumulated under the earlier regime, the ITC shall be taken under the GST Act within the time limit prescribed under Section 16(4) of the GST act also to lodge a claim for refund wherever it is permissible.

2.3 In light of the above, the applicant has sought advance ruling to clarify the admissibility of input tax credit of tax paid.

3. The Authorized Representative of the Applicant was personally heard in the matter on 07.08.2018. They stated that the inputs in question will be specified; They will submit input invoices already raised; they will give a write-up on the manufacture and the time line of inputs procured/input invoices received to the relevant output supplies made by them to identify the specific input invoices in terms of date of invoice for which ITC is sought to be taken. They sought time of 2 weeks to submit the same. The applicant submitted certain invoices vide their letter dated 01.10.2018 and requested to be heard again. Accordingly, the applicant was extended an opportunity to be heard on 20.11.2018. The applicant appeared and submitted a flowchart of the manufacturing process. They further

undertook to submit specific invoices along with all relevant documents to seek clarification on all conditions under Section 16 and Section 17 within 2 weeks. The case was posted for final hearing on 25.02.2019.

4. The Applicant vide their letter dated 15.02.2019 has requested withdrawal of the Advance Ruling Application filed before the authority.

5. In view of the foregoing, we rule as under:

RULING

The application filed by the Applicant for advance ruling is dismissed as withdrawn.

27/2/19 27.02.2019

Ms. Manasa Gangotri Kata, IRS
Member,CGST

Shri. Kurinjiselvaan.V.S., M.Sc.,(Agri.),M.B.A.,
Member,TNGST

To

M/s. Texmo Industries
P.O. Box 5303, G.N. Mills Post,
Mettupalayam Road,
Coimbatore-641029 / By Speed Post with Ack. Due /

AUTHORITY FOR ADVANCE RULING
27 FEB 2019
GOODS AND SERVICE TAX
Chennai-6, Tamilnadu

Copy Submitted to:

1. The Additional Chief Secretary / Commissioner of Commercial Taxes, II Floor, Ezhilagam, Chepauk, Chennai-600 005.

2. The Principal Chief Commissioner of GST & Central Excise, No 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Assistant Commissioner (ST), Thudiyalur Assessment Circle Ground Floor, Chinthamani Complex, 12/1, Krishnaswamy Road, RS Puram, Coimbatore

4. The Commissioner of GST & C.Ex., Coimbatore Commissionerate

5. Master File/ Spare-2.