

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX**

**D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2025/03
(IN APPLICATION NO. Advance Ruling/SGST& CGST/2024/AR/05)

Date: 21.03.2025

Name and address of the applicant	:	Acube Engitech Company, 66 Feet Road, B/H Golden Industrial Area, Survey No.195P, Plot No.14, Rolex Crossing Road, Bhumeshwar Industries Area - E, Kothariya, Rajkot, Gujarat, 360004
GSTIN of the applicant	:	24ABHFA1567A1ZZ
Date of application	:	06.03.2024
Jurisdiction Office	:	Center Commissionerate – Rajkot Division – II Rajkot Range -VIII
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(e)
Date of Personal Hearing	:	4.12.2024
Present for the applicant	:	Shri Varsania Piyush, Shri Satishbhai Desai, Shri Hiteshbhai Saraliya, Shri Dharmendra Yadav.

Brief facts:

M/s. Acube Engitech Company, 66 Feet Road, B/h Golden Industrial Area, Survey No. 195P, Plot No. 14, Rolex crossing road, Bhumeshwar Industries area - E, Kothariya, Rajkot, Gujarat, 360004 [for short – ‘applicant’] is engaged in the manufacturing and supply of pumps for liquids, whether or not fitted with a measuring device. The applicant, is registered with the department and his registration number is 24ABHFA1567A1ZZ.

2. In this application, he has stated that they were duped by a group of persons who fraudulently placed a bogus order by falsifying the same to make it appear as an order from *Matak Autonomous Council*. Consequent to supply



of the goods, the applicant realized that the order documents, etc., purportedly from Matak Autonomous Council, were forged.

3. It is on this background, that the applicant has sought advance ruling on the below mentioned question viz

"(a) Whether the goods supplied by us [becoming victim of fraud without receiving consideration] could be considered as supply of goods under the provisions of section 21 under the IGST Act?"

4. Personal hearing was granted on 04.12.2024, wherein the applicant was represented by Shri Varsania Piyush, Shri Satishbhai Desai, Shri Hiteshbhai Saraliya, and Shri Dharmendra Yadav. The authorized representative, reiterated the submission already made in the application.

Discussion and findings

5. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 provisions under the GGST Act.

6. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing, additional written submissions and oral submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

7. Before dwelling on to the question on which the applicant has sought ruling, it would be prudent to reproduce the relevant sections, etc. for ease of understanding viz

- **Integrated Goods and Services Tax Act, 2017 [relevant extracts]**

Section 21. Import of services made on or after the appointed day



Import of services made on or after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services had been initiated before the appointed day:

Provided that if the tax on such import of services had been paid in full under the existing law, no tax shall be payable on such import under this Act:

Provided further that if the tax on such import of services had been paid in part under the existing law, the balance amount of tax shall be payable on such import under this Act.

Explanation .-For the purposes of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

Section 20. Application of provisions of Central Goods and Services Tax Act

Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act relating to,-

- (i) scope of supply;*
- (ii) composite supply and mixed supply;*
- (iii) time and value of supply;*
- (iv) input tax credit;*
- (v) registration;*
- (vi) tax invoice, credit and debit notes;*
- (vii) accounts and records;*
- (viii) returns, other than late fee;*
- (ix) payment of tax;*
- (x) tax deduction at source;*
- (xi) collection of tax at source;*
- (xii) assessment;*
- (xiii) refunds;*
- (xiv) audit;*
- (xv) inspection, search, seizure and arrest;*
- (xvi) demands and recovery;*
- (xvii) liability to pay in certain cases;*
- (xviii) advance ruling;*
- (xix) appeals and revision;*
- (xx) presumption as to documents;*
- (xxi) offences and penalties;*
- (xxii) job work;*
- (xxiii) electronic commerce;*
- (xxiv) transitional provisions; and*
- (xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,*

shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:

• Central Goods and Services Tax Act, 2017

Section 12. Time of Supply of Goods

(1) The liability to pay tax on goods shall arise at the time of supply as determined in accordance with the provisions of this section.



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

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

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

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

8. The facts relevant to the dispute is already mentioned supra and is therefore not being repeated for the sake of brevity. The question posed before the authority, is whether the goods supplied by the applicant [becoming victim of fraud without receiving consideration] could be considered as supply of goods under the provisions of section 21 under the IGST Act.

9. We have already reproduced section 21 of the IGST Act, 2017, above which states that Import of services made on or after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services had been initiated before the appointed day. How this will be applicable to supply of goods made by the applicant to the recipient in the State of Assam is not understood. We find that the question, at best is vaguely framed.

10. Culling out the relevant portion of the question, we find that the applicant is not in denial that they have made the supplies as is evident from the copy of the first information report, which is enclosed with the application, and which is in vernacular. The supply being inter-state IGST has to be discharged, in case the same is held to be a supply.

11. Section 12 of the CGST Act, 2017, made applicable in terms of section 20(iii) of the IGST Act, 2017, states that the point of taxation in terms of supply of goods shall be determined in accordance with the provisions of section 12 of the CGST Act, 2017; that the time of supply of the goods would be earlier of the following (a) the date of issue of invoice by the supplier or the



last date on which he is required, under section 31, to issue the invoice with respect to the supply; or (b) the date on which the supplier receives the payment with respect to the supply. Further, explanation 1 to section 12 states that "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

12. The photocopy of page 7 of the first information report, provides the detail of the date of dispatch of the submersible pumps, the details of invoices, the number of submersible pump, value, etc.

Sr. No.	Date of dispatch	Detail of bill	No. of submersible pump	Rs.
1	3.6.2023	GT/385,GT/386, GT/388	521	13025000
2	9.6.2023	GT/446,GT/447, GT/448, GT/449	650	16250000
3	15.6.2023	GT/476,GT/477, GT/478, GT/479	650	16250000
4	20.6.2023	GT/532,GT/533, GT/534, GT/535	642	16050000
5	25.6.2023	GT/565,GT/566, GT/567, GT/568	637	15925000
6	11.7.2023	GT/677,GT/678, GT/679, GT/680	640	16000000
7	14.7.2023	GT/694,GT/695, GT/696, GT/697	640	16000000
8	18.7.2023	GT/721,GT/722, GT/723, GT/724	640	16000000
9	23.7.2023	GT/759,GT/760, GT/761, GT/762	640	16000000
			5660	141500000

Thus, since the invoices have been issued by the applicant, the point of taxation in respect of supply of goods will be date of issue of invoice. Thus, we hold that the applicant has supplied the goods in terms of section 20 of the IGST Act, 2017 read with section 12 and 7 of the CGST Act, 2017.

13. The applicant has further contended that in terms of the provisions of the Sales of Goods Act, 1930, the essential elements of a valid contract are that there has to be two parties, that the subject matter has to be goods, that there has to be a transfer of ownership of goods, that price is a consideration & that all the essential elements of a valid contract viz competent parties, free consent, legal object, etc., are required for a contract to be held as valid contract. The applicant has further relied on the judgement of Hon'ble Supreme Court in the case of Devas Multimedia P Ltd v/s Antrix Corporation Ltd and Anr to substantiate this argument.

14. We are not inclined to accept this argument. Under the Goods and Services Tax Act, 2017, the levy is on supply of goods and services, or both,



except taxes on supply of alcoholic liquor for human consumption in terms of Article 366(12A) of the Constitution of India. The word used is 'supply' and not 'sale'. Now, supply as defined under section 7 of the CGST Act, 2017, states as follows:

Section 7. Scope of supply.-

(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;

¹[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration,

***Explanation .-**For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]*

(b) import of services for a consideration whether or not in the course or furtherance of business;[and]

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;

(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),-

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of [sub-sections (1), (1A) and (2)], the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as -

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

Factually, it is not disputed that a supply has been done by the applicant, that the goods were removed which in terms of the FIR have also been received at the destination. The applicant's averment is that since the entire transaction emanated out of a fraudulent/bogus order, it goes out of the ambit of supply. An element of fraud may vitiate a contract, but how it would enable the applicant to move out of the ambit of the term supply as defined under section




7, reproduced *supra*, is neither explained nor forthcoming. We, therefore, reject this averment made by the applicant.

15. In view of above, we rule as under:

RULING

- (a) The goods supplied by the applicant will be considered as supply of goods in terms of section 20 of the IGST Act, 2017 read with section 12 and 7 of the CGST Act, 2017.


(Kamal Shukla)
Member (SGST)


(P.B. Meena)
Member (CGST)

Place: Ahmedabad
Date: 21.03.2025

