

**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/2025/53
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2025/AR/15)**

Date: 24/11/2025

Name and address of the applicant	: Hansaben Jayantibhai Patel [Trade Name:- Trishul Die and Engineering Works] 15, Haribhakti Estate, Opp Ganesh Nagar, Pratapnagar Dabhoi Road, Vadodara, Gujarat-390004
GSTIN of the applicant	: 24AEQPP0754C1ZL
Jurisdiction Office	: Office of the Assistant Commissioner of State Tax, Unit-43, Range-11, Division-5, Vadodara.
Date of application	: 25.04.2025
Clause(s) of Section 97(2) of CGST/GGST Act, 2017, under which the question(s) raised.	: (d)
Date of Personal Hearing	: 16.10.2025
Present for the applicant	: Shri Chintan Kansara, Advocate for the Applicant, Shri Anil Verma, STO-5, Unit-43, Vadodara for the Department.

Brief facts:

Hansaben Jayantibhai Patel [Trade Name: - Trishul Die and Engineering Works], 15, Haribhakti Estate, Opp Ganesh Nagar, Pratapnagar Dabhoi Road, Vadodara, Gujarat-390004 [for short – ‘applicant’] is registered under GST and their GSTIN is 24AEQPP0754C1ZL.

2. The applicant has stated that they are engaged in the business of manufacturing of Die & Mold Machines. They had imported Fully Automatic mold cleaning machine with parts and Accessories, through Customs House, Kolkata from China, vide Bill of Entry No. 4110812 dtd. 10.01.2023, as under: -



Sr. No.	Item Name	Rate	Assessable Value	Customs duty	Net Amount	IGST
1	Full Automatic Hardening Cleaning machine with parts and Accessories	5%	11096106.51	915428.8	12011535.31	600576.77
2	Full Automatic mold cleaning machine with parts & Accessories	5%	8193703.5	975980.6	886984.1	443484.2
3	1.523 Ophthalmic rough banks Glass	12%	3560370.54	195820.4	3756190.94	450742.91

3. On 05.04.2024, they got a pre-consultation letter from the Additional Commissioner of Customs (Port), Custom House, Kolkata, under Section 28(1) of the Customs Act, 1962, stating that IGST @ 18% would be leviable on the goods of CTH 8437 i.e. mentioned at Sr. No. 1 and 2 supra, as per the calculation below: -

Item Name	GST Leviable	GST Levied	Differential to be paid
Full Automatic Hardening Cleaning machine with parts and Accessories	18% Rs. 21,62,076/-	5% Rs. 6,00,577	13% Rs. 15,61,499
Full Automatic mould cleaning machine with parts & Accessories	18% Rs. 15,96,543/-	5% Rs. 4,43,484	13% Rs. 11,53,060
Total	Rs. 37,58,619	Rs. 10,44,061	Rs. 27,14,559

4. The applicant paid the differential duty of Rs. 27,14,559/- along with applicable interest of Rs. 6,50,601/- on 10.05.2024 through challan. Consequent to the payment, they also got a closure letter dtd. 13.09.2025 from the Assistant Commissioner of Customs, Appraising Group-V (Port), Custom House, Kolkata



stating that since they have paid the differential amount, along with applicable interest, no further action is required to be taken in this regard.

5. The applicant has sought a ruling on the following questions: -

Whether the applicant is able to avail the Input Tax Credit of Rs. 27,14,559/- Integrated Tax paid against the pre-notice consultation letter under Section 28(1) of the Customs Act, 1962 in terms of the time line prescribed in Section 16(4) of the CGST Act, 2017?

6. The applicant's interpretation of law in the matter is as under: -

(i) They are eligible to avail ITC of IGST, as a part of the differential IGST for imports made during the relevant period, in terms of the timeline prescribed under Section 16(4) of the CGST Act, 2017.

(ii) As per Rule 36(1)(d) of the CGST Rules, 2017, 'a bill of entry or any similar documents prescribed under the Customs Act, 1962 for the self-assessment of integrated tax on imports' has been prescribed as a valid document for the purpose of claiming ITC.

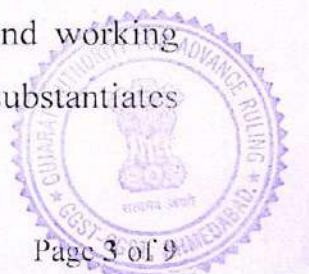
(iii) Documents evidencing payment can be considered as a valid duty paying document for the purpose of availing ITC and accordingly, it is evident from Rule 9(1)(b) (sic) that ITC is eligible on the basis of challan evidencing payment of additional amount of additional duty, on the basis of which it can be proved that the duty has been paid by the tax payer.

(iv) In the present case, the applicant has made the payment of the differential IGST, on the basis of self-assessment by the Customs authorities, along with appropriate interest. Therefore, the ITC of the IGST paid as a part of differential customs duty should be available to the tax payer.

(v) Since the imports are made in the Financial Year 2022-23 and the pre-notice consultation letter under Section 28(1) of the Customs Act, 1962 is received on 05-04-2024, i.e. in Financial Year 2024-25, and the payment of IGST is made on 10-05-2024, the time limit to avail the ITC of that shall be as if the invoice is received in F.Y. 2024-25.

(vi) The pre-notice consultation letter against the Bill of Entry shall be considered as any other document specified in Rule 36(1)(d).

(vii) The Customs Authorities on the submission of challan and working appropriated the payment towards the Customs dues which itself substantiates



that those documents are accepted under the Customs law by the authorities. Hence, the same should be acceptable by the GST authorities.

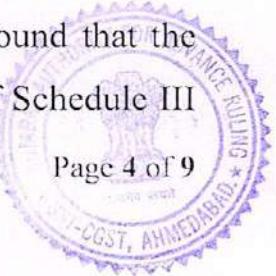
7. Personal hearing was granted on 16.10.2025 wherein Shri Chintan Kansara, Advocate appeared for the Applicant and Shri Anil Verma, STO-5, Unit-43, SGST, Vadodara appeared for the Department. Shri Kansara, reiterated the submissions made by the applicant. Shri Anil Verma submitted that since the time limit prescribed in Section 16(4) of the CGST Act, 2017 is over, the applicant is not eligible for availing the ITC credit. He further submitted that such payment is also not reflected in the GSTR-2B of the applicant.

Discussion and findings

8. 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.

9. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made both oral and written 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.

10. We find that the applicant had imported a Fully Automatic mold cleaning machine with parts and accessories, vide Bill of Entry No. 4110812 dtd. 10.01.2023 under CTH 8437 8090, and had paid IGST @ 5% by claiming benefit of Sl. No. 257 of Schedule-I of IGST Notification No. 01-IGST dtd. 28.06.2017. Subsequent to the import and clearance, the Customs authorities found that the benefit of Sl. No. 257 of Schedule-I of IGST Notification No. 01-IGST dtd. 28.06.2017, claimed by the applicant, was not proper as the said entry pertains to 'Assistive devices, rehabilitation aids and other goods for disabled, specified in List 3 appended to the Schedule'. Since, the imported goods do not feature in List 3 of the Schedule and neither can they be classified as Assistive devices, rehabilitation aids and other goods for disabled, the Customs authorities were of the view that the applicant is not eligible for the said benefit. Additionally, the Customs authorities found that the imported goods would more appropriately fall under Sl. No. 329A of Schedule III



of IGST Notification No. 01-IGST dtd. 28.06.2017 and IGST @ 18% would be leviable, as the entry dealt with goods of CTH 8437 and dealt with goods having description “Machines for cleaning, sorting or grading, seed, grain or dried leguminous vegetables; machinery used in milling industry or for the working of cereals or dried leguminous vegetables other than farm type machinery and parts thereof”.

11. The Customs Authorities, thereafter, issued a Pre-consultation letter dtd. 05.04.2024, under Section 28(1) of the Customs Act, 1962, offering the applicant to put forth their contentions in writing, in case of disagreement with the stand of the Customs. Alternately, in case of agreement with the view of the Customs, the applicant may pay the differential duty of IGST amounting to Rs. 27,14,559/- along with applicable interest u/s 28AA of the Customs Act, 1962.

12. The applicant opted for the latter option and paid the differential duty of Rs. 27,14,559/- and applicable interest of Rs. 6,50,601/- on 10.05.2024 and informed the same to the Customs Authorities on 14.05.2024. Consequently, a closure letter dtd. 13.09.2024 was issued by the Customs to the applicant.

13. The applicant is before us seeking a ruling as to whether they are eligible to avail the ITC of the differential duty of IGST of Rs. 27,14,559/-, which has been paid by them on the basis of the Pre-consultation letter dtd. 05.04.2024, issued under the proviso to Section 28(1) of the Customs Act, 1962 in terms of the time line prescribed in Section 16(4) of the CGST Act, 2017. We find that though the applicant has framed a single question, the question asked by the applicant has to be bifurcated into two parts namely (i) whether they are eligible to avail the ITC of the differential duty of IGST paid on the basis of the Pre-consultation letter, and (ii) whether it would be hit by the time limit prescribed in Section 16(4) of the CGST Act. This bifurcation, according to us, is important because we have to first decide whether the applicant is eligible to avail the ITC on the basis of the pre-consultation letter. Only after this is decided, we can move on to the eligibility under section 16(4), which prescribes the time limit for availing ITC.

14. Thus, the applicant has paid the differential duty online through the e-payment option on the basis of the Pre-consultation letter dtd. 05.04.2024. We find that



the following provisions under the CGST Act and Rules deal with the type of proper documents required for availing ITC.

Section 16 (2) of the CGST Act, 2017-

"(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, - (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed; "

Rule 36 of the CGST Rules, 2017-

(1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely, -

- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;*
- (b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;*
- (c) a debit note issued by a supplier in accordance with the provisions of section 34;*
- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;*
- (e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54. "*

15. We find that neither the pre-consultation letter issued under the Customs Act, 1962 nor the duty paying challan find a mention in either Section 16 (2) of the CGST Act, 2017 or Rule 36 of the CGST Rules, 2017. The applicant's contention is that since Rule 36(1)(d) of the CGST Rules, 2017 prescribed a Bill of Entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports, the pre-consultation letter or the document evidencing payment of duty will be covered under the term '*any similar document prescribed under the Customs Act, 1962*'. We do not subscribe to this view of the applicant. The similar document mentioned in Rule 36(1)(d) must be read *ejusdem generis* with the preceding word 'bill of entry'. The similar document that

the legislature intended is the Courier Bill of entry and other Declarations/Forms prescribed under the Customs Act, 1962 or rules made thereunder. It cannot be stretched to include a Pre-consultation letter, which is issued prior to issuance of a show cause notice. Similarly, the document evidencing payment of tax such as a challan would also not come within the ambit of a similar document.

16. We find that subsequent to the judgement of the Hon'ble Supreme Court in the case of *UOI and Othrs Vs Cosmo Films Ltd.*, the Board had issued Circular No. 16/2023-Customs dtd. 07.06.2023 for the purpose of carrying forward the Supreme Court's directions. The relevant paragraphs of the Circular are reproduced below: -

"5.1 The matter has been examined in the Board for purpose of carrying forward the Hon'ble Supreme Court's directions. It is noted that -

(a) ICES does not have a functionality for payment of customs duties on a bill of entry (BE) (unless it has been provisionally assessed) after giving the Out-of-Charge (OOC) to the goods. In this situation, duties can be paid only through a TR-6 challan.

(b) Under GST law, the BE for the assessment of integrated tax / compensation cess on imports is one of the documents based on which the input tax credit may be availed by a registered person. A TR-6 challan is not a prescribed document for the purpose.

5.2 Keeping above aspects in view, noting that the order of the Hon'ble Court shall have bearing on importers other than the respondents, and for purpose of carrying forward the Hon'ble Court's directions, the following procedure can be adopted at the port of import (POI) :-

(a) for the relevant imports that could not meet the said pre-import condition and are hence required to pay IGST and Compensation Cess to that extent, the importer (not limited to respondents) may approach the concerned assessment group at the POI with relevant details for purposes of payment of the tax and cess along with applicable interest.

(b) the assessment group at POI shall cancel the OOC and indicate the reason in remarks. The BE shall be assessed again so as to change the tax and cess, in accordance with the above judgment.

(c) the payment of tax and cess, along with applicable interest, shall be made against the electronic challan generated in the Customs EDI System.

(d) on completion of the above payment, the port of import shall make a notional OOC for the BE on the Customs EDI system (so as to enable transmission to GSTN

portal of, inter-alia, the IGST and Compensation Cess amounts with their date of payment (relevant date) for eligibility as per GST provisions).

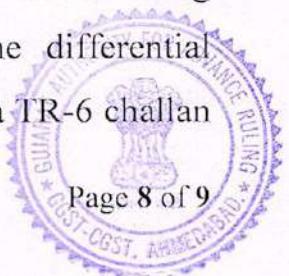
(e) the procedure specified at (a) to (d) above can be applied once to a BE

[Emphasis Supplied]

This Circular issued by the Board is relevant for deciding the issue at hand. As per the Circular, ICES do not have any functionality for payment of Customs duties on a Bill of Entry after giving Out-of-Charge (OOC) to the goods, except in the case of provisional assessments. Any duty to be paid subsequent to the OOC is to be paid thorough a TR-6 challan. This TR-6 challan is not a prescribed document for the purpose of availing ITC by a registered person. The only recourse, therefore, available in such cases is to approach the Customs Authorities for re-assessment of the Bill of Entry, which would then transmit the same electronically to GSTN and subsequently get reflected in the applicant's GSTR 2B.

17. Therefore, in view of the above, a pre-consultation letter or a duty paying documents such as a TR-6 challan is not a proper document under Section 16(2) of the Act or under Rule 36 (1) of the Rules, *ibid*. Which brings us to the next issue i.e. whether such taking of ITC would be hit by the time limit prescribed in Section 16(4) of the CGST Act. As we have already held that ITC cannot be availed on the basis of a pre-consultation letter or a duty paying documents such a TR-6 challan, we do not deem it necessary to answer the corollary to this issue i.e. whether taking of ITC on the basis of a pre-consultation letter or a duty paying documents such a TR-6 challan would be hit by the time limit prescribed in Section 16(4) of the CGST Act. We also find support in our view in *Re: Mitsubishi Electric India Pvt. Ltd* [(2024) 16 Centax 192 (A.A.R. - GST - T.N.)], wherein the Advance Ruling Authority while dealing with the ITC of IGST paid as a part of differential Customs duty for imports, had refused to answer the question relating to the time limit prescribed and the valid duty documents in the said case, once it was held by the Authority that availment of ITC is inadmissible.

18. We also find that the Tamil Nadu Authority for Advance Ruling in *Re: M/s. Becton Dickinson India Private Limited* [2025 (6) TMI 1232 - Authority for Advance Ruling, Tamil Nadu] has dealt with a similar issue wherein in compliance with the SVB order, the applicant redetermined the import price involving differential customs duties including import IGST and paid the differential taxes/duties through TR-6 challans. The Authority held that neither a TR-6 challan



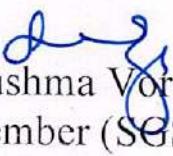
as such, nor a TR-6 challan read with the SVB order and letters issued by the tax authorities, can be considered as an eligible document for the purpose of availment of ITC. This ruling has also been upheld by the Appellate Advance Ruling [AAA/06/2025/AR, dated 08.10.2025].

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

RULING

Ques: - Whether the applicant is able to avail the Input Tax Credit of Rs. 27,14,559/- Integrated Tax paid against the pre-notice consultation letter under Section 28(1) of the Customs Act, 1962 in terms of the time line prescribed in Section 16(4) of the CGST Act, 2017

Ans: - No, the applicant cannot avail the Input Tax Credit of Rs. 27,14,559/- Integrated Tax paid against the pre-notice consultation letter under Section 28(1) of the Customs Act, 1962. Therefore, the question of applicability of time line prescribed in Section 16(4) of the CGST Act, 2017 is not answered.


(Sushma Vora)
Member (SEST)

Place: Ahmedabad
Date: 24.11.2025




(Vishal Malani)
Member (CGST)

