

To,
.....

Respected Sir,

Subject: Intimation of liability under Section 73(5)

'This has reference to your letter No dated (Case ID No) on the above referred subject.

In the above referred letter, you have stated that an amount of tax of Rs..... (CGST – Rs and SGST – Rs) is payable by us, under Section 73(5) of the Central Goods and Services Act, 2017 since have availed the aforesaid amount of Input Tax Credit (CGST & SGST) amount from whose GSTIN- as per you have been cancelled we, 01.07.2017.

You have further advised us to pay the amount of tax as ascertained above along with the applicable interest in full by, failing which Show Cause Notice on the said matter would be issued under Section 73(1) of the CGST Act, 2017.

You have also mentioned that if wishes to file any submissions against the above ascertainment, the same may be furnished by

In response to the aforesaid allegations, we, would like to humbly state our contentions in the following paragraphs –

We,.....are engaged in manufacturing of..... and allied products holding GSTIN - We purchase various raw and packaging materials on payment of GST and avail the Input Tax Credit of the GST so paid. (holding GSTIN -) are suppliers of used for packaging our products. 'They issue their Tax Invoices on us by charging GST and we pay them the full value of the invoice (including the GST amount) on receipt of the materials from them. The GST amount so paid are availed as Input Tax Credit in our books.

A plain reading of the Section 16 of the CGST Act, 2017 implies that -

A registered person will be eligible to claim Input Tax Credit (ITC) on the fulfilment of the following conditions:

1. Possession of a tax invoice or debit note or document evidencing payment;
2. Receipt of goods and/or services,
3. The goods or services are to be used in course or furtherance of business;
4. The tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input a credit.
5. Furnishing of a return by the recipient.

6. Matching concept of supplier and recipient, Le., the details of every inward supply furnished by the recipient he matched with the corresponding details of outward supply Furnished by the supplier in his valid return,

7. It is also emphasized in the proviso under Section 16(2) of the CGST Act, 2017 that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon in such manner as may be prescribed. On payment to supplier, ITC will be again allowed to be claimed.

Now, coming back to the instant case of, the credit ITC, of the tax paid for Rs..... (CGST – Rs and SGST - Rs.....) had been 100% legitimately availed and there is no room for any sort of confusion from the recipient's end.

We herein below list out the controls and check points assessed by prior to availing the Input Tax Credit -

(a) have purchased and other containers from and are in possession of valid tax invoices issued by the supplier in relation to all transactions entered with them during 2017-18 amounting to (CGST - Rs..... Rs. and SGST - Rs.....

(b) The aforesaid and other containers have been physically received by

(c) The said and other containers are used as packing materials for their finished products, i.e.....or in other words are used in the course or furtherance of business;

(d) The GST as charged under forward charge by the supplier on their Tax Invoice raised on have been duly paid byto the supplier who are supposed to remit the Same to the Government.

(e) (the recipient) have duly filed all relevant GST Returns (GSTR 1 & GSTR 3B) within respective due dates;

(f) Prior to availing the Input Tax Credit, have matched each and every GST (CGST & SGST) amount as appearing in the supplier's invoices with the GSTR 2A of DIC, which can only be reflected in GSTR 2A if the supplier have filed their GSTR properly as envisaged by Section 42(1){a} of the CGST Act, 2017;

(g) have made all payments to the supplier within 180 days from the date of invoice issued by the supplier.

(h) The input tax credit on this account is not categorized under Blocked Credits under Section 17(5) of the CGST Act, 2017.

Therefore, have adhered to all the conditions as have been laid out in the CGST Act, 2017 as far as eligibility for availment of Input Tax Credit is concerned.

In the departmental letter dated, it is mentioned that the GSTIN - of have been cancelled w.e.f. 01.07.2017. If that be case, we would humbly like to know that in such a case, how the supplier is able to file their GSTR 1 Return during the whole Financial Year 2017-18. If they had NOT filed their GSTR 1, the invoices (vide which supplies have been effected to) would not have been uploaded in the GST Portal and displayed against the GSTIN of and flown in to the GSTR 2A of

Also, we would like to inform that have availed the such Input Tax Credit only after the status is shown as "FILED" in the GSTR 2A and not on the basis of "SUBMITTED" status.

Therefore,, being fully eligible to avail the Input Tax Credit has availed such ITC and there is no question of reversal of such ITC or payment of tax.

In case of any evidence/documents being required at your end in respect of our submissions made as above, kindly advise.

Thanking you,
Yours sincerely,
For.....
Authorized Signatory