WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Act, 2017)

BENCH
Mr Sydney D'Silva, Joint Commissioner, CGST & CX (Member)
Mr Parthasarathi Dey, Senior Joint Commissioner, SGST (Member)

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such Appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Senco Gold Ltd
Address	41A AJC Bose Road Nonapukur Tram Depot, 10th Floor, Kolkata - 700017
GSTIN	19AADCS6985J1ZL
Case Number	08 of 2019
ARN	AD190219000161K
Date of application	February 14, 2019
Order number and date	02/WBAAR/2019-20 dated 08/05/2019
Applicant's representative heard	Vikram Khaitan, FCA

1. Admissibility of the Application

1.1 The Applicant is engaged in the manufacturing and retailing of jewellery and articles made of gold, silver, platinum, diamonds and other precious stones under the brand name "Senco Gold & Diamonds". Apart from his own retail stores, the Applicant also maintains a network of franchisee-operated stores. He grants such a franchisee the right and license to operate a showroom and to use, in connection therewith, certain Proprietary Marks and System in accordance with a Franchise Agreement (hereinafter the Agreement), a copy of which has been submitted at the time of Hearing. The Applicant raises tax invoices on the Franchisee for the supply of jewellery and other articles and also for Franchise Support Services in terms of the Agreement periodically. On its part, the Franchisee also raises tax invoices on the Applicant for the supply of old gold, silver etc., received from the customers. The Applicant intends to settle the mutual debts through book adjustments. He seeks an advance ruling on

whether the input tax credit is admissible when he settles through book adjustment the debt created on inward supplies from the Franchisee.

1.2 The question raised is admissible for an advance ruling under section 97(2)(d) of the GST Act.

1.3 The Applicant declares that the issues raised in the application are not pending nor decided in any proceedings under any provisions of the GST Act. The officer concerned from the revenue has raised no objection to the admissibility of the Application.

1.4 The Application is, therefore, admitted.

2. Submissions of the Applicant

2.1 The Applicant draws attention to the second proviso to section 16(2) of the GST Act. It provides: " 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."

2.2 The Applicant argues that apart from the above proviso, the GST Act nowhere makes availing of input tax credit dependent upon the payment to be made for the inward supply. The captioned proviso also does not prescribe or restrict the mode in which the payment has to be made. The Applicant submits that payment through adjustment of the books of accounts is a prevalent commercial practice. Para 42 of Indian Accounting Standard 32 provides that a financial asset and a financial liability shall be offset and the net amount presented in the balance sheet when, and only when, an entity (a) currently has a legally enforceable right to set off the recognized amounts; and (b) intends either to settle on a net basis, or to realize the asset and settle the liability simultaneously.

2.3 In this connection the Applicant refers to rule 19(8) of the West Bengal Value Added Tax Rules, 2005, that restricted claim of input tax credit to transactions where the payment had been made by account payee cheque or account payee draft or through electronic banking clearance when such payment exceeded rupees twenty thousand in a day. No such restriction is apparently provided under the GST Act.

3. Submissions of the Revenue

3.1 The concerned officer from the Revenue refers to section 16(1) of the GST Act, which provides that entitlement to take credit of input tax is subject to the conditions and restrictions as may be prescribed and, in the manner, specified in section 49. Section 49(1) provides that every deposit made towards tax, interest, penalty, fee and any other amount shall be made through internet banking or by using credit or debit cards or NEFT or RTGS or by such other mode and subject to such conditions and restrictions as may be prescribed. Explanation (a) to

section 49 further provides that the date of credit to the account of the Government in the authorized bank shall be deemed to be the date of deposit in the electronic cash ledger.

3.2 According to the concerned officer, the above provisions make it clear that all transactions of the supplier and the recipient should be made through the online banking system. Therefore, the recipient is ineligible to claim credit of input tax if the payment is made by way of book adjustment instead of through any banking channel.

4. Observation & Findings of the Authority

4.1 Section 49(1) deals with the manner in which the supplier shall make payment of tax, interest etc. to the Government to be credited to his electronic cash ledger. The Applicant has made no submission that he intends to deposit tax to the Government in any other manner.

4.2 Section 49(2) provides that the input tax credit as self-assessed in the return of the registered person shall be credited to his electronic credit ledger. It does not prohibit the Applicant from reporting in the return input tax credit when consideration is paid to the supplier by way of book adjustment. In fact, section 49 does not deal with the mode of the transaction between the recipient and the supplier. This Authority, therefore, finds the only merit in the submissions of the concerned officer from the Revenue to the extent of payment of tax.

4.3 Third proviso to section 16(2) of the GST Act says: "the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon." It clearly limits the recipient's entitlement to input tax credit only to transactions where he has paid the consideration for the supply received, along with the tax payable thereon. Such input tax may be provisionally credited to the recipient's electronic credit ledger, but the same will be reversed, according to the second proviso to section 16(2), by an equivalent amount being added to his output tax liability unless he makes the payment within one hundred and eighty days from the date of issue of the invoice. It is, therefore, clear that no input tax credit is admissible unless the recipient pays the supplier the consideration for the supply received.

4.4 A payment is a transfer of an asset to the payee for discharging an obligation arising out of transactions involving goods, services or other legal obligations. The most common asset class used for such payment is money, although other assets unless specifically excluded by law, may be used provided the payee accepts payment by such assets other than money as good and sufficient discharge of the obligation. Of course, in the payer's books of accounts, such transfer will be reported as a reduction in the book value of the asset being transferred.

4.5 In the present context, 'consideration', as defined under section 2(31), provides the scope and ambit for modes of payment. It includes, in relation to the supply of goods or services, any payment, made or to be made, whether in money or otherwise, and also the monetary value of any act or forbearance. This definition of 'consideration' cast the net so wide that almost no form of payment is excluded. For example, a mix of money and monetary value of the goods offered together with it is a valid 'consideration'. Similarly, if the payee owes the payer a debt, and accepts a reduction in such a debt liability as a valid form of payment, that should also be regarded as a valid 'consideration' for a supply. In other words, reduction in book debt (an asset in the payer's books of accounts) is a valid 'consideration'.

4.6 The above discussion establishes that the recipient can pay the supplier consideration by way of setting off book debt. Unless the law specifically restricts the recipient from claiming the input tax credit when consideration is paid through book adjustment, credit of input tax cannot

be denied on this ground alone. Rule 19(8) of the West Bengal Value Added Tax Rules, 2005, specifically provided that credit of input tax would be available only if the payment was made by account payee cheque or account payee draft or through electronic banking clearance when such payment exceeded rupees twenty thousand in a day. No such restriction is apparently provided under the GST Act.

In view of the foregoing, we rule as under.

RULING

The Applicant can pay the consideration for inward supplies by way of setting off book debt. The GST Act and rules made there under does not restrict the recipient from claiming the input tax credit when consideration is paid through book adjustment, subject to the conditions and restrictions as may be prescribed and in the manner specified in Sections 16 and 49 of the GST Act.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

(SYDNEY D'SILVA)
Member

West Bengal Authority for Advance Ruling

(PARTHASARATHI DEY)
Member

West Bengal Authority for Advance Ruling