**OPINION**

**1. QUERIST:**

M/s. Rialto Enterprises Pvt. Ltd.,

Survey No.100/2, Vandalur Kelambakkam Road,

Melakottaiyur,

Chennai – 600 127.

**2. FACTS:**

2.1 The querist is having their manufacturing plant at 100/2 Vandalur Kelambakkam Road, Melakottaiyur, Chennai – 600 127 and holding valid GSTIN.

2.2 Querist manufactures toothbrush under the brand name Oral-B, in its plant at 100/2 Vandalur Kelambakkam Road, Melakottaiyur, Chennai – 600 127, under manufacturing agreement entered with M/s.Gillette Diversified Operations Pvt. Ltd. (herein after referred to as GDOPL) and M/s.Gillette India Ltd. (herein after referred to as GIL).

2.3 Querist supplies the toothbrush to GIL for their domestic market and supplies to GDOPL for their export market. GDOPL has obtained GSTIN in the state of Tamil Nādu and Gujarat. Currently, the below mode of operations is applicable for supplies to GDOPL in the state of Tamil Nādu.

2.4 Present mode of operations on exports. – Exports without payment of IGST.

* GDOPL avails duty exemption scheme under Chapter 4 of Exim Policy viz. Advance authorisation. Querist is endorsed as Co-Licensee and Supporting manufacturer on the advance authorisations.
* A joint common bond will be executed before customs for clearance of inputs against the advance authorisations.
* Querist Imports inputs without payment of customs duty and IGST as co-licensee to advance authorisation. – 18/2015 as amended.
* Querist avails GST Input Tax Credit on the inputs sourced locally.
* Querist raise invoice on GDOPL, by charging CGST & SGST.
* GDOPL avails ITC.

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* GDOPL raise export invoice (with IRN/QR Code) on overseas buyer, present to Customs for issue of shipping bill. GDOPL claim the freight charges separately in the invoice.
* GDOPL invoices will have the details of advance authorisation number, date, and Manufacturer name as declaration.
* GDOPL’s exports are under LUT.
* Export containers are sealed under self-sealing procedure and sealed at the place of manufacturing i.e. the querist’s Premises.
* Sealed containers are moved to Port through C&F agents.

2.5 Out of the total production by the querist, around 60% constitutes for exports. Even though the querist is eligible to import all the inputs listed in Advance authorisation, they import only Nylon, Anchor wire, PET film & Polypropylene (20% of total requirement), against the advance authorisation and the rest of the items are sourced locally. Querist avails input tax credit on the inputs procured locally.

2.6 Querist is unable to utilize the benefit of concessional rate of duty Notification No.41/2017-Integrated Tax (Rate), since, the querist’s ITC will become un-utilised.

2.7 GDOPL is having some un-utilized carried forward ITC and to liquidate this ITC, GDOPL has proposed the following.

Proposed mode of operations for exports. - Exports with Payment of IGST.

* GDOPL avails duty exemption scheme under Chapter 4 of Exim Policy viz. Advance authorisation. Querist is endorsed as Co-Licensee and Supporting manufacturer on the advance authorisations.
* A joint common bond will be executed before customs for clearance of inputs against the advance authorisations.
* Querist Imports inputs without payment of customs duty and on payment of IGST as co-licensee to advance authorisation. – Notification 18/2015 as amended.
* Querist avails GST Input Tax Credit on the inputs imported and domestic procurement.
* Querist raises invoice on GDOPL, by charging CGST & SGST.
* GDOPL avails Input Tax Credit.

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* GDOPL - Invoicing
1. GDOPL raise tax invoice inclusive of freight charges apportioned over the products and charge IGST with IRN/QR Code.
2. GDOPL raise commercial invoice on the overseas buyer, by charging Freight charges separately mentioning on the invoice.
* The Final value of Tax Invoice and Commercial invoice will be the same with reference to exchange rate prevailing on the date of the invoice.
* GDOPL will submit the Tax invoice and Commercial invoice to Customs for generation of Shipping bill.
* Shipping bill will have IGST details as per Invoice.
* GDOPL invoices will have the details of advance authorisation number, date, and Manufacturer name as declaration.
* Export containers are sealed under self-sealing procedure and sealed at the place of manufacturing i.e. the querist’s Premises.
* Sealed containers are moved to Port through C&F agents.

* GDOPL claims refund of IGST paid on exports.

2.8 GDOPL has informed the querist to pay IGST on the inputs imported against advance authorization, then only GDOPL can commence the exports on payment of IGST.

2.9 Querist has made available sample tax invoices and commercial invoices proposed to be adopted.

**3. QUERY:**

 Based on the above, querist would like to know whether the proposed mode of operations for making exports and claiming IGST refunds will be in order.

**4. OPINION:**

4.1 In terms of Rule 96(10) of CGST Rules 2017, there are certain restrictions with regard to availment of refund of IGST paid at the time of exports. One of the restrictions is use of materials for manufacture of the export products that were imported by claiming duty exemption benefits under Advance Authorisation Scheme. In terms of notifications issued in October 2020 with retrospective effect, some of the restrictions imposed under the above rule were relaxed.

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In terms of Notification 16/2020-Central Tax dated 23.03.2020 made applicable retrospectively with effect from 23.10.2017, an explanation was provided under Rule 96(10) that for the purpose of that sub-rule, **benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid integrated goods and service tax and compensation cess on inputs and has availed exemption of only basic customs duty under the said notifications.**

4.2 One of the notifications mentioned in Rule 96(10) is Notification 79/2017-Customs dated 13.10.2017 which amends Notification 18/2015-Customs dated 01.04.2015. Notification 18/2015 is the primary notification for availment of exemption under Advance Authorisation Scheme.

4.3 In the light of the above amendments, for the goods imported under Advance Authorisation Scheme, if the querist proposes to pay IGST and compensation cess as applicable and avail only basic customs duty exemption, then, the benefit so availed will not be a bar for availing refund of IGST paid at the time of export of the goods in terms of Rule 96(10) of CGST Rules mentioned above. In this manner, the exporter will be able to utilise the credit without allowing it to get accumulated.

4.4 Under these circumstances, we find that the operations proposed to be adopted as outlined by the querist should be in order in terms of the amendments made in Rule 96 mentioned above. It is also to be noted that the querist will be eligible for refund of IGST as per Rule 96 only when they meet other conditions also as stipulated in these rules.

4.5 The drafts of proposed invoices as forwarded also appear to be in order.

**S. MURUGAPPAN**

sm/ss

**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the queriest and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.

**BY E-MAIL / COURIER**

**File No.102/2023-Opinion**

24.05.2023

M/s. Rialto Enterprises Pvt. Ltd.,

Survey No.100/2, Vandalur Kelambakkam Road,

Melakottaiyur,

Chennai – 600 127.

Attn.: Mr. G. Subramanian, GM-Accounts & Finance <subramanian.g@rialto.co.in>

**Mobile:**  **99404 97306**

Sir,

**Sub.: Exports under Advance Authorisation Scheme without availing exemption of IGST.**

1. In connection with the above, find attached the following.

(a) Opinion.

(b) Our Bill towards professional charges.

2. Should you need any further clarification in this regard, please feel free to contact me. Kindly arrange for payment of the attached bill.

Yours faithfully,

**S. MURUGAPPAN**

Attached: as above.

sm/ss