**BY E-MAIL / COURIER**

**File No.37/2024-Opinion**

06.03.2024

M/s. Rolex Logistics Pvt. Ltd.,

No.85, 1st Floor, 5th Main, 1st Cross,

Domlur II Stage,

Bangalore – 560 071.

Attn.: Mr. O.S. Rajan Paul, Chief Financial Officer <rajan.paul@rolexlogistics.com>

**Mobile:  93425 18637**

**Sub.: Temporary Import of Containers.**

Dear Mr. Rajan Paul,

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 bill.

Regards,

**Murugappan**

Attached: as above.

sm/ss

**OPINION**

**1. QUERIST:**

M/s. Rolex Logistics Pvt. Ltd.,

No.85, 1st Floor, 5th Main, 1st Cross,

Domlur II Stage,

Bangalore – 560 071.

**2. FACTS:**

2.1 Querist along with DHL are in discussion with a prospective client who will be exporting containers from FTWZ/SEZ to their own Hub in DTA or to their customer in DTA on lease, for packing products in these containers for domestic movement or for exports. These containers will be returned to the querist’s client after use/specific period of time / not returned at all. Defective containers will be exported by the querist to the client’s manufacturing unit in UK for destruction/re-use.

2.2 Querist will be engaged to provide services of an IoR and EoR and also provide statutory compliant document/s for domestic movement of these containers from the Hub of their client, retrieval from the customer and export. Since the title of the containers will never be passed on to the querist, they will not be liable to pay/receive any consideration. Querist will be entitled to charge service fee as mutually agreed, for the services provided by them.

2.3 Subsequently through another mail, further clarifications were provided as mentioned below:

i. The containers will be used by the customers of the querist’s clients, who would have leased them abroad for exporting their pharmaceutical products to FTWZ in India and would use them till they are cleared from FTWZ to their customers/manufacturing unit in DTA. Thereafter they will return the containers.

ii. These containers have to be separately custom cleared from FTWZ as it would be a pre-requisite for exporting back these containers to their origin.

iii. The title of these containers will not be transferred.

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2.4 In terms of further mail sent on 28.02.2024, the querist has also made available PPT presentation.

**3. QUERY:**

 Based on the above information, the querist seeks clarification with regard to the tax compliance they need to follow. They also want to know whether any GR waiver is to be obtained for export of these containers and as these containers are not sold to the users, whether GST will be attracted.

**4. OPINION:**

# 4.1 From the information provided, it is assumed that the querist will be engaged with regard to transit and movement of the containers from the Free Trade Warehousing Zone/SEZ to the Domestic Tariff Area and then back to the Free Trade Warehousing Zone/SEZ. This also may cover export of the defective containers by the querist to UK for destruction or re-conditioning.

4.2 Notification 104/94-Customs dated 16.3.1994 provides duty exemption for temporary import of containers of durable nature. Duty exemption will be available for basic customs duty leviable under the Customs Act and also IGST leviable under Section 3(7) of the Customs Tariff Act. A copy of this notification is attached to this opinion.

4.3 Thus, when the goods are taken from the Free Trade Warehousing Zone or SEZ to the registered premises of the querist, necessary bills of entry can be filed and exemption can be availed from payment of import duties as per the above notification. As importer on record, the querist needs to execute a bond and guarantee as stipulated in the customs notification mentioned above.

4.4 With regard to local movement of the containers after their removal from Free Trade Warehousing Zone or SEZ, there will not be any requirement for payment of IGST or CGST and SGST since there is no consideration involved for supply of these containers. However, in the place of tax invoice, necessary “bill of supply” as per Rule 49 of CGST Rules 2017 need to be prepared with the details required as stipulated in the above CGST Rule for claiming exemption from payment of GST. It also may be noted that though there is no payment of tax on these containers, for the services rendered by the querist for whatever consideration they receive, that will attract applicable IGST/CGST and SGST under the category of “supply of services”.

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4.5 When the goods are ultimately returned to the Free Trade Warehousing Zone or SEZ, bill of export needs to be filed and with reference to the original clearance documents, identification marks need to be verified and exportation completed. If the goods are to be directly exported to the UK manufacturer, then instead of bill of export, a shipping bill needs to be filed.

4.6 As re-export has to take place within a period of six months from the date of clearance from the Free Trade Warehousing Zone or SEZ, the querist needs to keep note of the identification marks by way of serial numbers etc. and get them included in the examination report so that when re-export takes place, cross verification can be done and identification carried out. Once the containers are re-exported, then the bond and guarantee given in this connection can be cancelled. If the querist is not able to re-export the containers within a period of six months, then the notification provides for seeking extension of time to re-export by applying to the Assistant Commissioner of Customs. In case, there is delay beyond 6 months, the querist can avail this facility.

4.7 It also may be noted that it is not necessary that for each container or each clearance a separate bond and guarantee is to be given. The querist can keep a running bond and sufficient guarantee executed with the customs authorities and keep on making debit entries when containers are received and credit entries when the containers are re-exported. This can be duly certified by the customs authorities when import and re-export take place.

4.8 With regard to GR waiver, attention is invited to regulation 4 of Foreign Exchange Management (Export of Goods and Services) Rules, 2015. In terms of clause (f) of the above regulation, an exemption is available from filing any declaration for repatriation of export proceeds in respect of goods imported free of cost, on re-export basis. The agreement or the contract with the suppliers of the containers will be evidence of such arrangement for free of cost import on re-export basis.

**S. MURUGAPPAN**

Attached: as above.

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**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the querist 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.