

## Case Study Series – GST Advance Ruling

### Crux of the case:

#### Admissibility of ITC if payment is made through book adjustment

Authority	West Bengal Authority for Advance Ruling
Legal name of Applicant	Senco Gold Ltd
Details of Order	02/WBAAR/2019-20 dated 08.05.2019

### Facts of the case

- The Applicant is engaged in the manufacturing and retailing of jewellery and articles. Apart from his own retail stores, the Applicant also maintains a network of franchisee-operated stores.
- The Applicant raises tax invoices on the Franchisee for the supply of jewellery
- 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.***
- The applicant seeks advance ruling on whether the input tax credit is admissible when he settles the amount owed to the franchisee through book adjustment.

### Applicant's view:

- As per second proviso to section 16(2), ITC availed has to be reversed with interest if payment is not paid to supplier within 180 days from the date of invoice.
- The second proviso to section 16(2) does not prescribe or restrict the mode in which the payment has to be made.
- The Applicant submits that payment through adjustment of books of accounts is a prevalent commercial practice.
- The applicant also contends that GST Act does not provide any restriction regarding the mode of payment.

### Discussion and Findings:

- As per Third proviso to section 16(2) the recipient is entitled to avail ITC only upon payment made by him towards value of supply along with tax thereon. This clearly limits the recipient's entitlement of ITC only to transactions where he has paid the consideration.

- Consideration as defined under section 2(31) includes any payment made or to be made whether in money or otherwise and also the money value of any act or forbearance. This definition is so wide that almost no form of payment is excluded.
- A payment is a transfer of an asset to the payee for discharging an obligation. The most common asset class used for such payment is money although, other assets may be used provided the payee accepts payment by such assets.
- Unless the law specifically restricts the recipient from claiming ITC when consideration is paid through book adjustment, ITC cannot be denied on this ground alone.

**Order:**

- The applicant can pay the consideration for inward supplies by way of setting off book debt.
- The GST Act and rules made thereunder does not restrict the recipient from claiming ITC 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.

**Key Takeaways:**

- It can be inferred from the above provisions and ruling that book adjustment can be considered as a valid mode of payment to the supplier.
- It should also be brought to notice that the recipient should offset the liability only when it has a legally enforceable right to do so and payee accepts payment by such method.