AUTHORITY FOR ADVANCE RULING, TAMIL NADU
No.207, 2nd FLOOR, PAPJM BUILDING, No.1, GREAMS ROAD, CHENNAI 600 006.

ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER SECTION 98(4) OF THE TNGST ACT, 2017

Members present:

Shri Balakrishna S, I.R.S., **Additional Commissioner/Member (CGST),** **Office of the Commissioner of GST and Central Excise, Audit II Commissionerate,** **Chennai - 600 034.**	**Shri B.Suseel Kumar, B.E., MBA.,** **Joint Commissioner/Member (SGST),** **Authority for Advance Ruling,** **Tamil Nadu,** **Chennai - 600 006.**

Advance Ruling No. 20/ARA/2025, dated 09.05.2025

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/TNGST Act 2017, within 30 days from the date on which the ruling sought to be appealed is communicated.

2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-

(a) On the applicant who had sought it in respect of any matter referred to in sub-section (2) Section 97 for advance ruling.

(b) On the concerned officer or the Jurisdictional Officer in respect of the applicant.

3. In terms of Section 103(2) of the Act, this Advance Ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.

5. The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (herein referred to as the Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.

GSTIN Number, if any/User id	33AAACB2656A1ZE
Legal Name of Applicant	M/s. Becton Dickinson India Private Limited
Trade Name of Applicant	M/s. Becton Dickinson India Private Limited
Registered Address/ Address provided while obtaining User id	34, Assisi Nagar, West Thottam, Madhavaram, Tiruvallur – 600 051.
Details of Application	Application Form GST ARA-01 received from the applicant on 05.07.2024.
Jurisdictional Officer	**State** – Madhavaram Assessment Circle Tiruvallur Division. **Centre** – Madhavaram, Range-II, Chennai North Commissionerate
Nature of activity (s) (proposed/present) in respect of which advance ruling sought for A. Category B. Description (in brief)	Warehouse/Depot The applicant is a private limited company engaged in the manufacturing and trading of medical equipment/devices. The applicant has paid differential import IGST on import of goods in pursuance of True up adjustment (on account of maintaining ALP margin as per Income Tax provisions). The differential import IGST is paid vide TR-6 challans and vide re-assessed bill of entries.
Issues on which advance ruling required	Admissibility of input tax credit of tax paid or deemed to have been paid.
Question(s) on which advance ruling is required	1. Whether the Applicant can avail the ITC of the import IGST paid through TR-6 Challan in terms of Section 16(2) of the CGST Act read with rule 36 of CGST Rules? 2. Whether the eligibility to avail ITC of the import IGST paid vide TR-6 Challan is subject to the time limit prescribed under Section 16(4) of the CGST Act? 3. Whether the eligibility to avail ITC of the import IGST paid vide re-assessed bill of entry is subject to the time limit prescribed under Section 16(4) of the CGST Act? 4. If the answer to Q.3 for bill of entry is in affirmative, whether the time limit for availing ITC would begin from the initial date of bill of entry originally filed or from the date of re-assessment of bill of entry?

M/s. Becton Dickinson India Private Limited, located at No. 34, Assisi Nagar, West Thottam, Madhavaram, Tiruvallur – 600 051, (hereinafter called as the "Applicant") is a private limited company who are engaged in the manufacturing and trading of medical equipment/devices.

2. The Applicant has made a payment of application fees of Rs.5,000/- each under sub rule (1) of Rule 104 of CGST Rules, 2017 and TNGST Rules, 2017. The Applicant has filed this application seeking Advance Ruling on the following questions, viz.,

(i) Whether the Applicant can avail the ITC of the import IGST paid through TR-6 Challan in terms of Section 16(2) of the CGST Act read with rule 36 of CGST Rules?
(ii) Whether the eligibility to avail ITC of the import IGST paid vide TR-6 Challan is subject to the time limit prescribed under Section 16(4) of the CGST Act?
(iii) Whether the eligibility to avail ITC of the import IGST paid vide re-assessed bill of entry is subject to the time limit prescribed under Section 16(4) of the CGST Act?
(iv) If the answer to Q.3 for bill of entry is in affirmative, whether the time limit for availing ITC would begin from the initial date of bill of entry originally filed or from the date of re-assessment of bill of entry?

3.1. The applicant submits that the present application is maintainable under Section 97(2)(d) of the CGST / TNGST Act, 2017, i.e., 'Admissibility of input tax credit of tax paid or deemed to have been paid'. Under the 'Statement of relevant facts having a bearing on the questions raised', as in Sl.No.15 of the application, the applicant states as follows :-

i) Apart from manufacturing and trading of medical equipment/devices, they also import and trade the same.

ii) The applicant imports the goods from its group companies located outside India, on payment of appropriate customs duties (including BCD, SWS and Import IGST).

iii) The duties on import are paid at the time of filing BOE for home consumption and since import IGST is a creditable tax, the Applicant avails ITC of the same, and the said goods are subsequently sold in India on payment of outward CGST/SGST.

iv) The applicant has a limited risk distributorship agreement ("LRD agreement"), with its group companies located overseas. As per Section 6.1 of the LRD agreement, the goods are supplied by the overseas companies to the applicant at a price which would ensure that the applicant earns an Arm's Length Price (ALP) operating profit margin.

v) At the end of the financial years as per the Income Tax Laws, the ALP margin is determined and compared with the actual margins earned by the applicant on the sale of imported goods.

vi) In case, the actual margin earned by the Applicant is more that the ALP margin, then the applicant transfers the differential margin through a pricing adjustment

('true up') by the overseas entity from whom the goods were imported, and vice versa.

vii) Since the goods are imported from the related parties, the import transaction value is subject to review by the Special Valuation Branch (SVB) of the Customs under Circular No.5/2016-Customs dated 09.02.2016. Accordingly, an SVB Order dated 27.02.2015 has been obtained by the applicant from the Deputy Commissioner of Customs, SVB, New Delhi, which further stand renewed vide order dated 11.06.2018.

viii) In the SVB Order, the LRD agreement was examined and it was accepted that the relationship between the applicant and the group company has not influenced the import price. Vide para 15 of the SVB order, the aforesaid 'true up' adjustment was also examined, and it was held that the applicant is liable to pay applicable customs duties along with applicable interest in case of upward revision in the invoice value of imported goods voluntarily. The aforesaid LRD agreement as well as the SVB order are continuing as on date of filing this application.

ix) Upon conclusion of FY 2022-23, owing to increase in business and domestic prices, the applicant has earned an operating profit in excess of arm's length range of operating margin. Accordingly, in compliance with the SVB order, the applicant re-determined the import price involving differential customs duties including import IGST. The same trend happened in FY 2023-24 as well.

x) In the state of Tamil Nadu, the applicant has imported goods from 3 different ports, viz., (i) Chennai Sea (ii) Chennai Air-Cargo, and (iii) Chennai FTWZ. When the applicant reached out to the respective field formations with regard to payment of differential duties, the Chennai Sea Customs authorities allowed re-assessment of bills of entry which meant that the differential duties would be payable through the re-assessed bills of entry, whereas the other two customs authorities, i.e., Air Cargo and FTWZ directed the applicant to deposit the same through TR-6 challans.

xi) It is evident from the above, that the payment of differential duties, including import IGST relating to increase in import price is a payment made in a bona fide manner, and the entirety of facts is in the knowledge of the various wings of the customs authorities. Further, it was submitted that as a matter of fact, neither there has been any demand of penalty from the applicant, nor the applicant has paid any penalty on the above true up transaction.

3.2. Under 'Statement containing the applicant's interpretation of law and/or facts', as in Sl.No.16 of the application, the applicant states as follows :-

1) With regard to Question No.1, i.e., *"Whether the Applicant can avail the ITC of the import IGST paid through TR-6 Challan in terms of Section 16(2) of the CGST Act read with rule 36 of CGST Rules?"*,

- TR-6 challan can be considered as a valid document for the purpose of availing ITC. Under Section 16(2)(a) of the CGST Act, one of the conditions for availing ITC is that the taxpayer should be in possession of *"a tax invoice or debit note issued by the supplier under this Act, or <u>such other tax paying documents</u> as may be prescribed"*. Further Rule 36(1)(d) of the CGST Rules,

prescribes that the registered person can avail ITC on the basis of any of *"a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports.*

- ITC can be availed based on a document other than Bill of Entry also. From Rule 36(1)(d) of the CGST Rules, it follows that there are two sets of documents basis which ITC of import CGST can be availed. One of the salutary rules of interpretation is that the legislature does not waste words, and each word must be allowed to play its role to achieve the legislative intent and object [UOI Vs Brigadier P.S.Gill [2012 (272) E.L.T.321(S.C)]

- Exposition of "other documents" for availing ITC. Rule 36(3) prescribes any other document "similar" to a bill of entry, prescribed under the Customs Act or rule made thereunder, "for" "assessment" of IGST on imports. "Similar" denotes partial resemblance, and may also denote sameness in all essential particulars. It also means corresponding to or resembling in many respects, somewhat like, or having a general likeness. "Assessment" means determination of dutiability of any goods or service and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil, and is thus capable of bearing a very comprehensive meaning so as to comprehend the whole procedure for ascertaining and imposing duty liability. "For" is used as a function to indicate purpose of any intended destination or the object towards which the acquisition is directed. A combined reading of the above terms would therefore mean, any document which resembles the particulars of bill of entry, which is used for the assessment of import IGST under the Customs Act.

- Rule 36(3) encompass import IGST paid in various types of assessment. The process of assessment (re-assessment) by itself involves a detailed procedure including declarations by the Importer and counter confirmations by the Customs Officer. The Customs Act inter-alia provides for assessment of various kinds, viz., Self assessment, provisional assessment, re-assessment by the proper officer, re-assessment by the importer based on his ascertainment, re-assessment through amendment of documents, re-assessment through correction of errors, etc. While the procedures of self-assessment, provisional assessment, revision and correction concludes with the generation of bill of entry, the re-assessment procedure under Section 28 either at the behest of the proper officer or based on self-ascertainment by the import, may not lead to generation of a re-assessed bill of entry. Due to this difference, rule 36 was phrased in such a manner to encompass import IGST paid in various types of assessment.

- TR-6 challan read with SVB order and Customs authorities is a valid document for assessment of import IGST and thus for availing ITC. Based on the TR-6 challan and specified codes, the amount paid in Central Government's account is allocated. In terms of the Customs Act, a TR-6 challan is used for payment of customs duties for various purposes, viz., (i) duty determined in bill of entry, (ii) after giving out of charge to the goods,

(iii) accepted duty in pursuance of filing of settlement application, (iv) in pursuance of regularization of duty exemption schemes.

- Moreover, TR-6 challan is a generally accepted document for payment of customs duties, where there is practical difficulty in amendment of bill of entries. In the present case, the differential duties of customs including import IGST was paid in pursuance of the SVB order and Customs authorities subsequent letter informing the applicant to pay differential duties through TR-6 challan, and it is therefore considered as proper document for payment of re-assessed customs duties by the Chennai Air Cargo and Chennai FTWZ. A perusal of the TR-6 challan in the instant case reveals that it has particulars of the reason/purpose for which payment is made, the minor head account in which the payment is made, the type of customs duties which are paid, the details of importer, the details of the authority to whom the challan is tendered.

- TR-6 is an accepted document for availing credit under the Central excise/Service Tax law. The explanation to Rule 9(1)(b) of the CENVAT Credit Rules, 2004 clearly provided that supplementary invoice includes a challan or any other similar document evidencing payment of additional amount of additional duty leviable under section 3 of the Customs Tariff Act. In CCE Vs Essel Propack Ltd [2015 (39) S.T.R. 363 (Bom)], the Hon'ble High Court held that Rule 9 is procedural aspect for which CENVAT credit should not be disallowed considering when the payment of tax is undisputed and the documents are genuine.

- The procedural law should be harmoniously interpreted to achieve the object of law. Therefore, rule 36(3) should be read in a manner to allow credit based on any document which substantially conveys that the tax is levied and paid, though it may or may not bear the strict particulars as that of an invoice or a bill of entry. In this regard, the following case laws were cited, viz.,

i. Sambhaji Vs Gangabai – [2009 (240) E.L.T. 161 (S.C)] – A procedural prescription is the handmaid and not the mistress, a lubricant, nor a resistant in the administration of justice.

ii. CCE Vs Home Ashok Leyland Ltd. – [2007 (210) ELT 178 (SC)] – When the substantive right to avail Modvat credit under Rule 57A is satisfied, then the manufacturer is entitled to avail Modvat credit of differential duty paid on the basis of upward revision of prices.

iii. Mammon Concast (P) Ltd., Vs C.CGST – [2021-VIL-247-CESTAT-DEL-ST] – Where the manufacturer-appellant bought the goods on high seas, even when the duty paying documents were in the name of the original importer, the appellant is eligible to take Cenvat Credit of the CVD/SAD. Credit cannot be denied for some gaps left in statute.

iv. CCE Vs Graphite (I) Ltd., - [2007 212 ELT 54 (Tri-Mum.)] – On observing that hyper technicalities should not be the basis to disallow CENVAT credit, the Hon'ble Tribunal had held that CENVAT credit is to be allowed on the basis of 'cash memo'.

- ITC is a substantive right, and the legislative intent paves the way for it. The Hon'ble Supreme Court in UOI Vs Cosmo Films Ltd., [2023 (385) ELT 66 (SC)] has observed thus, *"The GST regime is based on the idea of removing cascading effect of the taxes. The cascading effect of taxes mean levy of tax on tax. The GST is levied on the net value-added portion and not on the entire transaction value as the taxpayer would enjoy input tax credit. Barring few indirect taxes, all the major indirect taxes levied by the Central and State governments are subsumed into the GST"*. Further, the legislative intent can be gathered from Section 16 of the CGST Act which allows credit on all goods and services used or to be used in the course of furtherance of business, subject to certain exceptions as contained in section 17(5) of the Act, ibid. Therefore, in the absence of any specific restriction to this effect, the provisions of Rule 36(3) should be understood in a manner to allow ITC on the basis of TR-6 challan.

- The CBIC vide Circular No.16/2023-Cus dated 07.06.2023 had provided certain guidelines for availing of ITC of import IGST in view of the Hon'ble Supreme Court judgement in UOI Vs Cosmos Films. At para 5.1(b), it was stated that under GST law, a TR-6 is not a prescribed document for the purpose of availing ITC of import IGST.

- The applicant understands that the aforesaid circular is not est/non applicable for the following reasons, viz., (i) the circular is issued in the light of limited facts and cannot have a general application, (ii) no reasons provided for the conclusions provided at para 5.1, and is without any basis, (iii) At para 5.1(a), the circular has accepted that due to lack of functionality in the ICEGATE system, re-assessment of bill of entry is not available, once out of charge (OOC) is issued. Accordingly, in para 5.2(b), it is stated that assessment group to cancel OOC and then re-assess the bill of entry. In the present case, the applicant in the first place approached the Chennai-Air Cargo and Chennai FTWZ to reassess the bill of entries, however, again due to system functionality, the bill of entries were not assessed. Therefore, this circular is not applicable to the present case, since there is an SVB order, based on which there was a re-assessment by the customs authorities through their letters informing the applicant to pay the differential duties vide TR-6 challlan. So the TR-6 read with the SVB order and letters of the Customs authorities can be said to be a valid document for availing ITC under Rule 36.

2) With regard to Question No.2 & 3, i.e., *"Whether the eligibility to avail ITC of the import IGST paid vide TR-6 Challan is subject to the time limit prescribed under Section 16(4) of the CGST Act?"*, and Question No.3, *i.e., "Whether the eligibility to*

avail ITC of the import IGST paid vide re-assessed bill of entry is subject to the time limit prescribed under Section 16(4) of the CGST Act?"

- Section 16(4) of the CGST Act, is not applicable to TR-6 or Bill of Entry, as it prescribes time limit for availment of ITC in respect of any invoice or debit note for supply of goods or services or both. It therefore transpires that the said provision is not applicable with respect to ITC availed on the basis of TR-6 Challan or Bill of Entry.

- The term "invoice" has been defined under Section 2(66) of the CGST Act, 2017, as follows :- *"Invoice or tax invoice means the tax invoice referred to in section 31"*. On perusal of section 31, it follows that a tax invoice is raised under various situations where a registered person is supplying taxable goods or service. Further rule 47 of the CGST Rules, encapsulates the particulars of a tax invoice, and it follows therefrom that 'tax invoice' is issued only when the goods are supplied in a domestic transaction.

- A bill of entry on the other hand is a different document, whose origins can be traced from Section 2(4) read with Section 46 of the Customs Act. A bill of entry is presented by the 'importer before the proper office of Customs for clearance of imported goods for home consumption or warehousing. The bill of entry is filed electronically on the customs portal by filing various particulars relating to import of goods, but unlike invoice which is an instrument for transferring the title of goods, a bill of entry is only an instrument for taking delivery for the purpose of Customs Act. Therefore, it is clear that a bill of entry is a separate document and not a tax invoice.

- A bill of entry is not a 'debit note' either, because in terms of Section 34(3) of the CGST Act, a debit note is issued in pursuance of a tax invoice which was already issued for supply of goods or services, where the taxable value or tax charged in the tax invoice is found to be less than the taxable value or tax payable. Further, in terms of rule 53 of the CGST Rules, debit note contains particulars similar to the ones that are in the tax invoice. Therefore, it is clear that a bill of entry is a separate document and not a debit note.

- The provisions of CGST Act and CGST Rules makes a marked distinction between Bill of Entry and tax invoice/debit note. For instance, Section 16(2)(a) of the CGST Act requires possession of 'tax invoice' or 'debit note', or 'such other duty paying documents' for availing ITC, but though bill of entry may in the same class, it is not in strict sense a tax invoice or debit note. Rule 36(1) of the CGST Rules encapsulates various documents based on which ITC can be availed. Tax invoice is referred in Rule 36(1)(a), debit note - 36(1)(c), and bill of entry - 36(1)(d). Rule 36(4) of the CGST Rules, applies a specific embargo when it relates to 'tax invoice', or 'debit note', such that ITC is available only when the details of the same are uploaded by the vendor in his GSTR-1/IFF and reflecting in Form GSTR-2 of the recipient, but no such embargo applies to bill of entry. In view of the above, it transpires that bill of entry is neither an invoice nor a debit note.

- Further, TR-6 is also not an invoice or debit note. TR-6 challan emanates from Rule 92 of the Treasury Rules of the Central Government which inter-alia prescribes a manner of paying money into the treasury or the bank, and based on the specific codes, the amount paid in Central Government's account is allocated. It is used for making various types of payments under the Customs Act, and it was also used to be a prescribed document for making payment under the Service Tax Regime. TR-6 challan is different in its roots and its object, because while tax invoice and debit note contains material particulars relating to transaction of supply of goods, TR-6 contains particulars relating to payment of tax/duties. Therefore, while TR-6 enables availing of ITC in view of the applicant's interpretation as above, but it is not a tax invoice or debit note.

- In this backdrop, the time limit for availing ITC as stipulated under Section 16(4) of the CGST Act, is applicable only where the ITC is availed on the basis of a tax invoice or a debit note. Thus while bill of entry is a document basis which ITC can be availed in terms of Section 16(2)(a) of the CGST Act read with Rule 36(1)(d) of the CGST Rules, the time limit as stipulated in Section 16(4) of the CGST Act, is not applicable to such 'bill of entry' and also to the TR-6 challan. In this regard, the following case laws were cited, viz.,

  i. Member, Board of Revenue Vs Arthur Benthall [AIR 1956 (SC) 35; 1955 (2) SCC 84] – When two words are used in the statute in two consecutive provisions, it should be understood as they are used in different sense.

  ii. C. Cus Vs Dilip Kumar & Company [2018 (361) E.L.T. 577 (S.C)] – If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the legislature.

  iii. CBIC Circular No.267/41/96-CX.8 dated 23.04.1996 – In the context of the erstwhile Central Excise Rules, 1944, it was clarified that the time limit of 6 months mentioned in Rule 57G was for inputs, and that the said time limit is not applicable for Rule 57T under which the capital goods are covered. That the same analogy applies to Section 16(4) which is linked only to tax invoice or debit note, and not to a bill of entry.

  iv. The Order-in-Appeal No.RAJ-EXCUS-000-APP-033-2021-GST-JC dated 06.08.2021 passed by the Commissioner (Appeals) in the case of M/s. Reliance Industries Limited – The time limit prescribed under Section 16(4) for taking ITC is not applicable to bill of entry.

3) With regard to Question No.4, i.e., *"If the answer to Q.3 for bill of entry is in affirmative, whether the time limit for availing ITC would begin from the initial date of bill of entry originally filed or from the date of re-assessment of bill of entry?"*

- If at all, Section 16(4) of the CGST Act were to be applicable to TR-6 challan or Bill of Entry, even for the sake of assumption, then the 'financial year' should be considered the year in which TR-6 challan is drawn or Bill of Entry is re-assessed.

- As per Section 16(1) of the CGST Act, ITC can be availed where the goods or services are used or to be used in the course or furtherance of business. And under Section 16(2), ITC is not eligible unless –

  - The registered is in possession of an invoice, debit note or such other duty paying document as may be prescribed [clause (a)]
  - The details of invoice or debit note is furnished by the supplier in his outward supply return [clause (aa)]
  - The registered person has "received" the goods or services [clause (b)]
  - The details of ITC are communicated in terms of Section 38 to the registered person [clause (ba)]
  - The tax in respect of such supply has been "actually paid" to the government [clause (c)]
  - The registered person has furnished his return in Section 39 [clause (d)]

- From the above, clauses (a), (b) and (c) indicates a situation that a registered person atleast needs to know that right to claim ITC exists, such that he needs to be in possession of the goods or services, the goods or services needs to be received, the tax amount should actually be paid to the Government. In a situation where the tax itself is not paid, nor there in any indication that it is payable, the right to avail ITC itself is not crystalized.

- The right to ITC in case of import of goods can get crystalized, when the importer has paid the import IGST. Without the right to claim ITC, it would be absurd situation that the limitation for claiming such right as postulated in Section 16(4) would begin. Therefore, the only possible construction of Section 16(4) vis-à-vis differential import IGST could only be when such differential import IGST is paid. In this regard, the following case laws were cited, viz.,

i. MP Steel Corporation Vs CCE [2015 (319) ELT 373 (SC)] – One of the golden principles of law of limitation is that the period of limitation for filing a civil suit would begin only when the right to sue first accrues.

ii. Sunrays Engineers (P) Ltd., Vs CCE [2015 (318) ELT 583 (SC)] – The cause of action for filing the refund application for excise duty would begin from the date when such right to claim refund is made available, and not from the date of payment of duties.

iii. Sony India (P) Ltd., Vs C. Cus [2014 (304) ELT 660 (Del.)] – No limitation period can possibly be imposed for advancing a refund claim. This is because the right to claim refund only accrues to the importer once sale, an entirely market driven, is complete.

iv. Noble Grain India (P) Ltd., Vs CCE [2017 (6) TMI 510 – CESTAT New Delhi] – The limitation would begin from the date when the right to receive the refund is crystallised.

v. State of Madhya Pradesh Vs. Narmada Bachao Andolan [2011 (7) SCC 639] – Where the law creates a duty or charge, and the party is disabled to perform it, without any fault on his part, and has no control over it, the law will in general excuse him. Even in such a circumstance, the

statutory provision is not denuded of its mandatory character because of the supervening impossibility caused therein.

- Accordingly, it would be impossible for the applicant to avail ITC based on the original date of bill of entry, because it would not have been possible to predict how much differential duty would be paid / payable in future, and it would be impossible to avail ITC based on future event. Support is also drawn from the language of Section 16(4) which specifically prescribes time limit vis-à-vis debit from the date when the debit note is issued. Therefore, as per this view also, the date should begin from the date of TR-6 or as the case may be from the date of re-assessment of bill of entry.

4.1. Prima facie, we find that the queries raised by the applicant get covered under clause (d) of the Section 97(2) of the CGST Act, 2017, and as such are liable to be admitted.

4.2. The Assistant Commissioner (ST), Madhavaram Assessment Circle in their reference No. 127/A1/2025, dated 23.04.2025 have furnished her Remarks.

4.3. The Central jurisdictional authority vide their letter dated 06.09.2024 have stated that the TR-6 challan is a tax paying document and has particulars of the reason/purpose for which payment is made containing as many details as in a bill of entry. In the instant case, TR-6 challan read with SVB Order and Customs Authorities letters may be treated as valid document, and accordingly it appears that ITC can be availed on IGST paid through TR-6 challan. Further, the other queries raised by the applicant were answered as follows : - (i) since Section 16(2)(a) of the CGST Act, 2017, places TR-6 challan in the same class as a tax invoice or debit note, the time limit prescribed under Section 16(4), applies to IGST payment made through TR-6 challan also; (ii) In the instant case, re-assessed bill of entry is like a supplementary invoice, and therefore, the time limit prescribed under Section 16(4), applies to IGST payment made through re-assessed bill of entry also; (iii) The time limit begins from the date of re-assessment of bill of entry as it is in the nature of supplementary invoice for which tax has been paid. It was further stated therein that there are no pending proceedings in respect of the issue raised against the said taxpayer.

PERSONAL HEARING

5.1. Shri Shri K. Sivarajan, Partner, PW & Co., LLP appeared for the personal hearing as the authorized representative (AR) of M/s. Becton Dickinson India (P) Ltd. The AR reiterated the submissions made in their application for advance ruling.

5.2. He explained further that as they import goods from related parties, transfer pricing policy is in operation, which is subject to upward/downward revision, as the case may be. Accordingly, pursuant to a SVB order dated 27.02.2015, they have been paying differential duties along with interest, whenever such revision takes place. He also referred to a letter dated 26.10.2023 issued by the Office of the

Principal Commissioner of Customs (Air Cargo), in this regard, wherein they have been directed to pay the differential duties along with interest under TR-6 challans.

5.3. He further stated that while the office attached to 'Sea-Cargo' facility, normally issues a re-assessed Bill of Entry for such cases of price revision, the offices attached to 'Air Cargo' and 'FTWZ', do not issue such documents, and that they advise the applicant to pay the differential duties through a TR-6 challan. He reiterated that the queries raised in the application revolve around the availment of ITC on the IGST component involved under the said document, viz., TR-6 challan, which is to be considered as the duty paying document in such cases. He however pointed out that the statute under GST discusses the documents, viz., Invoice, Debit note, Bill of Entry, etc., in specific terms, whereas no reference to TR-6 challan is made either under Section 16(2)(a) of the CGST Act, 2017, which refers to 'such other tax paying document', or under Rule 36 of the CGST Rules, 2017, which refers to 'a Bill of Entry or any similar document prescribed under the Customs Act, 1962'.

5.4. Accordingly, he stated that they are of the opinion that the TR-6 challan, along with the SVB order and *letter issued by the tax authorities to pay duty under Section 28(1)(b) of Customs Act* is to be treated as the duty paying document for the purpose of availment of ITC on the IGST paid pursuant to price revision and re-assessment. He stated further that the time limit for availment of ITC should start based on the date of payment of differential duty and not from the date of issue of original BOE. Moreover, he stated since the time limit for availment of ITC prescribed under section 16(4) of the CGST Act, 2017, applies only to the invoices and debit notes, the question of applying the said time limit to a transaction under a bill of entry *or the TR6 challan read with SVB order and letter from customs authorities* does not arise. *Also, the time limit, if applies, should be from the date of reassessed BOE or TR6 challan only.* To this effect, he stated that a copy of the order dated 11.12.2020 passed by the Commissioner (Appeals), Rajkot, has been enclosed in support of their stand. Accordingly, he filed additional submissions containing the said order, other case laws and the various legal provisions relating to the issue in question, during the personal hearing. He added that he wishes to furnish further additional submissions in this regard, for which he requested the members to allow one weeks' time to file the same.

DISCUSSION AND FINDINGS

6.1. We have carefully considered the submissions made by the applicant in the advance ruling application, and the additional submissions made during the personal hearing held on 27.03.2025.

6.2. We find from the application filed by the applicant that apart from manufacturing and trading of medical equipment/devices, they also import and trade the same. The applicant imports the goods from its group companies located outside India, on payment of appropriate customs duties (including BCD, SWS and Import IGST), on filing a Bill of Entry (BOE) for home consumption. Since import

IGST is a creditable tax, the Applicant avails ITC of the same, and the said goods are subsequently sold in India on payment of outward CGST/SGST. The applicant has a limited risk distributorship agreement ("LRD agreement"), and as per the same, the goods are supplied by the overseas companies to the applicant at a price which would ensure that the applicant earns an Arm's Length Price (ALP) operating profit margin. At the end of the financial years as per the Income Tax Laws, the ALP margin is determined and compared with the actual margins earned by the applicant on the sale of imported goods. In case, the actual margin earned by the Applicant is more that the ALP margin, then the applicant transfers the differential margin through a pricing adjustment ('true up') by the overseas entity from whom the goods were imported, and vice versa.

6.3. Since the goods are imported from the related parties, the import transaction value is subject to review by the Special Valuation Branch (SVB) of the Customs under Circular No.5/2016-Customs dated 09.02.2016. Accordingly, an SVB Order dated 27.02.2015 has been obtained by the applicant from the Deputy Commissioner of Customs, SVB, New Delhi, which further stands renewed vide order dated 11.06.2018. In the SVB Order, the LRD agreement was examined and it was accepted that the relationship between the applicant and the group company has not influenced the import price. Vide para 15 of the SVB order, the aforesaid 'true up' adjustment was also examined, and it was held that the applicant is liable to pay applicable customs duties along with applicable interest in case of upward revision in the invoice value of imported goods voluntarily. The aforesaid LRD agreement as well as the SVB order are continuing as on date of filing this application.

6.4. Under these circumstances, upon conclusion of FY 2022-23, owing to increase in business and domestic prices, the applicant has earned an operating profit in excess of arm's length range of operating margin. Accordingly, in compliance with the SVB order, the applicant re-determined the import price involving differential customs duties including import IGST, and the same trend happened in FY 2023-24 as well. In the state of Tamil Nadu, the applicant has reportedly imported goods through 3 different ports, viz., (i) Chennai Sea (ii) Chennai Air-Cargo, and (iii) Chennai FTWZ. Further, it is reported by the applicant that when they reached out to the respective field formations with regard to payment of differential duties, the Chennai Sea Customs authorities allowed re-assessment of bills of entry, whereas the other two customs authorities, i.e., Air Cargo and FTWZ directed the applicant to deposit the differential taxes/duties through TR-6 challans.

6.5 Keeping in mind the aforesaid facts and circumstances herein, we are of the opinion that the peculiar nature of the transactions/modalities involved in the instant case, needs to be acknowledged and accordingly, query No.1, viz., *"Whether the Applicant can avail the ITC of the import IGST paid through TR-6 Challan in terms of Section 16(2) of the CGST Act read with rule 36 of CGST Rules?"* is required to be taken up for consideration.

6.6 In this regard, we note that the provisions of Section 16(2) of the CGST Act, 2017, reads as below :-

> *"(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—*
>
> *(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or **such other** tax paying documents **as may be prescribed**;"*

It could be seen from the above, that apart from a tax invoice and a debit note, the law recognises 'such other tax paying documents' as well, as may be prescribed, which enables a taxpayer to take recourse to rule 36 of the CGST Rules, 2017, that reads as –

> *"36 (1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-*
>
> *(a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;*
>
> *(b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;*
>
> *(c) a debit note issued by a supplier in accordance with the provisions of section 34;*
>
> *(d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;*
>
> *(e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54."*

While the aforesaid rule recognises the documents, viz., invoice, debit note, ISD invoice, ISD Credit note, etc., on the basis of which ITC could be availed, as far as Bill of Entry is concerned, it is specifically provided for in clause (d) as, "a bill of entry or any similar document". The phrase 'or any similar document' in the said legal provision, makes it more accommodative with a broader connotation. However, it is to be noted that the said clause brings in a clear-cut restriction to the effect that the said document should be 'prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports'. Accordingly, it is implied that only such documents like Bill of entry, Courier Bill of entry and other Declarations/Forms prescribed under the Customs Act, 1962 or rules made thereunder, get covered under clause (d) of the aforesaid provision for the purposes of availment of ITC.

6.7 Under the context of the situation, we observe that in the instant case, the transaction involving import of goods that has already been assessed to duties of Customs including IGST, is being subjected to re-assessment whenever upward price revision takes place between the applicant and the foreign supplier who

happen to be a related party. The applicant has reported that in the state of Tamil Nadu, they have imported goods through 3 different ports, viz., (i) Chennai Sea (ii) Chennai Air-Cargo, and (iii) Chennai FTWZ. While the Chennai Sea Customs authorities allowed re-assessment of bills of entry which meant that the differential duties would be payable through the re-assessed bills of entry, the Air Cargo and FTWZ (Free Trade Warehousing Zones) authorities on the other hand, directed the applicant to deposit the same through TR-6 challans. In this regard, the applicant has also enclosed copies of the respective letters, viz., (i) letter dated 26.10.2023 issued by the Office of the Principal Commissioner of Customs (Air Cargo), and (ii) letter dated 04.03.2024 issued by the Office of the Specified Officer, J Matadee FTWZ. On perusal of the same, it is seen that both the letters carry the following common aspects, viz.,

(i) The company may pay the differential duty along with interest by way of TR-6 challans under Section 28(1)(b) of the Customs Act, 1962 for the imports done in FY 2022-23 and 2023-24, and to submit the TR-6 challans.

(ii) The quantification of differential duty and Interest thereon is subject to Revision/Reconciliation based on the outcome/verification which SVB of Chennai Customs might choose to undertake.

(iii) To comply with the observations/directions of SVB Orders as mentioned in Para No.26 of the SVB Delhi Order dated 27.02.2015.

On perusal, para 26 of the SVB (Special Valuation Branch), New Delhi Order dated 27.02.2015, runs as below :-

> *"26. The Importer is required to make annual declaration to the undersigned regarding any change in the mode of invoicing or terms of agreements and relationship with the foreign collaborators failing which review of the order may be initiated in that year itself. On expiry of every year if such declaration is not furnished, this office may order for provisional assessment with EDD as deemed appropriate. Declaration should indicate clearly whether the facts of the case continue to be same."*

Apart from the same, we find that it was held under para 15 of the said SVB Order that any in case of any upward revision in the invoice values of the imported goods by the foreign suppliers, the importer is required to pay applicable customs duty along with interest on the differential amount voluntarily.

6.8 Accordingly, we come to understand that in the instant case, re-assessment of duties of customs takes place whenever there is an upward revision of price, due to transfer price adjustment with their parent company located abroad. We also come to understand that this payment of differential duties of customs including IGST by the applicant in the instant case, is a fall-out of the suo-moto declaration of price revision (of the foreign supplier) by the applicant, which fact has duly been recognised/acknowledged and taken cognisance of by the Department. Under these circumstances, we are of the opinion that ITC on the differential IGST paid is very much eligible for availment based on the re-assessed bills of entry in respect of the goods imported through Chennai Sea Customs. However, in similar situations

involving payment of differential duties of Customs through TR-6 challans, where no re-assessed bill of entry is issued, as in the case of Air Cargo Customs and J Matadee FTWZ, a question as posed by the applicant arises as to whether ITC of the IGST paid could be availed based on the TR-6 challan, along with the SVB order and letter issued by the tax authorities to pay duty under Section 28(1)(b) of Customs Act, pursuant to price revision and re-assessment.

6.9 At this juncture, it becomes imperative to note the contents of Circular No.16/2023-Customs (F.No.605/11/2023-DBK/569Z) dated 07.06.2023, (Implementation of Hon'ble Supreme Court direction in Judgement dated 28.04.2023 in matter of Civil Appeal No.290 of 2023 (UOI and Other Vs. Cosmo Films Ltd.) relating to 'Pre-Import Condition') and the clauses relevant to the issue in hand, are reproduced as below:-

> *"5.1 The matter has been examined in the Board for purpose of carrying forward the Hon'ble Supreme Court's directions. It is noted that -*
>
> *(a) ICES does not have a functionality for payment of customs duties on a bill of entry (BE) (unless it has been provisionally assessed) after giving the Out-of-Charge (OOC) to the goods. In this situation, duties can be paid only through a TR-6 challan.*
>
> *(b) Under GST law, the BE for the assessment of integrated tax / compensation cess on imports is one of the documents based on which the input tax credit may be availed by a registered person.* ***A TR-6 challan is not a prescribed document for the purpose****.*
>
> ---
>
> *5.2 Keeping above aspects in view, noting that the order of the Hon'ble Court shall have bearing on importers other than the respondents, and for purpose of carrying forward the Hon'ble Court's directions, the following procedure can be adopted at the port of import (POI);-*
>
> *(a) for the relevant imports that could not meet the said pre-import condition and are hence required to pay IGST and Compensation Cess to that extent, the importer (not limited to respondents) may approach the concerned assessment group at the POI with relevant details for purposes of payment of the tax and cess along with applicable interest.*
>
> *(b) the assessment group at POI shall cancel the OOC and indicate the reason in remarks. The BE shall be assessed again so as to change the tax and cess, in accordance with the above judgment.*
>
> *(c) the payment of tax and cess, along with applicable interest, shall be made against the electronic challan generated in the Customs EDI System.*
>
> *(d) on completion of the above payment, the port of import shall make a notional OOC for the BE on the Customs EDI system (****so as to enable transmission to GSTN portal*** *of, inter-alia, the IGST and Compensation Cess amounts with their date of payment (relevant date)* ***for eligibility as per GST provisions****).*
>
> *(e) the procedure specified at (a) to (d) above can be applied once to a BE.*

*6.1 Accordingly, the input credit with respect to **such assessed BE** shall **be enabled to be available** subject to the eligibility and conditions for taking input tax credit under Section 16, Section 17 and Section 18 of the CGST Act, 2017 and rules made thereunder."*

6.10 In view of the aforesaid reasons, and as rightly pointed out therein, a TR-6 challan cannot be considered as a document for the purpose of availment of ITC in the present GST scenario. It is to be noted that under the pre-GST era, Rule 9 of the CENVAT Credit Rules, 2004, challans were indeed identified as documents for the purpose of availment of credit. Whereas, in present scenario involving GST, the challan or TR-6 challan, as the case may be, is conspicuously absent in the list of documents prescribed for availment for ITC under Rule 36 of the CGST Rules, 2017. We observe that this noticeable difference in the pre-GST legal provisions as compared to GST provisions, is due to the fact that the dynamics involving the transmission of the duties of customs including IGST, Cess, etc., to the GSTN portal, so as to enable the same to be available for the claim of ITC, was not a pre-requisite in the pre-GST era.

6.11 Apart from the same, we also take note of the fact that in both the cases of assessment carried out under the letters issued by Air Cargo and FTWZ, the differential duty along with interest has been directed to be paid, en-masse for the entire financial years 2022-23 and 2023-24. We are of the opinion that the applicant ought to have resorted to Bill of Entry-wise re-assessment, which in turn could have paved the way for a seamless availment of ITC based on the bills of entry which figures as one of the prescribed and a legally valid document for availment of ITC. Under the circumstances of the instant case, we are unable to comment on the aspect relating different assessment practices reportedly adopted by the respective Customs formations, viz., Chennai Sea Customs, Air Cargo Customs and J Matadee FTWZ, as the same is beyond the purview of the Authority for Advance Ruling, and it is the look-out of the applicant to get the Bill of Entry-wise re-assessment done with the respective Customs authorities. Accordingly, we are of the considered opinion that neither a TR-6 challan as such, nor a TR-6 challan read with the SVB order and letters issued by the tax authorities, as claimed by the applicant can be considered as an eligible document for the purpose of availment of ITC.

6.12 Moving on to the second query raised by the applicant, i.e., *"Whether the eligibility to avail ITC of the import IGST paid vide TR-6 Challan is subject to the time limit prescribed under Section 16(4) of the CGST Act?"*, we are of the opinion that this query need not be answered, having already held that TR-6 challan as such, or a TR-6 challan read with the SVB order and letters issued by the tax authorities, cannot be considered as an eligible document for the purpose of availment of ITC, as discussed in detail above.

6.13 As regards the third query raised by the applicant, i.e., *"Whether the eligibility to avail ITC of the import IGST paid under the re-assessed bill of entry is subject to the time limit prescribed under Section 16(4) of the CGST Act?"*, we note that the provisions of Section 16(4) of the CGST Act, 2017, read as below :-

"(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier."

In this regard, we observe that as rightly pointed out by the applicant, the aforesaid provision that prescribes the time limit for availment of ITC, discusses only about an invoice or a debit note, without making reference to any other document. However, it may be seen that apart from a tax invoice and a debit note, the provisions of Section 16(2) of the CGST Act, 2017, recognises 'such other tax paying documents as may be prescribed' as well, which is reproduced for reference,

"(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

*(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or **such other** tax paying documents **as may be prescribed**;"*

Accordingly, the 'Bill of Entry' figures as one of the prescribed document for the purposes of availment of ITC, under rule 36(1)(d) of the CGST Rules, 2017. As a result, availment of ITC based on a 'Bill of entry' becomes eligible to the applicant, irrespective of the fact whether it is re-assessed or original. However, it is to be noted that if the re-assessment happens to be a fall-out of an audit or an anti-evasion operation involving fraud, wilful misstatement, suppression of facts, etc., an embargo exists in relation to ITC availment on the same, as provided under Rule 36(3) of the CGST Rules, 2017.

6.14 At this juncture, it becomes imperative to note that separate legislations which are almost identical and run parallel to each other, have been enacted for the purpose of levy of CGST and SGST, as far as 'intra-state' supplies are concerned. However, for the purpose of levy of IGST on 'inter-state' supplies and for import of goods and services, the enactments viz., the IGST Act, 2017 and the rules made thereunder, borrow the provisions for a major part from the CGST Act, 2017, except 'Levy and collection', 'Place of supply', etc. The enabling provision, i.e., Section 20 of the IGST Act, 2017, reads as follows :-

*"20. Application of provisions of Central Goods and Services Tax Act.—Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act **relating to**,—*

(i) scope of supply;
(ii) composite supply and mixed supply;
(iii) time and value of supply;
(iv) **input tax credit;**

(ix) **payment of tax;**

(xii) **assessment;**

(xvi) **demands and recovery;**

(xxi) **offences and penalties;**

---

*shall, **mutatis mutandis, apply**, so far as may be, **in relation to integrated tax** as they apply in relation to central tax **as if they are enacted under this Act**:"*

Much in the same manner, Rule 2 of the IGST Rule, 2017, specifies as follows :-

*"**Rule 2 - Application of Central Goods and Services Tax Rules.** - The Central Goods and Services Tax Rules, 2017, for carrying out the provisions specified in section 20 of the Integrated Goods and Services Tax Act, 2017 shall, so far as may be, apply in relation to integrated taxes they apply in relation to central tax."*

From the above, it could be seen that once the provisions of CGST Act and Rules are made applicable to IGST, mutatis mutandis, for the purposes of and in relation to input tax credit, payment of tax, assessment, demands and recovery, etc., it becomes clear that the necessary changes/differences have to be considered and inferences have to be made while applying the CGST provisions to that of IGST. Under these circumstances, the term **'mutatis mutandis'** assumes immense significance in the context of the situation. It generally means that the respective differences have been considered, and as per Wikipedia, it means *"with things changed that should be changed", "once the necessary changes have been made".*

6.15 Accordingly, the provisions of 16(4) of the CGST Act, 2017 that prescribes the time frame for availment of ITC refers just to an invoice or a debit note, in view of the fact that the levy enabled under Section 9 of the Act, ibid, is only in respect of intra-state supplies of goods or services or both. Further, it is to be noted that only an invoice or a debit could be related to an intra-state supply, and not a 'Bill of Entry' which is relatable only to import of goods involving payment of taxes under IGST, and which document does not relate to intra-state supplies in any manner whatsoever. At this juncture, it becomes necessary to highlight the fact that the structuring of any enactment and the provisions relating thereto, could be made only with respect to a specific subject matter (Central tax in the instant case) or a general situation in focus, and it is not possible to address every other situation. Therefore, when confronted with other such situations, inferences/parallels have to be drawn, to address the same. Accordingly, by virtue of Section 20 of the IGST Act, 2017, whereby the provisions of CGST Act, 2017, becomes applicable 'mutatis mutandis' in relation to Integrated tax, we infer that the time limit prescribed under the provisions of Section 16(4) of CGST Act, 2017, applies in equal measure to the availment of ITC based on a 'Bill of Entry' in relation to Integrated taxes, as much as it applies to availment of ITC based on an invoice or debit note in relation to Central tax.

6.16 Notwithstanding the same, we are of opinion that any 'cause of action' which is legally enforceable, is bound to be protected by a time limit, even if the same is not specified under the legal provisions of the respective statutes. In this regard, we

would like to draw attention to the Order No.359/95 dated 5.06.1995 of the South Regional Bench (Larger Bench), CEGAT, Madras, in the case of Brakes India Ltd., Vs. Collector of Central Excise, Madras. The said order discusses about the provisions of the erstwhile Central Excise Rules, 1944, wherein under Rule 57E, limitation period has not been prescribed for taking Modvat credit, whereas the normal time limit was six months for taking credit in respect of the other provisions under Rule 57. We note that in para 9 of the said order, it is held as follows ;-

> *"We hold that even under Rule 57E where **no limitation is prescribed**, six months will be a reasonable period of limitation in the facts and circumstances of the case which should be reckoned from the date of receipt of goods on the factory for taking Modvat. In our view, this is in consonance with the ratio of the Supreme Court in the case of M/s. Citadel Fine Pharmaceuticals."*

We are therefore of the opinion that the reliance placed by the applicant in this regard, on an Order-in-Appeal No.RAJ-EXCUS-000-APP-032-TO-033-2021-GST-JC dated 11.12.2020 passed by the Commissioner (Appeals), Rajkot, wherein it is held that time limit prescribed under Section 16(4) for taking ITC is not applicable to ITC availed on the strength of bill of entry, is of no avail to them.

6.17 This apart, we find that the time limit prescribed under Section 16(4) of the CGST Act, 2017, has been structured in such a way that no ITC could be availed *"after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier"*. The aforesaid style of phrasing is peculiar to this provision, as compared to various other provisions of the Act, ibid, where the time limit is expressed in simple terms, like 30 days, 90 days, 180 days, three months, three years, five years, etc. Whereas, the time limit for availing ITC is ideally fastened to the furnishing of annual return, or with a specific day, viz., the thirtieth day of November following the end of financial year, which indicates that the entire scheme of ITC availment which starts with the periodical monthly returns, should come to an end by the time the annual return is filed, or finalised by the thirtieth day of November following the end of financial year, whichever is earlier. Accordingly, we are of the considered opinion that availment of ITC on the basis of a 'bill of entry', whether original or re-assessed, is governed by the time limit as prescribed under Section 16(4) of the CGST Act, 2017.

6.18 Coming to the 4th query raised by the applicant, viz., *"If the answer to Q.3 for bill of entry is in affirmative, whether the time limit for availing ITC would begin from the initial date of bill of entry originally filed or from the date of re-assessment of bill of entry?"*, we are of the opinion that this query needs to be answered, as we have answered the third query in affirmative. In this regard, if the payment of differential duties of customs is a fall-out of the SVB order and letters issued by the tax authorities, as discussed in the instant case, we reckon that the time limit for availing ITC would ideally begin from the date of re-assessment of bill of entry, as the payment of differential duties of customs including IGST, interest thereon, etc., is necessitated only when an upward price revision takes place at a later date.

7. In view of the above, we rule as under;

RULING

i) Neither a TR-6 challan as such, nor a TR-6 challan read with the SVB order and letters issued by the tax authorities, as claimed by the applicant in the instant case can be considered as an eligible document for the purpose of availment of ITC.

ii) As TR-6 challan cannot be considered as an eligible document for the purpose of availment of ITC, the question of answering this query does not arise.

iii) Availment of ITC on import IGST on the basis of a re-assessed bill of entry, is very much governed by the time limit as prescribed under Section 16(4) of the CGST Act, 2017.

iv) The time limit for availing ITC on the differential IGST paid would begin from the date of re-assessment of bill of entry.

AUTHORITY FOR ADVANCE RULING . GOODS AND SERVICE TAX ★ TAMILNADU ★

(B. Suseel Kumar)
Member (SGST)

(Balakrishna S) 09/05/2025
Member (CGST)

To
M/s. Becton Dickinson India Private Limited,
34, Assisi Nagar, West Thottam,
Madhavaram, Tiruvallur – 600 051.

(By RPAD)

Copy submitted to :

1. The Principal Chief Commissioner of GST and Central Excise,
   26/1, Uthamar Mahatma Gandhi Road,
   Nungambakkam, Chennai 600 034.
2. The Commissioner of Commercial Taxes,
   2nd Floor, Ezhilagam, Chepauk, Chennai 600 005.
3. The Commissioner of GST and Central Excise,
   Chennai North Commissionerate.

Copy to:

1. The Assistant Commissioner (ST),
   Madhavaram Assessment Circle,
   Integrated and Commercial Taxes Building,
   Elephant Gate Bridge Road, Vepery,
   Chennai – 600 003.
2. Master File / Stock File – A1