



**PUNJAB AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX, BHUPINDRA ROAD,
PATIALA 147001, PUNJAB**

①

ORDER NO. AAR/GST/PB/002 Dated: 20.08.2018

(Note: An Appeal against this order lies with the Appellate Authority in terms of Section 99 and Section 100 of the CGST Act, 2017 and Section 99 and Section 100 of the PGST Act, 2017 within a period of thirty days from the date of communication of this order.)

Name and Address of the Applicant	:	M/s K.P.H. Dream Cricket Private Limited Plot No. 372, Industrial Area, Phase-9 Mohali, SAS Nagar, Punjab-160062
GSTIN of the Applicant	:	03AADCK3039P1ZF
Date of application/ Date of Receipt	:	02-04-2018 / 04-04-2018
Date of Personal Hearing	:	16-07-2018
Present for the Applicant	:	Sh. Praveen Kashyap and Sh. Adarsh Gupta, Consultants of the firm

M/s K.P.H. Dream Cricket Private Limited, Plot No. 372, Industrial Area, Phase-9, Mohali, SAS Nagar, Punjab-160062 hereinafter referred to as 'applicant' had submitted an application for advance ruling in form GST ARA-01 vide his letter dated 02.04.2018 received on 04.04.2018 seeking to know

1. Whether free tickets given as "Complimentary Tickets" falls within the definition of supply under CGST Act, 2017 and thus whether the applicant is required to pay GST on such free tickets?

2. Whether the applicant is eligible to claim Input Tax Credit (for short "ITC") in respect of complimentary tickets?

In this regard, comments from the concerned officer i.e. Assistant Commissioner of State Taxes, S.A.S. Nagar, Mohali were sought. The concerned officer vide his letter dated 24-05-2018 stated that free tickets given as "Complimentary Tickets" fall within the definition of supply under CGST Act, 2017 and thus, the applicant is required to pay GST on such free tickets and applicant is also eligible to claim Input Tax Credit in respect of complimentary tickets. A personal hearing of the applicant in this regard was held on 16.07.2018 before the Advance Ruling Authority, Punjab on which date Sh. Praveen Kashyap and Sh. Adarsh Gupta, Consultants of the firm appeared on behalf of the applicant. The questions raised by the applicant were discussed at length. The consultants requested for adjournment for submission of documents. On their request, the case was adjourned with the directions to submit written submission by 30-07-2018. The applicant has sent written submission through e-mail received on 30-07-2018, which is reproduced as under:

Written submissions & synopsis by the Applicant in respect of application for Advance Ruling:

1. That, M/s K.P.H Dream Cricket Private Limited, (for short "applicant" or "KPH"), having its registered office at Plot No. 372, Industrial Area, Phase-9, Mohali, SAS Nagar, Punjab-160062 is a franchisee of Board of Control for Cricket in India (for short "BCCI") for the purpose of establishing and operating a cricket team to participate in Indian Premier League T20 cricket tournament (for short "IPL"), under the title of "Kings XI Punjab".
2. That IPL is a domestic professional Twenty-20 cricket tournament in India, organized by BCCI-IPL every year under the gaming rules as prescribed by the BCCI-IPL and International Cricket Council ('ICC').
3. The Applicant has participated in a bid invited by the BCCI and after being successful in the said bid, entered into a Franchise Agreement, the Appellant has been permitted to establish and operate the team 'Kings XI Punjab'.
4. Furthermore, the Applicant to participate in IPL with other franchisees wherein few matches are held at each franchisee's home ground. During the financial year 2018-19, the Appellant will participate in IPL including the matches held at their home grounds in Mohali (Punjab) and Indore (Madhya Pradesh).
5. The applicant proposes to provide "Complimentary tickets" on account of courtesy/public relationship/promotion of business where no flow of consideration from the recipient/holder.
6. The applicant has filed an application under section 97 of Central Goods & Services Tax Act 2017 (for short "CGST Act") seeking an advance ruling.

The questions for which advance ruling is sought are-

- a. Whether free tickets given as "Complimentary Tickets" falls within the definition of supply under CGST Act, 2017 and thus, whether the applicant is required to pay GST on such free tickets?
- b. Whether the applicant is eligible to claim Input Tax credit (for short "ITC") in respect of complimentary tickets?

In furtherance to our justification stated in our above stated application for Advance ruling, the Applicant wishes to submit following additional submissions with a request to be taken into consideration to decide the matter.

ADDITIONAL SUBMISSIONS

7. The Goods and Services Tax (GST) regime has introduced a concept of 'supply' as a taxable event and done away with the erstwhile taxable events of sale, service, manufacture etc. This inter-alia require fresh thoughts for treatment of various transactions and events.
8. While the term 'free supply' is not defined under GST law or the erstwhile indirect tax laws, a 'free supply' as the name suggests is a supply of goods or services without any consideration (Monetary or Kind). We find it pertinent here to understand the treatment of free supply under pre-GST regime:
 - a. **Free supply of goods** was not taxable as Value Added Tax (VAT)/ Central Sales Tax (CST) was chargeable only on 'sales'. The term 'Sales' was defined under the Sale of Goods Act, 1930 which was followed to State VAT laws to mean a transfer of goods for a consideration.
 - b. **Free supply of services** was not chargeable to Service Tax as Service Tax was liable to be paid on the gross amount charged for services, and the term 'service' was defined to mean an activity provided by one person to another for consideration.

Under the GST regime, treatment of free supply has undergone a change on following grounds –

- Firstly, the treatment of free supplies made to related and unrelated parties differ.
- Secondly, even though GST was contemplated to treat goods and services alike, provisions relating to credit of free supplies of goods differ from those relating to credit of free supply of services.

Free supply and its taxability under GST

9. Under GST, the incidence of tax is 'supply'. The term 'supply' has been defined in an inclusive manner under Section 7 of the CGST Act. What this effectively means is that the definition is not exhaustive, and there may be some supplies which are not specified within the definition of the term.
10. The term 'supply' is defined to include all forms of sale, transfers, exchanges, barter etc. made or agreed to be made for a consideration in the course or furtherance of business. However, supplies between related persons or distinct persons (different offices of the same entity) in the course or furtherance of business even if not for a consideration are supplies (in terms of Schedule I to the CGST Act). As a result, free supplies between unrelated persons, cannot be said to 'supplies', therefore, not taxable. Whereas free supplies between related persons are 'supplies' and therefore, taxable.
11. The term 'related persons' has been defined in the explanation to Section 15 of the CGST Act. The said definition of term 'related persons' reads as under:

"(a) persons shall be deemed to be "related persons" if –

- (i) such persons are officers or directors of one another's businesses;
- (ii) such persons are legally recognized partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

(b) the term "person" also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire howsoever described, of the other, shall be deemed to be related."

On perusal of above cited definition of the term 'related person', one may safely conclude that the applicant and the ticket holder (recipient) cannot be covered under any entry and thus cannot be said to a related person.

12. In light of the above stated legal provisions and discussion, it is view of the applicant that the activity of providing complimentary tickets without any consideration on account of courtesy/public relationship/business promotion would not fall under the definition of supply as given under Section 7 of the CGST Act, 2017 and Schedule I of CGST Act, 2017 and thus not exigible to GST.

Input tax credit

13. One of the major advantages sought to be achieved from implementation of GST is the removal of cascading effect by facilitating seamless flow of credit. The "statement of Objects and Reasons" to the Constitution (122 nd Amendment) Bill, 2014, enacted as the Constitution (101st Amendment) Act, 2016 categorically includes elimination of cascading effect. This would be achieved by providing for the availment of Input tax credit to the purchasing dealer in respect of the tax charged by the supplying dealer.
14. With a view to avoid the cascading effect of taxes and build-up of tax costs, the government has consciously streamlined the credit restrictions applicable under the GST regime. Section 17(5) specifically restricts credit of

input tax on 'goods disposed of by way of free samples'. It is relevant to note that the manner in which this provision has been drafted, when read along with credit reversal formula, suggests that credit is restricted only where such goods are disposed as is, and not necessarily in cases where such goods are incorporated into a final product which is disposed free of cost. Therefore, it appears that credit relating to traded goods supplied free of cost is restricted, whereas credit relating to manufactured goods supplied free of cost may not be restricted. 4

15. As regards free supply of services, the CGST Act does not prescribe any credit restriction. Therefore, in view of the applicant even though the output (free supplies of) services are not taxed, there is no need for reversal of input tax credit.
16. Section 16 provides that every registered taxable person shall in the manner specified in section 44, be entitled to take credit of input tax charged on any supply of goods or services to him which are used or intended to be used in the course or furtherance of his business. In case any inward supply of goods and/or services is used for non-business purpose, the credit thereon is not allowed. Therefore, section 17(1) provides that where the goods and/or services are used partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purpose of his business. Supply of complimentary tickets is part and parcel of the business of the applicant and cannot be said to be used for non-business purpose.
17. The meaning of supply made in course or furtherance of business given in the FAQ on GST released by CBEC says – No definition or test as to whether the activity is in the course of furtherance of business has been specified under the CGST Act. However, the following business test is normally applied to arrive at a conclusion whether a supply has been made in the course or furtherance of business.
 - a. Is the activity, a serious undertaking earnestly pursued?
 - b. Is the activity, pursued with reasonable or recognizable continuity?
 - c. Is the activity, conducted in a regular manner based on sound and recognized business principles?
 - d. Is the activity, predominantly concerned with the making of taxable supply for consideration/ profit motive?

Accordingly, when the inputs and/ or input services are said to be used in furtherance of business, the use of such supplies should help in achieving the objectives of the business in a better and effective way, thus corresponding credit is allowed.

18. Section 17(2) provides that where the goods and /or services are used partly for effecting taxable supplies including zero-rated under this act or under the IGST Act, 2016 and partly for effecting exempt supplies under the said acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies. Supply of complimentary tickets is not a supply in itself and thus cannot be said to be an exempt supply.
19. Further Section 17(3) provides that the value of exemption supply under sub section (2) shall be such as may be prescribed. Reference to chapter V(Input Tax credit) of CGST Rules 2017, there is no valuation mechanism prescribed for free supplies. Explanation to Rule 42, of CGST Rules 2017 clarifies ' For the purpose of this clause, it is hereby clarified that the aggregate values of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the seventh schedule to the constitution and entry 51 and 54 of list II of the said schedule'. Thus assuming but not agreeing if supply of free tickets is said to be exempt supply, there are no machinery provisions for valuation of free supplies and calculation of ITC reversal thereof under CGST Act 2017 read with CGST Rules 2017 *ibid*.
20. It is a settled position that Input Tax Credit is an indefeasible right of the assessee which cannot be forfeited in absence of any ambiguity or clarity.

Free supplies

21. The act of giving free supplies is similar to the promotional and advertising activities undertaken by every business which are the basic ingredients and inevitable. Moreover, when a business makes a free supply, the cost which the business has incurred is always taken into account by him in fixing the price of the rest of supplies. Thus, albeit-indirectly, the exchequer will get GST even on the value of the free supplies and there is no revenue loss as such to the government. Similar observation has been made by Hon'ble Gujarat High Court in Para 17, in the case of Ruby Laboratories [**Ruby Laboratories vs. Commissioner of Sales Tax** on 26 November, 1970 (1971 27 STC 326 Guj)]
22. If **business** promotion and advertisement expenses are not specifically excluded and are considered as 'in the course or furtherance of business' then in view of the applicant same treatment is available for free supplies.
23. Following are some of the similar transactions wherein the question of claiming ITC for free supply of services could arise and have possible implications :
- Free consultancy services by a lawyer/ chartered accountant.
 - Complimentary movie tickets in a FM Radio show.
 - First night free on Hotel booking on various online portals.

Thus if ITC is eligible for the above listed events, similar treatment should be available for free supplies of complimentary tickets and in view of the applicant ITC should be freely available.

24. The eligibility of credit on free supply also has undergone the test of judicial interpretation by House of Lords. In the case of (**Customs and Excise Commissioners vs. Professional Footballers' Association (Enterprises) Ltd** [1993] 1 WLR 153, 157; [1993] STC 86, 90), the taxpayer company was responsible for the organization of an annual awards dinner for a footballers' association, for which it purchased trophies for presentation to the player of the year and other award winners. The association's members purchased tickets for the dinner at a price fixed by the company with the aim of covering the expenses incurred. The company collected VAT on the sale of such tickets sold and also claimed a VAT credit in respect of the input tax paid on the purchase of trophies. The credit was disputed on the grounds that the trophies were distributed free of cost and therefore, no credit could be claimed. The House of Lords held that where a direct link could be shown between the giving of those assets and consideration received by the taxpayer from persons other than the recipients, that the awards dinner had been organized as a self-supporting event, for which the ticket receipts were intended to cover the total cost including the provision of trophies; and that accordingly, the purchase of the tickets provided the consideration for the supply of trophies to the award winners and output tax was not payable separately by the company on that value.

Circular No. 47/21/2018-GST dated 8th June 2018

25. We, respectfully wish to bring to your notice that CBIC has issued a clarification vide Circular No. 47/21/2018-GST dated 8th June 2018 vide which it has been clarified that supply of FOC basis does not constitute a supply as there is no consideration involved. It also clarifies that where FOC supply is made in the course of furtherance of business, there is no requirement of reversal of credit. Relevant abstract of the circular is re-produced hereunder-

SL.	Issue	Clarification
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No.		
1.1	Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?	1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed

26. The two questions on which we have sought advance ruling from your good office are the same which have been clarified by the above cited circular.

However, vide their e-mail dated 14.08.2018, the applicant requested for withdrawal of the application attaching their letter dated 13.08.2018 which read as follows:

27. " We, M/s K.P.H Dream Cricket Private Limited, (for short "applicant" or "KPH"), having its Corporate office at C-115, 1st Floor, L & T Elante Office, Plot No. 178/178A, Industrial & Business Park, Area Phase-I, Chandigarh 160002 is an IPL franchisee to participate in Indian Premier league T20 cricket tournament (for short "IPL"), under the title of "Kings XI Punjab".

The applicant has filed an application under Section 97 of Central Goods & Services Tax Act 2017 (for short "CGST Act") seeking an advance ruling. The questions for which advance ruling is sought are –

- Whether free tickets given as "Complimentary Tickets" falls within the definition of supply under CGST Act, 2017 and thus, whether the applicant is required to pay GST on such free tickets?
- Whether the applicant is eligible to claim Input Tax Credit (for short "ITC") in respect of complimentary tickets?

We, respectfully wish to bring to your notice that CBIC has issued a clarification vide Circular No. 47/21/2018-GST dated 8th June 2018 vide which it has been clarified that supply of FOC basis does not constitute a supply as there is no consideration involved. It also clarifies that where FOC supply is made in the course of furtherance of business, there is no requirement of reversal of credit. Relevant abstract of the circular is re-produced hereunder-

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The two questions on which we have sought advance ruling from your good office are the same which have been clarified by the above cited circular."

Discussions and findings:

We have carefully gone through the facts of the case, the contentions of the applicant and legal provisions relevant to the questions raised in the present application. It is interesting to note that after submission of the application, personal hearing and further additional submissions made by the applicant, after the applicant had been spiritedly arguing as to how handing out of complementary tickets would not amount to supply under the GST Act, 2017, the applicant suddenly withdrew his advance ruling application. It is also interesting to note that the applicant has cited the Circular No. 47/21/2018-GST dated 8.6.2018 while withdrawing the application, which circular he had already referred to in his written submissions. Therefore, no new fact has been added by the applicant while requesting for withdrawal while he has stated his opinion on the issue that the two questions on which Advance Ruling has been sought stand already clarified by the said Circular.

2. While no specific provision in the CGST Act and the Punjab GST Act deals with the withdrawal of Advance Ruling applications, it is noteworthy that as per Section 98 of the CGST Act, 2017 and the concomitant Section 98 in Punjab GST Act, which lays down the procedure on how Advance Ruling applications are to be dealt with, the 'concerned officer' has been recognised as an equal stakeholder in the advance ruling process by making it mandatory for (1) copy of advance ruling application to be made available to him, (2) making it mandatory to hear his views, and (3) making it mandatory to supply the copy of Advance Ruling order to him. In the present scenario, the applicant has withdrawn his Advance Ruling application while indicating that his case is similar to the case of an Original Equipment Manufacturer (OEM) which has been discussed by the said circular as not constituting a supply, and the 'concerned officer' has reached a conclusion diametrically opposite that the activity of the applicant of supplying complementary tickets free of charge would amount to supply. Therefore, allowing for withdrawal of the present application in terms of the applicant, without discussing the case on merits would not be in public interest. Hence, circumstances call for discussion on merits rather than allowing withdrawal, especially when both interested parties to the Advanced Ruling application hold contrary views. While, the said Circular dated 8.6.2018 clarifies the case of an OEM where he is providing Dies and Moulds owned by him free of cost to a component manufacturer, who further uses these to make components for the OEM and supply such components back, this situation cannot be compared to the situation of handing out complementary tickets for viewing Cricket matches by any stretch of imagination. In the present case, there is no owned property of the applicant being given to the receiver for the purpose of being used for value addition and in making of inputs which are received by the applicant. Therefore, the case of the applicant is differentiated from the case of the OEM which is the basis of Circular, and hence the contention of the applicant that the questions posed by him in the present Advance Ruling application stand answered by the said Circular does not hold any force.

3. For answering the question of whether free tickets given as "complementary tickets" fall within the definition of supply under the CGST Act, 2017 and parallel provisions of Punjab GST Act, 2017, and whether the applicant would be required to pay tax on such free tickets, we would take recourse to section 7 of CGST Act 2017 and the parallel section 7 of the Punjab GST Act 2017 which lays down the scope of supply. 8

4. As per Section 7(1)(a) of the CGST Act, 2017, the expression supply includes *"all forms of supply of... services as sale, transfer, barter, exchange, license rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business"*

The word consideration has also been defined in Section 2(31) of the CGST Act as under:

- "(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government....."

Perusal of the definition of the word 'consideration' shows that it is an inclusive definition and covers not only payments made in money terms or otherwise as mentioned in section 2(31)(a) but also the monetary value of any act of forbearance in respect of supply of services, whether by the recipient (in this case the complimentary ticket receiver) or by any other person (which in this case would also include the applicant) in terms of Section 2(31)(b). In the present case when the applicant issues a 'complimentary ticket' to any person, the applicant is certainly displaying an act of forbearance by tolerating persons who are receiving the services provided by the applicant without paying any money, which other persons not receiving such complimentary tickets' would have to pay for.

5. The monetary value of this Act of forbearance would naturally be pegged to the amount of money charged from other persons not receiving the 'complementary tickets' for availing the same services. This would also be in consonance of Rule 32 (6) of CGST Rules, 2017 which lay down that "(6) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp."

The complementary ticket given by the applicant to various persons would certainly be covered by the term 'token' and 'voucher' which are both defined relatedly in the Oxford English Dictionary. On website <https://en.oxforddictionaries.com/definition/token> token is defined as 'a voucher that can be exchanged for goods or services, typically one given as a gift or forming part of a promotional offer'; and on website <https://en.oxforddictionaries.com/definition/voucher> voucher is defined as 'a small printed piece of paper that entitles the holder to a discount or that may be exchanged for goods or services'.

6. Therefore, the contention of the applicant that since complementary ticket recipient does not make any payment to the applicant, it can be said that supply of tickets is without any consideration and is accordingly not covered under Section 7(1) (a) of the CGST Act, 2017, would not stand the test of legal interpretation of Section 7 of the

CGST Act, 2017 and would thus be fallacious. The applicant has clearly missed the import of clause (b) in the definition of 'consideration' given in Section 2(31) of the CGST Act, 2017 which certainly covers the activity of the applicant of giving 'complementary tickets' to certain persons in the furtherance of his business and would thus be covered under scope of supply defined in Section 7(1)(a) of the CGST Act, 2017. 9

7. Further, the provisions of Section 7(1)(c) lay down that the activities specified in Schedule I made or agreed to be made without a consideration would be included in the expression 'supply'. Perusal of Schedule-I, however, shows that the present case would not fall into any of the four activities mentioned in Schedule I.
8. However, as per provisions of Section 7(1)(d), the activities referred to in Schedule II are to be treated as supply of goods or services and would be included in the expression 'supply' for the purposes of the CGST Act, 2017. Para 5 of the Schedule II deals with supply of services and lays down, in clause (e), that agreeing to the obligation to refrain from an act or to tolerate an act or situation, or to do an act would be treated as supply of services. It is noteworthy that provisions of Section 7(1)(d) read with para 5 of Schedule II do not mention the word consideration for qualifying the mentioned activities as supply of services. While 'consideration' is used as a factor to determine supply under Section 7 (1)(a), the word being mentioned in the said provision, it is absent from the provisions of Section 7(1)(d) which is an independent clause under Section 7 while laying down the scope of supply. Hence, legal interpretation of Section 7(1)(d) read with para 5(e) of Schedule II makes it clear that 'agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act would be treated as supply of service for the purposes of CGST Act, 2017 and the question of whether or not, there has been a consideration would not be relevant in the interpretation of scope of supply under Section 7(1)(d). When the applicant issues a complimentary ticket to any person, he is certainly agreeing to the obligation of refraining from the act of stopping the complementary ticket holder from enjoying his services, while he would certainly stop a person not holding any complementary ticket and who has not paid any money from receiving services provided by the applicant. The applicant is also agreeing to the obligation of tolerating the act of the recipient to enjoy services provided by the applicant free of charge and the applicant is also agreeing to the obligation of doing the act of allowing entry to the complementary ticket holder to enjoy services being provided by the applicant when he issues such complementary ticket. Thus, it is seen that the activity of the applicant in issuing complementary tickets to persons is covered under each limb of para 5(e) of Schedule II of the CGST Act, 2017. Therefore, by this measure too, the activity of the applicant of providing complementary tickets free of charge to some persons for enjoying cricket matches would also be covered under the scope of supply as per section 7(1)(d).
9. In view of the above discussion and findings, it would be clear that the activity of the applicant of providing complementary tickets free of charge to some persons would be considered supply of service as per provisions of both Section 7(1)(a) and 7(1)(d) and would therefore be leviable to tax as per provisions of Section 9 of the CGST Act, 2017 and the parallel Section 9 in the Punjab GST Act, 2017.
10. The second question of the applicant as to whether he is eligible to claim Input Tax credit in respect of complementary tickets also flows from the first question regarding taxability of complementary tickets discussed above. Since the activity of providing the complementary tickets would amount to supply under provisions of CGST Act and parallel provisions of Punjab GST Act, 2017 and would be leviable to tax under section 9 of the said Acts, the question of whether Input Tax Credit would be available on inputs going into such complementary

tickets would be answerable in affirmative. The question of proportional availment of ITC comes into play only when part of the final goods or services are taxable and part of them are exempt. In the present case since all tickets supplied by the applicant including complementary tickets would be taxable, the applicant would clearly be eligible for claim of Input Tax Credit as per the provisions of Section 16 of the CGST Act, 2017. However it is clarified that the Input Tax Credit for which the applicant is eligible would be in the context of input and input service as defined in Section 2(59) and 2(60) of the CGST Act, 2017 read with Section 16 wherein it is clearly mentioned that credit of input tax charged on any supply of goods or services or both has to be given 'to him' which are used in the course of his business. And would therefore not extend to services where the applicant himself is the service provider and leviable to an output tax for such outward supply. Therefore in the present case, the applicant would not be eligible to take credit on the tax leviable on supply of complementary tickets by him, but would be eligible to avail credit of input and input service going into provision of supply of the impugned complementary tickets.

11. Accordingly we pronounce the following Advance Ruling under section 98(4) of the CGST Act, 2017 and section 98(4) of the Punjab GST Act, 2017 to the question raised by the applicant:

The activity of the applicant of providing complementary tickets free of charge to some persons would be considered supply of service as per provisions of both Section 7(1)(a) and 7(1)(d) and would therefore be leviable to tax as per provisions of Section 9 of the CGST Act, 2017 and the parallel Section 9 in the Punjab GST Act, 2017. Since all tickets supplied by the applicant including complementary tickets would be taxable, the applicant would clearly be eligible for claim of Input Tax Credit as per the provisions of Section 16 of the CGST Act, 2017.

Navdeep Bhinder
Member, SGST

G.S. Bains
Member, CGST

To

M/s K.P.H. Dream Cricket Private Limited
Plot No. 372, Industrial Area, Phase-9
Mohali, SAS Nagar, Punjab-160062
GSTIN : 03AADCK3039P1ZF

Copy to:

No. PB/AAR/18/

Dated:

1. The Special Secretary, Goods and Service Tax Council, 5th floor, Tower-II, Jeevan Bharti Bldg., Connaught Place, New Delhi w.r.t. F. No. 193/Advance Ruling/ GSTC/2017 dated 01.05.2018.
2. The Commissioner of State Taxes, Punjab.
3. The Commissioner, CGST, Ludhiana, GST Bhawan, Rishi Nagar, Ludhiana
4. The Assistant Commissioner of State Taxes, S.A.S. Nagar, Mohali.

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N. Bhinder
Navdeep Bhinder
Member, SGST 20/8/2018

G. S. Bains
G. S. Bains
Member, CGST 28.8.2018

To

M/s K.P.H. Dream Cricket Private Limited
Plot No. 372, Industrial Area, Phase-9
Mohali, SAS Nagar, Punjab-160062
GSTIN : 03AADCK3039P1ZF

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No. PB/AAR/18/ 224-28

Dated: 21/8/18

1. The Special Secretary, Goods and Service Tax Council, 5th floor, Tower-II, Jeevan Bharti Bldg., Connaught Place, New Delhi w.r.t. F. No. 193/Advance Ruling/ GSTC/2017 dated 01.05.2018.
2. The Commissioner of State Taxes, Punjab.
3. The Commissioner, CGST, Ludhiana, GST Bhawan, Rishi Nagar, Ludhiana
4. The Assistant Commissioner of State Taxes, S.A.S. Nagar, Mohali.

20/11/18

21/8/18