



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH

Goods and Service Tax

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Additional Commissioner of State Tax (Member)
2. Sri. A. Syam Sundar, Additional Commissioner of Central Tax (Member)

AAR No.09/AP/GST/2021 dated:19.01.2021

1	Name and address of the applicant	M/s. Karthikeya Projects, D.No.26-24-11/4, Chaitanyanagar, Gajuwaka, Visakhapatnam, Andhra Pradesh-530026.
2	GSTIN	37BWKPK7826F1Z6
3	Date of filing of Form GST ARA-01	30.09.2020
4	Date of Personal Hearing	29.10.2020
5	Represented by	Ms. Rajeshwari
6	Jurisdictional Authority - Centre	Superintendent, Gajuwaka Range, CGST Visakhapatnam South division.
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(d) admissibility of input tax credit of tax paid or deemed to have been paid;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in pari materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions,



a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.

2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Karthikeya Projects (hereinafter referred to as applicant), registered with the GSTIN No.37BWKPK7826F1Z6 under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

The applicant, M/s. Karthikeya Projects is a sub-contractor providing works contract service. The applicant entered into an agreement with M/s. Anukar Projects Pvt. Ltd. (Main Contractor) for the construction of chemical Lab, Office Building and a ware house for the Contractee M/s. Luarus Labs Limited. The applicant is charging 18% GST in the Tax Invoices issued to the main contractor. The applicant states that the main contractor supplies the materials such as Cement and Concrete to the applicant for construction.

The applicant purchases certain materials on its own account and uses the same in furtherance of its service. The applicant required clarification regarding the Input tax eligibility on the purchases made on their own account for furtherance of the business. The Applicant filed an application before this Authority in form GST ARA 01 dated 30.09.2020 by paying required amount of fee on the following questions under the GST Law.

4. Questions raised before the authority:

The applicant seeks clarification whether he can avail Input Tax Credit on the following goods purchased on his own account for furtherance of his business?

- 1.PVC Ghamela, Insulation Tape, AG-4 Grading Machine, Led Torch Light, AG-4 Cutting wheel, Tarpaulin Sheet, Binding wire, Suction Hose Pipe, Auto Level Stand, Leveling Staff 5mtrs 5folds, Steel Tape, Safety Helmet, Safety Shoes etc. on which GST@18% is paid.
- 2.Wood cutting wheel etc. on which GST@12% is paid.
- 3.Cotton Yarn Waste Cloth etc.on which GST@ 5% is paid.
- 4.Cement on which GST@28% is paid.



On Verification of basic information of the applicant, it is observed that the applicant is under Central jurisdiction, i.e. Superintendent, Gajuwaka Range, Visakhapatnam CGST Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the State Tax authorities to offer their remarks as per the Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks were received from the State Tax authorities stating that no proceedings were lying pending or passed relating to the applicant on the issue, for which the Advance Ruling sought by the applicant.

5. Virtual Hearing:

The proceedings of Hearing were conducted through video conference on 29th October 2020, for which the authorized representative, Ms Rajeshwari attended and reiterated the submissions already made.

6. Discussion and Findings:

We have examined the issues raised in the application. The admissibility of the input tax credit on the purchases made by the applicant, as governed under the provisions of respective GST Acts are examined.

In view of the applicant's submissions, we find that the basic issue before us is to determine the eligibility of Input tax credit on the purchases made by the applicant on their own account for furtherance of business under the provisions of the Section 17 sub-section (5) (d) of the CGST/APGST Act, 2017.

Section 17(5)(d) reads as under,

17. Apportionment of credit and blocked credits.

(5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, **input tax credit shall not be available** in respect of the following, namely:—

(a).....

(b).....

(c).....



(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.--For the purposes of clauses (c) and (d), the expression "Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;"

Section 17 sub-section (5) Clause (d) restricts input tax credit of goods and services used by a person for construction of an immovable property (except plant and machinery) on his own account. Thus, if a person purchases construction material to provide the constructions services by using the said material, ITC shall not be available.

In view of the foregoing, we rule as under.

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Whether the applicant can take Input Tax Credit on the following products which were Purchased on his own account for furtherance of his business.

1. PVC Ghamela, Insulation Tape, AG-4 Grading Machine, Led Torch Light, AG-4 Cutting wheel, Tarpaulin Sheet, Binding wire, Suction Hose Pipe, Auto Level Stand, Leveling Staff 5mtrs 5folds, Steel Tape, Safety Helmet, Safety Shoes etc. on which GST@18% is paid.
2. Wood cutting wheel etc. on which GST@12% is paid.
3. Cotton Yarn Waste Cloth etc., on which GST@ 5% is paid.
4. Cement on which GST@28% is paid.

Answer: Input Tax Credit shall not be available to the applicant on the above purchases made on applicant's own account for furtherance of business under Section 17 (5) (d) of the CGST/SGST Act, 2017.

Sd/-D. Ramesh
Member

Sd/- A. Syam Sundar
Member

//t.c.f.b.o//



[Signature]
Deputy Commissioner (ST)
DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

To

1. M/s. Karthikeya Projects, D.No.9-65, New Colony, Near sarwagna School, Parwada, Visakhapatnam, Andhra Pradesh-531021. **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Gajuwaka Circle, Visakhapatnam Division.
(By Registered Post)
2. The Superintendent, Central Tax, CGST Gajuwaka Range, Visakhapatnam Division.
(By Registered Post)

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

