

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH**Goods and Service Tax****O/o THE COMMISSIONER, COMMERCIAL TAX,****MOTI BUNGALOW,****MAHATMA GANDHI MARG, INDORE (M.P.) - 452007****e-mail : aar@mptax.mp.gov.in Phone : 0731- 2437315 fax. no. : 0731-2536229****PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING**
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017**Members Present**1. ShriManoj Kumar Choubey
Joint Commissioner

Office of the Commissioner of Commercial Tax, Indore Division-1

2. ShriVirendra Kumar Jain
Joint Commissioner

Office of the Commissioner CGST and Central Excise, Indore

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|--------------------------------------|--|
| GSTIN Number. If any/User-id | 23AABCJ4896R4ZQ |
| Name and address of the applicant | M/S JAIDEEPISPAT AND ALLOYS PVT LTD. 808-C, FACTORY BUILDINGGROUND FLOOR INDUSTRIAL AREA SECTOR III, PITHAMPUR DHARMADHYA PRADESH(454774) |
| Point on which advance ruling sought | d. Admissibility of input tax credit of tax paid or deemed to have been paid; |
| Present on behalf of applicant | CA. Pradeep Asawa and Palkesh Asawa |
| Case Number |/8./2020 |
| Order dated | 18.01.2021 |
| Order Number | 01/2021 |

PROCEEDINGS**(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)**

1. M/s JAIDEEPISPAT AND ALLOYS PVT LTD.(hereinafter referred to as the Applicant) is engaged in procurement of scrap for the purpose of manufacturing of M.S. billets by melting the same. The Applicant is having a GST registration with GSTIN23AABCJ4896R4ZQ.



2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. **BRIEF FACTS OF THE CASE –**

- 3.1 The applicant is engaged in procurement of scrap for the purpose of manufacturing of M.S. billets by melting the same. The current advance ruling is sought in respect of availability of ITC on the scrap and the relevant documentation required determining the eligibility of the same.

4. **QUESTION RAISED BEFORE THE AUTHORITY –**

- 4.1 Whether the procedure adopted and the documents/records maintained by the applicant(as elaborated below) can be deemed to be a sufficient compliance of the conditions and restrictions for the admissibility of input tax credit of the tax paid on inward supply of local scrap and sponge iron used by the applicant for manufacture of M.S. billets?

5. **DEPARTMENT VIEW POINT –** Circle in-charge of circle 3, commercial tax department (SGST), Indore informs to this authority through his letter number 17 dated 06.01.2021 and letter number 29 dated 08.01.2021 that there is an another unit of the same company, other than the unit M/s Jaideep Ispaat and Alloy private limited GSTN23AABCJ4896R4ZQ who has file application for advance ruling exist. That unit is Jaideep Ispaat and Alloy private limited, Unit-II holds GSTN23AABCJ4896R2ZS. This unit is registered in his circle. He further informed the authority that an adjudication has been made for the Unit-II(23AABCJ4896R2ZS)and demand has also been raised. While adjudicating the case ITC from non-existence/ non-functional firms were also taken into consideration. Many of the points raised by the applicant in application for advance ruling were put forward in the argument during adjudication.

6. **RECORD OF PERSONAL HEARING -**

6.1. Shri Pradeep Asawa and Palkesh Asawa, CA appeared on behalf of the applicants for personal hearing on electronic mode and he reiterated the submission already filed along with the Application.

6.2. The Applicant stated that Jaideep Ispaat and Alloys private limited, Trade name M/s Rathi Iron And Steel Industries SMS (A Unit Of Jaideep Ispat And Alloys Pvt. Ltd), a company registered under the Companies Act (hereinafter referred to as 'theapplicant') is registered under the Central Goods and Services Tax Act, 2017 and the Madhya Pradesh State Goods and Services Tax Act, 2017 (hereinafter referred to as the "GST Act") having the registration number 23AABCJ4896R4ZQ.

6.3. The applicant manufactures M.S. billets in its factory located at Pithampur. For the purpose of manufacture, the applicant procures various scrap iron and sponge iron which is melted in their factory and converted to M.S. billets which are supplied by the applicant to various customers on payment of applicable GST thereon.

6.4. As a standard operating procedure for procurement of such scrap and sponge iron (hereinafter referred to as "the concerned inputs"), the applicant maintain various documents, the details of which are given above. That, the applicant maintains



an ERP system whereby the same procedure is followed for all procurements of the concerned inputs and related entries are made in their accounting software.

6.5. The Applicant argues about the applicable provisions in the GST Acts and GST Rules-

1. As per sub-section (1) of Section 16 of the GST Acts –

Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person

2. The above provision says that the admissibility of input tax credit is subject to **such**

conditions and restrictions as may be prescribed. Further, the sub-section (2) of the same section states that the notwithstanding anything contained in the said section,

input tax credit shall not be admissible unless four conditions are met, i.e. –

- a. The recipient possesses the tax invoice or debit note issued by the supplier registered under the Act, or such other documents as may be prescribed.
- b. The recipient has received the goods or services or both.
- c. Subject to the provisions of section 41 or section 43A, the tax charged in respect of such supply has been paid to the Government, either in cash or through input tax credit admissible in respect of the said supply; and
- d. The recipient has furnished a return in section 39.

3. That the conditions and restrictions have been prescribed in rule 36 to rule 45 of the

CGST Rules, 2017. The documentary requirements and conditions for claiming ITC is

given in rule 36 of the Rules.

4. Further, the relevant definitions as given in Section 2 are reproduced below –

(59) **“Input”** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

(62) **“Input tax”** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes–

(a) The integrated goods and services tax charged on import of goods;

(b) The tax payable under the provisions of sub-sections (3) and (4) of section 9;

(c) The tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;

(d) The tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or

(e) The tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,

(63) **“Input tax credit”** means the credit of input tax;

(66) **“Invoice”** or **“tax invoice”** means the tax invoice referred in section 31

(67) **“Inward supply”** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;



6.6.STATEMENT CONTAINING THE APPLICANT'S INTERPRETATION OF LAW AND/ORFACTS (I.E. THE APPLICANT'S VIEW POINT AND SUBMISSIONS ON ISSUES ONWHICH ADVANCE RULING IS SOUGHT) -

1. The question posed before the Hon'ble Advance Ruling Authority is whether ITC is admissible on procurement of the concerned inputs if the procedure as elaborated below is adopted by the applicant in respect of inward supply of scrap and spongeiron used by the applicant for manufacture of M.S. billets?
2. The applicant submit that, in their opinion, the procedure adopted by the applicantand the documents/records maintained by the applicant is sufficient compliance ofthe conditions and restrictions for input tax credit as given under the GST Acts, and therefore the ITC should be admissible on the concerned inputs based on theprocedure detailed below. This opinion is based on the following assertions.

6.7. Input tax credit admissibility -

1. The admissibility of input tax credit (ITC) of the input tax paid on the concernedinputs is principally based on two important aspects as noted below -
 - a. Whether ITC on concerned inputs is admissible (and not specifically excluded)
 - b. Whether the prescribed conditions for claim of ITC are being met
2. Appellant submit that, as far as the generally admissibility of the concerned inputs isconcerned, there is no question about the admissibility of the same. This is because the concerned inputs are directly used for the purpose of business. Further, theconcerned inputs are not specifically included in the list of blocked credit as specifiedin Section 17 of the GST Acts. Therefore, subject to the fact that the proceduralconditions for the claim of ITC are met, the ITC is generally admissible in respect ofthe concerned inputs. Hence, the eligibility of ITC is dependent on whether or notthe procedural conditions are being complied with or not.
3. In this respect, applicant submit that the procedural conditions for the admissibilityof ITC can be simply listed as follows:
 - a. The applicant should be in possession of tax paying documents
 - b. The applicant should have received the goods.
 - c. The tax charged in respect of such supply should be paid.
 - d. The applicant should have filed a return under Section 39.
4. Therefore, the applicant submit that, if it can be established that sufficientcompliance and documentary records are maintained, and all the proceduralrequirements are followed with as detailed below, then the ITC in respect of theconcerned inputs should be deemed to be admissible. Thus the compliance can be deemed "sufficient" if the prescribed conditions are complied with. The applicantwould like to make the following submissions in respect of the above.

6.8. Possession of tax paying documents-

1. As per Rule 36 of the GST Rules, input tax credit shall be availed by a registeredperson on the basis of any of the following documents -
 - a. An invoice issued by the supplier in accordance with Section 31
 - b. An invoice issued under the provisions of Section 31(3)(f)
 - c. A debit note issued by the supplier in accordance with Section 34
 - d. A bill of entry or any similar document for integrated tax on imports
 - e. Any Input Service Distributor invoice or any such document
2. Applicant submit that, in respect of the concerned inputs, as per the establishedprocedure, the applicant shall be in possession of the tax invoice as



described in Section 31 of the GST Acts on the basis of which the input tax credit shall be availed.

A sample copy of such invoice is enclosed herewith for your perusal.

3. For further substantiating the details mentioned on the invoice, the applicant shall also be in possession of a valid contract with the vendors for procurement of the concerned inputs and shall place a purchase order specifying the quantity and the agreed price of the same. The details of the invoice shall match with the details mentioned on the valid purchase/requisition order.

4. The invoice shall be entered in the ERP accounting system implemented by the applicant which shall mention the date of receipt, the quantity and the value of the goods along with the taxable value and the input tax credit availed thereon.

Applicant further submit that all the accounts and records as specified in Section 31 of the GST Acts read with Rule 56 of the GST Rules.

5. Therefore, the first requirement for admissibility of ITC, i.e. the possession of a valid tax paying document, is being fulfilled by the applicant along with proper accounts and records as required by various provisions in the GST Acts.

6.9. Records showing actual receipt of goods-

1. Further to the above, in respect of the second requirement, i.e. actual receipt of goods, applicant further submit that they are keeping various records to ensure that the receipt of such goods is properly accounted for, and that the input tax credit is availed on the basis of actual receipt of the concerned inputs.

2. The applicant are keeping the following records for this purpose:

a. Firstly, as soon as the truck enters the premises of the applicant, a gate entry inward slip is generated by the system which shows the gate pass number, the date, vehicle number, invoice number, invoice date, lorry receipt (LR) number and date, as well as the details of the vendor, the description and the quantity of the concerned inputs in the consignment. The same is signed by the security guard and is generated in presence of the truck driver.

b. Further, a photograph of the truck along with the driver thereof, clearly showing the vehicle number, is also clicked and kept in the records by the applicant as a further documentary evidence of actual receipt of the goods in the same vehicle as is mentioned on the documents.

c. Immediately after the arrival of the vehicle in the premises, a weighment of the truck is conducted which shows the total gross weight and net weight, along with the date of weighment and the time of weighment. This slip serves as a corroborative document in addition to various other documents issued by the supplier showing the quantitative details of the concerned inputs.

d. Further, after the weighment of the material upon arrival, a Goods Receipt Note (GRN) is also generated. This GRN is generated at the time of making an entry in the ERP accounting system of the applicant. Hence, the records of the goods showing the concerned inputs are also updated in the accounting system and the related quantitative details are automatically updated in the stock register of the applicant recording receipt of the goods.

e. After this, a quality inspection report is generated wherein the quality of the material is verified, and it is ensured that the quality is in accordance with the agreed norms as agreed between the applicant and the vendor. When the quality is also termed satisfactory, a requisite entry is entered in the ledger account of the vendor wherein a liability is recorded in the accounting system and the vendor's account is credited showing the purchase.

f. As mentioned previously, the purchase entry is supported on the basis of these documents – (a) purchase invoice generated by the vendor; (b) LR or



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consignment note showing the details of the vehicle through which the material was transported; and (c) an e-way bill in accordance with the GST Rules mentioning the requisite invoice, consignment and vehicle details.

- 6.10. Tax charged in respect of the supply having been paid to the Government-
1. Another condition for admissibility of the input tax credit is that the tax charged in respect of the said supply should have been paid to the Government. In this respect, applicant submits that they are taking all precautions to ensure the same.
 2. Firstly, it is pertinent to note that as per Section 49 of the GST Acts, it is clarified that "payment" of tax can be made by utilising the amount in electronic cash ledger or electronic credit ledger of the taxpayer. The relevant portion (sub-sections (3) and (4) of the said section) is reproduced below for ease of understanding –
 - (3) *The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed*
 - (4) *The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.*
 3. Thus, it can be seen from the above, that the payment of tax can be made by the vendor either by utilising the amount in electronic cash ledger or the amount available in the electronic credit ledger of the vendor.
 4. For this purpose, it is further noted that on the electronic common GST portal, payment of tax is usually done on a self-assessment basis by way of filing return in form GSTR-3B. This is in accordance with Section 59 of the GST Acts which states that each taxpayer shall self-assess his own taxes and pay them in a return filed under Section 39. The said return is form GSTR-3B. Hence, it can be said that payment of taxes shall be done by the vendor by way of filing GSTR-3B return.
 5. Furthermore, in accordance with Rule 36(4), a condition is prescribed for availing the ITC, i.e. the total input tax credit to be availed by a registered person in respect of those supplies for which details have not been uploaded in a return filed under Section 37 by the supplier, shall not exceed 10 per cent of the eligible credit available in respect of those invoices/debit notes the details of which have been uploaded by the supplier in a return filed under Section 37 by the supplier.
 6. To simplify the above point, the availability of input tax credit is largely dependent on whether the supplier has uploaded the details of the supplies in a return filed under Section 37, i.e. GSTR-1 return of the supplier/vendor. Hence, the applicant submits that, it is important to ensure that the vendor has in fact uploaded the details of the supplies made to the applicant in their GSTR-1 return.
 7. The applicant ensures that these conditions are fulfilled in the following manner:
 - a. The applicant is taking all the precautions to ensure that the vendor have uploaded their own GSTR-1 and GSTR-3B return. This can be verified on the electronic GST Portal. The GST Portal allows all the persons to verify whether any person registered in GST has filed their returns or not. This can be done through the "search taxpayer" option on the portal which allows anybody to see the filing schedule of any registered person.
 - b. On the basis of this, it can be seen that the vendors of the concerned inputs are filing their GSTR-1 and GSTR-3B return. Further, it is also made sure that the



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details of the supplies from these vendors have actually been reflected in their GSTR-1 return by cross-tallying the details as appearing in the GSTR-2 statement appearing on the GST Portal of the applicant, which is autopopulated on the basis of various inward supplies uploaded by various vendors of the applicant.

c. This shows that the compliance of both the above mentioned conditions is ensured by the applicant, i.e. that the tax charged in respect of the supply is paid to the government (which is done by way of filing GSTR-3B return as mentioned in Section 59 of the GST Acts), as well as that Rule 36(4) is also complied with (which is done by way of filing GSTR-1 return). A copy of the report generated from the portal is enclosed herewith for your perusal.

8. Further to the above, appellant wishes to place on record that it is not possible to take any further precautions to make sure that the tax has in fact been paid by the vendor. That, merely the fact that GSTR-3B return has been filed shows that tax has been self-assessed by the vendor and accordingly he has paid the tax due from his end. This would of course also include the tax charged in respect of the supplies made to the applicant. If the supplies made by the vendor to the applicant have been disclosed in the vendor's GSTR-1 and the vendor has also filed their GSTR-3B, it stands to reason that the vendor would have self-assessed their taxes and would have paid the same to the Government. Hence the condition for admissibility of ITC as mentioned in Section 16 of the GST Acts is clearly being fulfilled.

6.11. Without prejudice to whatever submitted hereinabove, the applicant further wish to submit that in this context, **for a similar provision in the erstwhile VAT law, the Hon'ble High Court of Delhi had even said that input credit shall be admissible even if the supplier had not fulfilled his obligation under law.** That, as per the decision of the Hon'ble High Court, the only obligation of the recipient is to produce an invoice which is generated by the supplier who is registered under the tax law and to check whether such supplier is properly registered under law. To expect the recipient to do anything more would be futile because it is not practically possible for any person engaged in business to carry out the responsibility of checking the compliance of each and every supplier.

6.12. An extract from the above mentioned decision of Hon'ble High Court is reproduced below for your kind perusal –

Extract from decision of the High Court in W.P. (C) 2106/2015

At the outset, it requires to be understood that Section 2 (1) (r) of the DVAT Act implicitly recognizes that when the buyer pays the seller the price for the purchase of goods, such price is inclusive of the DVAT for which the seller is "liable" to pay to the Government. Which is why it talks of payment by the buyer of the liability that is essentially that of the seller. VAT is an indirect tax, the incidence of which can be passed on and is in fact passed on by the seller to the purchaser.

To be eligible for ITC, the purchasing dealer who, apart from being registered under the DVAT Act, has to take care to verify that the selling dealer is also a registered dealer and has a valid registration under the DVAT Act. The second condition is that such registered selling dealer has to issue to the purchasing dealer a "tax invoice" in terms of Section 50 of the DVAT Act. Such tax invoice would obviously set out the TIN number of the selling dealer. The purchasing dealer can check on the web portal of the Department if the selling dealer is a fictitious person or a person



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whose registration stands cancelled. As long as the purchasing dealer has taken all these steps, he cannot be expected to keep track of whether the selling dealer has in fact deposited the tax collected with the Government or has lawfully adjusted it against his output tax liability. The purchasing dealer can, of course, ascertain if there is any mismatch of Annexures 2A and 2B but, assuming it is on account of the seller's default, there is little he can do about it.

Another difficulty that the purchasing dealer would face is that he would have no access to the return filed by the selling dealer particularly since under Section 98 (1) of the DVAT Act those particulars are meant to be confidential. Under Section 98 (3) (j) of the DVAT Act, it is possible for the Commissioner, where he considers it desirable in the public interest, to publish such information. That hinges on the Commissioner placing those details in public domain. If the Commissioner has not placed such information in the public domain, then it is next to impossible for the purchasing dealer to ascertain the failure of the selling dealer to make a correct disclosure of the sales made in his return.

Again, it is not as if the Department is helpless if the selling dealer commits a default in either depositing or lawfully adjusting the VAT collected from the purchasing dealer. There are provisions in the DVAT Act, referred to hereinbefore, which empower the Department to proceed to recover the tax in arrears from the selling dealer. There is also Section 40A, in terms of which, a purchasing dealer acting in connivance with a selling dealer can be proceeded against.

Applying the law explained in the [above decisions], it can be concluded in the case that there is a singular failure by the legislature to make a distinction between purchasing dealers who have bona fide transacted with the selling dealer by taking all precautions as required by the DVAT Act and those that have not. Therefore, there was need to restrict the denial of ITC only to the selling dealers who had failed to deposit the tax collected by them and not punish bona fide purchasing dealers. The latter cannot be expected to do the impossible. It is trite that a law that is not capable of honest compliance will fail in achieving its objective.

6.12. Applicant further submit that the departmental appeal against the above order of the High Court in the Hon'ble Supreme Court was dismissed by the Hon'ble Apex Court of India. Therefore, even the Supreme Court upheld the principles laid in the above decision by the Hon'ble High Court of Delhi. Thus, it should be deemed that the recipient has fulfilled their obligation under law to check that the supplier was registered under law, and have made payment to such supplier on a bona-fide basis.

Therefore, input tax credit should not be denied to the applicant after such necessary action has been taken by the applicant.

6.13. In this context, reliance is also further placed on the following decisions –

i. COMMISSIONER OF C. EX., RAIGAD Versus JAY IRON & STEEL INDUSTRIES LTD. 2015 (325) E.L.T. 130 (Tri. - Mumbai) wherein it is held that Cenvat credit - Inputs - Onus on assessee under Rule 9(2), 9(3), 9(4) and 9(7) of Cenvat Credit Rules, 2004 to take reasonable steps to ensure that appropriate excise duty paid on inputs on which credit is taken - Explanation to sub-rule provides that assessee shall be deemed to have taken reasonable step if they satisfied themselves about identity/address of input manufactures/supplier either from their personal knowledge or certificate issued by Excise Department - Since,



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suppliers are registered with Department, assessee discharged their onus under Cenvat Credit Rules, 2004. [paras 5.3, 5.4]

ii. VIKRAMKNITTEX PVT. LTD. Versus COMMISSIONER OF CENTRAL EXCISE, SURAT-I2008 (230) E.L.T. 190 (Tri. - Ahmd.) wherein it is held that Cenvat/Modvat -Documents for availing credit - Address and identity of manufacturer found to be fake and fictitious - Appellants taken sufficient precautions as they received goods from a registered dealer who happened to be a manufacturer - Certificate from Bank of Baroda also produced which furnished details about collection of an amount paid by supplier - Credit taken by appellants is in order in terms of Rule

7(2) of Cenvat Credit Rules, 2002 - Rule 9 of Cenvat Credit Rules, 2004. [paras 2, 3]

iii. BHUWALKA STEEL INDUSTRIES LTD. Versus COMMISSIONER OF C. EX., THANE-I2007 (212) E.L.T. 63 (Tri. - Mumbai) wherein it is held that Cenvat/Modvat -

Default in payment of duty by input manufacturer - Credit availed by appellants sought to be reversed as duty - Precedents and C.B.E. & C. Circular holding credit not deniable on default in duty payment by input manufacturer - Reasonable precautions taken by appellant before availing credit, invoices containing all particulars as prescribed in rules - Credit taken on bona fide belief of duty payment - Documents evidencing payment of excise duty amount to supplier by appellant - Precedents and C.B.E. & C. Circular applicable - Cenvat credit admissible - Rules 3 and 4 of Cenvat Credit Rules, 2004. [paras 3, 4]

6.14. Other conditions for claim of input tax credit -

1. In addition to above, applicant further submits that another condition for availing the input tax credit is that return under Section 39 is filed by the recipient. Applicant submits that, the return under Section 39 is GSTR-3B return, and that the ITC is claimed by them in the said return itself. Therefore, this condition is definitely being fulfilled for admissibility of input tax credit.

2. Further, as per the second proviso to Section 16(2) -

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

3. Hence, it can be inferred from above, that if payment of the consideration along with applicable tax thereon is not made to the supplier within 180 days from the date of invoice, then the entire amount of input tax credit shall be added to the output tax liability of the recipient. In other words, the ITC claim has to be reversed if the payment of consideration is not made to the supplier.

4. In this context, applicant submits that, they are making sure that the payment is made to the supplier within 180 days from the date of invoice. For this purpose, whenever the payment is made, a payment voucher is issued from the system and kept in the records with the applicant evidencing the due payment. In some cases, advance payment is made to the vendor for the concerned inputs and therefore this situation is not applicable in those cases. A copy of the voucher is enclosed herewith.



5. In view of above all the conditions and restrictions prescribed for admissibility of input tax credit has been fulfilled by the applicant. Applicant therefore submit that since as per section 97(2) of the act the advance ruling can be sought in respect of admissibility of input tax credit and admissibility of input tax credit is dependent on fulfillment of conditions and restrictions prescribed in section 16 of the act read with rule 36 of the rules, the Hon'ble advance ruling authority may please admit the application and pronounce its advance ruling on the question of admissibility of ITC on the basis of procedures and conditions fulfilled by the applicant.

6.15. Conclusion- In view of above as submitted hereinabove, the applicant is fulfilling all the prescribed procedures and conditions given in the GST Act and rules for admissibility of the ITC. Hence it is requested to pronounce the ruling in favour of the applicant.

7. DISCUSSIONS AND FINDINGS –

7.1. We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing and the submission made by Circle in-charge of circle 3, commercial tax department (SGST), Indore.

7.2. A careful reading of provisions of section 97 is required here.

7.3. The question on which advance ruling can be sought is given in subsection (2) of section 97, which reads as under:

"(2) The question on which the advance ruling is sought under this Act, shall be in respect of,—

- (a) Classification of any goods or services or both;
- (b) Applicability of a notification issued under the provisions of this Act;
- (c) Determination of time and value of supply of goods or services or both;
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) Determination of the liability to pay tax on any goods or services or both;
- (f) Whether applicant is required to be registered;
- (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term."


7.4. The applicant's question whether the procedure adopted and the documents/records maintained by applicant can be deemed to be a sufficient compliance of conditions and restrictions for admissibility of input tax credit of tax paid on inward supply of local scrap and sponge iron used in the manufacture of M.S. billets.


7.5. After going through the question asked by the Applicant, this authority is of view that the issue is technical/procedural in nature and is not covered by any of the clauses of Sec. 97(2).



8. Ruling

- 8.1 The applicant's question, therefore, is technical/procedural in nature and is not covered by any of the clauses of Sec. 97(2), and it is outside the purview of Advance Ruling application is rejected as "inadmissible", in terms of first proviso to Section 98(2) of the CGST Act 2017.
- 8.2 The ruling is valid subject to the provisions under section 103 (2) until and unless declared void under Section 104 (1) of the GST Act.


(Manoj Kumar Choubey)
(Member)


(Virendra Kumar Jain)
(Member)

Copy to:- NO. 19/2020/A.A.R/R-28/01

INDORE dated 18/01/2021

1. Applicant
2. The Principal Chief Commissioner, CGST& Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST& Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

सत्यप्रतिलिपि

