
 सत्यमेव जयते	<b>RAJASTHAN</b> <b>AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX</b>  <b>KAR BHAWAN, AMBEDKAR CIRCLE, NEAR</b> <b>RAJASTHAN HIGH COURT</b> <b>JAIPUR – 302005 (RAJASTHAN)</b>	 राष्ट्र कर बाजार
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**ADVANCE RULING NO. RAJ/AAR/2022-23/23**

Umesh Kumar Garg Joint Commissioner	:	Member (Central Tax)
M. S. Kavia Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Glensky Spirits Pvt. Ltd, C-24C, HSB House, Bhagwan Dass Road, C- Scheme, Jaipur, Rajasthan 302001
GSTIN of the applicant	:	08AAJCG6337Q1ZU
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;
Date of Personal Hearing	:	23.11.2022
Present for the applicant	:	C.A. Shri Rajendra Sharma
Date of Ruling	:	17.01.2023

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

1. At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

2. The applicant M/s Glensky Spirits Pvt. Ltd, C-24C, HSB House, Bhagwan Dass Road, C- Scheme, Jaipur, Rajasthan 302001 (hereinafter the Applicant) being a registered person (GSTIN is 08AAJCG6337Q1ZU) as per the declaration given by him in Form (ARA-01), the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. The Applicant has submitted the copy of application in Form GST

ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and RGST Rules 2017

3. The appellant, i.e M/s. Glensky Spirits Pvt. Ltd, C-24C, HSB House, Bhagwan Dass Road, C- Scheme, Jaipur, Rajasthan 302001 has raised the following question for advance ruling in the application for Advance Ruling filed by it.

*Whether the ITC of GST charged by the hired work contractors against construction of factory building including foundation of machinery, rooms for chiller, generators, transformers and erection of electric poles, lying of internal roads, factory building, internal drainage, storage tank, laboratories etc on the construction services with or without material is available to them or not ?*

4. The applicant submitted that it is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (d) given as under:

(d) Admissibility of input tax credit of tax paid or deemed to have been paid

**A. SUBMISSION OF THE APPLICANT :(in brief)**

1) M/s Glensky Spirits Pvt. Ltd, C-24C, HSB House, Bhagwan Dass Road, C- Scheme, Jaipur, Rajasthan 302001, GSTIN -08AAJCG6337Q1ZU) is constructing a factory to setting up a plant of fuel ethanol under ethanol blending programme of Govt. of India.

2) The Applicant has purchased 60 beegha lands at village baruthan, techil – Taleda, Distric- Bundi Rajasthan to set up ethanol plant.

3) A substantial expenditure is to be done by applicant on factory building including foundation of machinery, rooms for chiller, generators, transformers and erection of electric poles, lying of internal roads, factory building, internal drainage, storage tank, laboratories etc.

4) With reference to above facts the applicant have raised following queries before the Advance ruling:

4.1) Whether the ITC of GST charged by the hired work contractors against construction of factory building including foundation of machinery, rooms for chiller, generators, transformers and erection of electric poles, lying of internal roads, factory building, internal drainage, storage tank, laboratories etc on the construction services with or without material is available to them or not ?

**B Interpretation and understanding of applicant on question rose (in Brief)**

The applicant submitted that all the above expenditure of construction which relating to foundation of plant and machinery, factory building and other constructions on which plant will be established comes under the definition of 17(5) of GST Act 2017.

**C. Question(s) on which advance ruling is sought:-**

*Whether the ITC of GST charged by the hired work contractors against construction of factory building including foundation of machinery, rooms for chiller, generators, transformers and erection of electric poles, lying of internal roads, factory building, internal drainage, storage tank, laboratories etc on the construction services with or without material is available to them or not ?*

**D Personal Hearings:-**

1. In the matter personal hearing was granted to the applicant on 23.11.2022. C.A. Shri Rajendra Sharma,(Authorized Representative) of applicant appeared for PH. During the PH, he reiterated the submissions already made in the written application. However, Shri Sharma made a written submission dated 23.11.2022 after P.H. that assessee company has started construction work at their Village - Baroondhan, Tehsil -Taleda, District - Bundi, Rajasthan for the setting up of fuel ethanol plant under ethanol blending program of Govt. of India; that all the requisite approvals have been received by the company and assessee has started foundations and other structural work; that construction work will include foundation for laying the machinery, rooms for chillers, boilers, generators and transformers, erecting of electric poles, laying of Internal roads, factory building, internal drainage, laboratory, etc. So the Assessee is desirous of obtaining clarification regarding eligibility of ITC on the amounts charged by contractor for these services. He requested for early disposal of the application.

2. As there are many type of construction services are being received by the applicant and the facts put on before the authority were not clear, so during the P.H. authority asked to clear the details of the construction works to be done by Applicant categorically and detailed process of manufacturing and setting up plant so that were sought. C.A. Shri Rajendra Sharma,(Authorized Representative) submitted that he will present all the details of inflow chart and details of work to be executed after twenty days.

**E COMMENTS OF THE JURISDICTIONAL OFFICER**

Comments received from the Assistant Commissioner, Circle I, Ward II Zone III, SGST, Jaipur vide letter 952 dated 10.11.2022 are as under: -

*' plant and machinery apparatus, equipments and machinery fixed to earth by Foundation or structural support that are used for making outward supply of goods or services or both and includes such Foundation and structure support meaning of capital goods for the purpose of ITC has been further clarified accordingly capital good shall include plant and machinery as defined in the explanation to Section 17 of*

*CGST Act and explanation rule 45 of CGST and RGST rules 2017, so ITC will be available on this expenditure"*

## **F FINDINGS, ANALYSIS & CONCLUSION:**

1. We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of Personal hearing and the comments of the Jurisdictional State Tax Authority. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

2. Before examine of application and question on which advance ruling is sought, we would like to discuss the Jurisdictional State officer comments. We observe that the comments of Jurisdictional State officer are not clear in the matter. Section 17 of Act, denotes about appropriation of credit and block credit and Rule 45 denotes the Conditions and restrictions in respect of inputs and capital goods sent to the job worker.

2.1 Even the interpretation given by the applicant that all the above expenditure of construction which relating to foundation of plant and machinery, factory building and other constructions on which plant will be established comes under the definition of 17(5) of GST Act 2017, is not clear to availment of ITC. As Section 17(5) of CGST Act refers to a specific provision under **GST covering blocked credits or ineligible ITC**. The taxpayer cannot claim ITC while paying output tax when they make purchases listed in this provision.

2.2 We would like to reproduce here the relevant Section of Section 17 of Act, which is as under-

### **Section 17 – Apportionment of credit and blocked credits**

*(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 capitalization, to the said immovable property;*

*Explanation.—For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—*

*(i) land, building or any other civil structures;*

*(ii) telecommunication towers; and*

*(iii) pipelines laid outside the factory premises*

3. We observed that there are many type of construction services are being received by the applicant and no detail submission about construction work categorically was made in application by applicant. We find that availment of ITC on services depends so many factors viz type and nature of services, condition of services supplied etc. Availment of ITC

without specific details cannot be generalized and ruling cannot be given in absence of particular services. During P.H. authorized representative C.A. Shri Rajendra Sharma, assured in writing that he will submit details of construction work categorically along with inflow chart of manufacturing process but same has not been submitted till date. Hence, no option left for authority to finalize the application.

4. We shall now examine the provisions of laws as laid down under the GST Act for the purposes of Advance Rulings. Chapter XVII of the GST Act comprising of Sections 95 is relevant provisions for advance ruling purposes.

As per Section 95 of CGST Act, 2017; this authority shall decide on matters or on questions specified in sub-section (2) of Section 97, and "Authority" means the Authority for Advance Ruling, constituted under Section 96.

5. We observe that the question on which advance ruling is sought is vague in nature. Applicant is going for setting up a plant and without knowing the nature of construction categorically; it's not possible to give ruling unless and until details are not provided. Applicant has not provided the details as asked to his authorized representative during PH.


6. Hence, the case does not falls under the purview of the Advance Ruling.

In view of the foregoing, without going into the merits of the case, we rule as under: -

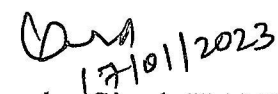
#### **RULING**

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

The subject application for advance ruling made by the applicant is not maintainable and hereby rejected under the provisions of the GST Act, 2017.

  
17.01.23  
(Umesh Kumar Garg )  
MEMBER  
CENTRAL TAX



  
17/01/2023  
(Mahendra Singh KAVIA)  
MEMBER  
STATE TAX

#### **SPEED POST**

M/s Glensky Spirits Pvt. Ltd, C-24C, HSB House, Bhagwan Dass Road, C- Scheme, Jaipur, Rajasthan 302001

F.No.AAR/g...../2022-23/286-290

Date:

Copy to: -

1. The Chief Commissioner, CGST and central Excise, (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan 302005
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Pr. Commissioner, CGST and Central Excise Commissionerate Udaipur, Rajasthan.
4. Assistant Commissioner, Circle I, Ward II Zone III, SGST, Jaipur.

o/c