

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF
THE GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise,
Chennai-34.
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member(FAC),
Office of the Joint Commissioner(ST), Enforcement
Inter-State Investigation Cell, Chennai-6.

ORDER No. 13/AAR/2018 DATED : 27.09.2018

GSTIN Number, if any / User id		33AAOCA6683J2Z6
Legal Name of Applicant		M/s. Adwitya Spaces Private Limited
Registered Address/Address provided while obtaining user id		New No.57, Second Floor, Bazullah Road, T.Nagar, Chennai-600017.
Details of Application		GST ARA -01 Application Sl.No.14 Dated : 03.04.2018
Concerned Officer		State: The Assistant Commissioner(ST), T. Nagar Assessment Circle, No.66, Pasumpon Muthuramalingam Salai, Taluk Office Building, 4 th Floor, R.A.Puram, Chennai – 600 028. Centre: Chennai South Commissionerate - T.Nagar Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Leasing Business
B	Description (in Brief)	Involved in business of letting out properties.
Issue/s on which advance ruling required		Admissibility of Input Tax Credit of tax paid on services
Question(s) on which advance ruling is required		Whether eligible to take Input Tax Credit of the CGST & SGST charged by Catalyst Consulting Chennai in respect of brokerage services and adjust the same against output tax payable against Renting of immovable property.

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

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax 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 Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Adwitya Spaces Private Limited, Administrative office at New No. 57, Second Floor, Bazullah Road, T.Nagar, Chennai- (hereinafter referred to as 'Applicant' or 'Adwitya') is engaged in the business of letting out property and is in receipt of rental income. They are registered under GST with GSTIN 33AAOCA6683J2Z6. **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 SGST Rules 2017.**

They have preferred an application seeking Advance Ruling on:

“Whether they are eligible to take Input Tax Credit of the CGST & SGST charged by M/s Catalyst Consulting Chennai in respect of brokerage services and adjust the same against output tax payable against Renting of immovable property.”

2. The Applicant is in the business of letting out property and is in the receipt of rental income. They have let out one of the properties to M/s. Vantec Logistics India Private Limited. This letting out has been arranged by a property consultant “M/s. Catalyst Consulting Chennai”, who is registered under GST with GSTIN 33AAHFC3824B1Z2. They have raised their bill for

their services to the applicant for Rs.2, 74, 21,314/- (which includes CGST& SGST). The applicant has submitted that the tax of CGST and SGST charged by M/s Catalyst consulting Chennai falls under the definition of input tax under section 2(62) of CGST Act and they have requested to clarify if input tax credit can be availed on the brokerage fees paid to the property consultant. They have stated that the tax of CGST & SGST paid by them on brokerage charges falls under "input tax" under Section 2(62) of CGST Act and is not covered under any restrictions under Section 17(5) (c) or (d) and hence are eligible to take input tax credit.

3.1 The Authorised Representative of the applicant was heard in the matter on 30.05.2018 and 25.07.2018. They stated that they have taken GST registration and started the Company only last year. They have given on rent the commercial property through the brokerage firm, M/s. Catalyst Consulting Chennai. They submitted GSTR1, 2A and Lease agreement copies. They stated that there is no Purchase Order, contract agreement between Catalyst consulting and them. Only an invoice has been raised. They submitted invoice raised by Catalyst Consulting for brokerage service, land purchase documents, lease deed between the applicant and Vantec Logistics India Private Limited invoices raised on Vantec Logistics, Web Advertisement copy by Catalyst Consulting for the property, GSTR3B, GSTR1 of Catalyst Consulting , GSTR 2A of the applicant and Form 26AS for TDS deduction.

3.2 The documents submitted by the applicant were examined. It is seen that the applicant owned immovable property or warehouse/commercial property at Echnoor Village, Sriperumbadur was leased to M/s. Vantec Logistics India Private Limited including furniture, fittings and fixtures for which rent is to be paid to the applicant. This was made possible by the services of Catalyst Consulting. There is no purchase order/contract between the applicant and Catalyst Consulting. The applicant states that Catalyst Consulting identified the leasee through online advertisement. However, an invoice C-007/17-18 dt. 20.12.2017 was raised by Catalyst Consulting towards Brokerage charges for warehouse building leased to M/s. Vantec logistics India Private Limited with SAC 997221 of value

Rs.2,32,38,402.00 in which CGST at 9% and SGST at 9% was charged to the applicant. GSTR 3B and GSTR 1 was filed by M/s. Catalyst Consulting Chennai for the month of December 2017 for the amount and screenshots of GSTR 2A of the applicant indicate this transaction is reflecting in the inward supplies.

4.1 The issue before us is to decide on the admissibility of input tax credit of tax paid to M/s. Catalyst Consulting, who have rendered brokerage services to the applicant for leasing out the premises for the applicant to Vantec Logistics India Private Limited, M/s. Catalyst Consulting Chennai raised a bill for the Brokerage Charges alongwith CGST and SGST.

4.2 M/s Catalyst Consulting Chennai provided brokerage services by identifying a leasee for the commercial property owned by the applicant. As per the invoice raised by Catalyst Consulting Chennai this was done at a consideration which indicates that this transaction falls within the definition of "Supply" under Section 7(1) (a) of CGST. This is a brokerage services related to buildings involving renting of buildings on a fee which as per the Explanatory Notes to classification of Services would fall under SAC 997222.

Section 2(62) of CGST Act defines input tax as under:

"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) Integrated goods and service tax on import of goods;

b) Tax payable under the provision of sub section (3) & (4) of Section 9.

c) Tax payable under the provision of sub section (3) & (4) of Section 5 of Integrated goods and service tax Act.

d) Tax payable under the provision of sub section (3) & (4) of Section 9 of respective State goods and service tax Act; or

e) Tax payable under the provision of sub section (3) & (4) of Section 7 of the Union territory goods and service tax Act.

But does not include tax paid under the composition levy.

Section 16 (1) of the Act provides for the Eligibility and conditions for taking input credit, as follows:

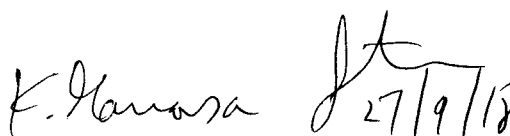
16. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance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

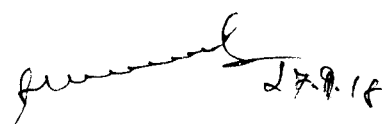
In the subject case, the applicant has received an inward supply of real estate brokerage services for renting of property on a fee basis. Due to the services of Catalyst Consulting Chennai, the applicant was able to make an outward supply of renting of the property to Vantec Logistics India Private Limited. Hence, this inward supply was used in the course of the applicants business. This inward supply rendered by catalyst Consulting is not listed in any of the exceptions mentioned in Section 17(5) of CGST Act/ SGST Act for availing the input tax credit of CGST and SGST. Further, Section 16(2) states that input tax credit is available only if the registered person is in possession issued by registered supplier; a supply of the service has been received; tax has been paid by supplier to Government; the recipient (applicant) has filed returns; recipient has paid the supplier the amount within a period of 180 days. Section 16(4) states that the recipient(applicant) shall not be entitled to take input tax credit after the due date of furnishing return for September following the end of financial year or annual return whichever is earlier. Similarly, Section 17 and Section 18 impose certain conditions on availment of input tax credit. Therefore, the applicant eligible to take credit of the CGST & SGST charged by M/s. Catalyst Consulting in the Tax invoice No. C-007/17-18 dated 20-Dec-17 raised on the applicant for real estate brokerage services for renting of property on a fee basis rendered by Catalyst Consulting, subject to the conditions as per Section 16, 17 and 18 of CGST & SGST Act.

5. In view of the foregoing, we rule as under:

RULING

The applicant is eligible to take credit of the CGST & SGST charged by M/s. Catalyst Consulting Chennai in the Tax invoice No. C-007/17-18 dated 20.12.2017 raised on the applicant for real estate brokerage services for renting of property on a fee basis rendered by Catalyst Consulting, subject to the conditions as per Section 16, 17 and 18 of CGST & SGST Act.

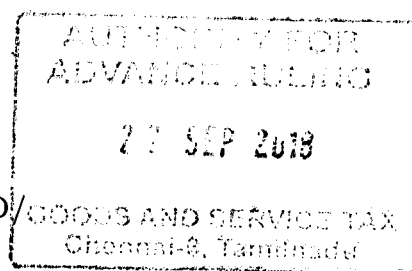

Ms. Manasa Gangotri Kata, IRS
Member, CGST


Shri. S.Vijayakumar, M.Sc.,
Member (FAC), TNGST

To

M/s. Adwitya Spaces Private Limited
New No.57, Second Floor,
Bazullah Road,
T.Nagar,
Chennai-600017

/By SPAD



Copy Submitted to:

1. Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-5.
2. The Principal Chief Commissioner of GST & Central Excise,
261, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Commissioner of GST & C.Ex.,
Chennai South Commissionerate
4. The Assistant Commissioner(ST),
T.Nagar Assessment Circle,
No.66, Pasumpon Muthuramalingam Salai,
Taluk Office Building,
4th Floor, R.A.Puram,
Chennai – 600 028.
5. Master File/ Spare-2