M/s CMS Info Systems Limited (GSTIN 27AAMCS2311K1Z9)

Appellate Authority for Advance Ruling — Maharashtra

ORDER NO. MAH/AAAR/SS-RJ/04A/2018-19, Date- 31.10.2019 Dated **31.10.2019**

Q Questions Before the Authority

- Question II (as referred to the Appellate Authority under section 98(5) of the CGST Act): Whether Input Tax Credit is available to CMS Info Systems Limited on purchase of motor vehicles, i.e. cash carry vans, which are used for the cash management business and supplied post usage as scrap, if the post-usage sale is held to be a taxable supply.
- Question I (decided by the AAR, not referred to the Appellate Authority in this order): Whether supply of such motor vehicles as scrap after use is a supply in the course or furtherance of business attracting GST, and if so, at what rate.

F Facts

The appellant runs a pan-India cash management network that installs and services ATMs, moves cash from currency chests to bank branches, and handles cash pick-up and delivery for banks. It transports cash in security vans called cash carry vans, which it creates by buying motor vehicles and getting them fabricated, paying GST on both. It has not availed credit on that GST, and when the vans are no longer usable it sells them as scrap.

H Ruling

ITC on GST paid on purchase and fabrication of cash carry vans (motor vehicles used for carrying cash and bullion)	****ITC available** to the appellant**	Holding rests on the currency being transported being 'goods' and not 'money' in the appellant's context, so the exclusion in s.17(5)(a)(ii) for transportation of goods applies. The order contains no separate Q1)/Ans- ruling; this is the operative 'Order' paragraph.

The Appellate Authority held that Input Tax Credit on the GST paid on the purchase and fabrication of motor vehicles used for carrying cash and bullion is **available to the appellant** . It reasoned that the currency carried is goods and not money for the appellant, so the bar in section 17(5)(a)(ii) does not apply. The order does not separately answer the scrap-sale question, which was not before it.

R Reasoning

The authority reconsidered the matter after the Bombay High Court's order dated 09.07.2019 set aside its earlier order of 06.08.2018 for not dealing with the appellant's submissions. It held that the currency is not 'money' under section 2(75) because the appellant cannot use it as legal tender or to settle obligations, and that the 'unless the context otherwise requires' opening of section 2 permits a context-based reading. It relied on Rule 138(14) of the CGST Rules, which lists currency among goods not needing an e-way bill, and on Motor Vehicles Act definitions of 'goods' and 'goods carriage' as supporting this. It rejected the department's reliance on RBI safeguards and on the special-purpose nature of the vehicles, holding that these do not change the character of the goods. Credit

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

was therefore allowed under section 17(5)(a)(ii) read with sections 2(52) and 2(75).

P Provisions Relied On

Section 17(5)(a)(i) and (ii), CGST Act, 2017 (as quoted in the order)

Section 2(52) 'goods', CGST Act, 2017

Section 2(75) 'money', CGST Act, 2017

Section 2 opening words 'unless the context otherwise requires', CGST Act, 2017

Section 2(19) 'capital goods' (raised by the appellant)

Section 98(5) and section 101, CGST Act, 2017 (procedure)

Rule 138(14) and its Annexure, CGST Rules, 2017

Sections 2(13), 2(14) and 2(47), Motor Vehicles Act, 1988

Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 117 (as cited in the order)

! For the Practitioner

Cash-in-transit and similar businesses using converted vans can use this order to support ITC claims under section 17(5)(a)(ii) on vehicles carrying cash or bullion. The reasoning rests on the appellant's specific facts, namely that it cannot use the cash for any purpose, so it may not carry over to a business that uses cash as consideration. The order does not decide whether the post-use scrap sale is taxable or at what rate, since that was Question I, which the AAR decided and which was not referred for appellate decision. Practitioners should read the full order and check any later litigation before relying on it.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> mah_aaar_04a_2018-19_cmsil.pdf

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