M/s CMS Info Systems Limited

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

- Whether Input Tax Credit is available to CMS Info Systems Limited on purchase of motor vehicles, i.e. cash carry vans, which are purchased and used for the cash management business and supplied post usage as scrap (referred to the Appellate Authority under section 98(5) of the CGST Act, 2017 because the AAR members differed).

F Facts

The applicant runs a pan-India cash management network that installs ATMs, moves cash from currency chests to bank branches, and handles cash pick-up and delivery for banks. It buys or hires motor vehicles, has them fabricated into 'cash carry vans' with GST paid on both the vehicle and the fabrication, and sells the vans as scrap when they can no longer be used. The AAR held that the scrap sale is a taxable supply but split on whether input tax credit is available, and that question was referred to this Authority.

H Ruling

ITC on purchase and fabrication of cash carry vans used for carrying cash and bullets, later sold as scrap	****Available** to the Appellant**	Holding rests on currency being 'goods' and not 'money' under section 2(75), so section 17(5)(a)(ii) does not bar credit. The order does not state a GST rate, and the scrap-supply rate question was not referred to this Authority.

The Appellate Authority held that **Input Tax Credit against the GST paid on the purchase and fabrication of the motor vehicles, used for carrying cash and bullions, is available** to the applicant. The holding rests on the currency carried not being 'money' under section 2(75), so the vans are used for transportation of goods and the bar in section 17(5)(a)(ii) does not apply. The order does not address the GST rate on the scrap sale, which the AAR had dealt with and which was not referred.

R Reasoning

The Bombay High Court (order dated 09.07.2019) set aside the Authority's earlier order of 06.08.2018 because it had not dealt with the applicant's submission that the cash is not 'money' under section 2(75). On reconsideration, the Authority relied on the applicant's agreement with Canbank Computer Services Ltd (clause 2.7), which bars the applicant from using the cash for its own purposes, to find that the applicant cannot use the cash as legal tender. The Authority then read the words 'unless the context otherwise requires' in section 2 as allowing the context to displace the literal definition of money. It also relied on Rule 138(14) of the CGST Rules, which lists 'currency' among goods that need no e-way bill, and on the Motor Vehicles Act, 1988 definitions of 'goods carriage' and 'transport vehicle'. Read with section 17(5)(a)(ii), which excludes motor vehicles used for

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

transportation of goods from the blocked-credit bar, this led to the conclusion that credit is available. RBI safeguards for cash were held not to make the cash something other than goods.

P Provisions Relied On

- Section 97(1) of the CGST Act, 2017 (application for advance ruling)
- Section 98(5) of the CGST Act, 2017 (referral on difference of opinion)
- Section 99 of the CGST Act, 2017 (constitution of Appellate Authority)
- Section 101 of the CGST Act, 2017 (Appellate Authority's proceedings)
- Section 7 of the CGST Act, 2017 (supply in course or furtherance of business)
- Section 16 and Section 18 (referenced in the opening of section 17(5))
- Section 17(5)(a)(i) and 17(5)(a)(ii) of the CGST Act, 2017 (blocked credit on motor vehicles, exception for transportation of go…
- Section 2(17) of the CGST Act, 2017 (business)
- Section 2(19) of the CGST Act, 2017 (capital goods)
- Section 2(52) of the CGST Act, 2017 (goods)
- Section 2(75) of the CGST Act, 2017 (money)
- Rule 138(14) of the CGST Rules, 2017 (goods exempt from e-way bill, including currency)
- Notification No. 1/2017-Central Tax (Rate) (cited by the AAR for rate)
- Notification No. 2/2017-Central Tax (Rate), Sr. No. 117 (exemption for rupee notes sold to RBI; cited by the applicant)
- Sections 2(13), 2(14) and 2(47) of the Motor Vehicles Act, 1988 (goods, goods carriage, transport vehicle)

! For the Practitioner

A cash-in-transit operator facing a blocked-credit denial on cash vans can cite this order to argue that currency carried for clients is 'goods' and that section 17(5)(a)(ii) therefore lets the credit through. The holding is tied to the applicant's facts, especially the clause 2.7 restriction on its use of the cash, so a different contract may lead to a different result. The order does not decide the GST rate or taxability of the scrap sale, which was outside the referred question, and it binds only the applicant on this ruling.

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_2019-20_cms.pdf

Prepared 13-11-2026.

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