GGL Hotel and Resort Company Ltd. (Appellant). The scan reads 'CGL' in places and 'GGL' in paragraph 2.

Appellate Authority for Advance Ruling — West Bengal

Appeal Case No. 01/WBAAAR/APPEAL/2019 dated 06.02.2019. Order dat… Dated **05.03.2019**

Q Questions Before the Authority

- Whether credit is available on input tax paid on lease rent during the pre-operative period for the leasehold land on which the resort is being constructed, to be used for furtherance of business, when the same is capitalized and treated as capital expenditure.

F Facts

The Appellant took about 20,039.75 sq. m. of land on a 32-year lease from WBHIDCL in Eco Park, New Town, Kolkata, to build and operate a hotel and banquet facility (Buneau Vista) on a design-build-operate basis. The lease premium was Rs. 17.20 crore, with annual rent at 10% of the premium for the first two years, escalating at 5% from the third year. The Appellant capitalized the pre-operative lease rent, and WBHIDCL charged GST at 18% on it.

H Ruling

Input tax credit on GST paid on lease rent in the pre-operative period for leasehold land on which the resort is being built	**Not available. The appeal is dismissed.**	Blocked under section 17(5)(d) as construction of immovable property on own account. The order is limited to the pre-operative period. The scan does not show a separate Q/Ans RULING section; this row reflects the single question as decided in the concluding paragraph.

The Appellate Authority dismissed the appeal and found no infirmity in the advance ruling of the WBAAR. It held that input tax credit on lease rent paid during the pre-operative period is blocked under section 17(5)(d) because the Appellant is constructing the resort on its own account for furtherance of its hospitality business. The lease rental is one of the input services used for that construction.

R Reasoning

The authority read section 16(1) as entitling a registered person to credit on inputs used in furtherance of business, subject to section 17. It then applied **section 17(5)(d)** , which blocks credit on goods or services received for construction of an immovable property (other than plant or machinery) on own account, even where used in the course of business. It rejected the Appellant's argument that lease rent is paid for land rather than for construction, reasoning that clause (i) of the Lease Agreement requires the land to be used for building at the lessee's cost and that the Appellant collects all project revenue. It therefore found a direct nexus between the lease rent and the construction, and held that the Appellant was not providing construction services to WBHIDCL. It also held that section 16(3) was not relevant because the WBAAR had not treated lease rental as a capital good.

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

P Provisions Relied On

- Section 16(1) of the WBGST/CGST Act, 2017
- Section 16(3) of the WBGST/CGST Act, 2017 (held not applicable)
- Section 17(5)(d) of the WBGST/CGST Act, 2017, with its Explanation on 'construction'
- Section 97 and Section 100(1) of the WBGST/CGST Act, 2017 (advance ruling and appeal)
- Notification No. 12/2017-CT(Rate) dated 28.06.2017, Sl. No. 41 (lease premium exemption), as amended by Notifications 32/…
- Notification No. 11/2017-CT(Rate) dated 28.06.2017, Sl. No. 16(iii), as amended by Notification 1/2018 (lease rental taxable a…

! For the Practitioner

Practitioners advising developers on leasehold land from government bodies can cite this order for the position that lease rent incurred during construction of a resort on own account is blocked under section 17(5)(d). It applies the blocking provision to a land-lease input rather than to a construction contract. The order does not decide what happens after the project is complete or when the building is let out. It also leaves open whether credit on lease rent for land not built on is available, since the Appellant's alternative argument on the unbuilt area was rejected only in passing.

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 -> wb_aaar_01_2019_06.02.2019.pdf

Prepared 31-10-2026.

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