Jabalpur Entertainment Complexes Pvt. Ltd. (appellant)

Appellate Authority for Advance Ruling — Madhya Pradesh

Order No. 03/20/A.A.A.R./08 dated 14.01.2020 (per the signature block; th… Dated **14.01.2020**

Q Questions Before the Authority

- Whether ITC on GST paid on goods purchased for the purpose of maintenance, such as vitrified tiles, marbles, granite, ACP sheets, steel plates, TMT TOR, bricks, cement, paint, chemicals, and sanitary items like wash basins, urinal pots and toilet accessories, can be claimed in full?
- Whether ITC on GST paid on works contract services received from registered and unregistered contractors for maintenance of the building can be claimed in full?

F Facts

The appellant operates a three-screen multiplex, a shopping mall that it leases to tenants on rent and revenue-share terms, a food court, and a franchise apparel store, all in one building under a single GSTIN. It claims ITC on inward supplies including movie distributor bills, projector rent, advertising, security and housekeeping services, civil materials used for maintenance and renovation, and works contract services from registered and unregistered contractors. The building was constructed in 2009-10, and the appellant treats its maintenance spend as revenue expenditure supported by a CA certificate.

H Ruling

ITC on goods bought for maintenance/repair of mall building (vitrified tiles, marble, granite, ACP sheets, steel, TMT, bricks, cement, paint, chemicals, sanitary items)	**Not eligible to the extent of capitalisation**	Under section 17(5)(d) (construction on own account, including repairs, as explained in the Explanation to s.17(5)). The AAR had cited clause (c) for this question; the AAAR corrected it to (d).
ITC on works contract services received from registered and unregistered contractors for maintenance of the building	**Not eligible to the extent of capitalisation**	Under section 17(5)(c) (works contract services for construction of immovable property). The AAR had cited clause (d) for this question; the AAAR corrected it to (c).

The Appellate Authority held that ITC on maintenance and repair materials for the mall building is not available to the extent such expenditure is capitalised, under clause (d) of section 17(5). It held that ITC on works contract services for building maintenance is likewise not available to the extent of capitalisation, under clause (c) of section 17(5). It corrected the AAR's mis-citation of clauses (c) and (d). The bar therefore turns on capitalisation, not on the nature of the expense alone.

R Reasoning

The Authority read the Explanation to section 17(5), which brings repairs and renovation within 'construction' but only 'to the extent of capitalisation'. It treated the appellant's repairs as own-account construction under clause (d)

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and works contracts under clause (c). It then reasoned that 'capitalised' in section 2(19) depends on the taxpayer's own books, so the treatment is discretionary and not a fixed mark, and that accounting entries can change. On that basis it limited the bar to the capitalised portion, which implies that repair costs not capitalised are not barred by section 17(5). The order does not expressly decide the case law the appellant cited, including Safari Retreats (Orissa HC), so the reasoning on that point should be checked in the full text.

P Provisions Relied On

- Section 17(5)(c) CGST Act, 2017 (works contract services for construction of immovable property)
- Section 17(5)(d) CGST Act, 2017 (goods or services for construction of immovable property on own account)
- Explanation to Section 17(5) CGST Act, 2017 (construction includes re-construction, renovation, additions, alterations or repa…
- Section 2(19) CGST Act, 2017 (definition of capital goods)
- Section 103(2) CGST Act, 2017 (binding effect of advance ruling)
- Section 100 and Section 101 CGST Act, 2017 (appeal and appellate ruling); corresponding MPGST Act provisions

! For the Practitioner

This order is useful for a practitioner advising a mall or commercial owner on repair and maintenance ITC, because it confirms that the section 17(5)(c) and (d) bar reaches repairs and works contracts for a building, and it ties the bar to capitalisation. It does not settle whether revenue-expensed repair costs are fully eligible, since the ruling is framed only 'to the extent of capitalisation' and the reasoning on the appellant's additional grounds is not clearly resolved. Anyone relying on it should read the full findings and check the Orissa High Court decision and later appellate position before advising on non-capitalised expenditure.

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 -> mp_aaar_03_2020_jabalpur_entertainment.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com