

M/s. R.B. Construction Company

Appellate Authority for Advance Ruling — Gujarat

GUJ/GAAAR/APPEAL/2018/1 dated 16/5/2018

Q Questions Before the Authority

- Does the work executed and invoice to be raised for the pending event of testing and commissioning by the applicant after the implementation of the Goods and Services Tax Act amount to supply, and specifically supply of works contract?
- Is the applicant entitled to enjoy proportionate credit worth 10% duty of excise and VAT paid on materials bought vide invoices showing Excise and VAT separately, under the transition provisions so that there is no double taxation i.e. levy of tax on tax is avoided?

F Facts

The applicant is a works contractor who was engaged in a pipeline project for the Rajkot Municipal Corporation. The supply of pipes and laying work was completed in the pre-GST era, while testing and commissioning remained pending upon the implementation of GST. The applicant sought to claim transitional input tax credit for the materials used, arguing that the project was still in a semi-finished state.

H Ruling

Entitlement to transitional input tax credit	Not entitled	Under sub-sections (3) and (6) of Section 140 of the CGST and GGST Acts
GST liability on pending supply	Required to be paid	For that part of the supply where the time of supply is on or after the appointed date

The authority ruled that the applicant is not entitled to claim transitional input tax credit under the specified sections of the CGST and GGST Acts. Furthermore, it held that the portion of the supply occurring on or after the appointed date is subject to GST liability.

R Reasoning

The authority reasoned that the applicant was not holding the pipes as inputs or as part of semi-finished goods on the appointed date because the supply and laying were already completed. It determined that the pipeline network constitutes **immovable property**, which falls outside the definition of goods under the Act. Consequently, the provisions of Section 140 do not permit transitional credit for this scenario. The activity is classified as a **works contract** under Section 2(119), making the post-GST portion of the supply taxable.

P Provisions Relied On

Section 2(52) of the CGST Act, 2017

Section 2(119) of the CGST Act, 2017

Section 7 of the CGST Act, 2017

Section 13 of the CGST Act, 2017

Section 140(3) of the CGST Act, 2017

Section 140(6) of the CGST Act, 2017

Schedule II of the CGST Act, 2017

! For the Practitioner

This ruling clarifies that transitional credit under Section 140 is unavailable for works contracts where the material supply and installation were completed pre-GST, even if testing remains pending. It reinforces that **immovable property** does not qualify as goods for the purpose of transitional credit claims. Practitioners should note that the authority strictly interprets the status of goods on the appointed date.

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 -> [guj_gaar_2018-1_16.05.18.pdf](#)

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