M/s Attica Gold Pvt. Limited

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 15/2020, Date: 23-03-2020 Dated **23.03.2020**

Q Questions Before the Authority

- a) Whether the applicant, dealing in second hand goods, must pay tax on the difference between selling price and purchase price under Rule 32(5) of the CGST Rules, 2017, where the dealer purchases used or second hand gold jewellery from individuals who are not GST dealers and there is no change in the form or nature of the goods at the time of sale.
- b) Whether ITC is allowed to be claimed if purchases are made from a dealer to whom the marginal scheme is applicable.

F Facts

The applicant is in the business of buying used gold jewellery from unregistered individuals, cleaning and polishing it without melting or remaking it, and selling it as second hand jewellery. It has been paying tax on the full value without using the marginal scheme and intends to adopt the Rule 32(5) valuation. The representative also relied on a press release dated 13.07.2017 on reverse charge for purchases of old gold jewellery.

H Ruling

Valuation of supply of second hand gold jewellery bought from unregistered individuals, under Rule 32(5)	**Yes. Valuation may be made as prescribed under sub-rule (5) of Rule 32 of the CGST Rules, 2017**	**Applies only where the applicant invoices its supplies as 'second hand goods'**, there is no change in form and nature of the goods, and no ITC is availed on the purchase of such goods.
ITC where purchases are made from a dealer to whom the marginal scheme applies	**ITC is allowed on inward supplies from a registered person, under section 16 of the CGST Act, 2017**	**If the applicant claims ITC on such inward supplies, it is not eligible for the margin scheme** for outward supplies of such second hand jewellery.

The authority held that the applicant may value its supply of second hand gold jewellery under sub-rule (5) of Rule 32 of the CGST Rules, provided it invoices the supplies as 'second hand goods' and there is no change in form or nature of the goods. Where the applicant buys second hand jewellery from a registered person, it may claim ITC on those inward supplies, but if it does so it cannot use the margin scheme for its outward supplies.

R Reasoning

The authority tested the applicant against the two conditions in Rule 32(5): the supply must be taxable, and the supplier must deal in second hand goods, meaning used goods sold as such or after minor processing that does not change their nature, with no ITC taken on the purchase. It found the supply taxable under entry 13 of

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

Schedule V to Notification No. 01/2017-Central Tax (Rate), at 1.5%. It accepted the applicant's statement that it only cleans and polishes the jewellery, and it made the condition of invoicing as second hand jewellery a requirement. On the ITC question, it relied on section 16 of the CGST Act, holding that ITC claimed on registered suppliers' inward supplies would bar the margin scheme.

P Provisions Relied On

- Rule 32(5) of the CGST Rules, 2017 (valuation of second hand goods)
- Section 16 of the CGST Act, 2017 (eligibility of ITC)
- Entry 13 of Schedule V to Notification No. 01/2017-Central Tax (Rate), dated 28.06.2017 (rate of 1.5%)
- Corresponding provisions of the KGST Act, 2017, applied by parity
- Sections 97 and 98(4) of the CGST Act and KGST Act (advance ruling procedure)

! For the Practitioner

This ruling helps second hand gold jewellery dealers who buy from unregistered individuals and want the margin scheme. It settles that Rule 32(5) is available where the goods are invoiced as second hand and no ITC is taken on the purchase, and that claiming ITC on inward supplies from registered dealers forfeits the margin scheme. It does not decide the reverse charge question on purchases from unregistered persons under section 9(4), and it does not address the Maharashtra ruling in Safset Agencies that the applicant cited. The ruling binds only the applicant.

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 -> kar_aar_15_2020_attica.pdf

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