Bauli India Bakes and Sweets Private Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-108/2018-19/B-36, Mumbai Dated **08.04.2019**

Q Questions Before the Authority

- Whether the input tax credit availed by the applicant in respect of capital goods received prior to 01 July 2017 is admissible to the applicant?
- Whether, while determining the liability to pay tax on the outward supplies made by the applicant, the applicant can adjust the input tax credit in respect of capital goods procured by it prior to 01 July 2017?

F Facts

The applicant began as a trader in bakery products and set up a factory in 2016, obtaining Central Excise registration as a manufacturer on 27 December 2016. It procured and received capital goods before 1 July 2017, when its intended final products attracted nil duty under the Central Excise Tariff, and commercial production began in September 2017 after GST came into force. The applicant asks whether CENVAT credit on those pre-GST capital goods can be availed and set off against GST on outward supplies.

H Ruling

The Authority rejected the application as **non-maintainable**. It held that the questions concern admissibility of pre-GST CENVAT credit, which is not input tax credit as defined under the GST Act, so the Authority has **no jurisdiction** to rule on them. The merits of the applicant's arguments were not decided.

R Reasoning

The Authority first considered the categories in section 97(2) and accepted that the questions relate to clause (d), admissibility of input tax credit. It then read the definitions of input tax credit in section 2(63) and input tax in section 2(62), which refer to tax charged on supplies made to the registered person under the GST law, and concluded that CENVAT credit under the erstwhile regime falls outside them. On that basis the questions were not within section 97(2) and the application was rejected. The applicant's reliance on Rule 6(4) of the CENVAT Credit Rules, 2004, section 174(2) of the CGST Act and section 18(1)(d) was noted but not examined on the merits.

P Provisions Relied On

Section 97(2) of the CGST Act, 2017 and the MGST Act, 2017

Section 98 of the CGST Act, 2017 and the MGST Act, 2017

Section 2(62) of the CGST Act, 2017 (definition of input tax)

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

Section 2(63) of the CGST Act, 2017 (definition of input tax credit)

! For the Practitioner

This order is useful for showing that the Maharashtra AAR will decline advance rulings on whether pre-GST CENVAT credit on capital goods can be carried into GST, treating such questions as outside section 97(2)(d). It does not decide whether the credit is available, and the applicant's arguments under Rule 6(4) of the CCR and section 174(2) and 18(1)(d) of the CGST Act remain untested. The order notes that an appeal lies to the Maharashtra Appellate Authority for Advance Ruling, located at 15th floor, Air India building, Nariman Point, Mumbai.

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 -> maharashtra_aar_108_2018-19_bibspl_08.04.19.pdf

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