M/s Embassy Industrial Park Private Limited

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 109/2019, Dated: 30th September, 2019 Dated **30.09.2019**

Q Questions Before the Authority

- Whether input GST credit can be availed by the applicant on the inputs i.e. Electrical Works, Pumps, Pumping systems and tanks, Lighting system, Physical security system and Fire System

F Facts

The applicant builds and manages industrial warehousing spaces for consumers and industrial centres and proposes to construct a new industrial warehouse at Baguru Village in Karnataka (the order's findings read 'Bagus'; the scan is unclear). It procures goods and services from contractors to fit out the warehouse spaces, then rents out the fully equipped space with its facilities and infrastructure to industrial consumers and manufacturers. The fitted-out items are electrical works, pumps and tanks, lighting, physical security and fire systems, which the applicant treats as plant and machinery and as movable.

H Ruling

Input GST credit on Electrical Works, Pumps, Pumping systems and tanks, Lighting system, Physical security system and Fire System	**No. Credit cannot be availed (negative answer)**	Blocked under section 17(5) of the CGST Act, 2017 and section 17(5) of the Karnataka GST Act, 2017. The ruling is limited to the items as described in the application.

The Authority answered the question in the negative. Input GST credit cannot be availed on the listed items under section 17(5) of the CGST Act and the corresponding section of the KGST Act. The applicant's rental business satisfies the 'course or furtherance of business' test in section 16(1), but the blocking provisions in section 17(5)(c) and (d) apply to these items.

R Reasoning

The Authority accepted that the rental business makes the inputs used in the course or furtherance of business, so section 16(1) is met. It then held that the items are works contract services received for construction of an immovable property, which is the activity section 17(5)(c) and (d) blocks. Items embedded in the building, fixed to earth and without independent existence, merge into the building and fall outside the 'plant and machinery' exclusion, which does not cover land, buildings or other civil structures. Accounting treatment as plant and machinery in the books does not change the nature of an immovable property. The Authority relied on the section 2(119) definition of works contract and the explanation to section 17 defining plant and machinery.

P Provisions Relied On

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

Section 16(1) of the CGST Act, 2017

Section 17(5)(c) and (d) of the CGST Act, 2017, with Explanations on 'construction' and 'plant and machinery'

Section 17(5) of the Karnataka GST Act, 2017

Section 2(119) of the CGST Act, 2017 (definition of works contract)

Section 97 and Section 98(4) of the CGST and KGST Acts, 2017 (advance ruling procedure)

Section 3(26) of the General Clauses Act, 1897 (cited by the applicant on 'immovable property')

! For the Practitioner

This ruling is useful for warehouse developers and lessors who fit out rental space, since it applies section 17(5) to fixed electrical, pumping, lighting, security and fire installations even when booked as plant and machinery. It also shows that the Authority looks at the nature of the input rather than its accounting treatment. The order does not separately analyse genuinely detachable items such as portable security cabins, which the applicant raised, and it binds only the applicant. The applicant's cited rulings (Vindhya Telelinks, BAHL Paper Mills, Balkrishna, Nipro) are noted in the order but are not expressly applied in the reasoning.

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_109_2019_30.09.2019_eippl.pdf

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