M/s. Adwitya Spaces Private Limited

Authority for Advance Ruling — Tamil Nadu

Order No. 13/AAR/2018 Dated **27.09.2018**

Q Questions Before the Authority

- Whether the applicant is eligible to take Input Tax Credit of the CGST and SGST charged by M/s Catalyst Consulting Chennai in respect of brokerage services, and adjust the same against output tax payable on renting of immovable property.

F Facts

The applicant, registered under GST, let out a warehouse or commercial property at Echnoor Village, Sriperumbadur, to M/s. Vantec Logistics India Private Limited. Catalyst Consulting, a registered property consultant, arranged the letting and raised invoice C-007/17-18 dated 20.12.2017 for brokerage of Rs. 2,74,21,314 including CGST and SGST at 9% each. There was no purchase order or written contract between the applicant and Catalyst, although the applicant said the consultant had identified the lessee through an online advertisement.

H Ruling

ITC of CGST and SGST charged by Catalyst Consulting on brokerage for letting out property, set off against output tax on renting	**Eligible**	Subject to the conditions in Sections 16, 17 and 18 of the CGST and SGST Acts. Relates to invoice C-007/17-18 dated 20.12.2017.

The Authority ruled that the applicant is **eligible to take credit of the CGST and SGST** charged by Catalyst on the brokerage invoice. The brokerage was an inward supply used in the course of the applicant's business, namely its outward taxable supply of renting. The credit is subject to the conditions in Sections 16, 17 and 18 of the CGST and SGST Acts.

R Reasoning

The Authority treated the brokerage as an inward supply of service for renting property on a fee basis. It held that the service was used in the course or furtherance of the applicant's business because it enabled the outward renting to Vantec, relying on Section 16(1). It noted that the service was not within the exceptions in Section 17(5), and it recited the conditions in Sections 16(2) and 16(4) on possession of invoice, receipt of service, payment and time limits for claiming credit. The ruling is conditional on those provisions, but the order does not analyse each condition against the facts.

P Provisions Relied On

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

Section 2(62) CGST Act (definition of input tax)

Section 7(1)(a) CGST Act (supply)

Section 16(1), 16(2) and 16(4) CGST Act (eligibility and conditions for ITC)

Section 17 and Section 17(5) CGST Act (blocked credits, as recited)

Section 18 CGST Act

Rule 104(1) CGST Rules 2017 (application fee)

Section 98 CGST Act (advance ruling)

Explanatory Notes to classification of services (SAC 997222 cited in the order)

! For the Practitioner

This ruling helps a landlord-registrant that pays brokerage on letting commercial property and charges GST on the rent, as it supports ITC on the consultant's tax. It does not decide the position where the rent is exempt or the brokerage relates to exempt supplies. It also does not address the absence of a written contract with the broker, and the order is binding only on the applicant. The order gives SAC 997221 in paragraph 3.2 and SAC 997222 in paragraph 4.2, so the SAC code should be checked against the full order before reliance.

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 -> tn-13-aar-2018_adwitya_spaces_pvt._ltd_1.pdf

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