

M/s. ASHISH ARVIND HANSOTI

Authority for Advance Ruling — Maharashtra

GST-ARA-88/2019-20/B-30, Mumbai, dated 12.03.2020

Q Questions Before the Authority

- Whether applicant is eligible to claim input tax credit of GST paid on input & input services used for construction of commercial immovable property, subsequently used for renting.

F Facts

The applicant is a proprietor engaged in the construction of commercial property on his own account with the intent to lease the premises. The applicant sought an advance ruling on the eligibility to claim Input Tax Credit (ITC) for goods and services used during the pre and post-construction phases of this property, which is subsequently used for renting.

H Ruling

Eligibility to claim ITC on construction of commercial property for renting

Answered in the negative

The applicant is not eligible to claim the input tax credit

The Authority ruled that the applicant is not eligible to claim input tax credit for GST paid on inputs and input services used for the construction of the commercial immovable property. The ruling confirms that such credit is blocked under the provisions of the CGST Act.

R Reasoning

The Authority relied on Section 17(5)(d) of the CGST Act, which explicitly bars input tax credit for goods or services received by a taxable person for the construction of an immovable property on his own account. The ruling clarified that this restriction applies even when such property is used for the furtherance of business, such as renting. The Authority distinguished this case from the Safari Retreats judgment by noting that the latter is currently pending before the Supreme Court and that the Authority is not relying on it.

P Provisions Relied On

Section 17(5)(d) of the CGST Act

Section 97 of the CGST Act

Section 98 of the CGST Act



For the Practitioner

This ruling serves as a **negative precedent** for taxpayers seeking to claim ITC on construction expenses for commercial properties intended for rental income. It reinforces the strict application of the **blocked credit provisions** under Section 17(5)(d) despite arguments regarding the cascading effect of taxes. Practitioners should note that the Authority explicitly declined to follow the Safari Retreats High Court decision due to its pending status in the Supreme Court.

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 -> mah_aar_88_2019-20_b-30_12.03.2020_aah.pdf

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