M/s. Chennai Port Trust

Authority for Advance Ruling — Tamil Nadu

ORDER No.31 /AAR/2019 DATED: 25.07.2019 Dated **25.07.2019**

Q Questions Before the Authority

- Whether the applicant is entitled to take credit of input tax charged on the inward supply of medicines used or intended to be used in the course or furtherance of its business, subject to (1) conditions and restrictions in CGST Rules 2017, particularly rules 36 to 45, (2) conditions in section 16(2) to (4), (3) the manner specified in section 49, and on the presumption that the medicines do not fall under the blocked credits in section 17(5)(e), 17(5)(h) and 17(5)(i).

F Facts

The applicant, a major port trust, runs an in-house hospital that provides outdoor and indoor medical care to its employees, pensioners and their dependents under two regulations made under the Major Port Trusts Act, 1963. The hospital is treated as a cost centre, and medicines are supplied to beneficiaries free of charge, with no separate consideration recovered from them. The applicant sought to claim ITC on the medicines it procures for this purpose, arguing that they are used in the course of its business and are not goods for personal consumption.

H Ruling

ITC on inward supply of medicines used to provide medical facilities to employees, pensioners and dependents in the in-house hospital	**Not entitled**	Blocked under section 17(5)(g) as goods used for personal consumption. Who pays for the medicines is held irrelevant. The order does not expressly address section 17(5)(e), (h) or (i).

The authority ruled that the applicant is not entitled to take credit of input tax on the inward supply of medicines used to provide medical facilities to employees, pensioners and dependents in the in-house hospital. It held that these medicines are for personal consumption and therefore blocked under section 17(5)(g). The authority rejected the argument that the applicant's payment for the medicines takes them outside that bar.

R Reasoning

The authority began with section 16(1), which allows ITC only on goods used or intended for use in the course or furtherance of business, subject to the conditions and restrictions in the Act and Rules. It then applied the bar in section 17(5)(g) for goods or services used for personal consumption. It found that the medicines are consumed by employees, pensioners and dependents for their own treatment, and so are for personal consumption. The applicant's argument that it bears the cost and that no consideration is charged was rejected, because the payer is irrelevant to the use of the goods. The authority's reasoning rests on the statutory bar, not on the State officer's view that medical cover is outside the applicant's business.

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

P Provisions Relied On

- Section 16(1) of the CGST Act, 2017 (and TNGST Act, 2017)
- Section 17(5)(g) of the CGST Act, 2017 (goods or services used for personal consumption)
- Section 16(2) to (4) of the CGST Act, 2017 (referred to in the question)
- Section 17(5)(e), (h) and (i) of the CGST Act, 2017 (referred to in the question)
- Section 49 of the CGST Act, 2017 (referred to in the question)
- Rules 36 to 45 of the CGST Rules, 2017 (referred to in the question)
- Rule 104(1) of the CGST Rules, 2017 (application fee)
- Section 100(1) of the CGST Act, 2017 (appeal within 30 days)
- Section 124(1) read with section 132(1) of the Major Port Trusts Act, 1963
- Chennai Port Trust Employees (Contributory Outdoor and Indoor Medical Benefit After Retirement) Regulations, 1989, notifie…
- Chennai Port Trust Employees (Medical Attendance in the Trust's Hospital and Reimbursement of Hospital Charges) Regulati…

! For the Practitioner

This ruling helps practitioners advising public bodies, employers or trusts that run free medical or welfare facilities for employees, pensioners or dependents. It indicates that ITC on medicines given to those beneficiaries is likely to be blocked under section 17(5)(g) whoever bears the cost. It does not decide whether ITC is available on goods or services used in a business that is not personal consumption, and it does not resolve the section 17(5)(e), (h) and (i) points raised in the question. As an advance ruling it binds only the applicant and can be appealed to the Tamil Nadu State Appellate Authority within 30 days.

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_aar_31_2019_chennai_port_trust.pdf

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