M/s Dhingra Trucking Pvt. Ltd., 1/43, Shivaji Nagar, Gurgaon, Haryana (GSTIN 06AAECD3007B1ZG)

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2019-20/10 (In Application No. 10/2019… Dated **14.10.2019**

Q Questions Before the Authority

- Whether input tax credit of GST in respect of inputs and capital goods used or intended to be used for creation of covered logistics facility space (warehouse) to be rented out for storage purposes is eligible for input tax credit under sections 16 and 17 of the CGST Act, 2017.
- Whether input tax credit of GST in respect of goods and services consumed and used in construction of the covered logistics facility space is eligible when such credit would be used to discharge CGST and HGST/IGST on rent received from the warehouse tenants.

F Facts

The applicant has built a covered warehouse at Dharuhera, Haryana, and has agreed with a two-wheeler manufacturer to lease it for storage of the lessee's vehicles. Under the arrangement the applicant undertakes to provide full power backup through a generator, maintenance and cleaning of the premises and service lift, sufficient manpower, and loading and unloading ramps. A multi-level storage structure of fabricated sheets has been created inside the warehouse to store additional vehicles.

H Ruling

ITC on inputs and capital goods used or intended for building a warehouse to be rented out for storage	**Not eligible**	Barred under section 17(5)(d) because the construction is on the applicant's own account for its own letting business. The Authority rejected the argument that 'own account' refers only to construction intended for sale and held that Safari Retreats (Orissa HC) does not assist the applicant.
ITC on goods and services consumed in building the warehouse, to be used to pay GST on rent from tenants	**Not available; no question of utilisation arises**	Follows from the answer to the first question, since no input tax credit is available on the construction inputs.

The Authority holds that the applicant is not eligible for input tax credit on inputs and capital goods used or intended to be used for building the warehouse to be rented out. Because no credit is available on the input goods and services consumed in that construction, there is no question of utilising such credit against output tax on rent. The Authority treats the warehouse as constructed on the applicant's own account for its own business of letting out, which brings it within the bar in section 17(5)(d).

R Reasoning

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

The Authority treats the applicant as a taxable person supplying services under paragraph 5(b) of Schedule II, which is not disputed. It reads section 17, which overrides section 16(1), together with section 17(5)(d), which denies credit on goods and services received for construction of immovable property (other than plant or machinery) on the taxable person's own account, even where used in the course of business. It holds that building a warehouse to lease out is construction for the applicant's own business purpose, so the 'own account' bar applies. It distinguishes the Orissa High Court decision in Safari Retreats, noting that the High Court did not hold the provision ultra vires and so the restriction in section 17(5)(d) still stands. The applicant's reliance on the Andhra Pradesh High Court decision in Sai Samhita, which concerned Cenvat credit, is not accepted in the ruling.

P Provisions Relied On

- Section 16(1) of the CGST Act, 2017
- Section 17(5)(d) of the CGST Act, 2017 (and the corresponding HGST Act provision)
- Section 2(62) and 2(63) of the CGST Act, 2017 (input tax and input tax credit)
- Schedule II, paragraph 5(b) of the CGST Act, 2017
- Section 9 of the CGST Act, 2017 (charge of CGST, referred to in the definition of input tax)
- Section 49 of the CGST Act, 2017 (referred to in section 16(1))
- Safari Retreats Private Limited v. Chief Commissioner of CGST (Orissa High Court), relied on by the applicant and distinguis…
- Commissioner of Central Excise, Visakhapatnam-II v. Sai Samhita Storages (P) Ltd (Andhra Pradesh High Court, 2011), relie…

! For the Practitioner

This ruling is useful for warehouse and logistics developers who build space for leasing. It applies the section 17(5)(d) own-account bar to such construction and rejects the argument that the bar applies only to construction for sale. It is an advance ruling binding only on the applicant, and it does not finally resolve the conflicting Orissa High Court line of authority the applicant relied on. The scan is largely legible, but the memo number and memo date are not legible and have not been relied on.

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 -> har_aar_10_2019-20_14.10.2019_dtpl.pdf

Prepared 13-11-2026.

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