M/s Dwarikesh Sugar Industries Limited, P.O. Medpurasultan, Najibabad, Nagina Road, Bundki, Bijnor, Uttar Pradesh (GSTIN 09AABCD8192N1Z0)

Authority for Advance Ruling — Uttar Pradesh

Order No. 52, dated 22-01-2020 (Authority for Advance Ruling, Uttar Pra… Dated **22.01.2020**

Q Questions Before the Authority

- Whether expenses incurred by the Company to comply with CSR requirements under the Companies Act, 2013 (CSR expenses) qualify as being incurred in the course of business and are eligible for input tax credit under Section 16 of the CGST Act, 2017.
- Whether ITC in relation to CSR activities obligated under a law is restricted under Section 17(5) of the CGST Act, 2017.
- Whether free supply of goods as part of CSR activities is restricted under Section 17(5)(h) of the CGST Act, 2017.
- Whether goods and services used for construction of a school building, which are not capitalised in the books of accounts, are restricted under Section 17(5)(c) or 17(5)(d) of the CGST Act, 2017.

F Facts

The applicant is a company under the Companies Act, 2013 engaged in manufacturing and selling sugar and allied products. To meet its CSR obligations under Section 135 of that Act, it builds school buildings and additional rooms and laboratories, supplies furniture, fittings and electrical goods free of cost for use in schools, and provides goods or services to registered charitable trusts and NGOs. It procures these goods and services on payment of GST charged by suppliers.

H Ruling

Whether CSR expenses are incurred in the course of business and eligible for ITC under Section 16 CGST Act	**Yes**	The authority treated CSR activity as an essential part of business because the Companies Act makes it compulsory for qualifying companies.
Whether free supply of goods as part of CSR activities is restricted under Section 17(5)(h) CGST Act	**No**	CSR supplies are obligatory and regular, not voluntary and occasional, so they are not gifts or free samples within Section 17(5)(h).
Whether goods and services used for construction of school building not capitalised in books are restricted under Section 17(5)(c)/(d) CGST Act	**ITC is not available to the extent of capitalisation.**	Blocking applies only to the extent of capitalisation of the immovable property, following the Explanation to clauses (c) and (d).

The authority ruled that CSR expenses are incurred in the course of business and are eligible for ITC under

Section 16. It held that free supply of furniture and electrical goods under CSR is not a gift and so is not blocked under Section 17(5)(h). It held that ITC on goods and services used for construction of the school building is not available to the extent of capitalisation.

R Reasoning

The authority reasoned that a company required by Section 135 of the Companies Act to spend on CSR makes that spending part of its business process, so it falls within Section 16(1) read with the wide definition of business in Section 2(17). It relied on the CESTAT decision in Essel Propack and the Karnataka High Court decision in Millipore to treat CSR as integral to business rather than charity. On Section 17(5)(h), it distinguished voluntary gifts from mandatory CSR supplies, relying on a Supreme Court description of a gift as a voluntary transfer without consideration. On Section 17(5)(c) and (d), it applied the capitalisation limit in the Explanation, following an AAR Rajasthan ruling in Rambagh Palace Hotels.

P Provisions Relied On

- Section 16(1) CGST Act, 2017
- Section 2(17) CGST Act, 2017 (definition of business)
- Section 17(5)(c) and 17(5)(d) CGST Act, 2017, with the Explanation on construction and capitalisation
- Section 17(5)(h) CGST Act, 2017
- Section 97(2)(d) CGST Act, 2017 (admissibility of the application)
- Section 103(2) and 104(1) CGST Act, 2017 (validity of ruling)
- Section 135(1), 135(5) and 135(7) Companies Act, 2013
- UPGST Act, 2017 (referred to as materially identical to the CGST Act)

! For the Practitioner

A company that must spend under Section 135 of the Companies Act can use this order to support ITC claims on CSR procurements, and to resist a blocked-credit denial under Section 17(5)(h) for free-supplied school goods. The order binds only the applicant under Section 103(2), so other taxpayers should treat it as persuasive. It does not settle how capitalisation is computed for the school building, and it does not address CSR spending in a form other than the ones described.

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 -> up_aar_52_22.01.2020_dsil.pdf

Prepared 17-11-2026.

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