M/s Indag Rubber Limited, SP 86-88, Industrial Area Bhiwadi, Bhiwadi, Alwar, Rajasthan 301019

Authority for Advance Ruling — Rajasthan

ADVANCE RULING NO. RAJ/AAR/2019-20/23, Date of Ruling 21.10.2019 (… Dated **21.10.2019**

Q Questions Before the Authority

- Whether the applicant is eligible to claim credit of the GST charged by the vendor at the time of supply of goods and services to it, which are used for carrying out the following activities for setting up an MRO facility which will be rented out: (a) Civil Work; (b) External Developmental Works.

F Facts

The applicant, a rubber products manufacturer, agreed to construct a Maintenance Repair and Overhaul (MRO) facility on its Bhiwadi land to Elcom Systems Pvt. Ltd.'s specifications and to lease it to Elcom, which will install its equipment and render MRO services to Israel Aerospace Industries. The applicant engaged M/s Akanksha Contracts Pvt. Ltd. to supply goods and services for the civil and external development works, with goods procured on a bill-to-ship-to basis and an advance of Rs. 97.37 lacs paid. The applicant proposed to charge GST on the rent it receives from Elcom and to claim input tax credit on the vendor's GST.

H Ruling

ITC on GST charged by vendor for civil work and external developmental works used in setting up an MRO facility to be rented out	**Not eligible**	Blocked under Section 17(5)(d) as construction of immovable property on own account; the taxable rental supply after construction does not change the result.

The authority ruled that the applicant is **not eligible** to claim credit of GST charged by the vendor on goods and services used for civil work and external development works for setting up the MRO facility. It held that the activity leads to creation of an immovable property, so the bar in Section 17(5)(d) applies during the construction phase. The taxability of the later rental supply was held to be immaterial to eligibility.

R Reasoning

The authority accepted that Section 16(1) entitles a registered person to ITC on inputs and input services used in business, subject to Section 16(2). It then applied Section 17(5)(d), which denies credit on goods or services received for construction of an immovable property (other than plant or machinery) on own account, even where used in business. Relying on the General Clauses Act definition of immovable property, it found the MRO activity creates an immovable property. It rejected the applicant's purposive reading that the bar applies only where the output is exempt, holding that the blocking applies at the first construction phase. The applicant's case law (Safari Retreats, Eicher Motors, Dai Ichi Karkaria, Tara Exports) was held not relevant on its facts.

P Provisions Relied On

Section 2(59), CGST/SGST Act 2017 (definition of inputs)

Section 2(60), CGST/SGST Act 2017 (definition of input service)

Section 2(62), CGST/SGST Act 2017 (definition of input tax)

Section 16(1), CGST/SGST Act 2017 (entitlement to ITC)

Section 16(2), CGST/SGST Act 2017 (conditions for ITC)

Section 17(5)(c), CGST/SGST Act 2017 (works contract services for construction of immovable property; quoted)

Section 17(5)(d), CGST/SGST Act 2017, with Explanation on 'construction' (decisive provision)

Section 3(26), General Clauses Act 1897 (definition of immovable property)

Circular No. 74/2018 dated 08.12.2018 (cited by applicant; distinguished)

Safari Retreats Pvt. Ltd. v. Chief Commissioner of CGST, 2019 (5) TMI 1278, Orissa HC (cited by applicant; distinguished)

Eicher Motors Ltd. v. Union of India, (1999) 2 SCC 361 (cited by applicant; distinguished)

Collector of Central Excise, Pune v. Dai Ichi Karkaria Ltd., (1999) 7 SCC 448 (cited by applicant; distinguished)

Tara Exports v. Union of India, 2018 (9) TMI 1474, Madras HC (cited by applicant; distinguished)

! For the Practitioner

This ruling is useful for builders and owners who construct property to lease out, as it shows the authority's view that Section 17(5)(d) blocks ITC on construction inputs even where the completed property will generate taxable rent. It rejects the argument that the tax chain is unbroken once the rental output is taxable. It does not decide whether ITC is available on construction inputs for a property that is sold after completion, nor does it address plant and machinery, and the applicant's contrary authorities were not accepted. The order is an advance ruling on the applicant's own question, and the note on the first page says an appeal lies before the 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 -> raj_aar_23_2019-20_21.10.2019_irl.pdf

Prepared 13-11-2026.

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