M/S. Sree Varalakshmi Mahaal LLP

Authority for Advance Ruling — Tamil Nadu

ORDER No. 51 /ARA/2019 Dated: 25.11.2019 Dated **25.11.2019**

Q Questions Before the Authority

- Whether the Input Tax Credit against purchases of materials for construction of building materials can be claimed and utilised to nullify the cascading effect of taxation?

F Facts

The applicant built a marriage hall at Itteri Road, Meyyanoor, Salem, and leases it out for short-term occasions, charging CGST and SGST at 18% on the rent. It procured cement, steel, wood, fittings and services such as architectural, labour and civil works for the construction. It said it had paid about Rs. 2 crores in tax on these inputs and had availed but not utilised the credit.

H Ruling

ITC on goods and services received for construction of the marriage hall built on own account and leased out	**No Input Tax Credit available**	Bar under section 17(5)(d) applies even where the building is used in furtherance of business (renting). The bar covers goods and services received for construction, including reconstruction, renovation, additions, alterations and repairs capitalised to the property.

The Authority held that **no Input Tax Credit is available** on any goods or services received by the applicant for construction of the marriage hall on its own account, even where the hall is used in the course or furtherance of its business of renting. It rejected the applicant's argument that section 17(5)(d) applies only to property meant for sale. It also declined to follow the Orissa High Court decision in Safari Retreats, holding that the High Court had upheld the provision as valid.

R Reasoning

The Authority read section 17(5)(d) as barring credit on goods or services received for construction of an immovable property (other than plant and machinery) on the taxable person's own account, even when used in furtherance of business. It held that the applicant built the hall on its own account and rents it out, so the bar applies. It rejected the argument that the bar is aimed only at property meant for sale, holding that the legislative scheme is clear and that the Act must be followed as enacted. It relied on section 16(1) to note that Parliament may restrict credit flow. On Safari Retreats, it noted that the High Court allowed credit on a case-to-case basis but did not strike down section 17(5)(d), so it found no reason to go beyond the statute.

P Provisions Relied On

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

Section 17(5)(d) of the CGST Act 2017 and the corresponding TNGST Act 2017 provision

Explanation to section 17(5) defining construction

Section 16(1) of the CGST Act 2017

Section 18(1) (referred to in the quoted text of section 17(5))

Rule 104(1) of the CGST Rules 2017 (application fee)

Section 98 of the CGST Act 2017 (advance ruling)

! For the Practitioner

This order is useful for owners who build commercial property such as marriage halls and lease it out, because it confirms that the section 17(5)(d) blocked-credit bar applies to self-constructed property used for letting. It also rejects the argument that the bar applies only where the property is later sold. The order does not decide whether section 17(5)(d) is unconstitutional, since the Authority declined to examine vires and did not rule on the Article 14 argument. It also does not address property constructed for third parties or plant and machinery. As an advance ruling, it binds only the applicant, and any appeal lies to the Tamil Nadu 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-51-ara-2019.pdf

Prepared 14-11-2026.

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