M/s Vinayaka Constructions

Authority for Advance Ruling — Andhra Pradesh

AAR No.37 /AP/GST/2019 dated: 12.12.2019 Dated **12.12.2019**

Q Questions Before the Authority

- Whether the applicant is eligible for Input Tax Credit (ITC) in respect of the GST paid on goods and services used as inputs in execution of "Works Contracts", specifically in execution of road work contracts to Government Engineering Departments.
- If not, on which type of goods or services the ITC is not eligible.

F Facts

The applicant, a works contractor registered under the GST Act, is executing a road reconstruction work (Penugonda to Munamarru, West Godavari District) awarded by the Andhra Pradesh Panchayat Raj Department. Inputs used include batching plant mix, road rollers, paver finisher, bitumen, metal chips, gravel, machinery and vehicle repairs, and services of engineers, sub-contractors, consultants and hired machinery and vehicles. The applicant claims ITC on all of these inputs.

H Ruling

ITC on GST paid on goods and services used in executing road works contracts for Government	**Eligible**	Restriction under Section 17(5)(c) and 17(5)(d) held not to apply because the applicant's output is works contract service.
Goods or services on which ITC is not eligible	**None identified; not separately answered**	The ruling does not name any ineligible category. The answer is implied from the holding that no Section 17(5) restriction applies.

The authority held that the applicant is eligible for ITC on the GST paid on goods and services used as inputs in executing works contracts. The restrictions in Section 17(5)(c) and Section 17(5)(d) do not apply to the applicant because its output is works contract service. The order does not list any category of goods or services for which ITC is barred.

R Reasoning

The authority treated the applicant as providing works contract service under Section 2(119) of the CGST Act. It read the exception in Section 17(5)(c), which allows ITC where works contract service is an input service for further supply of works contract services, as covering the applicant. It then held that Section 17(5)(d) did not apply because the goods and services were not received for construction of immovable property on the applicant's own account, since they were not owned or capitalised by it and were passed on to the contractee. The reasoning is brief and does not deal separately with individual inputs such as vehicles, machinery or plant.

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

P Provisions Relied On

Section 2(119) of the CGST Act, 2017 (definition of works contract service)

Section 17(5)(c) of the CGST Act, 2017 (**exception for input service for further supply of works contract services**)

Section 17(5)(d) of the CGST Act, 2017 (**construction of immovable property on his own account**)

Section 97(2) of the CGST and APGST Acts, 2017

Section 98(1) and Section 98(4) of the CGST and APGST Acts, 2017

Section 99 and Section 100 of the APGST Act, 2017 (appeal to Appellate Authority within 30 days)

! For the Practitioner

The ruling helps works contractors executing government road contracts where the asset created belongs to the contractee, because it confirms that Section 17(5)(c) and (d) do not bar ITC in that setting. It is an advance ruling binding only on the applicant and gives little reasoning, so it should be cited with care. It does not decide ITC on motor vehicles, plant and machinery, or any other input the contractor owns or capitalises, and it does not address whether Section 17(5)(a) or the plant and machinery carve-out applies to such items.

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 -> aar_no.37-2019_vinayaka_constructions.pdf

Prepared 15-11-2026.

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