

# M/s NSL Mining Resources India Private Limited

Authority for Advance Ruling — Andhra Pradesh

Order/AAR/AP/04(GST)/2018

Dated 26.06.2018

## Q Questions Before the Authority

- Whether Excise duty, CVD and SAD paid on Capital Goods purchased prior to July 1st 2017 on which CENVAT credit has not been claimed earlier, can be claimed U/s 140(2) of the CGST Act, 2017 in the absence of registration under Central Excise Act?
- Whether VAT paid on Capital Goods purchased prior to July 1st 2017 on which Input Tax Credit has not been claimed earlier, can be claimed U/s 140(2) of the Andhra Pradesh GST Act, 2017?

## F Facts

The applicant is engaged in procuring low-grade iron ore from third-party miners, upgrading its quality through a beneficiation process, and selling the upgraded product. Prior to July 1, 2017, the applicant purchased capital goods and paid Central Excise duty, CVD, SAD, and VAT, for which credit had not been claimed under the earlier laws. The applicant sought an advance ruling to determine whether transitional credit for these unavailed pre-GST duties and taxes could be claimed under Section 140(2) of the CGST Act, 2017 and APGST Act, 2017.

## H Ruling

The Authority for Advance Ruling **refused to admit the application** under Section 98(2) of the CGST Act, 2017 and APGST Act, 2017. It held that questions concerning transitional credit under Section 140 do not fall within the scope of Section 97(2)(d) or any other clause under Section 97(2). Consequently, the merits of whether transitional credit on capital goods could be claimed were not adjudicated.

## R Reasoning

The Authority examined the admissibility of the application under Section 97(2)(d) of the CGST Act, 2017, which relates to the admissibility of input tax credit of tax paid or deemed to have been paid. It observed that 'input tax' as defined under Section 2(62) refers strictly to taxes chargeable under the CGST, SGST, UTGST, or IGST Acts. The transitional credits claimed under Section 140 pertain to duties and taxes paid under pre-GST enactments such as Central Excise, Customs, and state VAT laws, rather than GST enactments. Therefore, the determination of eligibility for transitional credit does not fall within the purview of Section 97(2)(d) or any other enumerated clause under Section 97(2). As the questions raised were beyond its jurisdiction, the Authority held that the application was **not admitted** under Section 98(2).

## P Provisions Relied On

Section 2(62) of CGST Act, 2017

Section 97(2)(d) of CGST Act, 2017

Section 97(2) of APGST Act, 2017

Section 98(2) of CGST Act, 2017

Section 98(2) of APGST Act, 2017

Section 140(2) of CGST Act, 2017

Section 140(2) of APGST Act, 2017

## ! For the Practitioner

This ruling establishes that issues concerning **transitional credit under Section 140 fall outside the jurisdiction** of the Authority for Advance Ruling under Section 97(2) of the GST Acts. Taxpayers cannot use the advance ruling mechanism to seek rulings on carrying forward unavailed pre-GST taxes or duties. Such issues must be raised through regular assessment and statutory proceedings before jurisdictional officers.

### 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](http://www.gstcouncil.gov.in) -> ap\_04-2018\_26.06.18\_nsl\_miningripl.pdf

Prepared 19-10-2026.

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