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Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 28 / 2019, Date: 12-09-2019 Dated **12.09.2019**

Q Questions Before the Authority

- Whether the applicant is eligible to claim the GST Input tax credit on the items purchased for furtherance of business?

F Facts

The applicant manufactures decorative paints at three plants in Peenya, Bengaluru, and sells them through sales offices in Southern and Western India. To motivate painters and dealers, it runs incentive schemes (Painters, Dealers Incentive, Gold, and Foreign and Local Trip schemes) and gives the incentives mostly in kind, such as TVs, refrigerators, watches, mobiles, gold coins, and foreign or local trips. The applicant claims ITC on the inputs and services procured for these items and says they are used only in furtherance of business and not for sale.

H Ruling

ITC on inward supplies of goods and services used for incentives (gifts to painters, dealers and others) under the purchases described	**Not eligible to avail input tax credit**	Limited to inputs attributable to incentives given as gifts of goods and services to painters, dealers and other persons, under CGST / SGST / IGST Act. Applies to free trip services as well, per the reasoning on Circular 92/11/2019-GST.

The Authority held that the applicant is **not eligible to avail input tax credit** on inward supplies attributable to incentives given as gifts of goods and services to painters, dealers and other persons. It reasoned that the goods and services are disposed of without consideration, so they are not a supply under Section 7, and that credit is barred under Section 17(5)(h) for goods disposed of **by way of gift or free samples** . For free trips, it also held that input tax credit on the related services is barred under Circular No. 92/11/2019-GST.

R Reasoning

The Authority examined the applicant's schemes and found that the goods and services procured are distributed to painters and dealers without any consideration, so they do not qualify as a supply under Section 7 of the CGST Act. It relied on clause (h) of Section 17(5), which denies credit on goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples, and treated the applicant's purchases for these schemes as falling within that bar. For the free foreign and local trips, it followed para (A)(ii) of Circular No. 92/11/2019-GST, which states that input tax credit is not available to the supplier on inputs, input services and capital goods used in relation to gifts or free samples distributed without consideration. The Authority did not accept the applicant's 'furtherance of business' argument as sufficient.

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

P Provisions Relied On

Section 97 of the CGST Act, 2017 and KGST Act, 2017 (advance ruling)

Section 98(4) of the CGST Act, 2017 and KGST Act, 2017

Rule 104 of the CGST Rules 2017 and KGST Rules 2017

Section 7 of the CGST Act, 2017

Section 7(a)(1) of the CGST Act 2017 and Schedule I to the CGST / KGST Act 2017

Section 17(5)(h) of the CGST Act, 2017 and KGST Act, 2017

Section 16(1) and Section 18(1) (referred to in Section 17(5))

Circular No. 92/11/2019-GST dated 07.03.2019, para (A)(ii)

! For the Practitioner

This ruling helps manufacturers and FMCG-style companies that give dealer or painter incentives in kind, as it confirms that ITC on goods and services given away free is blocked under Section 17(5)(h) and that free trip input services are also blocked. It is an advance ruling binding only on the applicant, and it does not decide the position for items given against a counter-obligation or sale-linked consideration. It also does not separately analyse items used for the company's own promotion or samples that fall outside the gift schemes, so those points should be checked in the full order and in later case law.

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 -> kar_aar_28_2019_scipl_12.09.2019.pdf

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