M/s TARUN REALTORS PRIVATE LIMITED

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 103/2019, Dated: 30th September, 2019 Dated **30.09.2019**

Q Questions Before the Authority

- Whether taxes paid on procurement of goods and/or services for installation of Chillers, Air Handling Units (AHU), Lifts, Escalators and Travellators, Water Treatment Plant (WTP), Sewage Treatment Plant (STP), High Speed Diesel Yard (HSD), Mechanical Car Park (MLCP), Indoor/Outdoor Surveillance System (CCTV), D.G. Sets, Transformers, Electrical wiring and fixtures, and Public Health Engineering (PHE), Fire-fighting and water management pump system (together 'Installations') are regarded as blocked credits under Section 17(5) of the CGST Act, 2017.

F Facts

The applicant is developing a shopping mall, Mantri Arena Mall, with a hypermarket, multiplex, departmental stores, retail shops and food courts. It leases units together with rights to staircases, common areas and facilities, charges rent and common area maintenance, and collects HVAC charges separately from tenants. It procured goods and services for the Installations listed above, paid GST to suppliers, and capitalised them in its books.

H Ruling

Taxes paid on goods/services for installing Chillers, AHUs, lifts and escalators, WTP, STP, HSD yard, MLCP, CCTV, DG sets, transformers, electrical wiring and fixtures, and PHE/fire-fighting pump systems in the mall	****Blocked credit under Section 17(5) of the CGST Act, 2017****	The ruling is limited to the listed Installations and to the facts stated, namely a commercial mall let out on rent. The order records that the applicant's claim that the Installations are plant or machinery was not accepted.

The authority ruled that taxes paid on procurement of goods and/or services for the Installations are **regarded as blocked credits under Section 17(5) of the CGST Act, 2017** . It held that the Installations are not 'plant or machinery' because they form part of the building, a civil structure excluded from that expression, and so the construction exclusion in Section 17(5)(d) applies.

R Reasoning

The authority read Section 17(5)(d), which denies input tax credit on goods or services received for construction of immovable property other than plant or machinery. It applied the Explanation to Chapters V and VI, which defines plant and machinery as apparatus, equipment and machinery fixed to earth, but excludes land, buildings and other civil structures. It found that the Installations are integral to the mall, which is let out on rent, and so become part of the civil structure, and that capitalisation in separate heads of account does not take them outside the exclusion. It also distinguished the dictionary and Privy Council machinery cases and the CENVAT cases

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

relied on by the applicant, as they concern whether an item is machinery rather than whether an immovable installation is plant.

P Provisions Relied On

Section 17(5)(d) of the CGST Act, 2017

Explanation to Chapter V and Chapter VI of the CGST Act, 2017 (definition of 'plant and machinery')

Section 97 of the CGST Act, 2017 (application for advance ruling)

Section 98(4) of the CGST Act, 2017 and corresponding provisions of the KGST Act, 2017 (order of the Authority)

Section 17(5) of the KGST Act, 2017 (noted as identical to the CGST provision)

! For the Practitioner

This ruling is useful to developers and owners of commercial malls and similar buildings who claim input tax credit on building services such as HVAC, lifts, DG sets and fire systems. It indicates the Authority's view that such installations are part of the civil structure and therefore blocked under Section 17(5)(d). It does not decide whether installations in a factory or a plant that is used to manufacture goods qualify as plant or machinery, and the reasoning rests on the facts that the building is let out and the installations are integral to it.

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_103_2019_30.09.2019_trpl.pdf

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