



**AUTHORITY FOR ADVANCE RULING
ANDHRA PRADESH GOODS AND SERVICES TAX**
D No. 5-56, Block-B, R.K. Spring Valley Apartments,
Edupugallu, Vijayawada-521151

Present:

D. Ramesh, Additional Commissioner of State Taxes...Member (State Tax)

S. Narasimha Reddy, Additional Commissioner of Central Tax...Member (Central Tax)

AAR No.07 /AP/GST/2019 Dated:14.02.2019

1	Name and address of the applicant	M/s. KSR & Company, 1-410 Old Ramalayam Street, Ravulapalem, Andhra Pradesh East Godavari, 533238.
2	GSTIN	37AAIFK2730M1Z3
3	Date of filing of Form GST ARA-01	14.11.2018
4	Date of Personal Hearing	10.12.2018
5	Represented by	A. Sarveswara Row
6	Jurisdictional Authority - Centre	Assistant Commissioner (Central Tax) Central GST Division, Rajamahendravaram
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	d) Admissibility of input tax credit of tax paid or deemed to have been paid.

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

- The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s KSR & Company, (hereinafter referred to as applicant), registered under the Goods & Services Tax.



2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

3. Brief Facts of the case:

M/s. KSR & Company (herein referred to as applicant), holding GSTIN 37AAIFK2730M1Z3, having registered address 1-410, Old Ramalayam Street, Ravulapalem, Andhra Pradesh, East Godavari – 533238 are registered taxable person. The applicant is a works contractor executing the works awarded by the Government of Andhra Pradesh, Road & Building Department, Eluru Circle. The name of works being executed by the applicant is special repairs to feeder road leading to I.B at Buttayagudem. The scope of works includes construction of granular sub base by providing HBG material and spreading uniform layers with motor grader or by approved means as per Schedule –A of the agreement. The predominant goods and services being utilised in execution of the above works are: Batching plant using for mixing of bitumen and metals to prepare hot mix for use in laying of roads; Road Rollers; Paver finisher; Tippers for carrying material; Bitumen; Metal Chips; Gravel; etc.,

4. QUESTION RAISED BEFORE THE AUTHORITY:

The applicant seeks Advance Ruling with a clarification on the following:

- 1) 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 Department.
- 2) If not, on which type of goods and services the ITC is not eligible.



On Verification of basic information of the applicant, it is observed that the applicant falls under Central jurisdiction, i.e. Assistant Commissioner, CGST, O/o the Deputy Commissioner of Central Tax, Central GST Division, Srinagar, Morampudi Road, Rajamahendravaram - 530017.

Accordingly, the application has been forwarded to the jurisdictional officers with a copy marked to the State tax authorities Assistant Commissioner (ST) Ambajipet Kakinda Division to offer their remarks as per the Section 98(1) of CGST /APGST Act 2017.

In response, the concerned jurisdictional officer of Centre stated that there are no pending proceedings relating to the applicant and no proceedings were passed on the issue, for which the advance ruling sought by the applicant and also submitted his remarks against the contentions of the applicant.

5. RECORD OF PERSONAL HEARING:

Sri, A. Sarveswara Row the authorized representative of the Applicant company appeared for personal hearing on 10.12.2018 and they reiterated the submission already made in the application.

6. APPLICANTS INTERPRETATION OF LAW AND FACTS:

The applicant's contention is that he is eligible to avail full input tax credit of taxes paid on procurement of goods and services during the construction period. As per the understanding of the applicant he is eligible to avail ITC on all the goods and services being utilized in execution of the works. Further the applicant contends that as per the exclusion clause U/S.17(5)(c) of the CGST Act, 2017 where the input services are utilized for further supply of works contract service there is no embargo in availing the ITC on the goods and services utilized in execution of works contracts.

The applicant claims that being a works contractor in execution of the works awarded by the Government of Andhra Pradesh (AP) the ITC availed by him has to be considered that it is an input service for further supply of works contract service.



The applicant further claims that even as per the provisions of Section 17(5)(d) his activity is not falling under this ineligible category, because the works executed by him are for the State of A.P but not for himself. As per the clause (d), if the goods and/or services received by taxable person are utilized for construction of an immovable property (other than plant and machinery) **on his own account** including when such goods or services or both are used in the course or furtherance of business.

7. DISCUSSION AND FINDINGS:

We have examined the issues raised in the application i.e. eligibility of ITC for the stated works, as governed under the provisions of respective GST Acts.

The applicant is providing work contract service for construction of road and the issue is to be clarified whether they are restricted to claim input Tax Credit in terms of clause (c) or (d) of sub-section 5 of section 17 of CGST ACT, 2017

Section 17 (5) (c) of CGST Act 2017: ***Input Tax credit shall not be available in respect of the following namely: "works contract services when supplied for construction of an immovable property (other than Plant and Machinery) except where it is an input service for further supply of works contract services".***

ITC for works contract can be availed by the applicant as he is in the same line of business and entitled to take ITC on the tax invoice raised by his supplies as his output is works contract services.

Now we examine whether the restriction of ITC is applicable as per Section 17 (5)(d).

Section 17 (5)(d) reads as "***Goods or Services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business".***

Even as per the provision of Section 17(5) (d), this authority concurs with the opinion of the applicant that he does not fall under this ineligible category.



RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

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". Input Tax Credit restriction under Section 17(5)(c) and 17(5)(d) will not apply to the applicant as his output is works contracts service.

Sd/-D. RAMESH
Member (State Tax)

Sd/-S.NARASIMHA REDDY
Member (Central Tax)

//t.c.f.b.o//


Assistant Commissioner (ST)
Assistant Commissioner (State Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.

To

1. M/s. KSR & Company 1-410, Old Ramalayam Street, Ravulapalem, Andhra Pradesh, East Godavari, 533238.

Copy to

2. Assistant Commissioner (Central Tax) O/o The Deputy Commissioner of Central Tax, Central GST Division, Srinagar Morampudi Road, Rajamahendravaram - 530017.
3. The Assistant Commissioner (ST), Ambajipet, Kakinada Division.

Copy submitted to

4. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada
5. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam- 530035.

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling, constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

