

GIB/KN/EMBASSY/30.09.2019/AAR-272

Advance Ruling Category : Input Tax Credit

State : Karnataka

Order No.: GIB/KN/EMBASSY/30.09.2019/AAR-272

Name of Entry :
EMBASSY INDUSTRIAL PARK PVT LTD

Date : 30-09-2019

Breif Issue :

Issue & Fact of the Case:

1. Whether GST Input credit can be availed by the applicants on the inputs i.e. Electrical works, Pumps, Pumping System & Tanks, Lighting System, Physical Security and fire system?

M/s. Embassy Industrial Park Private Limited ('the Applicant') is engaged in the business of building and managing industrial warehousing spaces for consumers and industrial centers. The Applicant procures various goods and services for fitting out of the warehousing spaces and provides various facilities on such spaces to industrial consumers and manufacturers;

Out of the procurements, there are certain items in the nature of plant and machinery such as electrical works, pumps, pumping systems and tanks, lighting system, physical security systems and fire system. The Applicant referred to the definitions of 'in the course of' and 'furtherance' to demonstrate that the inputs procured and used by them, satisfy the condition under Section 16 of the CGST Act

Section 16 of the CGST Act entitles every registered person to take ITC of tax charged on supply of goods or services which are used or intended to be used in the course of furtherance of business. Accordingly, the works contract in the nature of electrical, structural, lighting, physical security and fire-fighting works listed above qualify as eligible credit under the said Section

The Applicant further contends that restriction under Section 17(5)(c) and (d) does not apply to their procurement of inputs. Restriction under the said Section is only limited to so far as inputs / input services 'for construction of an immovable property'. The word used in the said Section is 'for construction of an immovable property' and not 'in relation to'. The word 'for' means, in the interest of, to the benefit of, in defense of, etc. Therefore, it can be concluded that in order to be covered under Section 17(5)(c) and (d) of the CGST Act, the goods or services must be used directly for construction of immovable property;

Section 17(5) of the Act overrides Section 16(1) of the CGST Act, and ITC would inter alia not be available in respect of works contract services when supplied for construction of immovable property. The term 'construction' in this context includes re-construction, renovation, additions or alternations or

repairs to the extent of capitalization to the said immovable property

Decision of Advance Ruling Authority :

Decision:

Basis the above observations, the Karnataka AAR ruled that the input GST credit cannot be availed by the applicant on the inputs i.e., electrical works, pumps, pumping system and tanks, lighting system, physical security system and fire system since it is blocked under Section 17(5)(c) and (d) of the CGST Act