

GIB/KN/WE WORK/30.09.2019/AAR-280

Advance Ruling Category : Input Tax Credit

State : Karnataka

Order No.: GIB/KN/WE WORK/30.09.2019/AAR-280

Name of Entry :

Wework India Management Private Limited

Date : 30-09-2019

Breif Issue :

Issue & Fact of the Case:

1. Oak top Wooden Flooring which is movable in nature and capitalized as “furniture and fixture” and is not capitalized as “immovable property”.
2. Whether input GST credit can be availed by the applicant on the detachable sliding and stacking glass partition which is movable in nature and capitalized as “furniture and fixture”, and is not capitalizes as an immovable property?

Applicant is in the business of supplying shared workspace/office space to the freelancers, startups, small businesses and large enterprises. For this Applicant procures goods and services from various contractors for fitting-out of the workspaces and provides the said workspace on rent, to various companies and individuals as sharing workspaces. The applicant states that he has paid GST on the inputs procured.

As per Section 17(5) of the CGST Act, a restriction is imposed with respect to input tax credit on procurement of goods and services or both received by the taxable person for construction of an immovable property. However, the term ‘construction’ is limited to supplies to the extent capitalized to an immovable property.

Two of the major components which are in the nature of furniture and fixtures that are used in We Work buildings are-

- Detachable 14mm Engineered wood with Oak top wooden flooring; and
- Detachable sliding and stacking glass partitions.

Applicant submits that anything embedded to the earth and which cannot be dismantled and moved, strictly are covered under the ambit of “immovable property”, thus restricting the same from availment of ITC as per Section 17 (5)(c) 86 (d) of the CGST Act read with Section 3(26) of the General Clauses Act, 1897 “immovable property”

Applicant argues that there are two types of fittings of the wooden flooring; one being glued down where the same cannot be dismantled and re-used; the other being inter-locked by using

a polished streap foam where the wood can be removed without damaging the area where it is fixed and re-used. Thus, the Detachable 14mm engineered wood with Oak top Wooden flooring consequently are not restricted under Section 17(5).

Applicant said detachable sliding and stacking glass partitions qualify as a “movable property” as the same can be dismantled and re-used and would clearly qualify for input tax credit.

Decision of Advance Ruling Authority :**Decision:**

The input tax credit of GST can be availed by the applicant on the detachable 14 mm Engineered wood with Oak top wooden flooring which is movable in nature and capitalized as ‘furniture’.

The input tax credit of GST is not available on the detachable sliding and stacking glass partitions.

For reference AAAR Ruling- [GIB/KN/WE WORK/06.03.2020/AAAR-26](#)