

**GIB/MH/Sanghvi Movers/13.11.2019/AAAR-37**

**Appellate Advance Ruling Category :** Input Tax Credit

**State :** Tamil Nadu

**Order No.:** GIB/MH/Sanghvi Movers/13.11.2019/AAAR-37

**Name of Entry :**  
Sanghvi Movers Limited

**Date :** 13-11-2019

**Breif Issue :**

**Facts & Issue Of The Case :**

The appeal is filed against the Order No.26/AAR/2019 passed by the Tamil Nadu State Authority for Advance ruling on the application for advance ruling filed by the appellant. As the ruling given by advance ruling authority that the applicant will not be eligible for full ITC as per proviso to Section 16(2), as they are not paying the full amount to their supplier SML HO, rather net amount is being paid. Accordingly, the Hon'ble AAR, Tamil Nadu held that, supplies received from SML HO is not eligible for the full ITC. Rather ITC shall not be available to the extent specified in the restrictions as per second proviso Section 16(2) of CGST Act read with Rule 37 of CGST Rules, 2017.

Following AAAR can be referred in context to the decision made in the AAR [GIB/TN/SANGHVI MOVERS/21.06.2019/AAR-194](#), M/s. Sanghvi Movers Ltd is engaged in the business of providing medium-sized heavy-duty cranes on wet-lease basis i.e. Own, Operate and Maintain and provide entire operating crew, such as crane operators, riggers, helpers, technicians, engineers, etc . The transaction is between distinct persons. The appellant in the tax invoice raised on their customers mentions that the payment to be made either by Cheque/DD in the name of 'SANGHVI MOVERS LIMITED' or directly to the account of SML HO at Pune.

The appellant has represented that the receipts and payables are accounted at the entity level only. The HO being distinct person in the eyes of law and the transaction is in the course of furtherance of business, the supply is taxable supply for which SML HO has adopted a value agreed under the 'Pricing' clause of the MOU and paid the tax on the value declared in the Invoice.

**Decision of Advance Ruling Authority :**

**Decision :**

As per Section 16 of the CGST/TNGST Act 2017, The appellant is eligible to avail full Input tax credit of tax paid by SML HO on the lease/hire of cranes to them for furtherance of business, subject to other conditions of eligibility to such credit. There is also no reason to restrict the eligibility of ITC credit under Section 16 (2) of the Act in this case.