

GIB/OD/NATIONAL ALUMINIUM/21.01.2019/AAAR-24

Appellate Advance Ruling Category : Input Tax Credit

State : Odisha

Order No.: GIB/OD/NATIONAL ALUMINIUM/21.01.2019/AAAR-24

Name of Entry :
NALCO

Date : 21-01-2019

Breif Issue :

Facts & Issues Of The Case-

NALCO is manufacturer of aluminium metal through its refinery located at Damanjodi & Smelter Plant at Angul (Odisha). It has townships at Angul, Damanjodi and Bhubaneswar for its employees. It also runs hospitals at Damanjodi and Angul for its employees and has guest houses for touring employees and guests

Whether the applicant is entitled to take input credit of tax paid on various goods and services used for maintenance of applicants's township, guest houses hospitals and horticulture for paying output tax?

AAR and AAAR Held that:-

1. Some of the services are exclusively in relation to the residential colony, some are in relation to the plant, some are in relation to the guest house and transit house, some are for use in residential colony as well as in the plant while some of the services like urban plantation, provision of drinking water at picnic spot, raising of seedling, and general plantation are neither for the plant nor for the residential colony. The applicant might be doing those activities while discharging some obligation but such activities are not for or in relation to the core business. Some other activities like contract for running a pharmacy outlet simply for dispensing medicine and other allied product free of charge. This is a clear case of supply without consideration mainly to the employees of the applicant. Still some other services like maintaining the power grid is predominantly for use in the plant and maintaining the solid waste treatment plant seems to be for treating the solid waste of the plant.

2. The services are varied in nature and intended for partly business use (to the extent intended for the plant, plant area or plant building) and partly non business use (to the extent intended for use outside the applicant area). Some of the services are for use in the residential colony while some other are for use in the hospital and guest houses. Undeniably the applicant is providing services to its employees by way of residential accommodation in the colony, temporary accommodation in the guest houses and is dispensing health services to its employees and others.

3. The services which are being availed clearly in relation to the residential colony shall not qualify for input tax credit. On the other hand services received partly in relation to the residential colony and

partly in relation to the plant, proportionate ITC to the extent relatable to the plant are available whereas services availed in relation to the residential colony shall not qualify for input tax credit in terms of Sub-section 2 of Section 17.

4. Establishment of hospitals and maintenance thereof may be for discharging the statutory obligation under the ESI Act by the employer, but dispensing medical service to the employees and others is a supply of service by the employer (the applicant in this case). Such service being nil rated will fall under exempt supplies. Consequently, the inputs and input services received by the applicant for dispensing the exempt service will not qualify for input tax credit in terms of Section 17 (2) of the OGST/CGST Act.

5. Establishing, maintaining and furnishing guest houses including landscaping by way of gardening or otherwise is neither a perquisite nor a statutory obligation. It is purely for providing accommodation service to guests including employees on tour. This is in fact a business requirement to maintain such facilities and accordingly the applicant is entitled to input tax credit of the tax paid on inward supply of input and input services for maintenance of the guest house, transit house, and training hostels, but excluding the food and beverages provided in such establishments. Credit of such input services are as such blocked-in clause b of Sub section 5 of section 17 of the OGST and CGST Act – credit not allowed.

Decision of Advance Ruling Authority :

Decision-

Provision of residential accommodation through transit house / trainee hostel is also a perquisite in favour of the employees and hence tax paid on inward supplies of goods and services for the transit house/trainee hostel cannot be allowed the benefit of input tax credit. The guest house of the Appellant-I (NALCO) is used for temporary accommodation of its employees as well as non-employees. Though the provision of guest house may not be treated as a perquisite, it cannot also be treated as an activity integrally related to the business of the Appellant-I (NALCO). That means, the guest house service provided by the Appellant-I to its employees as well as non-employees cannot be treated as an activity in course or furtherance of its business. Hence, we are of the view that tax paid on inward supplies of goods and services in connection with the guest house cannot be allowed the benefit of input tax credit.

For detailed AAR Ruling click - [GIB/OR/NALCO/28.09.18/AAR-145](https://www.gstindia.gov.in/portal/NoticeDetail.aspx?nid=280918&aid=145)