

**GIB/AP/Shilpa/24.02.2020/AAR-354**

**Advance Ruling Category :** Input Tax Credit

**State :** Andhra Pradesh

**Order No.:** GIB/AP/Shilpa/24.02.2020/AAR-354

**Name of Entry :**  
Shilpa Medicare Limited

**Date :** 24-02-2020

**Breif Issue :**

**Facts & Issue Of The Case :**

M/s Shilpa Medicare Limited under takes Research & Development work in Active Pharmaceutical Ingredient (API) & formulation molecules & manufacture of formulation products in small quantity for R & D purpose. The Application has been sought on the following issues:

1. Whether the transaction would amount to supply of goods or supply of services or supply of Goods & Services?"
2. Whether the transaction would cover Sl.No.2 of the Notification No.12/2017 - Central Tax (Rate) dated 28.06.2017?
3. Can we file GST ITC-02 return and transfer unutilised ITC from vizianagaram, Andhra Pradesh unit to Bengaluru, Karnataka Unit?

As per the findings, the business of the applicant i.e., Shilpa Medicare Limited of Andhra Pradesh unit, as a whole along with the capital assets is being transferred as going concern, to Shilpa Medicare Limited of Karnataka Unit for a monetary consideration. The applicant had submitted no documentary evidence proving that the transaction, is a going concern except for his categorical declaration in the application as such taking Into consideration the facts as put forth by the applicant, the following series of observations are made to arrive at a conclusion finally.

**Decision of Advance Ruling Authority :**

**Decision :**

The transfer of business, along with capital assets, will be categorized as a supply of service.

The applicant also wanted the ruling of the AAR as to whether such transfer of business will be covered under Sl.No.2 of the Notification No.12/2017 – Central Tax (Rate) dated June 28, 2017, and the AAR held that the transaction is covered under the notification.

It evident from the above that in case of sale or transfer, the transferor can transfer unutilised input tax credit to the transferee, which is lying in his electronic credit ledger, by filing Form GST ITC-02.