

GIB/WB/SITTAL KUMAR /11.01.2021/AAR-436

Advance Ruling Category : Input Tax Credit

State : West Bengal

Order No.: GIB/WB/SITTAL KUMAR /11.01.2021/AAR-436

Name of Entry :
SITTAL KUMAR PODDAR

Date : 11-01-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE

Input tax credit (ITC) on the inward supply of works contract service - outward supply is also works contract service - Interpretation of section 17(5) (c) & (d) of the GST Act -

applicant submits that the said sub-section prohibits the recipient from claiming input tax credit on the inward supplies of the goods and services listed in the clauses

The term 'supply' includes both 'inward' and 'outward' supplies. If a person makes a supply, it refers to an outward supply. If the taxable person claims or is prohibited from claiming the input tax credit in respect of a supply, it refers to an inward supply.

Each of the clauses of section 17(5) of the GST Act describes the supply of a class of goods or services. The input tax credit shall not be available in respect of any of the supplies listed under the clauses (a) to (i). In other words, a taxable person cannot claim the input tax credit in respect of these supplies. A taxable person can claim the input tax credit in respect of a supply only if he is a recipient of the said supply.

Decision of Advance Ruling Authority :

DECISION

Clause (c) of section 17(5) of the GST Act should be interpreted as a prohibition on a taxable person from claiming input tax credit on the inward supply of works contract service unless it is an input service for further supply of works contract service. The prohibition applies only if the works contract service is used for the construction of immovable property other than plant and machinery. The clause (d) of section 17(5) of the GST Act extends the prohibition to cover other inputs and input services when the recipient is constructing the immovable property on his own account - applicant is supplying works contract service to the Kolkata Municipal Corporation. He is, **therefore, making an outward supply of works contract service and is not prohibited from claiming input tax credit either under clause (c) or clause (d) of**

section 17(5) of the GST Act.

The applicant is eligible to claim the input tax credit on the inward supplies of the goods and services used for supplying the works contract service to Kolkata Municipal Corporation for construction of an immovable property.

This ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.