

GIB/TN/ERODE INFRASTRUCTURES/12.05.2020/AAR-450

Advance Ruling Category : Supply

State : Tamil Nadu

Order No.: GIB/TN/ERODE INFRASTRUCTURES/12.05.2020/AAR-450

Name of Entry :
ERODE INFRASTRUCTURES PRIVATE LIMITED

Date : 12-05-2020

Breif Issue :

FACTS OF THE CASE:

In the above case the appellant, M/s. Erode Infrastructures Private Limited has stated that they are incorporated with the sole objective of development of “Multifunctional Complex” at Erode Railway Station, a project of Rail Land Development Authority for furtherance of business. The applicant has been awarded lease of the plot situated at the Erode Railway Station for Long term Lease of 45 years for development of a Multi-functional Complex for the usage of railway passengers and return of the asset on the expiry of lease. The offer by RLDA involves the payment of ₹ 3,08,27,800/- towards upfront Lease premium and ₹ 7,80,000/- towards annual rent. The applicant has requested to provide the clarification regarding the exemption of GST on One Time Lease Premium paid/payable by the said applicant to RLDA.

ISSUE OF THE CASE:

Whether upfront lease amount paid to M/s. RLDA for the development of Multi-functional complex (Operational building) at Erode railway Junction for Long term lease for 45 years is exempt under GST?

Decision of Advance Ruling Authority :

DECISION:

It is evident that ‘advance ruling’ are decisions on questions specified in sub-section 97 (2) of the Act in relation to the supply of goods or services undertaken or proposed to be undertaken by the applicant seeking the same. Hence, supplies undertaken or proposed to be undertaken by the applicant alone are covered under the advance ruling as per Section 95(a) of the Act. In the instant case the applicant is not making the supply but RLDA. Accordingly, the application is not admitted and rejected without going into merits.

The applicant has also contented that one of the questions permitted as per Section 97 (2)

on admissibility of Input Tax Credit means that the recipient can seek a ruling on the admissibility of ITC for the supply -

Section 95(a) by definition 'advance ruling' has specified that the applicant can only be seek a ruling about the supplies undertaken or proposed to be undertaken by the applicant i.e. the applicant is the supplier in the supply in question. Accordingly, all the question the applicant can ask as specified in Section 97 pertain only to him. Specifically, Section 97 (2) (d) pertains to the admissibility of Input Tax Credit of tax paid or deemed to have been paid by the applicant (i.e. applicant as per the Act). This question would deal with the admissibility of ITC on all the inputs/input services/ capital goods etc. used by the applicant (i.e. applicant as per the Act) to make or propose to make the supply in question.

Therefore, the question does not pertain to the recipient of the supply in question as contended by M/s Erode Infrastructures nor is there any dichotomy in stating that that as per the Act recipient of the supply in question cannot seek advance ruling under the Act. Accordingly, the application is not admitted and rejected without going into merits. Application dismissed being not admitted.