

GIB/KA/M/S PAGE INDUSTRIES/16.04.2021/AAAR-47

Appellate Advance Ruling Category : Input Tax Credit

State : Karnataka

Order No.: GIB/KA/M/S PAGE INDUSTRIES/16.04.2021/AAAR-47

Name of Entry :

M/S PAGE INDUSTRIES LTD.

Date : 16-04-2021

Breif Issue :

FACT OF THE CASE

The Appellant is engaged in the manufacture, distribution and marketing of Knitted and Woven Garments under the brand name “JOCKEY” and swimwear and swimming equipment under the brand name “SPEEDO”. The Appellant also gets the garments manufactured from job workers. The Appellant market/sell their products through their franchisees and distributors/dealers. To promote their brands and to market their products, the Appellant is availing advertisement agency services such as ads in the print media, electronic media, outdoor advertising, etc and also procuring the promotional items and marketing material such as display boards, uniforms to staff, posters, gifts and hoardings, etc to use in displaying their products at the point of purchase i.e. Exclusive Brand Operator's showrooms and retail show rooms. The Appellant is paying GST on the procurement of the advertisement services and promotional products/marketing materials.

The present appeal has been filed against the advance rulling order no [KAR ADRG 54/2020 dated 15.12.2020](#)

ISSUE OF THE CASE

Whether in the facts and circumstances of the case the Promotional Products/Materials & Marketing items used by the Appellant in promoting their brand & marketing their products can be considered as “inputs” as defined in Section 2(59) of the CGST Act, 2017 and GST paid on the same can be availed as input tax credit in terms of Section 16 of the CGST Act, 2017 or not?

Decision of Advance Ruling Authority :

DECISION

It is evident from the agreements that the ownership of the promotional items remains with the Appellant at all times. It is seen from the said agreements that the Appellant Company has undertaken to provide the promotional materials to the EBOs and distributors and the same will continue to be used by the EBO and distributors as long as the agreement is in force. It is also expressly stated in the

agreements that on termination of the agreements, it is the responsibility of the EBOs and distributors to return the promotional materials to the Appellant. This fact was reiterated by the authorised representative during the course of the personal hearing when a specific query in this regard was posed by the Member. Therefore, it is evident that the title of the promotional items remains with the Appellant and is not transferred to the EBO or the distributor.

In terms of Section 17(2) of the CGST Act, where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the IGST Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies. In other words, Section 17(2) provides that input tax credit shall be allowed only when the goods and services or both are used for business purposes or for making a taxable supply (including zero-rated supply). When the goods or services or both are used towards making an exempt supply, then input tax credit is not allowed. As per Section 2(47) of the CGST Act, the term 'exempt supply' also includes non-taxable supply - the GST paid on the procurement of promotional items supplied to the EBOs/franchisees and distributors free of charge will not be eligible for input tax credit since the said supply is a non-taxable supply.

The goods procured on payment of GST which are disposed of by way of gifts are barred from being eligible for input tax credit in terms of Section 17(5)(h), even if they are used in the course or furtherance of business. Therefore, the input tax credit is not eligible on the promotional items distributed as give away items on the grounds that the same is blocked by virtue of the provisions of Section 17(2) and Section 17(5)(h) of the CGST Act.

The Promotional Products/Materials & Marketing items used by the Appellant in promoting their brand & marketing their products can be considered as “inputs” as defined in Section 2(59) of the CGST Act, 2017. However, the GST paid on the same cannot be availed as input tax credit in view of the provisions of Section 17(2) and Section 17(5)(h) of the CGST Act, 2017.

The decision of AAR set aside.