

GIB/TN/CHENNAI/25.07.2019/AAR-206

Advance Ruling Category : Input Tax Credit

State : Tamil Nadu

Order No.: GIB/TN/CHENNAI/25.07.2019/AAR-206

Name of Entry :
Chennai Port Trust

Date : 25-07-2019

Breif Issue :

Issue & Fact of the Case:

Admissibility of Input tax credit of tax paid or deemed to have been paid?

The applicant is engaged in supply of port services as an incidental supply of goods like disposal of discarded assets

The applicant Is maintaining in house hospital for providing health and medical cover exclusively to their employees and pensioners.

The hospital is only cost center and the inward supplies of medicines are provided to the employees and pensioners without charging any separate consideration.

No apportionment of ITC is applicable, these medicines cannot be considered as Goods.

medicines cannot be considered as "goods used for personal consumption" since the cost of these medicines are borne by the applicant as a part of service contract with its employees and pensioners as held in the case of **“Hindustan Coca Cola Beverages Pvt Ltd vs CCE”** as reported in [2015] 56 taxmann.com 378(Mumbai CESTAT).

Sec 16. (1) , Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person

Section 17(5) of the Act, which blocks/restricts certain credits, states as under (5) , Notwithstanding anything contained in **sub-section (1) of section 16** and **sub-section (1) of section 18**, input tax credit shall not be available in respect of the , (g) Goods or services or

both used for personal consumption.

The applicant has an in-house hospital for its employees, their dependents, pensioners and family pensioners for in-patient and out-patient treatments. They are governed by Two regulations under **Section 124(I) read with section 132(1) of Major Port Trusts Act 1963**, which are

- i. Chennai Port Trust Employees' (Contributory Outdoor and indoor Medical Benefit After retirement) Regulations, 1989.
- ii. Chennai Port Trust Employees (Medical Attendance in the Trust's Hospital and Reimbursement of Hospital Charges) Regulations 1994.

Decision of Advance Ruling Authority :

Decision:-

The applicant is not entitling to take credit of input tax charged on the inward supply of medicines which are used to provide medical facilities to the employees, pensioners and dependents in the in-house hospital.