
 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN)	 राष्ट्र कर बाजार
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ADVANCE RULING NO.RAJ/AAR/2018-19/30

J. P. Meena Additional Commissioner	:	Member(Central Tax)
Hemant Jain Joint Commissioner	:	Member(State Tax)
Name and address of the applicant	:	M/s IMF Cognitive Technology Private Limited, 208, Brij Anukampa K 13, Ashok Marg,C -Scheme, Jaipur- 302001, Rajasthan.
GSTIN of the applicant	:	08AAECI1271Q1Z6
Clause(s) of Section 97(2) of CGST / SGST Act, 2017, under which the question(s) raised	:	d. Admissibility of input tax credit of tax paid or deemed to have been paid;
Date of Personal Hearing	:	07.01.2019
Present for the applicant	:	Shri Jatin Harjai (authorised representative)
Date of Ruling	:	09.01.2019



Note: Under Section 100 of the CGST/RGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/RGST Act 2017, within a period of 30 days from the date of service of this order.

The Issue raised by M/s IMF Cognitive Technology Private Limited {hereinafter the applicant} is fit to pronounce advance ruling as it falls under ambit of the Section 97(2) (d) and it is given as under:

d. Admissibility of input tax credit of tax paid or deemed to have been paid;

Further, the applicant being a registered person, GSTIN is 08AAECI1271Q1Z6, as per the declaration given by him in Form ARA-01, the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the application is admitted to pronounce advance ruling.



1. **SUBMISSION OF THE APPLICANT:**

- a. That, the applicant is a company incorporated and registered under the Companies Act, 2013 and engaged in development, designing and trading in all type of computer software and is also engaged in export of software.
- b. The applicant has taken registration in the State of Rajasthan in Goods and Services Tax Law.
- c. The applicant procures various goods or services for the purpose of trading and export of goods/ services from state of Rajasthan as well as outside the state in the form of intra-state and inter-state inward supplies. The company claims the credit of taxes paid on goods and services, which are used in the course or furtherance of business and the place of supply of such goods/ services is the state of registered place of business i.e. Rajasthan.
- d. In case of procurement of inward supplies from other states, at times supplier charges CGST & SGST of the state of supplier. For example, the applicant is registered in the state of Rajasthan and if it procures services of short term accommodation (i.e. hotel) in Haryana, the supplier (i.e. hotel) normally charges of CGST & SGST of that state, due to the reason of place of supply being in the state of supplier.

- e. That, the eligibility for input tax credit inferred by the provision of sub sec. (1) of sec. 16 of CGST Act, 2017. It is worthwhile to produce Sec. 16(1) for ready reference:

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.

As per understanding of applicant, the said provision entitles the registered person to claim input tax credit of input tax paid on inward supply of goods and/ or services which are used or intended to be used in the course or furtherance of business. Further the term input tax has been defined in section 2(62) which is as under:

“Input Tax” in relation to a registered person, means the *central tax*, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes

- a. the integrated goods and services tax charged on import of goods;
- b. the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- c. the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- d. the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or
- e. the tax payable under the provisions of sub-sections (3) and (4) of section_7 of the Union Territory Goods and Services Tax Act, but does not include the tax paid under the composition levy ”

In the case under consideration the hotel services which are procured in the state of Haryana the registered person has paid the CGST (i.e. Central Tax) & Haryana SGST. Such hotel services are being used exclusively for the purposes of business of the applicant i.e. for meeting with prospective buyers and vendors.

2. **QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT**

Applicant has sought ruling to be pronounced under section 97(2) (d) of the CGST Act 2017, on the following questions:

a. Whether the input tax credit of Central Tax paid in Haryana be available to the applicant who is registered in Rajasthan State, whereby such tax is paid on inward supplies used for business of person registered in Rajasthan?

3. **COMMENTS OF JURISDICTIONAL OFFICER:**

The jurisdictional officer's comments are as under:-

"In my opinion there is no separate provision (not even mentioned in section 17(5) in CGST Act, 2017 which debars from eligibility from input tax (being CGST) paid on hotel services in the state of Haryana."

4. **PERSONAL HEARING (PH)**

In the matter personal hearing was given to the applicant, Shri Jatin Harjai (Authorised representative) of applicant appeared for personal hearing on 07.01.2019. During the PH they reiterated the submissions already made in the application for advance ruling and requested that the case may be decided at the earliest.



5. **FINDINGS, ANALYSIS & CONCLUSION:**

The question raised by the applicant is about the eligibility to claim ITC of Central Tax paid in Haryana.

- The preamble of CGST Act, 2017 is as below:
"An Act to make a provision for levy and collection of tax on **intra-State** supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto."

While going through the preamble of the CGST Act, 2017 this authority is of the opinion that CGST is payable in case of intra-state trade or commerce i.e. intra-state supply of goods and services.

- The preamble of IGST Act, 2017 is as below:

*An Act to make a provision for levy and collection of tax on **inter-State** supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.*

Thus, IGST is payable in the case of inter-state supply of goods and services.


- The basic principle behind the provisions relating to the place of supply is that GST is a destination based tax. Thus tax is finally payable where goods and services are consumed.
- In the instant case the applicant who is registered in state of Rajasthan has availed and consumed accommodation services provided by a hotel located outside the state of Rajasthan.

Therefore, it is observed that in the GST regime SGST and CGST charged for the services provided and availed in a state would be eligible for ITC within that particular state where such services were provided and consumed. As the supplier of services and place of supply both are outside the state of Rajasthan, hence, Input tax credit of Central Tax paid in Haryana is not available to the applicant.


6. In view of the foregoing, we rule as under:-

RULING

Input tax credit of Central Tax paid in Haryana is not available to the applicant who is registered in state of Rajasthan.


J.P. MEENA 9/1/19
Member
(Central Tax)




HEMANT JAIN 9/1/19
Member
(State Tax)

SPEED-POST

M/s IMF Cognitive Technology Private Limited,
208, Brij Anukampa K 13,
Ashok Marg, C -Scheme,
Jaipur- 302001, Rajasthan.

F.No. IV (4)29/AAR/RAJ/2018-19/138-139

Dated:- 09.01.2019

Copy to:-

Deputy/Assistant Commissioner, Circle-N, Ward-2, Commercial Taxes Dept.,
Kar- Bhawan, Jhalana Institutional Area, Jaipur, Rajasthan.


Superintendent

