
Updates/GST/Advance Ruling/Legal-38-21/2023

Dt. 30/11/2023

(Advance Rulings in Gujarat from 1st Nov. to 30st Nov. 2023)

**Advance Ruling Branch
Gujarat State Tax Department**

Rulings given by Authority of Advance Rulings
(AAR)

Dedicated Freight Corridor Corporation of India Limited

Sr. no.	Advance Ruling sought for	Ruling
1.	<p>Questions on which Advance Ruling sought:</p> <p>Whether the amount deposited by the applicant (75%) in escrow account against bank guarantee pending outcome of the further challenge against Arbitral Award or dissatisfaction against DAB decision, is liable to GST under the provisions of CGST Act, 2017?</p>	<p>The amount deposited by the applicant (75%) in escrow account against bank guarantee pending outcome of the further challenge against Arbitral Award or dissatisfaction against DAB decision, is not liable to GST under the provisions of CGST Act, 2017.</p>
2	<p>If the answer to first question is in affirmative, then, what shall be the 'time of supply' when tax on such DAB/arbitral award is payable to Government exchequer, i.e., whether tax is payable (a) when part amount (75%) is deposited into escrow account pending litigation, or (b) when complete award amount (100%) is paid to the contractor pursuant to finality of the decision</p>	<p>Since the answer to first question is in negative, the second & third questions are rendered infructuous.</p>
3	<p>If answer to Question No. 1 is affirmative, whether the applicant is eligible to claim Input Tax Credit (ITC) thereupon?</p>	

Shree Avani Pharma

Sr. no.	Advance Ruling sought for	Ruling
1.	<p>Questions on which Advance Ruling sought:</p> <p><i>Whether the service in question falls within the entry Sr. No. 26 of notification No. 11/2017-CE (Rate) dated 28.6.2017, as amended vide notification No. 20/2017-CT (Rate) dated 30.9.2019 & SAC 9988 (id) & attract GST @ 12% [CGST 6% + SGST 6%] or otherwise</i></p>	<p>The service in question falls within the ambit of entry Sr. No. 26(id) of notification No. 11/2017-CE (Rate) dated 28.6.2017, as amended vide notification No. 20/2017-CT (Rate) dated 30.9.2019; the service would be classified under SAC 9988 ; and it will attract GST @ 12% [CGST 6% + SGST 6%].</p>

Shree Avani Pharma

Sr. no.	Advance Ruling sought for	Ruling
1.	<p>Questions on which Advance Ruling sought:</p> <p><i>Whether the service in question falls within the entry Sr. No. 26 of notification No. 11/2017-CE (Rate) dated 28.6.2017, as amended vide notification No. 20/2017-CT (Rate) dated 30.9.2019 & SAC 9988 (id) & attract GST @ 12% [CGST 6% + SGST 6%] or otherwise</i></p>	<p>The service in question falls within the ambit of entry Sr. No. 26(id) of notification No. 11/2017-CE (Rate) dated 28.6.2017, as amended vide notification No. 20/2017-CT (Rate) dated 30.9.2019; the service would be classified under SAC 9988 ; and it will attract GST @ 12% [CGST 6% + SGST 6%].</p>

Adama India Private Limited

Sr. no.	Advance Ruling sought for	Ruling
1.	<p>Questions on which Advance Ruling sought:</p> <p><i>Whether the inputs and input services procured by the appellant, in order to undertake the mandatory CSR activities as required under the Companies Act, 2013, qualify as being in the course and furtherance of business and therefore will be counted as eligible ITC in terms of Section 16 of the Central Goods and Services Act, 2017 (CGST Act)?</i></p>	<p>We find that the legislature has clarified its intent to disallow input tax credit on goods or services or both which are to be used for activities relating to obligations under corporate social responsibility and reject the appeal filed by appellant M/s Adama India Private Ltd., against Advance Ruling No. GUJ/GAAR/R/44/ 2021 dated 11.08.2021 of the Gujarat Authority for Advance Ruling.</p>

The Surat Textile Market Cooperative

Sr. no.	Advance Ruling sought for	Ruling
1.	<p>Questions on which Advance Ruling sought:</p> <p>Do we have to pay tax under Reverse Charge Mechanism u/s 9(3) or 9(4) for lease renewal amount payable to SMC ?</p>	<p>The applicant is liable to pay GST under Reverse Charge Mechanism in terms of section 9(3) of the CGST Act, 2017, for lease renewal amount payable to SMC.</p>
2	<p>Do we have to pay tax under Reverse Charge Mechanism u/s 9(3) or 9(4) for premium on lease renewal amount payable to SMC <i>Can the advance ruling be effective from beginning of the rent agreement date?</i></p>	<p>(ii) The applicant is liable to pay GST under Reverse Charge Mechanism in terms of section 9(3) of the CGST Act, 2017, for premium on lease renewal amount payable to SMC.</p>
3	<p>Will collection made from shareholders/shop owners for making payment of lease and lease premium amounts be considered as supply and GST under forward charge is applicable on the same?</p>	<p>(iii) The applicant is liable to pay GST under forward charge in respect of collection made from shareholders/shop owners, for making payment of lease and lease premium.</p>
4	<p>What will be the effect of circular no. 101/20/2019-GST dated 30.4.2019 on the transaction? Will it exempt the applicant from payment of tax under Reverse Charge Mechanism?</p>	<p>(iv) The applicant is not entitled for exemption under Sr. No. 41 of notification No. 12/2017-CT (Rate) dated 28.6.2017, as amended and clarification issued vide circular no. 101/20/2019-GST dated 30.4.2019.</p>
5	<p>If answer to question no. (iii) is in affirmative, then will applicant's shareholder/shop owners who are reimbursing the lease and lease premium amount get ITC of the GST charged by the applicant?</p>	<p>(v) No ruling is passed in respect of question (v) in terms of section 98(2) of the CGST Act, 2017 read with sections 95(a), (c), and 103 of the CGST Act, 2017.</p>

Thanks

Note:

- a) The above rulings are available on the department's website for reference.**
- b) Please contact the Advance Ruling Branch in case of any ambiguity in the above rulings.**