
Updates/GST/Advance Ruling/Legal-44-4/2024

Dt. 29/02/2024

(Advance Rulings in Gujarat from 1st feb. to 29 feb. 2024)

Advance Ruling Branch
Gujarat State Tax Department

Rulings given by Authority of Advance Rulings
(AAR)

M/s. I-tech Plast India Pvt.Ltd

Sr. no.	Advance Ruling sought for	Ruling
1.	<p>Questions on which Advance Ruling sought:</p> <p>“[a]What is the appropriate classification & rate of GST applicable on supply of plastic toys under CGST & SGST?</p> <p>[b] Can the applicant claim ITC in relation to CGST-IGST separately in debit notes issued by the supplier in the current financial year i.e. 2020-21, towards the transactions for the period 2018-19”</p>	<p>we rule that the GAAR Order No. GUJ/GAAR/R/10/2021 dated 20/01/2021 was obtained by the applicant by suppression of material facts and misrepresentation of facts and is therefore clearly hit by section 104 of the CGST Act, 2017. We therefore term the said order to be void in terms of section 104 of the CGST Act, 2017.</p>

Mangaldas Mehta & Company Ltd

Sr. no.	Advance Ruling sought for	Ruling
1	<p>Questions on which Advance Ruling sought:</p> <p>Whether the applicant is entitled to claim input tax credit of the expenses incurred for the general expenses of the Company which are meant for the purpose of business?</p>	<p>1.The ruling is in terms of para 14 of order.</p>
2	<p>Whether the applicant is entitled to enjoy the benefit of the input tax credit based on the square foot & area of usage of the premises?</p>	<p>2.The ruling is in terms of para 15 and 16 of order</p>
3	<p>Whether the provisions of Rule 42/43 of the CGST Rules, read with SGST Rules are not applicable to the claim of the input tax credit of the applicant as the declared tariff of the hotel rooms never exceeds Rs. 7499/- at any time during the year.</p>	<p>3.The ruling is in terms of para 17 of order</p>

M/s. Suzuki Motor Gujarat Pvt Ltd

Sr. no.	Advance Ruling sought for	Ruling
1.	<p>Questions on which Advance Ruling sought:</p> <p>Whether GST is liable to be discharged on the portion of the amount recovered by the applicant from its employees towards the canteen facilities provided to them?</p>	<p>1) GST is not liable to be discharged on the portion of the amount recovered by the applicant from its permanent employees towards the canteen facilities provided to them in terms of para 22 & 23. However, recovery of amount from employees of SMC on deputation, employees of MSIL on business travel and temporary workers [including team lease employees who are on third party roll working within the factory premises] would fall within the ambit of the definition of 'outward supply' as per section 2(83) of the CGST Act, 2017 and therefore, is liable to tax as a supply under GST in terms of para 36.</p>
2	<p>Whether the applicant is eligible to avail input tax credit in respect of the GST charged by the canteen service provider for the canteen facilities provided to its employees?</p>	<p>2) The applicant is eligible to avail input tax credit in respect of the GST charged by the canteen service provider for the canteen facilities provided to its permanent employees in view of the provisions of Section 17(5)(b) as amended effective from 1.2.2019 and clarification issued by CBIC vide circular No. 172/04/2022-GST dated 6.7.2022 read with provisions of section 46 of the Factories Act, 1948 and read with provisions of Gujarat Factory Rules, 1963. ITC on the above is restricted to the extent of the cost borne by the applicant for providing canteen services to its employees, but disallowing proportionate credit to the extent embedded in the cost of goods recovered from such employees as mentioned in para 39.</p>
3	<p>Whether the applicant is eligible to avail input tax credit in respect of the GST charged by the canteen service provider for the canteen facilities provided to employees on deputation and on business travel and temporary workers?</p>	<p>3) The applicant is not eligible to avail ITC in respect of the GST charged by the canteen service provider for the canteen facilities provided to employees of SMC on deputation, employees of MSIL on business travel and temporary workers [including team lease employees who are on third party roll working within the factory premises] in terms of para 40.</p>
4	<p>Whether applicant is eligible to avail input tax credit in respect of the inputs i.e. equipment and kitchen utensils utilized for providing canteen facilities to its employees?</p>	<p>4) The applicant is not eligible to avail ITC in respect of the inputs i.e. equipment and kitchen utensils utilized for providing canteen facilities in terms of para 44.</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.**