

ITC cannot be utilised when nexus between input and final product is absent

The AAR, Gujarat in the matter of *M/s. Aristo Bullion Pvt. Ltd. [Advance Ruling No. GUJ/GAAR/R/15/2021, dated January 27, 2021]* has held that Bullion trader cannot use the Input Tax Credit (“ITC”) balance available in the electronic credit ledger legitimately earned on the inputs/raw-materials/inward supplies meant for outward supply of Bullions, towards the GST liability on ‘Castor Oil Seed’ procured from agriculturists and subsequently meant for onward supply, as there is no nexus/connection between the inputs and final product since the inputs are not used or intended to be used in the course or furtherance of the business of supply of ‘Castor Oil Seeds’.

Facts:

M/s. Aristo Bullion Pvt. Ltd. (“**the Applicant**”) is a company engaged in supply of Gold (including Gold Plated with Platinum) that involves some manufacturing process also and in the said activities various inputs viz. Gold dore, silver dore are required.

Further, the Applicant intends to procure the said inputs domestically on payment of GST at appropriate rate and sometimes from overseas market by discharging applicable duty and tax. The Applicant intends to avail ITC on the inputs procured domestically on payment of GST at appropriate rate which will be used in the manufacturing process of their final products and discharge GST on the outward supplies at applicable rate through electronic credit ledger as well as through electronic cash ledger in the case if balance available in electronic credit ledger is not adequate.

Furthermore, the Applicant also intends to procure ‘Castor Oil Seeds’ directly from the agriculturists who produce the same in their farms and after procuring them, the Applicant intends to supply it in the domestic market as well as intend to export the same.

However, no ITC will be available on procurement of ‘Castor Oil Seeds’ as the same will be procured from the agriculturist who are not liable to get registered and further the ‘Castor Oil Seeds’ are also not covered in the **Notification No. 4/2017-Central Tax, dated June 28, 2017 (“Goods RCM Notification”)**. Whereas the sale of ‘Castor Oil Seeds’ will attract 5% GST in terms of Schedule-I, Sr. No. 70 of **Notification No.01/2017-Central Tax (Rate), date June 28, 2017 (“Goods Rate Notification”)**.

Issue:

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Whether the Applicant can use the ITC available in the electronic credit ledger towards the GST liability on 'Castor Oil Seed' which they intend to supply in domestic market or to export it?

Held:

The AAR, Gujarat in ***Advance Ruling No. GUJ/GAAR/R/15/2021, dated January 27, 2021*** held as under:

- Noted that, to be eligible to use the ITC for the payment of the GST leviable on the 'Castor Oil Seeds' which the Applicant intends to supply domestically or to export it, the inputs on which ITC is to be availed has to be used or should be intended to be used in the course or furtherance of the business of 'Castor Oil Seeds' i.e., the Applicant has to first prove the nexus or connection between the inputs and the 'Castor Oil Seeds', in terms of Section 16(1) of the Central Goods and Services Tax Act, 2017 ("**CGST Act**").
- Further observed that, the Applicant has not submitted any document/literature etc. in respect of how they wish or intend to carry out the business of supply of 'Castor Oil Seeds'. Secondly, the Applicant has neither provided/submitted any proof in respect of the input-final product nexus/connection in respect of the inputs i.e., gold and silver dores etc. vis-a-vis 'Castor Oil Seeds' nor provided any such document/literature in respect of how the inputs i.e., gold dores or silver dores are to be used or intended to be used in the course or furtherance of their business of supply of 'Castor Oil Seeds'.
- Stated that, on a plain comparison with Section 16(1) of the CGST Act, it can very easily be derived that there is no nexus/connection whatsoever, of the inputs with the business of supply of 'Castor Oil Seeds' by the Applicant. Therefore, the inputs are not used or intended to be used in the course or furtherance of the business of supply of 'Castor Oil Seeds'.
- Held that, the Applicant cannot use the ITC balance available in the electronic credit ledger legitimately earned on the inputs/raw-materials/inward supplies (meant for outward supply of Bullions) towards the GST liability on 'Castor Oil Seed' which were procured from agriculturists and subsequently meant for onward supply.

Relevant Provisions:

Section 16(1) of the CGST Act:

“Eligibility and conditions for taking input tax credit-

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.”

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