

**Whether ITC is not available to Sub Contractor on goods purchased on own account for Works Contract Services**

In *M/s. Karthikeya Projects [AAR No.09/AP/GST/2021 dated January 19, 2021]*, M/s. Karthikeya Projects (**"the Applicant"**) being a sub-contractor providing works contract service has sought an advance ruling on whether he can avail Input Tax Credit (**"ITC"**) on the purchases made on their own account, for furtherance of the business.

The Hon'ble Andhra Pradesh Authority for Advance Ruling (**"AAR"**) noted that ITC on products such as cement, cotton yarn waste cloth, PVC Ghamera, Insulation Tape, AG-4 Grading Machine, Led torch Light, AG-4 cutting wheel, Tarpaurin Sheet, Binding wire, suction Hose pipe, Auto Lever Stand, Leveling staff 5mtrs 5folds, steel tape, Safety Helmet, Safety Shoes etc will not be made available to the Applicant which entered into a contract with the main contractor for chemical lab construction, office building and warehouse for contractee.

Further, emphasising on Section 17(5) of the Central Goods and Services Act, 2017 (**"the CGST Act"**) which mentions about apportionment of credit and blocked credits, it is observed that the above section prohibits ITC on goods or services or both received by a taxable person for construction of an immovable property on his own account including when such goods or services both are used in the course or furtherance of business.

Noted that *"if a person purchases construction material to provide the construction services by using the said material, ITC shall not be available"* under Section 17(5)(d) of the CGST Act.

**Our Comment:**

The current AAR ruling is contradictory to the provisions of Section 17(5)(c) of the CGST Act which provides:

*"(5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following,*

*(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;*

Since in the current case, the Applicant is providing an input service for further supply in the case of works contract service, the same has been made an exception in Section 17(5)(c) which has been neglected by the Advance Ruling Authority in the current case

where the Applicant being a subcontractor is providing his input services to a contractor, Thus, making the same being eligible for ITC.

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