



**THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA**
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ERNAKULAM BRANCH

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NEWSLETTER



Official Visit of Hon'ble President of ICAI CA. Ranjeet Kumar Agarwal and Hon'ble Vice President of ICAI CA. Charanjot Singh Nanda at Ernakulam on 04.01.2025

Message

"All blessings belong to the Almighty.

"Alone, we can do so little; together, we can do so much." – Helen Keller

Dear Senior Members, Members, and Students ,

It is with immense pride and gratitude that I share the incredible news that the **Ernakulam Branch of SIRC of ICAI has been honored with the All India Best Branch Award under the Large Category for the year 2024.** This prestigious recognition reflects the dedication, hard work, and passion of our entire team and community over the years.

Adding to this, I am elated to remind everyone that during my tenure as the **Chairman of SICASA, the Ernakulam Branch won the All India Best Students' SICASA Award under the Large Category,** showcasing our branch's commitment to nurturing student talent and excellence.

Serving this esteemed branch has been an incredible journey. Having been part of the management committee for **6 years**, it gives me immense satisfaction to have been able to serve both the students' community and members' community. As I prepare to hand over the baton to the next chairman, I reflect with pride and gratitude on all that we have achieved together. This remarkable recognition—both the All India Best Branch and Best Students' SICASA awards—has happened within just **9 years of my presence in Ernakulam.**

This would not have been possible without the contributions of our **past chairmen and managing committee members**, who laid the foundation of excellence for our branch. From **CA. T. Velu Pillai (1967-1972)** to **CA. Deepa Varghese (2023-2024)**, every leader has contributed significantly to the growth and success of this branch. Their leadership continues to inspire us as we carry forward their legacy.

I am forever **obliged to all our members** and extend my deepest gratitude for their unwavering support. Above all, I thank the Almighty for blessing me with the strength, vision, and opportunities to serve this incredible branch.

Allow me to acknowledge the past chairmen whose leadership has been the backbone of our journey:

List of Past Chairmen

- **1967-1972:** CA. T. Velu Pillai (Late)
- **1972-1974:** CA. Venugopal C. Govind
- **1974-1977:** CA. Abraham Joseph (Late)
- **1977-1978:** CA. K. Ramalinga Ayyar (Late)
- **1978-1979:** CA. Vamana Nayak (Late)



- **1979-1980:** CA. S. S. Ayyar (Late)
- **1980-1981:** CA. M. Lakshmi Narayanan
- **1981-1982:** CA. N. Gopalakrishnan
- **1982-1983:** CA. Vedanga R. Prabhu
- **1983-1984:** CA. S. Varadarajan
- **1984-1985:** CA. Cherian K. Baby
- **1985-1986:** CA. James K. George
- **1986-1987:** CA. N.J. Thomas
- **1987-1988:** CA. K.P. Paulson
- **1988-1989:** CA. N. Unnikrishnan
- **1989-1990:** CA. M.P. Ittyrah
- **1990-1991:** CA. V.P. Radhakrishnan
- **1991-1992:** CA. M. Abdul Kasim
- **1992-1994:** CA. Mohanan Kuttickat
- **1994-1995:** CA. S.B. Balachandra Prabhu
- **1995-1996:** CA. V.C. James
- **1996-1997:** CA. K. Sankaranarayanan
- **1997-1998:** CA. K.K. Ramachandran
- **1998-1999:** CA. Babu Abraham Kallivayalil
- **1999-2000:** CA. P.J. Johny
- **2000-2001:** CA. P.N. Ramachandra Kamath
- **2001-2002:** CA. Joseph Thomas
- **2002-2003:** CA. Jomon K. George
- **2003-2004:** CA. Stephen C. Peter (Late)
- **2004-2005:** CA. Sen George
- **2005-2006:** CA. V. X. Jose
- **2006-2007:** CA. K.B. Venu
- **2007-2008:** CA. Reji A. George
- **2008-2009:** CA. P.G. Sajeev
- **2009-2010:** CA. S. Venugopal
- **2010-2011:** CA. Vivek Krishna Govind
- **2011-2012:** CA. Saji Mathew
- **2012-2013:** CA. P.P. Mathukutty
- **2013-2014:** CA. Mathew Joseph
- **2014-2015:** CA. Poullose M. O.
- **2015-2016:** CA. Balagopal R. (Late)
- **2016-2017:** CA. Suresh T.N.
- **2017-2018:** CA. Lukose Joseph
- **2018-2019:** CA. P.T. Joy
- **2019-2020:** CA. Sreenivasan P.R.
- **2020-2021:** CA. Roy Varghese
- **2021-2022:** CA. Ranjith Warriar

- **2022-2023:** CA. Jose K.V.
- **2023-2024:** CA. Deepa Varghese

Branch Activities and Achievements

- The **One-Day Seminar on Reimagining Business Valuation** held on January 11, 2025, at CMA Bhawan was a great success, providing insights into valuation in the digital age, socio-cultural factors, and mergers & acquisitions, benefiting 83 participants with 6 CPE hours.
- On January 13, 2025, the **Seminar on Auditing Standards, Penalties under Section 270A, and Audit Quality** was hosted, addressing 199 members with key takeaways on critical aspects of auditing and compliance, accumulating another 6 CPE hours.

Special Events

- On January 4, 2025, we had the honor of hosting the **Hon'ble President of ICAI, CA Ranjeet Kumar Agarwal, and Hon'ble Vice President, CA Charanjot Singh Nanda**, at Hotel Vivanta, Menaka, Ernakulam.
- A **Meeting with Member of Parliament (Rajya Sabha) and Past President of ICAI, CA N.G. Gupta**, along with **CA. Babu Abraham Kallivayalil**, Central Council Member-elect, was held on January 7, 2025.

Other Highlights

The Quadrennial Elections to the Managing Committee for the term 2025-2029 were held on January 24, 2025. The following members were elected:

- CA. Anand A.S
- CA. Jobby George
- CA. Roopesh Rajagopal
- CA. Sarath Kachanappillil
- CA. Pratheesh Paul M.
- CA. Saandra Thomas

- CA. Dibin Divyakumar
- CA. Jolly Stephen
- CA. Beena Beegom V.K.

Congratulations to the newly elected members! The polling officer for the election was **CA. P.J. Johney**, Past Chairman of the branch.

Looking Ahead

As I conclude my tenure, I extend my **best wishes to the new committee, students, and members**. May the branch continue to reach greater heights under their leadership. Together, let us inspire the next generation of Chartered Accountants and build a brighter future.

With gratitude and best wishes,

CA. Salim A.

Chairman, Ernakulam Branch of SIRC of ICAI



REPUBLIC DAY CELEBRATION



Rashtra Deepika Icons of the Year Award Presented to CA. P.J. Johney, Past Chairman, Ernakulam Branch, ICAI by Hon'ble Minister of Kerala, Sri. Roshy Augustine in the presence of CA. Venugopal C.Govind, Past Chairman, Ernakulam Branch, ICAI & Chairman, Bharatiya Vidya Bhawan, Kochi Kendra

OFFICIAL VISIT OF HON'BLE PRESIDENT AND VICE PRESIDENT OF ICAI AT ERNAKULAM



INVESTORS AWARENESS PROGRAMME



MEETING WITH MEMBER OF PARLIAMENT (RAJYA SABHA) AND PAST PRESIDENT OF ICAI, CA N.G. GUPTA



ONE DAY SEMINAR ON REIMAGINING BUSINESS VALUATION: INSIGHTS FOR A TRANSFORMATIVE ERA



ONE DAY SEMINAR ON AUDITING STANDARDS, PENALTIES UNDER SECTION 270 A AND AUDIT QUALITY – KEY LEARNING



Reported Judicial Decisions

CA. P. M.Veeramani FCA

Statute: Income Tax Act

Sec.2(29AA) – Under construction flat

Decision in favour of : Assessee

Title : Minaxi Mahesh Pawani vs ITO

Citation: 113 ITR Trib SN 38

Bench: ITAT Mumbai

While flat is under construction , assessee transferring right under allotment letter and investing proceeds in another flat. Holding period for the sale of flat under construction shall be from the date of allotment letter and if the period held is more than 36 months , the gain is long term.

Statute: Income Tax Act

Sec.10(38) – LTCG set off

Decision in favour of : Assessee

Title : Rita Gupta vs DCIT

Citation: 113 ITR Trib 1

Bench: ITAT Kolkatta

Loss incurred on sale of shares in a stock exchange, where STT was paid, was eligible for set off against long term capital gains on sale of unlisted shares.

Statute: Income Tax Act

Sec.12AC(1) – Application for final approval

Decision in favour of : Assessee

Title : Mallarpur Naisuva vs CIT (E)

Citation: 206 ITD 792

Bench: ITAT Kolkatta

As per provisional approval granted, appellant could file application for final registration either within six months of commencement of activities or at least six months prior to expiry of provisional registration . CIT (E) not correct in rejecting application filed before six months fo expiry as premature and directed to reconsider the same

Statute: Income Tax Act

Sec.13(3) Higher salary to specified persons

Decision in favour of : Assessee

Title : DCIT vs Catholic Education Society

Citation: 207 ITD 226

Bench: ITAT Mumbai

Assessee-trust made large payment of salaries to specified persons who were in occupation with educational institutes run by trust, since these persons were either having much higher educational qualification or they were having much experience in service, salaries paid by assessee could not be said to excessive of what be reasonably paid to specified persons under section 13(3) and, thus, provisions under section 13(3)(c), 13(2)(c) read with section 13(2)(g) were not attracted and assessee was to be allowed exemption under section 11

Statute: Income Tax Act

Sec.28 – Difference in turnover

Decision in favour of : Assessee

Title : Deloitte Haskins and Sells LLP vs NFAC

Citation: 113 ITR Trib SN 24

Bench: ITAT Mumbai

The assessee followed the cash method of accounting and only the fees which it received during the year were considered income whereas for the purpose of service tax and goods and services tax, the gross receipts/turnover was based on invoices issued and not on the basis of fees collected. Considering all these facts on record supported by documentary evidence, the reconciliation furnished by the assessee was justified. Accordingly, the difference between the gross receipts/turnover as per the Income-tax return and service tax added by the Assessing Officer was to be deleted.

The payments to retired persons and deducting the same from income on the ground that this amount was diverted to retired partners and spouses of deceased partners in accordance with clauses of the partnership deed. Considering the facts on record and the documentary evidence and the terms of the partnership deed, the addition made in this respect by the Assessing Officer was to be deleted.

Statute: Income Tax Act

Sec.28 – Letting out property

Decision in favour of : Assessee

Title : H R Properties Private Ltd vs ACIT

Citation: 466 ITR 339

Bench: Patna HC

Irrespective of whether the properties were held as stock-in-trade or fixed assets, it was admitted by the assessee and accepted by the Assessing Officer, that the lease of buildings was the only business carried on by it and it had been receiving rental income from these buildings. The Commissioner (Appeals) had rightly held that the income was from business and not income from house property, especially since the assessee had only the business of renting out buildings in the six assessment years under appeal. The order of the Tribunal reversing CIT(A) order and affirming the order of the Assessing Officer was therefore, set aside

Statute: Income Tax Act

Sec.36(1)(va) – Impact of SC decision

Decision in favour of : Assessee

Title : DCIT vs ANI Integrated Services Ltd

Citation: 207 ITD 91

Bench: ITAT Mumbai

Subsequent judgment of Supreme Court in case of Checkmate Services (P.) Ltd. v. CIT would not alter finality of earlier judgment of Tribunal which was based on binding precedents of jurisdictional High Court and other High Courts. Order of Tribunal cannot be recalled based on subsequent judgment of Supreme Court when order of Tribunal had attained finality between parties

Statute: Income Tax Act

Sec.43B(a) – Interest payable

Decision in favour of : Assessee

Title : Royal Drinks Private Ltd vs ITO

Citation: 113 ITR Trib 283

Bench: ITAT Nagpur

In the absence of statutory provisions, i. e., a specific entry under section 43B(a), the interest liability incurred against delayed discharge of statutory liability was entitled to deduction under section 37(1) of the Act without being subject to disallowance under section 43B(a) of the Act. Consequently, the order confirming the disallowance of interest payable on Maharashtra Value Added Tax statutory liability under section 43B(a) of the Act was set aside, and the Assessing Officer was to delete the disallowance.

Statute: Income Tax Act

Sec.148 – Notices dated 31.3.2021

Decision in favour of : Assessee

Title : Kalyan Chillara and Others vs DCIT

Citation: 465 ITR 729

Bench: Telengana HC

Notices under section 148 dated 31.3.2021 issued, as being signed by AO, but left the ITBA portal on or after 1st April 2021 are hit by limitation under section 148 and 149 and therefore unsustainable. Decision of SC in UOI vs Ashish Agarwal (444 ITR 1 SC) not applicable.

Statute: Income Tax Act

Sec.151 – Approval by wrong authority

Decision in favour of : Assessee

Title : Ashok Kumar Makhija vs UOI

Citation: 466 ITR 283

Bench: Delhi HC

As per section 151 of the Income-tax Act, 1961, and considering the fact that the reopening of the case was occurring after a lapse of more than three years, the appropriate authority for issuance of the notice under sections 148 and 148A(b) of the Act should have been either the Principal Chief Commissioner or Principal Director General, or in their absence, the Chief Commissioner or Director General, instead of the Principal Commissioner of Income-tax, who did not fall within the specified authorities outlined in section 151 of the Act. Hence the notice of reassessment and the order dated for the assessment year 2017-18 were liable to be quashed.

Statute: Income Tax Act

Sec.151A – JAO cannot issue notice

Decision in favour of : Assessee

Title : Jatinder Singh Bhangu vs UOI

Citation: 466 ITR 474

Bench: Punjab & Haryana HC

Under section 151A, the scheme of faceless assessment is applicable from the stage of show-cause notice under section 148 as well as section 148A. Clause 3(b) of the notification clearly provides that the scheme would be applicable to notices under section 148. Even otherwise, it is a settled proposition of law that assessment proceedings commence from the stage of issuance of show-cause notice. It is axiomatic in tax jurisprudence that circulars, instructions and letters issued by the Central Board of Direct Taxes or any other authority cannot override statutory provisions. The object of introduction of faceless assessment would be defeated if the notices under section 148 were issued by the jurisdictional Assessing Officer and therefore, the notices were quashed giving liberty to the Department to proceed in accordance with law.

RECENT ADVANCE RULINGS UNDER GST AND JUDICIAL DECISIONS ON INDIRECT TAXES AND OTHERS



Indirect Tax

RECENT ADVANCE RULINGS UNDER GST

CA. P. J. Johney FCA

Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/S. VIJAI ELECTRICALS LTD
Citation: GUJ/GAAR/R/2024/16
Dt. 02.07.2024

Bench/Court: GUJARAT AUTHORITY FOR ADVANCE RULING

M/s. Vijai Electricals Ltd is registered under GST and their GSTIN Number is 24AAACV7259BLZL. The applicant is registered in the EPC contract business with various distribution companies like Paschim Gujarat Vij Company Ltd. The applicant has further stated that they have a turnkey contract with Paschim Gujarat Vij Company Ltd for supply of plant as contract agreement part-I and supply of installation services as contract agreement part-II under single agreement.

The applicant has further stated that they receive 7.5% advance against contract agreement part-I as well as contract agreement part-II. It is the applicant's case that though it is a single agreement as mentioned supra, there is a clear bifurcation in rates and activities and hence, can be termed as a divisible contract.

The applicant further contends that in terms of notification No. 66/2017-CT dated 15.11.2017, the Central Government has exempted payment of GST at the time of receipt of advances in case of goods, effective from 15.11.2017; that in their case, contract agreement part-I pertains to supply of goods and contract agreement part-II, pertains to supply of services; that they do separate billing for supply & erection; that it is purely divisible contact. No GST is payable on advance received against supply at the time of receipt of advance in terms of the notification, *ibid*; that they have received an interest-bearing advance against supply by providing Bank Guarantee for 110% of advance received, which can be treated as a corporate credit facility (loan) from the client.

The applicant has sought advance ruling on the below mentioned questions;

- (i) Notification No. 66/2017 will be applicable for turnkey contract?
- (ii) Is GST payable on advance received against supply portion in turnkey contract?

(iii) Identification of rates for supply and service separately under single contract can be read as divisible contract?

On 24.04.2024 personal hearing was granted wherein Shri Mehar Tej Alamuri, Manager, appeared on behalf of the applicant. He further reiterated that it is a divisible contract; that invoices are separate for goods and services; that he will produce invoice of goods supplied since the supply has already started.

As per the revenue submissions, Deputy Commissioner, Division-VI, CGST Ahmedabad North Commissionerate vide letter No. CGST-06/04-01/ DIV-VI /Tech/2023 submitted its comments as follows;

1. The basic arrangement of supply intended to be received by the employer is not for sole supply of goods, but for complete package of supply and installation of such goods, only then the service would be deemed to be complete as per the provisions of the agreement entered.
2. The outward supply of service cannot be fragmented into two separate elements of supply of goods and services but rather be constituted as a single works contract service for the payment of GST.
3. The advances received by the contractor for the scope of work to be accomplished cannot be bifurcated separately for part of goods supply or part of service supply but shall be considered as a gross receipt of advances for the complete works contract which includes elements of both supply and services.
4. Resultantly, the provisions of Notification 66/2017- Central Tax dated 15.11.2017 being relied upon by the applicant/ contractor for exemption of payment of tax on advances received does not appear applicable in the present case.

As per the discussion and findings, at the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same

provisions under the GGST Act.

We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/ interpretation of law in respect of question and the additional submission on which the advance ruling is sought.

Before advertizing to the submissions made by the applicant, we would like to reproduce the relevant provisions and notification for ease of reference, i.e., section 2(119)- works contract, section 12- time of supply of goods, section 13- time of supply of services and also Notification No. 66/2017-CT dated 15.11.2017.

At the outset, the entire documents are not enclosed with the application. The applicant has only provided some documents which is not complete set. Ruling is sought on whether the contract can be read as a divisible contract; whether GST is payable on advance received and whether the notification no. 66/2017, which is reproduced supra, is applicable to a turnkey contract.

In the present context, supply of goods, their transportation to PGVCL's site, supply, installation, testing and commissioning and related services are not separate contracts, but are parts of an indivisible composite works contract, as defined under section 2(119) of the GST Act, with 'single source responsibility'.

In view of the foregoing, we further find that the contract entered into by the applicant with PGVCL is also not a divisible contract, notwithstanding the fact that the turnkey contract, as mentioned above constitutes two different contracts, entered on the same day, the performance of which is interconnected, interdependent & wherein the obligations cast in part-II clearly state that his performance in part-I is interconnected to his performance in part-II & vice versa.

Moving on to the next issue raised by the

applicant as to whether GST is payable on advance received and whether the notification no. 66/2017- CT dated 15.11.2017 is applicable for turnkey contract? . We have already held supra, that the supply undertaken in respect of the turnkey contract, by the applicant to PGVCL is a works contract, and therefore, in terms of schedule II, is a supply of service. Hence, the question of the availing benefit of notification No. 66/2017 -CT dated 15.11.2017 does not arise and therefore, the applicant is liable to pay GST on the advance received.

In view of the foregoing, we hold that GST is payable on advance received by the applicant and the benefit of notification no.66/2017 - CT dated 15.11.2017 is not applicable in respect of the turnkey contract entered into by the applicant.

As per ruling;

- (i) Notification No. 66/2017 will applicable for turnkey contract?

Answer: - As the turnkey contract entered into by the applicant has been held to be a works contract, Notification No. 66/2017- CT dated 15.11.2017 is not applicable in respect of the said turnkey contract.

- (ii) Is GST payable on advance received against supply portion in turnkey contract?

Answer: - As the turnkey contract entered into by the applicant has been held to be a works contract, GST is payable on advance received against supply portion in respect of the Turnkey contract.

- (iii) Identification of rates for supply and service separately under single contract can be read as divisible contract?

Answer: - As the turnkey contract entered into by the applicant has been held to be a works contract the said turnkey contract cannot be held to be a divisible contract.

Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/S DECCAN CEMENTS LIMITED
Citation: RAJ/AAR/2024-25/08

Dated 26.06.2024

Bench/Court: RAJASTHAN AUTHORITY FOR ADVANCE RULING

The applicant is a Limited Company incorporated in India under the Companies Act, 1956 and is in the business of manufacturing and selling cement in South India having Corporate Registered Office at 6-3-666/B, Deccan Chambers, Somajiguda, Hyderabad. The applicant is having its manufacturing plant in the State of Telangana.

To expand its business activities in

manufacturing and trading in cement throughout India, the applicant intended to start manufacturing unit in the state of Rajasthan. For this purpose, the applicant participated in Tender process for E Auction of Mining lease for Lime Stone Block at Tata Mandha- 1A (RM-1A), Tehsil Shri Mohangarh District, Jaisalmer in the state of Rajasthan, invited by Department of Mines & Petroleum, Government of Rajasthan, Directorate of Mines & Geology, Udaipur.

Applicant is selected as Preferred Bidder in that process and Government of Rajasthan issued Letter of Intent (LOI) bearing No. P3 (1) Mine/ Group -2 /2022 dated 08.03.2023 in the process of allotment of mining lease.

Questions on which the advance ruling is sought as follows;

1. Whether the applicant is liable to pay any GST on the Mining Lease payments (applicability of GST on the Royalty payment of Mining lease to Government of Rajasthan under Reverse Charge Mechanism)?
2. If the applicant is liable to pay GST on the above, what will be the applicable rate of GST?
3. If GST is applicable, whether the applicant is liable to pay GST on the payment of Upfront payments as per the Tender Documents which are paid in installments much before issuing LOI and after issuing LOI but before entering into the Lease Agreement?
4. If GST is applicable, whether the applicant can pay GST from the State of Telangana or to apply for registration in the state of Rajasthan and pay GST?
5. Whether the GST paid is eligible to be claimed as Input Tax Credit or not?

At the outset it is made clear that a reference to the provisions of the CGST Act, 2017 and the Notification issued there under would mean reference to similar provisions under the RGST Act, 2017 and the Notification issued there under, wherever applicable, unless specified otherwise.

According to Section 9(1) of the CGST Act, 2017 tax shall be levied on all intra state supplies of goods or services or both on value determined under Section 15 and at such rates as may be notified by the Government and collected in such manner as prescribed. According to Section 9(3) of the CGST Act, 2017, the Government may, on recommendation of the council, by notification, specify categories of supply of goods or services or both on which the tax shall be paid on reverse charge basis by the recipient.

It is submitted that subheading 997337 of SAC covers, Licensing services for the right to use minerals including its exploration and evaluation, attracts the same rate as applicable for supply of goods involving transfer of title in goods. Hence in this case GST is to be paid @18%.

According to serial no.5 in Notification No. 13/2017 Central Tax (rate) dated 28.06.2017 modified from time to time, royalty amount paid to State Government towards mining lease is liable to GST under Reverse Charge Mechanism and accordingly GST is to be paid at applicable rate of tax.

However, payment of royalty amount to the Government will be coming in to effect only after entering in to the Mining Lease Agreement with the Government of Rajasthan. The lessor and lessee relationship will be coming in to effect only after entering the lease agreement. The payments made as per the conditions in the Tender Documents prior to issue of Letter of Intent and payment made after issue of LOI but before entering in to the Mining Lease Agreement cannot be considered as Advance payments for supply of services and GST is not liable to be paid at the time of making payment by considering the same as Advance payments for supply of services.

The time of supply will be determined as per section 13 of the CGST Act. It is submitted that the time of supply provisions relating to supply of services in Section 13 of the CGST Act, 2017 is not applicable to the upfront payment made by the applicant as per the terms and conditions of the Tender Document as these payments are made to entering in to mining lease agreement with the Government.

With regard to GST registration, person who are required to pay tax under reverse charge are liable to be registered in the State in which they are receiving the services. Since GST is liable to be paid under RCM on royalty amount, applicant is liable to get registration as a taxable person under the GST Act in the State of Rajasthan after all the conditions in the Tender Documents are complied with for entering in to mining lease agreement and after entering in to the Mining Lease Agreement with the Government of Rajasthan coming in to effect.

We have carefully examined the statement of facts, supporting documents filed by the applicant along with the application, oral and written submissions made at the time of hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

Following the screening process, the applicant is selected as a Preferred Bidder in that process. The Government of Rajasthan vide letter No. P.3 (1) Mine/ Group-2/2022 dated

08.03.2023 has issued Letter of Intent (LOI) in the process of allotment of mining lease.

For the purpose of allotment of Mining Lease, the Applicant being a Preferred Bidder and in compliance with the Tender Process has deposited Upfront Payment at different stages along with performance security.

As per ruling;

Question 1: - Whether the applicant is liable to pay any GST on the Mining Lease payments (applicability of GST on the Royalty payment of Mining lease to Government of Rajasthan under Reverse Charge Mechanism)?

Answer: - The applicant is liable to pay GST on Mining Lease Payments including Royalty, to be paid to the Govt. of Rajasthan under RCM.

Question 2: - If the applicant is liable to pay GST on the above, what will be the applicable rate of GST?

Answer: - The applicable rate of GST is 18% (SGST 9% & CGST 9%).

Question 3: - If GST is applicable, whether the applicant is liable to pay GST on the payment of Upfront payments as per the Tender Documents which are paid in installments much before issuing LOI and after issuing LOI but before entering into the Lease Agreement?

Answer: - Yes, the applicant is liable to pay GST on Upfront Payments as per the Tender Documents.

Question 4: - If GST is applicable, whether the applicant can pay GST from the State of Telangana or to apply for registration in the state of Rajasthan and pay GST?

Answer: - No, the applicant cannot pay GST from the state of Telangana for the services received in Rajasthan. They are required to pay GST under RCM in the state of Rajasthan.

Question 5: - Whether the GST paid is eligible to be claimed as Input Tax Credit or not?

Answer: - Yes, applicant is eligible to avail ITC of the GST paid by them under RCM subjected to fulfilment of conditions laid down under section 16 of CGST Act, 2017.

Statute: GOODS AND SERVICES TAX

Decision in Favour of: NOT APPLICABLE

Title: M/S. ACCESS HEALTHCARE SERVICES PRIVATE LIMITED

Citation: TN/10/AAR/2024, Dated 30.05.2024

Bench/Court: AUTHORITY FOR ADVANCE RULING, TAMIL NADU

M/s. Access Healthcare Services Private Limited is registered under the GST Act with GSTIN: 33AAJCA1885H1ZN. The applicant is a company incorporated in India under the Indian Companies Act, having its registered

office at Chennai, Tamil Nadu and engaged in the business of providing Information Technology (IT) and Information Technology Enabled Services (ITeS) for health sector. The company offers Business Process Outsourcing, applications services, and robotic process automation tools to healthcare providers, payers, and related service providers.

The applicant states that being in the service sector, particularly in the IT/ITeS space, human resources form the backbone of the Applicant's activities. Technically qualified resources are hence a key to the operations of the business of the applicant.

Considering the present volatile job market, the applicant has been finding it extremely onerous to identify, train, recruit and retain suitable resources. Hence, the applicant is considering hiring the service of professional contract- staffing firm(s) to avail certain human resource management and related services.

Such firm(s) ("Staffing Firm") would issue tax invoices on the applicant towards the services rendered, along with applicable Goods and Services Tax. The services rendered fall under SAC 998513- Contract Staffing Services, leviable to GST at 18% (clause 23(iii) of Notification No. 08/2017- Integrated Tax (Rate) dated 28 June 2017).

In the light of the above facts, the applicant is filing the present application before the Authority for Advance Ruling seeking an Advance Ruling on the following question:-

1. Whether Input Tax Credit (ITC) is eligible on Contract Staffing Services received by the Applicant?

The applicant submitted that as per Section 16 of the Central Goods and Services Act, 2017 ('CGST Act') & Tamil Nadu Goods and Services Act, 2017 ('TNGST Act'), Inputs/ input services should be used or intended to be used in the course or furtherance of the business. The applicant is stated that in the light of above mentioned provisions, it shall be noticed that in order to 'avail ITC on any inward supply', the supply should be used in the course or furtherance of business.

The applicant further stated that firstly from the phrase "used or intended to be used", it can be fairly inferred that the entitlement to ITC is dependent on usage or even mere intention of usage of the procured supplies for application in the course of furtherance of business. The phrase "in the course or furtherance of business" is not defined in the GST law, the meaning of the phrase, used liberally across past indirect tax legislations, has been subjected to ample commentary and discussions.

Based on the provisions of Section 16(2) of

the CGST Act, the applicant submitted that he is engaged in the provision of Information Technology enabled services such as Business Process Outsourcing ('BPO') services for clients in the healthcare industry in the United States of America, also referred to as revenue cycle management. The said activities of the Applicant certainly qualified under clause (a) of the definition of the term 'businesses' cited supra.

The applicant proposes to avail the subject services with the motive of identifying potential candidates for hiring as employees, thereby further its business operations. Hence, the said procurement of services is clearly for use or intended to be used by the Applicant in the course or furtherance of business. The applicant also stated that the Input Tax Credit on the transaction under question does not fall under any of the above- mentioned categories, and hence is not blocked by section 17(5).

The applicant, was given an opportunity to be heard in person on 09.01.2024. Shri. Aravind Baskaran, Chartered Accountant and Abhishek Ganahari, Chartered Accountant who are the Authorized Representatives of the Applicant appeared for the hearing and they reiterated the submissions made in their application. Further they submitted additional submissions, wherein sample services agreement and sample copy of invoices were submitted. The members request them to submit input and output services rendered/ to be rendered by the applicant, for which it was stated that they would submit at the earliest. The applicant vide letter dated 20.02.2024 made additional submissions against the advance ruling application. They submitted that with regard to certain documents sought for perusal by the members of the advance ruling during the personal hearing on 09.01.2024 they make the submissions on Clarification on the outward supplies provided by Access Healthcare using the human resources of Qess Corp Limited, summary of process of hiring and initial training of employees by the Contract firm, scope of work agreed between the Company and Qess Corp Limited etc.

On the request of the applicant a second personal hearing was accorded on 27.03.2024. Sri Aravind Bhaskaran, Chartered Accountant and authorized representative of the applicant appeared for the personal hearing and reiterated the submissions made in the application and during the first personal hearing held on 09.01.2024.

We have carefully considered the submissions made by the applicant in their application, submissions made during the personal hearing and the comments furnished by State Tax jurisdictional officer.

With regard to the issue raised by the applicant in the advance ruling application filed by

them, we find that the availment of ITC is governed by the provisions of Section 16& 17 of the CGST Act,2017. Whereas Section 16 of the CGST Act,2017 provides for the eligibility and conditions for taking input tax credit, Section 17 of the said Act deals with apportionment of credit and blocked credits.

In view of the foregoing discussion we find that in as much as the applicant is engaged in the business of providing Information Technology (IT) and Information Technology Enabled Services (ITeS) for healthcare sector and intends to avail the contract staffing services in the course or furtherance of business, the applicant is eligible to avail the input tax credit on the said contract staffing services subject to the fulfilment of conditions specified under section 16 of the CGST Act,2017 for availment of input tax credit.

As per ruling;

Question: - Whether Input Tax Credit (ITC) is eligible on Contract Staffing Services received by the Applicant?

Answer: - The applicant is eligible to avail the input tax credit on contract staffing services under section 16(1) of CGST Act,2017 subject to the fulfilment of conditions specified under the said section, as discussed in para 10 above.

B. JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: GOODS AND SERVICES TAX

Decision in Favour of: ASSESSEE

Title: PEE GEE FABRICS PRIVATE LIMITED v. UNION OF INDIA

BIREN VAISHNAV and BHARGAV D. KARIA JJ.

Citation: [2024] 129 GSTR 548 (Guj)

Bench/court: IN THE GUJARAT HIGH COURT

Goods And Services Tax – Input-Tax Credit – Refund – Application For Refund Of Input-Tax Credit Due To Inverted Duty Tax Structure – Proportionate Reduction Of Input-Tax Credit Claimed In View Of Reversal Of Wrongly Claimed Credit On Capital Goods Based On Calculation Made By Goods And Services Tax Portal – Second Application Seeking Refund On Account Of Input-Tax Credit Accumulated Due To Inverted Tax Structure Under “Any Other” Category – Show-Cause Notice Proposing To Disallow Balance Refund On Ground That There Was No Provision For Filing Second Refund Application For Same Particular Month- Unjustified-Legitimate Claim Of Refund Cannot Be Denied On Hyper-Technical Ground - Gujarat Goods And Services Tax Act (25 Of 2017), S. 54(3)(ii) - Central Goods And Services Tax Rules, 2017-Notification No. 20/2018, Dated July 26, 2018-Circular No.56/2018, Dated August 24, 2018 -Circular No. 94/2019, Dated March 28, 2019.

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: RAM KRISHNA MISSION ASHRAMA v. STATE OF BIHAR AND ANOTHER

K. VINOD CHANDRAN C. J. & PARTHA SARTHY J.

Citation: [2024] 129 GSTR 510 (Pat)

Bench/Court: IN THE PATNA HIGH COURT

Goods And Services Tax – Writs Under Constitution – Existence Of Alternative Remedy – Petition Against Ex Parte Assessment Order – Supreme Court Saving Limitation Due To Pandemic Situation For Filing Appeals – No Plea Of Breach Of Principles Of Natural Justice Or Infringement Of Fundamental Rights – Assessment Orders Were Appealable – Assessee Having Not Availed Of Statutory Remedies Could Not Seek Writ Against Assessment Order Especially With Respect To Computation Of Turnover – Time-Limit For Condoning Delay Specified In A Statute Cannot Be Extended By Court Through Writ Petition – Contention That Physical Copy Of Notice And Orders Not Served But Admittedly These Were Sent On E-Mail And Auto-Populated – Writ Petition Dismissed – Bihar Goods And Services Tax Act (12 Of 2017), Ss. 107, 169 – Constitution Of India, Art. 226

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: S. K. ELDOSE v. STATE TAX OFFICER, MUVATTUPUZHA AND OTHERS

A. K. JAYASANKARAN NAMBIAR and MOHAMMED NIAS C. P. JJ.

Citation: [2024] 129 GSTR 507 (Ker)

Bench/Court: IN THE KERALA HIGH COURT

Goods And Services Tax – Writs Under Constitution – Maintainability – Assessment – Appeal – Writ Petition Against Assessment Order After Expiry Of Period Of Limitation For Appeal Under Statute-Not To Be Entertained -Petition Correctly Dismissed-Central Goods And Services Tax Act (12 Of 2017), S. 107 -Constitution Of India, Art. 226

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: OM PRAKASH KULDEEP KUMAR v. ADDITIONAL COMMISSIONER GRADE-2 AND ANOTHER

PIYUSH AGRAWAL J.

Citation: [2024] 129 GSTR 502 (All)

Bench/Court: IN THE ALLAHABAD HIGH COURT

Goods And Services Tax – Detention Of Goods – On Ground That Vehicle Not On Regular Route – No Specific Provision Which Requires Dealer To Disclose Route To Be Taken – Documents Accompanying Goods Found To Be Genuine – Order Quashed – Uttar Pradesh Goods And Services Tax Act (1 Of 2017), S. 129(3)

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: NAGARJUNA AGRO CHEMICALS PVT. LTD. v. STATE OF U. P. AND ANOTHER
PRITINKER DIWAKER C. J. and ASHUTOSH

SRIVASTAVA J.

Citation: [2024] 129 GSTR 470 (All)

Bench/Court: IN THE ALLAHABAD HIGH COURT

Goods And Services Tax – Assessment – Notice – Issuance Of Notice After Scrutiny Of Returns Not Condition Precedent For Initiating Assessment Proceedings – Central Goods And Services Tax Act (12 Of 2017), Ss. 61, 74

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: SN JYOTI ASSOCIATES PVT. LTD. v. INTELLIGENCE OFFICER, DG GST INTELLIGENCE, BHUBANESWAR AND OTHERS
PAMIDIGHANTAM SRI NARASIMHA and PANKAJ MITHAL JJ.

Citation: [2024] 129 GSTR 335 (SC)

Bench/Court: IN THE SUPREME COURT OF INDIA

Goods And Services Tax – Search And Seizure – Refusal To Disclose Copies Of Order Sheet And Search Warrant By Department Post Show-Cause Notice Till Finality Of Case Held Valid – Investigation Not Construed As Over On Issuing Show-Cause Notice – Revealing Source Of Information In Order Sheet Likely To Prejudice Investigation Process – No Rule To Provide Search Warrant Copies To Assessee – Odisha Goods And Services Tax Act (7 Of 2017), S. 67

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: DEEPAK SALES CORPORATION v. UNION OF INDIA AND OTHERS

MS. RITU BAHRI and MRS. MANISHA BATRA JJ.

Citation: [2024] 129 GSTR 328 (P&H)

Bench/Court: IN THE PUNJAB AND HARYANA HIGH COURT

Goods And Services Tax – Input-Tax Credit – Wrongful Availment Of Credit – Reversal Of Excess Credit Before Issuance Of Show-Cause Notice – Upon Reversal Of Credit Before Utilisation, Demand Of Interest And Penalty Not Tenable – Central Goods And Services Tax Act (12 Of 2017), Ss. 50(1), (3), 107

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: VACMET INDIA LTD. v. ADDITIONAL COMMISSIONER GRADE-2 (APPEAL) AND ANOTHER

PIYUSH AGRAWAL J.

Citation: [2024] 129 GSTR 322 (All)

Bench/Court: IN THE ALLAHABAD HIGH COURT

Goods And Services Tax – Detention Of Goods – Penalty – Failure To Fill Part B Of E-Way Bill – Discrepancy Rectified Before Issuance Of Seizure Order – No Discrepancies In Other Accompanying Documents – Goods Transported From One Unit To Another Unit Of Assessee Within State – Goods Not Liable To Tax – No Intention To Evade Tax – Penalty Set Aside – Uttar Pradesh Goods And Services Tax

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Act (1 Of 2017), S. 129(3)

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: JAGMOHAN SARAOGI v. UNION OF INDIA AND OTHERS

RAJA BASU CHOWDHURY J.

Citation: [2024] 129 GSTR 318 (Cal)

Bench/Court: IN THE CALCUTTA HIGH COURT

Goods And Services Tax — Appeal — Limitation — Delayed Filing Of Appeal With Application For Condonation Of Delay — Dismissal Of Appeal By Appellate Authority On Ground Of Limitation Without Considering Explanation Of Assessee — Unjustified — Application Praying For Condonation Of Delay To Be Taken Into Consideration By Appellate Authority — Assessee Having Made Pre-Deposit No Lack Of Bona Fide On Part Of Assessee In Preferring Appeal Can Be Attributed — West Bengal Goods And Services Tax Act (28 Of 2017), S. 107 — Central Goods And Services Tax Act (12 Of 2017), S. 107

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: MUKUL ISLAM v. ASSISTANT COMMISSIONER OF REVENUE, STATE TAX COOCH BEHAR RANGE AND OTHERS

RAJA BASU CHOWDHURY J.

Citation: [2024] 129 GSTR 313 (Cal)

Bench/Court: IN THE CALCUTTA HIGH COURT — JALPAIGURI BENCH

Goods And Services Tax — Appeal — Limitation — Appellate Authority Has Power To Condone Delay In Filing Appeal — Absence Of Non Obstante Clause And Specific Exclusion Of Section 5 Of Limitation Act In Section 107 Of Goods And Services Tax Act Implies Limitation Act Not Excluded — Delay In Filing Appeal Sufficiently Explained By Assessee — Rejection Of Application For Condonation Of Delay — Unjustified — West Bengal Goods And Services Tax Act (28 Of 2017), S. 107 — Limitation Act (36 Of 1963), Ss. 5, 29(2)

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: YADAV STEELS v. ADDITIONAL COMMISSIONER AND ANOTHER SHEKHAR B. SARAF J.

Citation: [2024] 129 GSTR 308 (All)

Bench/Court: IN THE ALLAHABAD HIGH COURT

Goods And Services Tax — Appeal — Limitation — Section 107 Of Goods And Services Tax Act, Explicitly Delineating Limitation Periods For Filing Appeals And Implicitly Excluding Application Of Provisions Of Limitation Act — Appellate Authority Cannot Condone Delay In Filing Appeal Even If Sufficient Cause Made Out — Central Goods And Services Tax Act (12 Of 2017), S. 107 — Limitation Act (36 Of 1963), S. 5

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: ABHISHEK TRADING CORPORATION v. COMMISSIONER (APPEALS) AND ANOTHER SHEKHAR B. SARAF J.

Citation: [2024] 129 GSTR 303 (All)

Bench/Court: IN THE ALLAHABAD HIGH COURT

Goods And Services Tax — Appeal — Limitation — Goods And Services Tax Act Being A Special Statute And A Self-Contained Code Renders Provisions Of Limitation Act Inapplicable — Absence Of Provision Allowing For Condonation Of Delay In Filing Appeal By Showing Sufficient Cause After Prescribed Period Itself Indicates Exclusion Of Section 5 Of Limitation Act — Dismissal Of Appeal By Appellate Authority On Ground Of Limitation — High Court Under Extraordinary Jurisdiction Cannot Interfere With Appellate Authority's Order — Central Goods And Services Tax Act (12 Of 2017), S. 107 — Limitation Act (36 Of 1963), S. 5

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: GARG ENTERPRISES v. STATE OF U. P. AND OTHERS

SHEKHAR B. SARAF J.

Citation: [2024] 129 GSTR 299 (All)

Bench/Court: IN THE ALLAHABAD HIGH COURT

Goods And Services Tax — Appeal — Limitation — Goods And Services Tax Act Being A Special Statute And A Self-Contained Code Renders Provisions Of Limitation Act Inapplicable — Absence Of Provision Allowing For Condonation Of Delay In Filing Appeal By Showing Sufficient Cause After Prescribed Period Itself Indicates Exclusion Of Section 5 Of Limitation Act — Dismissal Of Appeal By Appellate Authority On Ground Of Limitation — High Court Under Extraordinary Jurisdiction Cannot Interfere With Appellate Authority's Order — Central Goods And Services Tax Act (12 Of 2017), S. 107 — Limitation Act (36 Of 1963), S. 5

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: BHARAT BHUSHAN v. DIRECTOR GENERAL OF GST INTELLIGENCE, NAGPUR ZONAL UNIT J. B. PARDIWALA and UJJAL BHUYAN JJ.

Citation: [2024] 129 GSTR 297 (SC)

Bench/Court: IN THE SUPREME COURT OF INDIA

Goods And Services Tax — Offences And Prosecution — Anticipatory Bail — Section 438 Of Code Of Criminal Procedure Cannot Be Invoked By Sessions Court For Granting Anticipatory Bail To Person Summoned For Recording Statement Under Goods And Services Tax Law — Cancellation By High Court Of Anticipatory Bail Granted By Sessions Court — Justified — Central Goods And Services Tax Act (12 Of 2017), S. 69 — Code Of Criminal Procedure, 1973 (2 Of 1974), S. 438

Statute: GOODS AND SERVICES TAX

Decision in favour of: DEPARTMENT

Title: DIRECTOR GENERAL OF GST

INTELLIGENCE, NAGPUR ZONAL UNIT, NAGPUR v. BHARAT BHUSHAN

URMILA JOSHI-PHALKE J.

Citation: [2024] 129 GSTR 294 (Bom)

Bench/Court: IN THE BOMBAY HIGH COURT — NAGPUR BENCH

Goods And Services Tax — Offences And Prosecution — Anticipatory Bail — Application Before Sessions Court For Grant Of Anticipatory Bail By Person Summoned Under Goods And Services Tax Law — Not Maintainable — Bail Granted By Sessions Court Cancelled — Central Goods And Services Tax Act (12 Of 2017), S. 69 — Code Of Criminal Procedure, 1973 (2 Of 1974), S. 438

Statute: GOODS AND SERVICES TAX

Decision in favour of: PETITIONER

Title: RAJEEV CHHATWAL v. COMMISSIONER OF GOODS AND SERVICES TAX (EAST)

VIBHU BAKHRU and PURUSHAINDR KUMAR KAURAV JJ.

Citation: [2024] 129 GSTR 271 (Del)

Bench/Court: IN THE DELHI HIGH COURT

Goods And Services Tax — Search And Seizure — Unaccounted Cash — Cannot Be Seized Without Forming Reason To Believe That It Is Liable For Confiscation — Department To Return Cash With Interest By Way Of Deposit In Bank Account Within Two Weeks — Central Goods And Services Tax Act (12 Of 2017), S. 67(2)

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: COMMISSIONER OF CGST v. DEEPAK KHANDELWAL

ABHAY S. OKA & AUGUSTINE GEORGE MASIH JJ.

Citation: [2024] 129 GSTR 259 (SC)

Bench/Court: IN THE SUPREME COURT OF INDIA

Goods And Services Tax — Search And Seizure — General Principles — Intention Of Provision To Unearth Evasion Of Tax — Power To Be Exercised For Intended Purpose For Which Granted — Not For Recovery Of Tax — Power To Seize — Only Of Goods Suspected To Be Subject-Matter Of Evasion Of Tax — Not Of Valuable Assets Unaccounted For Or Liable To Confiscation Under Other Statutes — Duty Of Department To Return Goods Seized If No Notice In Respect Thereof Issued Within Six Months — Seizure Of Documents Or Books — Only To Secure Material Information Useful Or Relevant For Proceedings Under Act — Not Goods Liable To Confiscation — To Be Returned Within Thirty Days If Not Relied Upon For Issue Of Notice — Central Goods And Services Tax Act (12 Of 2017), Ss. 2(52), (101), 67, 130