

Tax alert: Input Tax Credit of CGST paid in Haryana not available in Rajasthan – Rajasthan AAAR

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Summary

The Rajasthan Appellate Authority for Advance Ruling (AAAR) in a recent case¹ upheld the order of the AAR and held that Input Tax Credit (ITC) of CGST would not be available to a person registered in Rajasthan if the location of the supplier and place of supply of the services are in Haryana. Further, the AAAR held that if ITC of SGST is not admissible, ITC of CGST would also not be available as both go hand in hand.

Facts of the case

- The Applicant² is engaged in the development, designing and trading as well as export of computer software.
- The Applicant procures various goods and services from within as well as outside the state of Rajasthan.
- The Applicant claims ITC on taxes paid on such goods and services which are used in the course or furtherance of business, and the place of supply of such goods and services is the state of registered place of business, ie Rajasthan.
- The Applicant had procured hotel services in Haryana for business purposes and had paid Haryana CGST and SGST on the hotel charges.
- The Applicant had sought an advance ruling on whether the ITC of CGST paid in Haryana would be available to the Applicant registered in Rajasthan.
- The Authority for Advance Ruling (AAR) ruled³ that as both the supplier of services

and the place of supply are outside the state of Rajasthan, ITC of CGST paid in Haryana would not be available to the Applicant.

- Aggrieved by the said order, the Applicant filed an appeal before the AAAR.

Applicant's grounds of appeal and contention

- **Hotel services exclusively used for furtherance of business:** The Applicant contended that hotel services and consequential CGST and Haryana SGST are incurred exclusively for the purposes and in furtherance of business, ie for meeting with prospective buyers and vendors. Thus, the Applicant argued that as per provisions⁴ of GST law, it is entitled to claim ITC of tax paid on inward supply of goods and/or services which are used or intended to be used in the course or furtherance of business.

¹ Rajasthan AAAR No. RAJ/AAAR/01/2019-20 Dated 8 May 2019

² M/s. IMF Cognitive Technology Private Limited

³ Vide its order no. RAJ/AAAR/2018-19/30 dated 9 January 2019

⁴ Section 16(1) of the CGST Act

- **No correlation between admissibility of ITC and place of supply:** The Applicant further contended that for claiming ITC, the law⁵ does not require any correlation between admissibility of credit and place of supply.
- **No observation/reasoning provided:** The Applicant further contended that the AAR had decided the case without giving any observation or reasoning on comments given by the jurisdictional officer and disposed of the application for ruling without giving any specific reference to any provisions of the law.
- **Ruling beyond the questions raised:** The Applicant further contended that the AAR had gone beyond the question raised by the Applicant by observing admissibility of ITC in respect of state, while the question was in respect of credit of ITC paid in the form of CGST to the Central Government only.

Rajasthan AAAR's observations and ruling

- **ITC of CGST paid in Haryana only under question:** The AAR observed that the Applicant was sure that ITC of SGST paid in Haryana was not admissible to it. Accordingly, the AAAR noted that ITC of CGST paid Haryana was the only question.
- **CGST and SGST go hand in hand:** The AAAR held that the Rajasthan GST Act allows ITC of only SGST paid in Rajasthan. Both the taxes, ie CGST and SGST, go hand in hand. Accordingly, it naturally flows that if ITC of

SGST is not admissible, ITC of CGST should also not be admissible.

- **Location of supplier and place of supply determining factor:** The Rajasthan AAAR stated that ITC of CGST would be available to a person registered in Rajasthan if the location of the supplier and place of supply of the services are in Rajasthan⁶.
- **Upheld the order of Rajasthan AAR:** Therefore, the Rajasthan AAAR upheld the order of Rajasthan AAR which had ruled that ITC of CGST paid in Haryana was not admissible to the Applicant in Rajasthan.

Our comments

In case of intra-state supply of services, both CGST and SGST are levied under the GST regime. While credit of SGST is allowed only against output SGST of the same state, an issue arises if credit of CGST (being a Central tax) would be available against output CGST of a different state. The AAAR ruling, in the instant case, provides clarity on this aspect. It may however be noted that while the AAAR's ruling is binding only on the Applicant, it should assist other taxpayers engaged in similar businesses.

⁵ Under Chapter V of the CGST Act

⁶ Section 16(1) of the CGST Act read with Section 9(1) of the CGST Act and Section 8(2) of the IGST Act

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