

Tax alert: ITC on inward supply used to provide free medical facilities to employees not available – Tamil Nadu AAR

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Summary

The Tamil Nadu Advance Ruling Authority (AAR), in a recent case, has held that the applicant providing free medical facilities to the employees, pensioners, and their dependents in in-house hospital as a part of the mandated rules is not entitled to take credit of input tax paid on the inward supply of medicines/medical equipment used therein. The AAR stated that the medicines are used by the employees and dependents and hence are for personal consumption, disentitling the applicant for availing input tax credit (ITC) on said supplies.

Facts of the case

- The applicant¹ is engaged in the supply of port services and incidental supply of goods like disposal of discarded assets.
- The applicant is required to provide health and medical cover to its employees and pensioners under relevant regulations². The applicant is maintaining an in-house hospital within its port premises for providing these health and medical covers exclusively to its employees and pensioners.
- The applicant has sought an advance ruling in respect of whether the applicant is entitled to take ITC in respect of inward supply of medical and diagnostic equipment, medical apparatus and instruments, medical consumables to the in-house hospital used for providing medical facilities to employees.
- **Benefits only to the employees:** The applicant submitted that the hospital caters only to the employees, their dependents, pensioners, and their spouses for in-patient and out-patient treatment. No outsiders are treated in the hospital except on recommendation of the employees, and the payment for that is recovered from the salary of such employees.
- **Mandatory requirement as per relevant regulations:** The applicant is mandatorily required to provide such health and medical cover to the employees and pensioners under the relevant regulations².

Tamil Nadu AAR's observations and ruling

- **Free of cost supply:** The applicant submitted that the medicines are being given to the employees free of cost, and the medical equipment are used to provide health care facilities to the employees as part of the package to the employee.
- **Personal consumption of employees:** The AAR observed that the medicines and medical services are used for personal consumption of the employees, pensioners, and dependents. Further, the AAR stated that the fact as to who pays for the procurement of such goods and services is irrelevant for determining usage of such goods and services.
- **Ineligible to claim ITC:** Therefore, the AAR held that ITC is not available³ for medical, diagnostic equipment, apparatus, instruments, consumables, disposables, spares, and repairing services, which the applicant is

¹ M/s Chennai Port Trust

² Section 124(1) read with 132(1) of the Major Port Trusts Act, 1963

³ Section 17(5)(g) of the CGST Act, 2017

procuring for the consumption of its employees, dependents and pensioners.

Our comments

Provision of certain benefits to employees is a common business practice. However, as per the GST law, tax paid on such expenses is treated as blocked credit since the same is regarded to be in nature of personal consumption. Interestingly, the Maharashtra AAR in the case of M/s POSCO India Pune Processing Centre Pvt. Ltd. had passed a similar ruling holding that ITC of GST paid on hotel accommodation to key managerial personnel shall also not be available.

Though the AAR's decision is applicable only to the applicant, it acts as a guiding tool for other taxpayers facing similar issues.

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