

EY Tax Alert

Haryana AAAR allows ITC on services used for raising capital based on end-use of funds.

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Executive summary

This Tax Alert summarizes a recent ruling¹ of the Haryana Appellate Authority for Advance Ruling (AAAR) on availability of input tax credit (ITC) on services used directly in relation to raising capital by issuance of shares.

Assessee arranged a Qualified Institutional Placement (QIP) to raise funds for restructuring/ repayment of borrowings and for investment in its subsidiary. ITC w.r.t expenses incurred in this regard was treated not eligible by Haryana Authority for Advance Ruling (AAR). Aggrieved, assessee filed an appeal before the AAAR.

The key observations of the AAAR are:

- Activities undertaken for restructuring or repayment of borrowings directly contribute to the stability and sustainability of the business. Utilization of funds raised for such activities represents the discharge of financial liabilities and can be regarded as undertaken in the course or furtherance of business.
- In respect of the funds used for investment in subsidiary, it is to be noted that the subsidiary is a distinct entity. The benefits to the assessee by way of investment in a subsidiary arise indirectly through equity participation and corporate control rather than through consumption of services used directly in making taxable supplies.
- The actual consumption and economic benefits of such services accrue to the subsidiary company rather than the assessee. The expenditure incurred by one entity cannot be claimed as ITC in hands of another entity.

Basis above, AAAR held that that while capital raising qualifies as a business activity, ITC on related services depends on the end use of funds.

¹ TS-444-AAAR(HAR)-2026-GST



Background

- Assessee is engaged in the business of manufacturing and marketing refractory products, systems and services.
- It arranged a Qualified Institutional Placement (QIP) to raise capital in accordance with the Securities and Exchange Board of India (Issuance of Capital and Disclosure Requirements) Regulations, 2018 [SEBI ICDR Regulations].
- The proceeds of QIP were primarily utilized for two purposes - i) restructuring/repayment of borrowings; ii) investment in shares of subsidiary company.
- Assessee obtained services of merchant bankers along with ancillary services including legal, consultancy, and other professional services directly in relation to the QIP.
- It filed an application for advance ruling to seek clarity on the eligibility of ITC on such services before the Haryana Authority for Advance Ruling (AAR).
- AAR however, held ITC on these services to be ineligible while holding that the activity was not in the course or furtherance of business of the assessee.
- Aggrieved by the ruling, assessee filed an appeal before the Appellate Authority for Advance Ruling (AAAR).

Assessee's Contentions

- The AAR's order was passed arbitrarily without adequate analysis of the relevant statutory provisions or due consideration of the submissions made. The order was not a speaking order and violative of principles of natural justice.
- The term 'business' is inclusive and expansive, covering any activity incidental/ ancillary to trade/ commerce /manufacture, including fund raising for operational efficiency, loan repayment, strategic investments, and expansion.
- The meaning of the term 'furtherance' is broad as was held in various judicial precedents².
- Investment by a holding company in its subsidiary is an essential and incidental activity aimed at exercising control, achieving business consolidation, pursuing long term objectives, and enhancing overall profitability. Such investment is not extraneous but integral to its business operations.
- Analogous issues under the pre-GST regimes were decided in favor of assessee, and Cenvat Credit on services used for raising funds via disinvestment, preferential shares, private placement and IPO related activities was allowed by considering the same as relating to business.³
- ITC on such services should thus be eligible to the taxpayer.

Revenue's Contentions

- Fund raising through QIP does not constitute

'business' under section 2(17) of the Central Goods and Services Tax Act, 2017 (CGST Act).

- It is also not an activity in the course or furtherance of business which is a criterion for ITC availability under section 16(1).

AAAR's Ruling

- The concerns of the assessee regarding non-consideration of submissions made to the AAR and other procedural defects are noted and the appeal is re-examined independently based on the materials placed on record and the applicable statutory provisions.
- A registered person is entitled to avail ITC under section 16(1) of the CGST Act on goods or services used or intended to be used in the course or furtherance of business subject to other conditions of the CGST Act.
- The scope of the term 'business' under section 2(17) of CGST Act is wide. The payments on QIP related services are well covered in the definition of 'business'.
- Principle under the erstwhile regime that 'expenses incurred for raising finance for business operations bear a nexus with business activities' is relevant under the GST framework as well.
- Activities undertaken for restructuring or repayment of borrowing directly contribute to the stability and sustainability of the business.
- Utilization of funds for repayment or pre-payment of borrowings represents the discharge of financial liabilities and can reasonably be regarded as undertaken in the course or furtherance of business. ITC to this extent can, thus, be availed.
- In respect of the funds used for investment in subsidiary, even though the funds are invested in a subsidiary, the subsidiary is a distinct entity. The benefits to assessee by way of investment in a subsidiary arise indirectly through equity participation and corporate control rather than through consumption of services used directly in making taxable supplies.
- The actual consumption and economic benefit of such services accrue to the subsidiary company rather than the assessee. There is no direct nexus between input services and business of the assessee.
- The AAAR relied on the judgement of the Telangana High Court⁴ to emphasize that expenditure incurred by one entity cannot be claimed as ITC in hands of another entity.
- In view of the above, AAAR held that ITC in respect of services used for raising capital, will depend on the end use of the funds. ITC proportionate to use of funds for repayment of borrowings will be eligible, but the portion used for investment in subsidiary will not be allowed.

² 2009 (15) S.T.R. (Bom.); 2011 (24) STR 3 (Guj.)

³ 2016 (42) S.T.R. 932 (Tri.-Bang); 2016 (42) S.T.R. 72 (Tri.-Del)

⁴ TS-481-HC-2024 (Tel)

Comments

- a. The ruling may trigger interpretational issue concerning ITC eligibility w.r.t capital raised for strategic investment in subsidiary.
- b. Businesses may need to assess the implications of the ruling in the context of raising funds through Initial Public Offerings.
- c. The ruling does not address the interplay of Sections 17(2) and 17(3) of the CGST Act, which include transactions in securities as exempt supplies, that may trigger proportionate ITC reversal implications.

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