

**TAMILNADU STATE APPELLATE AUTHORITY FOR ADVANCE RULING**  
**(Constituted under Section 99 of Tamilnadu Goods and Services Tax Act 2017)**

A.R.Appeal No. 08/2020/AAAR

Date: 05.03.2021

**BEFORE THE BENCH OF**

**1. Thiru G.V.KRISHNA RAO, MEMBER**

**2. Thiru M. A. SIDDIQUE, MEMBER**

**ORDER-in-APPEAL No. AAAR/07/2021 (AR)**

(Passed by Tamilnadu State Appellate Authority for Advance Ruling under Section 101(1) of the Tamilnadu Goods and Services Tax Act, 2017)

Preamble

1. In terms of Section 102 of the Central Goods & Services Tax Act, 2017/Tamilnadu Goods & Services Tax Act 2017("the Act", in Short), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the applicant within a period of six months from the date of the Order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the appellant has been given an opportunity of being heard.
2. Under Section 103(1) of the Act, this Advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act shall be binding only
  - (a). On the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling;
  - (b). On the concerned officer or the jurisdictional officer in respect of the applicant.
3. Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the said advance ruling have changed.
4. Under Section 104(1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void sb-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.

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| Name and address of the appellant   | M/s. Erode Infrastructures Private Limited.<br>Sri Nivas, 4/337, Athampampalyam,<br>Villupuranthampalayam, Erode- 638 112. |
| GSTIN or User ID  | 33AECE7680DIZR   |
| Advance Ruling Order against which appeal is filed  | Order No. 31/ARA/2020 dated 12.05.2020   |
| Date of filing appeal   | 19.11.2020   |
| Represented by  | V.V.SAMPATHKUMAR , CA  |
| Jurisdictional Authority-Centre   | Salem Commissionerate  |
| Jurisdictional Authority -State   | The Assistant Commissioner (ST),<br>Kodumudi Assessment Circle.  |
| Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details | Yes. Payment of Rs. 20,000/- made vide challan No.ALLA 20113300146248 dated 11/11/2020.                                    |

**At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.**

The subject appeal has been filed under Section 100(1) of the Tamilnadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017 by M/s. Erode Infrastructures Private Ltd (hereinafter referred to as 'Appellant'). The appellant is registered under GST vide GSTIN 33AECE7680DIZR. The appeal is filed against the Order No.31/ARA/2020 dated 12.05.2020 passed by the Tamilnadu State Authority for Advance ruling on the application for advance ruling filed by the appellant. The background facts of the appeal are briefly hereunder:

2.1 Rail Land Development Authority invited tender for development of MFC and identified developer through the bidding process and the bid of this Erode

“Multifunctional Complex” (MFC) was awarded to the appellant for the development of MFC @ Erode Railway Station.

2.2 The development of MFC involves Long term Lease of 45 years for Lease of 3140 Square meter of railways land. The offer by RLDA involves the payment Rs.3,08,27,800/- towards upfront long-term Lease premium and Rs. 7,80,00/- towards annual rent by the appellant herein. To enable the Appellant to carry out the development of MFC, the appellant has to pay/paid upfront long-term Lease premium to the contract awarder RLDA for giving railway land on long term Lease of 45 years. The Appellant herein is also a receiver, in respect of long-term lease of Railway Land offered to Appellant by RLDA in this unique contract awarded to them by RLDA.

3.1 The Original Authorities had ruled as follows:

“The application for Advance Ruling filed by the applicant is not admitted under sub section (2) of section 98 of the CGST Act 2017 and the TNGST Act 2017 as the supply based on the lease agreement between the applicant and RLDA for which the applicability of the Notification is sought is not undertaken or proposed to be undertaken by the applicant. “

4.1 Aggrieved by the above decision, the Appellant has filed the present appeal.

The grounds of appeal are as follows:

- As a supplier of rendering the development of MFC services, the appellant is eligible to seek clarification for the applicability of exemption from the levy of tax in respect of long-term lease of land and the related input tax credit. This aspect of the matter has not been considered and properly appreciated by the Advance Ruling Authority. The fact that the Appellant is also a supplier of services has not been looked into by the Authority, as stated supra, while issuing the Advance Ruling clarification. The Appellant relied on the following AAARS/AARS

- (i) GGL Hotel and Resort Company Ltd., in Appeal Case No: 01/WBAAAR/APPEAL/2019 dated 06.02.2019 before West Bengal Appellate Authority for Advance Ruling.
- (ii) In re: Yamuna Express Way Industrial Development Authority (GST AAR UP) – Appeal Number: Advance Ruling No. /AAR/9 of 2018 date of Order: 06.06.2018.

- The definition clause of section 95 of the CGST Act 2017 cannot override the substantive provisions of section 97 of the said Act which lists out the matters in respect of which the Advance Rulings can be sought and specifically in this regard, the section 97(2) (d) of the CGST Act, 2017.
- The harmonious and cogent reading of the relevant provisions of the Act and specifically section 95 and section 97 of the CGST Act 2017, one can easily conclude about the eligibility to seek Advance Rulings by the Recipient too in respect of at least input tax credit, amongst others, when the fact remains that the appellant is both a supplier and a recipient.

#### PERSONAL HEARING:

5.1 The Appellant was granted personal hearing as required under law before this Appellate Authority on 09<sup>th</sup> February 2021. The Authorized representatives of the Appellant, Shri. R.R.Balasubramaniyan, Director, Shri. M.Jaganathan, Director of the appellant company, appeared for hearing. They reiterated the written submissions filed along with the Appeal. They submitted a compendium of statutory provisions and case laws relied upon by them.

#### DISCUSSION & FINDINGS:

6.1 We have carefully considered the various submissions made by the Appellant and the applicable statutory provisions. The appellant has sought ruling on the following question:



Whether upfront lease amount paid to M/s.RLDA for the development of Multi functional complex (Operational building) at Erode Railway junction for long term lease for 45 years is exempt under GST?

7.1 The appellant has mainly harped on the wordings of S.97(2)(d) of the GST Act, on the ground that since admissibility of ITC paid or deemed to have been paid can be sought as a question for obtaining advance ruling, in as much as that unless the appellant as a recipient of the service is permitted to know the taxability of its inward supply of service, the admissibility of ITC or otherwise will not be known to him.

7.2 The provisions of S.103 categorically states that the ruling pronounced is binding only on the appellant. It automatically flows that if a recipient obtains a ruling on the taxability of his inward supply of goods or services, the supplier of such goods or services is not bound by that ruling and he is free to assess the supply according to his own determination, in which case, the ruling loses its relevance and applicability even. Any law provision has to be interpreted in a constructive and harmonious way keeping in mind the object of the purpose of the provision. All parts of it should be read in aid of and not in derogation of that purpose. Any interpretation, if it defeats the very purpose of the objective and purpose of the law provision, is not only incorrect but also improper and bad in law. On a conjoint reading of the provisions of S.95(a), S.97(2) and S.103, it is our opinion that a supplier in the capacity of a recipient of his inward supplies only and not vice versa is only eligible to seek an advance ruling and not a mere recipient of goods or services in question even when he may otherwise be a supplier of his own goods or services.

8. In view of the above, we pass the following Order:

RULING

For reasons discussed above, we confirm the Order of the Advance Ruling Authority in this matter. The subject appeal is disposed of accordingly.

  
(M.A.SIDDIQUE)  
Principal Secretary/  
Commissioner of Commercial Taxes,  
Tamil Nadu/Member, AAAR.

  
(G.V.KRISHNA RAO)  
Pr.Chief Commissioner of GST & Excise  
Chennai Zone/Member, AAAR.



To

M/s. Erode Infrastructures Private Limited.  
Sri Nivas, 4/337, Athampampalyam, Villupuranthampalayam,  
Erode- 638 112

**// By Speed Post with Ack. Due //**

Copy to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Principal Secretary/ Commissioner of Commercial Taxes,  
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Chepauk, Chennai-600 005.
3. Joint Commissioner(ST)/Member,  
Authority for Advance Ruling, Tamil Nadu,  
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Integrated commercial taxes Office complex,  
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Chennai-600 003.
4. The Commissioner of GST & Central Excise,  
Salem Commissionerate,  
No.1, Foulkes Compound Anaimedu,  
Salem. 636 001.
5. The Assistant Commissioner (ST),  
Kodumudi Assessment Circle..  
Commercial taxes building,  
R.D.O,Office campus, North pradakshanam Road,Karur-639001.
6. Master File/ Spare.