

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF : Shri. Sivaprasad .S, IRS &
: Shri.B.S. Thyagarajababu, B.Sc, LL.M

Legal Name of the applicant	M/s. Shriram EPC Limited
GSTIN	32AAFCS1410C1Z8
Address	No.39/3223, Arjun Centre, V.R.Puram Road, Ravipuram, Ernakulam 682015.
Advance Ruling sought for	1. No ITC on the inputs lying in stock as on 01.07.2017 having been availed, there is no amount of ITC benefit to be passed on to the clients; 2. The commensurate credit passed on to clients for the ITC availed on inputs received after 01.07.2017 will be in full compliance of the provisions of GST law on the issue.
Date of Personal Hearing	10-03-2020
Authorized Representative	Saju &Co., Chartered Accountants

ADVANCE RULING No. KER/89/2020 Dated 20-05-2020

1. M/s Shriram EPC Ltd (hereinafter referred to as the “applicant”) had received a work order from M/s Kerala Feeds Ltd, Thrissur during 2014, for the work of design and engineering, supply, erection, testing and commissioning of structural, Mechanical, Electrical and Instrumentation equipments /works for the setting up of 500 TTD Cattle Feed Plant project at Thodupuzha. Even though it was single tender, for execution purpose, it has been split up into three orders viz (i) Design and Engineering (ii) Supply of materials under sale in transit and (iii) Erection and installation of goods. As on the date of implementation of the Goods and Services Tax, almost 70% of the work was over and a large quantity of mechanical, electrical raw materials and other parts of the project was lying at the worksite.

2. The majority of the items were supplied by vendors who were in the exempted sectors and there was no cenvatable excise invoices. Even in respect of items procured from branded manufacturers, the materials were supplied on different dates right from commencement of the project work in December 2014. Some of these items were still lying in the worksite as items yet to be utilized for the pending works. Since the invoices were beyond the time limit of one year as on 01.07.2017, no ITC could be claimed. Only very few items were obtained within one year supported by excise invoices. Hence, the claim of ITC on inputs lying in stock as on 01.07.2017 was not made. The work order was issued in 2014 when cenvat credit was not admissible and hence the cost of the inputs were reckoned without taking into account the ITC benefit on the materials / inputs. In the absence of any credit being availed on the inputs lying in stock by following the prescribed procedure it is presumed that no benefit of the ITC is required to be passed on to their client. It is also understood that they are only required to pass on the commensurate benefit of the newly admissible ITC after 01.07.2017 to the clients.

3. Hence the applicant requested advance ruling on the following;

- i. In as much as no credit on the inputs lying in stock as on 01.07.2017 having been availed, there is no amount of ITC benefit to be passed on to the clients.
- ii. The commensurate credit passed on to clients for the ITC availed on inputs received after 01.07.2017 will be in full compliance of the provisions of GST law on the issue.

4. The authorized representative of the applicant was heard. It is stated that due to the confusion and the technical glitches that prevailed in GSTN during the changeover to GST regime, they were struggling to complete the transition formalities, accounting etc and the aspect of claiming ITC on the inputs lying in stock as on 01.07.2017 was omitted as most of the inputs in stock was supplied by vendors in exempted sector and hence cenvatable invoice was not available and in cases where it was procured from branded manufacturers the materials were supplied beyond the time limit of one year and hence no ITC could be claimed.

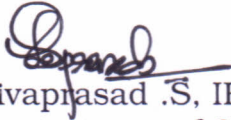
5. Since, no credit on the goods / inputs lying in stock as on 01.07.2017 was availed by them by filing the prescribed TRAN-1 Declaration they are not required to pass on any benefit of ITC to the client on that count. In respect of the inputs procured after the coming into force of GST they have availed ITC and have passed on the commensurate benefit to the client. They are of the view that the above satisfies the requirement of the GST law regarding passing over of ITC benefits. The settlement of pending bills for the works executed are getting delayed for want of finality as to the requirement of passing over of the ITC benefits to their client. Their client being a Government Undertaking is apprehensive that they may face audit objection etc; if the bills are passed without ascertaining whether the benefits of ITC has been passed on to them or not. In this backdrop the applicant requested to issue a ruling that there is no scope for allowing the benefits of ITC on the goods lying in stock as on 01.07.2017 as no ITC benefit on the goods lying in stock has been claimed by them and passing on of the commensurate benefit of ITC admissible on the goods procured after 01.07.2017 satisfies the requirement of the GST law.

6. The matter was examined in detail. As per Section 97(2) of the CGST/SGST Act, the question on which the advance ruling can be sought under the Acts, shall be in respect of,—

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

7. The issues raised in the instant application is regarding the requirement of the passing over of the benefit of ITC on goods lying in stock as on the appointed date i.e; 01.07.2017 and in respect of the goods procured after the appointed date, which is outside the purview of the

matters listed in sub-section (2) of Section 97 of the CGST/SGST Act, 2017. Hence, no advance ruling can be issued by this authority in respect of the questions raised in this application.



Sivaprasad S, IRS
Joint Commissioner of Central Tax
Member



B.S. Thyagarajababu, B.Sc, LL.M.
Additional Commissioner of State Tax
Member

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To

M/s. Shriram EPC Limited
No.39/3223, Arjun Centre,
V.R.Puram Road, Ravipuram
Ernakulam – 682015.