


GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD:380009	
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ADVANCE RULING (APPEAL) NO. GUJ/GAAAR/APPEAL/2023/04
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/26)

Date : 26.09.2023

Name and address of the appellant	:	M/s. Adama India Private Limited Plot No. D-2/CH-1, GIDC Estate, Dahej, Tal-Vagra, Dahej, Bharuch-392130 Gujarat
GSTIN of the appellant	:	24AABCM8797N1ZO
Advance Ruling No. and Date	:	GUJ/GAAR/R/44/2021 DATED 11.08.21
Date of appeal	:	22.10.2021
Date of Personal Hearing	:	06.01.2023 & 26.07.2023
Present for the appellant	:	Shri Gorky Tiwari

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017' and the 'GGST Act, 2017') are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. The present appeal has been filed under Section 100 of the CGST Act, 2017 and the GGST Act, 2017 by M/s Adama India Private Limited (hereinafter referred to as Appellant) against the Advance Ruling No. GUJ/GAAR/R/44/2021 dated 11.08.2021.

3. Briefly the facts of the case is as under:

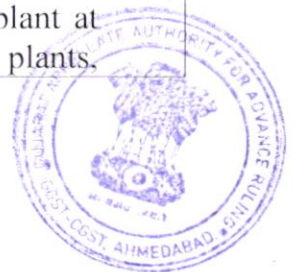


4. M/s Adama India Private Limited, Plot No. D-2/CH-1, GIDC Estate, Dahej, Tal-Vagra, Dahej, Bharuch-392130 Gujarat (hereinafter referred to as 'the appellant'), holding GSTIN: 24AABCM8797N1ZO, are suppliers of insecticides, fungicides and herbicides.

5. The appellant submitted that as per Section 135 of the Companies Act, 2013, it has been spending the mandatory amount on Corporate Social Responsibility [for short – 'CSR'] activities in the form of donations to the Government relief funds/ educational societies, civil works or installation of plant and machinery items in schools or hospitals, distribution of food kits etc.; that the vendors who supply goods/services to the appellant for the purpose of undertaking the CSR activities charge GST on their output supplies; that the appellant intends to avail the Input Tax Credit (ITC) of the inputs and input services being procured for the purpose of undertaking the CSR activities.

6. The appellant sought advance ruling on the following questions:
- a. *Whether the inputs and input services procured by the appellant, in order to undertake the mandatory CSR activities as required under the Companies Act, 2013, qualify as being in the course and furtherance of business and therefore will be counted as eligible ITC in terms of Section 16 of the Central Goods and Services Act, 2017 (CGST Act)?*
 - b. *Also, if the answer to the above question is in the affirmative, whether the categories of the following inputs and input services being procured by the appellant for the purpose of undertaking CSR activities will constitute as eligible ITC in terms of Section 17(5) of the CGST Act:*

Sl. No.	Category of inputs/input services.	Expense Items (illustrative)
1	Books and stationery	Providing Notebooks/ course materials for schools.
2	All kinds of civil works, whether or not including plant and machinery items	Construction of cement bench at public places, public urinals, auditoriums etc. at educational institutions.
3	All plant and machinery items	Procurement and installation of oxygen generating plant at hospitals, water filter plants.



		solar water heaters.
4	Medical equipment and accessories	Masks, Sanitizers, Oxygen concentrator.
5	Furniture	Chairs and tables in schools and hospitals.

7. The Gujarat Authority for Advance Ruling (hereinafter referred to as “GAAR”) vide its order No. GUJ/GAAR/R/44/2021 dated 11.08.2021, gave the following ruling to the aforementioned questions:

“CSR activities, as per Companies (CSR Policy) Rules, 2014 are those activities excluded from normal course of business of the applicant and therefore not eligible for ITC, as per Section 16(1) of the CGST Act.”

8. Being aggrieved with the above Ruling, the appellant has preferred the present appeal on the following grounds:

- (a) GAAR denied the eligibility of ITC on CSR activities to the appellant on the basis of the definition of CSR activities provided under Rule 2(d) of Companies (CSR Policy) Rules, 2014 (‘CSR Rules’) as amended by Companies (CSR Policy) Amendment Rules, 2021. It has been held in the Ruling that as per the definition of CSR activities, the same does not include the activities that are done by an entity in its ‘normal course of business’. The relevant text of the amended definition has been reproduced as hereunder:

“2(d) Corporate Social Responsibility (CSR)” means the activities undertaken by a Company in pursuance of its statutory obligation laid down in Section 135 of the Act in accordance with the provisions contained in these rules, but shall not include the following, namely:-

(i) activities undertaken in pursuance of normal course of business of the company”

- (b) No reasons has been provided by GAAR as to why the CSR activities are not done in the course and furtherance of business and are hence not eligible to be availed as ITC as per Section 16(1) of the CGST Act. The GAAR has simply relied upon the CSR Rules and has observed that the definition of CSR activities state that the same is not in the ‘normal course of business’ and therefore ITC for the said activities is also disallowed

