

## **GST paid on inputs for executing ‘Road work contracts’ eligible for ITC; Upholds AAR**

Andhra Pradesh AAAR rules that applicant is eligible for ITC in respect of the GST paid on goods and services used as inputs in execution of “Works Contracts” specifically in execution of Road work contracts to Government Engineering Departments and restriction u/s 17(5)(c) & (d) will not apply in present case as output is ‘work contract service’; Upholding the AAR ruling, notes that from the activity of applicant, i.e. construction (reconstruction) of roads for the Engineering Department in which the following predominant goods and services are incorporated such as (i) Batching plant using for mixing of bitumen and metals to prepare hot mix for use in laying of roads, (ii) Road Rollers, (iii) Paver finisher Bitumen, (iv) Metal Chips, Gravel, (v) Repairs & Maintenance expenses of machinery and vehicles, and (vi) Services of Engineers, Sub Contractors, Consultants, Hiring of machinery and vehicles, it is a composite supply involving both goods and services used for construction/reconstruction of roads, which is an immovable property and therefore satisfies the definition of “Works Contract Service” u/s 2(119); Since the Works Contract Service provided for the construction of a “road” is liable to 12% GST, as per Sl. No. 3 (iv) (a) of Notification No. 11/2017-CT(R), there is no restriction on availment of ITC in said Notification; Further, perusing Sec. 16 to address the issue of applicant’s eligibility for ITC, since the applicant is registered and is engaged in the provision of a taxable service (works contract service) in the course of business, he satisfies the basic requirements of Section 16 to avail ITC subject to compliance with the other procedural requirements prescribed in section 16; Clarifies that what is blocked u/s 17(5)(c) is ITC when sought to be availed by the Principal (i.e. Engineering Departments) and since the applicant availed credit on goods and services used to provide Works Contract Service to the Principal, there is no bar u/s 17(5)(c); Also rules out the restriction placed u/s 17(5)(d) to present case, elucidates that said embargo is when construction activity is undertaken "on his own account" but in this case, the applicant cannot be said to be undertaking the activity on his own account.