DRAFT REPLY FOR INPUT TAX CREDIT (ITC) DENIAL & GST DRC-06

FORM GST DRC – 06

[See rule 142(4)]

Reply to the Show Cause Notice

To,

The Office of Deputy Commissioner

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Sub: Reply to Show Cause Notice in case of M/s ..... (GSTIN: .....)

Ref: Your Notice dated ..... DIN: .....

Respected Sir,

We, M/s ....., Contractor of ..... Located at ..... , ..., ..., are in receipt of above mentioned Notice. This Notice levies allegations that we have claimed Input Tax Credit (ITC) on immovable property but that was our sub-contractor. The allegations levied in the above mentioned notice is as follows:

You have received ITC on immovable property which is blocked under sub-section 5 of section 17 of CGST Act'2017 and State GST Act'2017 . Therefore, you are instructed to reverse such wrongly availed ITC along with interest.

With this reply we hereby contest the notice on the following grounds:

A. Details of the Assessee

S.No	Particular	Details
A.	Name of the Assessee	M/s,
B.	GSTIN	
C.	Address of Principal Place of Business	
D.	Status of Assesse	
E.	Detail of Supplies Provided	
G.	Financial Year	20....-20....

H.	Whether any Offence Case is Booked in respect of GST, Service Tax, Central Excise, Income Tax, VAT/Sales Tax, If so, details thereof	

B. FACTS OF THE CASE

Facts of the case

1. The facts mentioned in the notice are incorrect.

• We with this reply would like to place on record that we are registered with the GST Department under the category of "**Work Contractor**".

• We further acknowledge that we have received a project "…. Project Name…" located at…..

• This project we sub-contractor to M/s…….

• Therefore, in this case we are main contractor and we have raised output supply bill to ……. for the work done by our sub-contractor and therefore, the services provided by the M/s…..... are not to be considered as service on immovable property but that has to be as but as Business to Business Supplies.

Extracts of Statutory Provisions of the Case

2. SECTION 16: ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,-

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;

(b) he has received the goods or services or both.

Explanation.- For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services-

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;

(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be paid by him along with interest payable under section 50, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him to the supplier of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed.

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the 6[thirtieth day of November] following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.

3. SECTION 17: Apportionment of credit and blocked credits.

(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Explanation.- For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except,—

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.;

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of subsection (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-

(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:-

(A) further supply of such motor vehicles; or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used-

(i) for making the following taxable supplies, namely:-

(A) further supply of such vessels or aircraft; or

(B) transportation of passengers; or

(C) imparting training on navigating such vessels; or

(D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available-

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged-

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;]

(b) 3[the following supply of goods or services or both-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.]

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

(6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

Explanation.- For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that

are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

4. SECTION 155: BURDEN OF PROOF

Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

5. SECTION 41: AVAILMENT OF INPUT TAX CREDIT

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

6. RULE 36: DOCUMENTARY REQUIREMENTS AND CONDITIONS FOR CALIMING INPUT TAX CREDIT

(1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-

(a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;

(b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;

(c) a debit note issued by a supplier in accordance with the provisions of section 34;

(d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;

(e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

(2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document:

Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.

(3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

(4) No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 unless,-

(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and

(b) the details of 4[input tax credit in respect of] such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.

Discussions and Submissions

7. With reference to the above subject, we would like to submit our understanding as follows:

• Section 16 of the Indian GST law outlines the eligibility and conditions for availing Input Tax Credit (ITC). Here's a summary of the primary conditions to avail ITC as per this section:

Eligibility for ITC: Every registered person is entitled to take credit of input tax charged on any supply of goods or services or both, which are used or intended to be used in the course or furtherance of his business. The amount is credited to the electronic credit ledger of the taxpayer.

Mandatory Conditions for Availing ITC:

• **Possession of Tax Invoice or Debit Note**: The taxpayer must possess a valid tax invoice or debit note issued by a supplier registered under the GST Act or other prescribed tax-paying documents.

• **Receipt of Goods or Services:** The taxpayer must have actually received the goods or services or both.

• **Payment of Tax to the Government**: The tax charged on such supply must have been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply.

• **Furnishing of Returns**: The taxpayer must have furnished the return under section 39 of the GST Act.

Special Conditions:

• **Invoice and Debit Note Details**: The details of the invoice or debit note must have been furnished by the supplier in the statement of outward supplies and communicated to the recipient in the manner specified.

• **No Restriction on ITC Details**: The details of input tax credit in respect of the said supply communicated to the registered person should not have been restricted.

• **Payment Within 180 Days**: If the recipient fails to pay the supplier the amount towards the value of supply along with tax within 180 days from the invoice date, the availed ITC will be added back to his output tax liability along with interest.

• **Non-eligibility of ITC on Depreciated Goods**: If the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the Income Tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

• **Deadline for Availing ITC**: ITC cannot be availed in respect of any invoice or debit note for supply of goods or services after the thirtieth day of November following the end of the financial year to which such invoice or debit note pertains, or the date of furnishing of the relevant annual return, whichever is earlier.

• These conditions are designed to ensure that ITC is availed and utilized in a manner that is consistent with the GST framework's objectives of transparency, compliance, and prevention of tax evasion.

• Rule 36 outlines the provisions related to the availing of Input Tax Credit (ITC) by registered persons, including Input Service Distributors. Here is a summary of the rule:

Documents Based on Which ITC Can Be Availed:

• An invoice issued by the supplier in compliance with section 31.

• An invoice issued under clause (f) of sub-section (3) of section 31, with tax payment.

• A debit note issued by a supplier as per section 34.

• A bill of entry or similar document under the Customs Act, 1962, for the assessment of integrated tax on imports.

• An invoice or credit note issued by an Input Service Distributor in accordance with rule 54(1).

Conditions for Availing ITC:

• ITC can be availed based on documents containing all specified particulars as per Chapter VI. However, if a document lacks all specified particulars but includes essential details like the amount of tax charged, description of goods or services, total value of supply, GSTIN of supplier and recipient, and place of supply in case of inter-State supply, ITC may still be availed.

Restrictions on Availing ITC:

No ITC shall be availed by a registered person for any tax paid due to any order where a demand has been confirmed because of fraud, willful misstatement, or suppression of facts.

Additional Condition for Availing ITC on Invoices or Debit Notes:

ITC on invoices or debit notes can be availed only if:

• The details of such invoices or debit notes have been furnished by the supplier in their outward supply statements in FORM GSTR-1 or through the invoice furnishing facility.

• The details of ITC in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B.

• Rule 36 provides a structured framework for the documentation and conditions under which ITC can be availed, aiming to ensure transparency and compliance in the GST regime. It emphasizes the importance of maintaining proper records and the necessity of supplier compliance for a recipient to avail of ITC, along with imposing restrictions to prevent misuse of the ITC mechanism.

• Section 17 of the Indian GST laws, titled “Apportionment of credit and blocked credits,” details how input tax credit (ITC) is to be handled in various scenarios. It covers the following key points:

• Partial Use for Business and Other Purposes: If goods or services are used partly for business and partly for other purposes, the ITC is restricted only to the portion attributable to the business purposes.

• Taxable and Exempt Supplies: When goods or services are used for both taxable (including zero-rated) and exempt supplies, the ITC can only be claimed for the portion used in making taxable supplies.

Value of Exempt Supply:

Specifies what constitutes the value of exempt supplies, including certain transactions not considered as exempt supply for ITC purposes.

Special Provision for Banking and Financial Institutions:

These entities have the option to either follow the general rule for apportioning credit or avail 50% of the eligible ITC on inputs, capital goods, and input services each month, with the remainder lapsing. This option, once chosen, cannot be changed within the same financial year, and certain transactions between entities with the same Permanent Account Number (PAN) are exempt from this 50% restriction.

Blocked Credits:

Lists specific scenarios where ITC cannot be claimed. These include:

• Certain types of motor vehicles, vessels, and aircraft, and related services, except when used for specific business purposes.

• Services such as food and beverages, outdoor catering, beauty treatments, health services, cosmetic and plastic surgery, leasing, renting or hiring of specified vehicles, life and health insurance, except under certain conditions.

• Membership of clubs, health and fitness centres, and travel benefits to employees, except when it's a legal obligation for the employer.

Works contract services and goods or services used for construction of immovable property (other than plant and machinery) not for business purposes.

• Goods or services on which tax has been paid under section 10 (composition levy).

• Goods or services received by a non-resident taxable person, except on imported goods.

• Goods or services used for personal consumption, lost, stolen, destroyed, or disposed of by way of gift or free samples.

• Any tax paid due to fraud, seizure, or confiscation.

• Government's Power to Prescribe Manner of Attribution: The government may prescribe how the credit for mixed supplies can be attributed between taxable and exempt supplies.

Definition of Plant and Machinery:

• Clarifies what is considered as ‘plant and machinery' for the purposes of ITC, excluding land, building, telecommunication towers, and pipelines laid outside factory premises.

• This section is crucial for businesses in understanding how to correctly claim ITC and the restrictions on certain goods and services, ensuring compliance with the GST laws.

• Section 17(5)(c) of the Indian GST laws plays a critical role in determining the eligibility of input tax credit (ITC) with respect to works contract services. This provision is specifically designed to restrict the availment of ITC for expenses incurred on works contract services when such services are used for the construction of immovable property, with certain exceptions. Understanding the nuances of this clause is vital for businesses engaged in construction and related activities, as it directly impacts their tax liabilities and credit availabilities. Here's a detailed note on this provision:

Context and Interpretation:

• Works Contract Services: These are composite supplies involving the transfer of goods along with the supply of services in the execution of a works contract. This typically includes construction, fabrication, completion, fitting out, repair, maintenance, renovation, alteration of any immovable property, or any other similar activities.

• Immovable Property: Refers to property that cannot be moved without altering or destroying it. This primarily includes land and buildings.

Main Provision:

• Restriction on ITC: The clause explicitly states that input tax credit shall not be available for works contract services when such services are utilized for the construction of immovable property. The rationale behind this restriction is to prevent the cascading effect of taxes, where tax credits are claimed for tax liabilities, creating a chain of credits which is not the intention of GST.

Exceptions:

• Other than Plant and Machinery: The restriction does not apply to works contract services used for the construction of plant and machinery. This exception is significant for industries and manufacturing units where plant and machinery are essential for the production process. Plant and machinery are considered as capital goods under GST, and the input tax credit for services related to their construction is allowed to avoid increasing the cost of capital investments.

• Input Service for Further Supply of Works Contract Service: The clause carves out an exception where the works contract service is an input service for the further supply of a works contract service. This means that if a business is engaged in providing works contract services and avails works contract services from another supplier for the same project, the input tax credit is available. This exception is designed to ensure that businesses in the supply chain of works contract services are not adversely affected by the ITC restrictions and can maintain competitive pricing.

The exception carved out in Section 17(5)(c) is significant for businesses engaged in providing works contract services to other businesses (B2B). When a works contract service is received by a business and is used as an input service for further providing a works contract service to another business, the ITC on such input service becomes available. This provision encourages the B2B supply chain within the construction sector by allowing the flow of ITC, thereby reducing the cost of construction and related services.

The exception under Section 17(5)(c) for the availability of ITC on works contract services, when it is an input service for further supply of works contract service in a B2B context, is a critical aspect of GST law. It not only aids in the seamless flow of credit within the construction sector but also supports the growth of business transactions by minimizing the tax burden on the end services.

Businesses engaged in the supply of works contract services must be aware of this provision to optimize their tax liabilities and ensure compliance with GST laws.

8. Relevant Case Laws

M/S SR CONSTRUCTIONS vs. THE UNION OF INDIA AND ORS.

The High Court of Tripura [Writ Petition (C) NO. 399 of 2022, dated 04-04-2023]

The High Court of Tripura rules in favour of SR Constructions, allowing ITC claims on GST for works contract services in landmark GST case.

Facts of the Case:

SR Constructions, a construction company, entered into a works contract agreement with M/s Hotel Polo Pvt. Ltd. for constructing a hotel in Agartala. During the construction process, SR Constructions procured materials and subcontracted services, paying GST and claiming Input Tax Credit (ITC) accordingly. However, the tax authorities challenged the ITC claims under section 74(1) of the CGST Act, arguing that the ITC availed for works contract services in constructing an immovable property violated section 17(5) of the CGST Act. After a series of appeals, the matter was brought before the High Court of Tripura.

Issue:

The primary issue was whether SR Constructions was entitled to claim ITC on the GST paid for works contract services used in the construction of an immovable property, which the tax authorities claimed was in violation of section 17(5) of the CGST Act.

The Court Judgment:

The High Court of Tripura sided with SR Constructions, ruling that the company was indeed entitled to claim ITC for the GST paid on works contract services. The court found that the demand and penalty imposed were ultra vires and contrary to the provisions of the CGST Act, thereby quashing the appellate authority's order that had confirmed the tax authorities' demand.

Impact Analysis of this Judgment:

This judgment reinforces the right of construction companies engaged in works contract services to claim ITC for GST paid on goods and services used in constructing immovable properties, provided they are for further supply of works contract service. It clarifies the application of section 17(5)(c) of the CGST Act, potentially reducing litigation on similar issues and aiding in the smoother operation of businesses within the construction industry.

Building Roads Infrastructure & Construction Pvt. Ltd.

Authority for Advance Rulings – Andhra Pradesh [AAR NO. 07/AP/GST/2021, dated 18-Jan-2021] (AAR-AP) :(2021) 37 TLC (GST) 032

Where applicant, a sub-contractor, who has been awarded work for construction, erection, commissioning, widening of roads and completion of bridges by main contractor, seeks to know as to whether it is eligible to take ITC on inward supply of JCB, road roller, grader, etc., since road roller, grader, etc., does not fall under works contract services as per section 17(5)(c) and these goods received by applicant are made use of for construction of an immovable property as a sub-contractor, clauses of blocked credits under section 17(5)(c) & (d) are not applicable and, thus,

applicant is eligible for claiming Input Tax Credit subject to requisite conditions as mentioned in section 16(2).

Conclusion and Request for Relief

It is hereby humbly submitted that in our opinion we are not liable for the reversal of ITC based upon the above-mentioned submission and the relevant case laws.

Section 17(5) of the GST laws generally restricts the ITC on works contract services when supplied for the construction of an immovable property, except when it is an input service for further supply of works contract service. This specific clause allows for the claim of ITC on works contract services when such services are used as an input service for further supply of works contract services in a B2B context. Our engagement with the subcontractor and the subsequent supply to our client precisely fits this description. The input services received from our subcontractor are integral to, and directly consumed in, the taxable output service provided to our client. This direct linkage underscores the eligibility for ITC as envisioned by the exception in Section 17(5)(c). We have maintained meticulous records, including contracts, tax invoices, and proof of tax payments, which unequivocally demonstrate the chain of supply and the corresponding tax liabilities. These documents are available for your review and substantiate our claim for ITC under the specified exception.

In our assertion that the Input Tax Credit (ITC) claimed aligns with the provisions of the GST Act, we emphasize the specific exception outlined in Section 17(5)(c). This legal provision carves out an exception for works contract services supplied in a Business to Business (B2B) scenario, permitting the claim of ITC when such services are an input for the further supply of works contract services. Our engagement involves the procurement of services from subcontractors, which are then seamlessly integrated into the larger scope of works contract services we provide to our clients. This direct and integral use of subcontracted services in our output supply not only enhances the value and quality of the final service delivered to our clients but also falls squarely within the legislative intent of enabling efficiency and specialization within the sector through the utilization of ITC.

The eligibility for ITC under this specific scenario is designed to prevent the cascading effect of taxes and promote the seamless flow of credit within the supply chain, which is a foundational principle of the GST regime. By ensuring that input services directly related to the output supply of works contract services are eligible for credit, the law acknowledges and supports the intricate business models that underpin our industry's operations. Our transaction with the subcontractor, thus, is not merely a cost but a vital input that is transformed and utilized in the provision of taxable output services, making it a quintessential case for the applicability of the Section 17(5)(c) exception.

With the above explanation, we seek to illuminate the nuanced yet clear compliance of our ITC claim with the legal framework established by the GST Act. It is with respect and a collaborative spirit that we request the department to reevaluate the initial assessment in light of the detailed arguments and the documentary evidence we have provided. Our commitment to transparency and adherence to the GST regulations is unwavering, and we believe that our case exemplifies the legitimate use of ITC as envisioned by the law.

We respectfully request the department to reconsider the notice in light of the arguments and evidence presented. We are fully cooperative and prepared to provide any additional documentation or clarification as may be required.

Your favourable consideration of this prayer would not only redress the immediate issue at hand but also reinforce the broader principle that the tax system should serve the ends of justice and fairness, aligning with the legislative intent behind the GST and ITC.

We would request you to drop the Notice and we would further request your lordship to provide us “Opportunity of Being Heard” before passing any order against us.

Thanks and Regards

For ……..

Authorised Signatory

Mobile no. .....

e-mail id .....