



JUDGEMENT

GTA Can Claim ITC on Supplier's Tax Invoices U/S 16 When GST Is Charged on Exempt Services

In Case Of:	M/s. EFC Logistics India (P.) Ltd.
Issued By:	Odisha AAR
Order No:	08/ODISHA-AAR/2023-24
Order Date:	24 th May 2024

OBSERVATIONS

- M/s. EFC Logistics India (P.) Ltd. the applicant provides transport services as a GTA and plans to partner with M/s. Govinda Transport Pvt. Ltd. for vehicle rentals, which include fuel, driver salary, and related expenses.
- The Applicant claims that the rental services received are exempt from GST under Entry No. 22(b) of Notification No. 12/2017-Central Tax (Rate), asserting that the supplier should not charge GST.
- The petitioner sought clarification on two points:
 - Can the vehicle owner charge GST on rental/hire services under the Forward Charge Mechanism despite the exemption?
 - If yes, can the Applicant, being a GTA, claim ITC based on the supplier's invoices under section 16 of the CGST Act, 2017?

FINDINGS

➤ The Odisha AAR assessed whether the supplier can levy GST on rental/hire services under the Forward Charge Mechanism. They found this question is not covered under Section 95(a) of the CGST Act, 2017, as advance rulings pertain to supplies undertaken or proposed by the applicant. Since the applicant is not the supplier of the rental services, this question is outside the scope of the advance ruling.

➤ As a GTA registered under GST and paying 12% GST under the Forward Charge Mechanism, the petitioner is eligible for ITC, provided the conditions and limitations in Section 16 of the CGST Act, 2017 are met.

➤ Based on the above, the AAR ruled the following:

- **GST Chargeability:** The question of the supplier charging GST under the Forward Charge Mechanism is not applicable as it pertains to the inward supply of services not undertaken by the petitioner.
- **ITC Claim:** The petitioner, as a registered GST individual, can avail ITC on any goods or services used in business, in compliance with Section 16 of the CGST Act, 2017.

N J JAIN & ASSOCIATES

CHARTERED ACCOUNTANTS

WWW.NJJAIN.COM

info@niteshjain.co.in

079-4002-2628