

AUTHORITY FOR ADVANCE RULING, TAMIL NADU
No.207, 2nd FLOOR, PAPJM BUILDING, No.1, GREAMS ROAD,
CHENNAI 600 006.

ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE TNGST ACT, 2017

Members present:

Shri C. Thiyagarajan, I.R.S., Commissioner/Member (CGST), Office of the Commissioner of GST and Central Excise, Audit I Commissionerate, Chennai - 600 101.	Shri B. Suseel Kumar, B.E., MBA., Joint Commissioner/Member (SGST), Authority for Advance Ruling, Tamil Nadu, Chennai - 600 006.
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Advance Ruling No. 18/ARA/2026, dated 04.03.2026

1. *Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/TNGST Act 2017, within 30 days from the date on which the ruling sought to be appealed is communicated.*

2. *In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-*

- (a) On the applicant who had sought it in respect of any matter referred to in sub-section (2) Section 97 for advance ruling.*
- (b) On the concerned officer or the Jurisdictional Officer in respect of the applicant.*

3. *In terms of Section 103(2) of the Act, this Advance Ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*

4. *Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*

5. *The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (herein referred to as the Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.*

GSTIN Number, if any / User id	33AAICA9905D1ZV
Legal Name of Applicant	M/s. AGS HEALTH PRIVATE LIMITED
Trade Name of Applicant	M/s. AGS HEALTH PRIVATE LIMITED
Registered Address / Address provided while obtaining user id	Door No.141, 5 th Floor, Prince Infocity II, Kottivakkam Village, Rajiv Gandhi Road, Kandanchavadi, Chennai – 600 096.
Details of Application	GST ARA – 01 Application dated 30.07.2025
Jurisdictional Officer Concerned Officer	State: Thiruvanniyur Assessment Circle, Chennai (South) Division. Center: Chennai South Commissionerate, Perungudi Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for A Category B Description (in brief)	Service The Applicant operates in Information Technology Enable Services (ITES) sector. They are registered under the Tamil Nadu Shops and Establishment Act 1947. They render Business Process Outsourcing (BPO) services to their customer base outside India with different time zones necessitates the applicant to operate in various shifts throughout the day. The office hours of the applicant predominantly extend beyond 8.00 PM. As per the T.N. Shops & Establishment Act, 1947, it is mandatory for the applicant to provide transportation facility for women employees working in shifts and provide for adequate protection of safety for women employees. No recovery of cost is made by the applicant from the employees for transportation facilities provided to the women employees. The applicant has not availed ITC on the tax paid on services of leasing/hiring/renting of motor vehicles for transportation of employees. With effect from 01.02.2019, a proviso after section 17(5)(b)(1) of CGST Act, 2017 and TNGST Act, 2017 was inserted which stated that 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 this employees under any law for the time being in force. The applicant thus preferred advance ruling for admissibility of ITC in respect of GST paid on the services of leasing/hiring/renting of motor vehicles for transportation of employees.
Issue/s on which advance ruling required	1. Admissibility of input tax credit paid or deemed to have been paid.

Question(s) on which advance ruling is required	<p>Q1.In the facts and circumstances of the case, whether tax paid on Input services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to ensure safety and security of women employees as per Tamil Nadu Shops and Establishments Act, 1947 is eligible to be availed as input tax credit (ITC)?</p> <p>Q2.If eligible, can entire ITC be availed by the applicant for providing the transport facility in all shifts considering the safety of women as mandated under the Tamil Nadu Shops and Establishments Act, 1947?</p> <p>Q3.If eligible, can ITC be availed for services received from the date of introduction of proviso to Section 17(5)(b)(iii) of CGST Act 2017?</p>
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M/s. AGS HEALTH PRIVATE LIMITED Door No.141, 5th Floor, Prince Infocity II, Kottivakkam Village, Rajiv Gandhi Road, Kandanchavadi, Chennai – 600 096 (hereinafter called as the “Applicant”) are registered under the GST Act with GSTIN: 33AAICA9905D1ZV. The Applicant operates in Information Technology Enable Services (ITES) sector. They are registered under the Tamil Nadu Shops and Establishment Act 1947. The applicant renders Business Process Outsourcing (BPO) services to their customer base outside India with different time zones necessitates the applicant to operate in various shifts throughout the day. The office hours of the applicant predominantly extend beyond 8.00 PM. As per the T.N. Shops & Establishment Act, 1947, it is mandatory for the applicant to provide transportation facility for women employees working in shifts and provide for adequate protection of safety for women employees. No recovery of cost is made by the applicant from the employees for transportation facilities provided to the women employees. The applicant has not availed ITC on the tax paid on services of leasing/hiring/renting of motor vehicles for transportation of employees.

2.1 With effect from 01.02.2019, a proviso after section 17(5)(b)(1) of CGST Act, 2017 and TNGST Act, 2017 was inserted which stated that 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 this employees under any law for the time being in force. In this back drop, the applicant has sought advance ruling on the following question:

- Q1.In the facts and circumstances of the case, whether tax paid on Input services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to ensure safety and security of women employees as per Tamil Nadu Shops and Establishments Act, 1947 is eligible to be availed as input tax credit (ITC)?
- Q2.If eligible, can entire ITC be availed by the applicant for providing the transport facility in all shifts considering the safety of women as mandated under the Tamil Nadu Shops and Establishments Act, 1947?
- Q3.If eligible, can ITC be availed for services received from the date of introduction of proviso to Section 17(5)(b)(iii) of CGST Act 2017?

2.2 The Applicant has made a payment of application fees of Rs.5,000/- each under sub rule (1) of Rule 104 of CGST Rules, 2017 and SGST Rules, 2017.

3.1 Under the 'Statement of relevant facts', the Applicant has stated that they are a Private Limited Company incorporated under the Companies Act, 2013 on 12.11.2010 in Chennai, Tamil Nadu, and a registered taxpayer, having their principal place of business at Door No.141, 5th Floor, Prince Infocity II, Rajiv Gandhi Salai, Chennai- 600 096, Tamil Nadu.

3.2 The applicant operates in Information Technology Enabled Services (ITES) Sector. It is a captive service provider engaged in providing business process outsourcing (BPO) services to its associate enterprises AGS Health LLC, headquartered in Washington, USA. In India, the applicant has office presence in the State of Tamil Nadu, Andhra Pradesh, Telangana, Rajasthan, Karnataka and Gujarat. The applicant operates as Non-Software Technology Part of India (Non-STPI) in the state of Tamil Nadu.

3.3 The nature of services being rendered to the customer base outside India with different time zones necessitates the applicant to operate in various shifts throughout the day. The office hours of the applicant predominantly extend beyond 8.00 P.M.

3.4 The applicant is registered under the Tamil Nadu Shops and Establishment Act, 1947 for all the places of business located in Tamil Nadu. As per the Tamil Nadu Shops and Establishment Act, 1947 read with the relevant rules and notifications prescribed therein, it is mandatory for the applicant to provide transportation facility for women employees working in shifts and provide for adequate protection of safety for women employees (hereinafter referred to as "said statutory requirement"). The relevant extract of the notification (G.O.Ms.NO.61, Labour Welfare and Skill Development Department (K2) dated 02.06.2022) issued by the Government of Tamil Nadu under the said act is reproduced below:

"Para 6 of the Notification:

"Women employees shall not be required to work beyond 8.00 p.m. on any day in normal. Provided that the employer after obtaining written consent of the women employees shall allow them to work between 8.0 pm and 6.00 am, subject to providing adequate protection of their dignity, honour and safety.

"Para 7 of the Notification:

Transport arrangements shall be provided to the women employee who works in shifts. A notice to this effect shall be exhibited at the main entrance of the establishment indicating the availability of transport"

In this regard, copies of the notification issued by the Government of Tamil Nadu under the said Act and the Tamil Nadu Shops and Establishment registration certificate of the applicant were enclosed as Annexure -A and Annexure -B respectively.

3.5 In compliance with the said mandate, the applicant procures services of leasing/renting/hiring of motor vehicles for passenger transportation and provides the same to this employees working in shifts. Sample copies of agreement entered with the suppliers of the said service were enclosed. Further, the applicant stated that they have an internal policy wherein it is mandatory (subject to exceptional situations) for employees logging in

from 5.00 PM IST, logging in from 6.30 AM to use only the cab facility provided by the applicant for commuting to/from, workplace and home. Further, home drop facility is provided to employees who work in the 1 PM to 10 PM shift.

3.6 Further, in terms of the internal policy formulated by the applicant, it mandates that in no circumstances shall a women employee working in night shift be the last person to be dropped and a male employee shall accompany women employees at all times till the point of drop. The intention behind the same is to ensure that women employees never travel alone without a fellow male employee accompanying them. In the absence of male employees, adequate security escort will be provided to travel along with women employees. Hence, as matter of principle, the applicant provides transportation facility to all the employees who are working in shifts by taking measures to provide adequate protection of the dignity, honor and safety of women employees. This has been followed with a view to complying with the rules and regulations of Tamil Nadu Shops and Establishment Act, 1947 mentioned above, wherein it is necessary to provide transportation facility with adequate safety for women employees working in shifts.

3.7 The Applicant states that no recovery of cost is made by the applicant from the employees for transportation facilities provided to them. The applicant has been receiving services of leasing/hiring/renting of motor vehicles for transportation of employees and paid tax on the same, either on reverse charge mechanism (RCM) basis or on payment of consideration to suppliers (where the supplier has raised invoice on forward charge basis).

3.8 With effect from 01.02.2019, a proviso after Section 17(5)(b)(i) of CGST Act, 2017 and TNGST Act, 2017 was inserted which stated that "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". The applicant had adopted a position to not avail ITC for tax paid on services of leasing/hiring/renting of motor vehicles for transportation of employees out of abundant caution. The applicant has therefore requested this ruling for a clarity on the eligibility of ITC in respect of GST paid on above mentioned input services availed by the applicant.

4.1 Under the 'Interpretation of law' by the Applicant, they have stated that Article 368(12A) of the Constitution of India defines 'goods and services tax'. Further, Section 16 of the CGST Act, 2017, provides for the eligibility and conditions for taking input tax credit (ITC), and Section 17 of the CGST Act, 2017 discusses about the 'Apportionment of credit and blocked credits'.

4.2 The applicant further submits that vide CGST (amendment) Act, 2018, section 17(5) was substituted as follows:

"Notwithstanding anything contained in sub-section (1) of section 16 and subsection (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) -----

(ab) -----

(b) 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 good or services or both or 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.

4.3 The Applicant stated that prior to the amendment, ITC on rent a cab, life insurance, health insurance was blocked except when it is obligatory for an employer to provide the said services to employees under any law for the time being in force or when it is used for rendering outward taxable supply of same category of goods or services. The Applicant further stated that after the said amendment, the term "rent a cab" was removed from Section 17 of CGST Act, 2017 and substituted by the term "leasing, renting or hiring of motor vehicles, vessels or aircrafts: in Section 17(5)(b) of the CGST Act, 2017. Furthermore, a separate proviso was introduced at the end of Section 17(5)(b) of CGST Act 2017.

4.4 Prior to the amendment, the applicant states that they have not availed ITC on hiring of motor vehicles. The reason for the same being the ambiguity as to what would constitute "Rent a Cab". The term "Rent a cab" is not specifically defined anywhere in the Act. The applicant had a genuine doubt as to whether the service of hiring of means of transport received by the applicant would fall under the ambit of "Rent a cab". Further, due to lack of clarity regarding the applicability of proviso to whole of Section 17(5)(b) of the CGST Act, 2017 and out of abundant caution, the applicant had continued to follow the position earlier adopted even after introduction of proviso to Section 17(5)(b) of the CGST Act, 2017.

4.5 However, Circular No.172/04/2022-GST dated 6.07.2022 was issued wherein it was clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of Section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section (5) of Section 17 of the CGST Act. The applicant stated that on perusal of the above, it is clear than when services mentioned in

clause (b) of Section 17(5) are availed by a company for fulfilling its statutory obligation as an employer, GST paid on the same is allowable as credit and it cannot be considered as blocked credit specified under Section 17(5). Further stated that the intention behind insertion of proviso to Section 17(5)(b) of CGST Act, 2017 was to widen the scope of input tax credit and make ITC available on those goods or services that are obligatory for an employer to provide to its employees under any law for the time being in force.

4.6 The applicant stated that the ITC can be availed as long as the conditions prescribed in Section 16 of CGST Act, 2017 are satisfied and the supply is not categorized as blocked credit under Section 17 of CGST Act, 2017. Further stated that in the instant case, it is evident that the services of leasing or renting or hiring of passenger transportation vehicles is used in the course and furtherance of applicant's business. It is beyond a stretch of doubt that transportation of employees to the place of business is vital for conducting the business activities. Further stated that the applicant is obligated and mandated under the Tamil Nadu Shops and Establishment Act, 1947 to provide safe transportation facilities to women employees in all shifts. Further, fulfilment of a statutory compliance i.e., compliance with the provisions of Tamil Nadu Shops and Establishment Act, 1947 bestowed upon the applicant is critical to the continued sustenance of business operation.

4.7 The applicant cited various judicial cases and advance rulings in support of their contention like M/s. Rane TRW Steering System Ltd., Vs. Commissioner of Central Excise and Central Tax, Chennai Outer Commissionerate [2018 (2) TMI 1745 – Madras High Court], M/s. Troika Pharmaceuticals Limited [2022 (9) TMI 200 – AAR, Gujarat], M/s. Access Healthcare Services (P) Ltd., [2023 (8) TMI 1205 – AAR, Tamil Nadu], M/s. CMA CGM Global Business Services India (P) Ltd., Order No.15/ARA/2024 dated 15.07.2025 of AAR, Tamil Nadu, etc.

4.8 The applicant states that no recovery of cost has been made by the applicant for provision of the said facility. They further stated that ITC was not availed on leasing/renting/hiring of motor vehicles for transportation of women employees prior to the introduction of proviso to Section 17(5)(b) of the CGST Act, 2017, and that they believe that ITC should be permitted to be availed for the period beginning from the date of introduction of proviso to 17(5)(b) of the Act, *ibid*, even though the time limit for availing ITC may have elapsed as the applicant would be at a substantial loss because GST paid on aforementioned services is a sizable amount.

4.9 The applicant states that the issuance of separate clarification through Circular no.172/04/2022-GST not only provided clarity on the eligibility of ITC in such cases, but also made it clear that the said credit would be eligible from the time of introduction of said proviso, because the ambiguity that existed earlier got removed altogether only after issuance of the said circular. Accordingly, the applicant contended that the benefit of ITC cannot be denied on procedural grounds without any fault on the part of the applicant, and to this effect, they relied on the judgment pronounced by the Hon'ble Supreme Court in the case of M/s. Auriay Chamber of Commerce [1986 (25) E.L.T 867 – Supreme Court]. In view of the above, the applicant is of the view that GST paid on transportation facility with adequate safety measures provided to employees working in shifts would be eligible to be availed as ITC and the said ITC can be availed from the date of introduction of proviso to Section 17(5)(b)(iii) of CGST Act, 2017 with effect from 1st February 2019.

4.10 The applicant falls within the administrative jurisdiction of 'STATE'. Remarks has been received from the State jurisdictional authorities. It has been stated that there is no pending proceedings on the question raised by the applicant in the advance ruling application. The Central jurisdictional authorities have not furnished their remarks. Hence, it is construed that there are no pending proceedings against the applicant on the questions raised by them in their advance ruling application.

5. Personal Hearing

5.1 The applicant was given an opportunity to be heard in person on 20.01.2026 vide this office memorandum No.41/2025, dated 09.01.2026. Mr. N.Sudhaarshan, Chartered Accountant and Mr. M.Pandiyam, Chartered Accountant appeared as Authorized Representatives (AR) of the applicant for the hearing.

5.2 They reiterated the submissions made under the application for Advance Ruling filed by them. The AR further stated that the rulings already pronounced by the Tamil Nadu Authority for Advance Rulings in respect of M/s. Access Healthcare Services (P) Ltd., and M/s. CMA CGM Global Business Service (India) Pvt., have precedence value in this regard.

5.3 When the members enquired whether the company recovers any amount from the women employees towards the transportation facility extended to them, the AR replied in negative. To a specific query relating to the transportation facility extended exclusively to the male employees, the AR stated that they would furnish an undertaking to the effect that ITC shall not availed in respect of such cases, and they further added that they have an in-built 'App' to monitor the day-to-day transportation requirements of the company.

5.4 As undertaken by them, the applicant vide their letter dated 21.01.2026 furnished additional submission, wherein they stated the following :-

- *"We procure procures services of leasing/renting/hiring of motor vehicles for passenger transportation and provide the same to our employees working in shifts in compliance with the legal mandate under Tamil Nadu Shops and Establishment Act, 1947 read in connection with notification G.O Ms No.61, Labour Welfare and Skill Development Department (K2) dated 02 June 2022.*
- *As per the legal mandate, transport arrangement must be provided by employer to women employees who work in shifts. Further, the employer must provide adequate protection of their dignity, honour and safety.*
- *Hence, we follow a practice that in no circumstances shall a women employee working in night shift be the last person to be dropped and a male employee shall accompany women employees at all times till the point of drop. In the absence of male employees, adequate security escort will be provided to travel along with women employees.*
- *As directed during the course of personal hearing, we hereby undertake that ITC on expenses relating to cabs with exclusively male employees have not been availed by us and will not be availed by us in the future as well."*

6. Discussion and Findings

6.1 We have carefully considered the submissions made by the applicant in the advance ruling application, the submissions made during the personal hearing held on 20.01.2026 and the additional submissions made vide their letter dated 21.01.2026.

6.2 The Applicant is before us seeking Advance ruling on the following questions;

1. *In the facts and circumstances of the case, whether tax paid on input Services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to ensure safety and security of women employees as per Tamil Nadu Shops and Establishments Act, 1947 is eligible to be availed as input tax credit (ITC)?*
2. *If eligible, can entire ITC be availed by the applicant for providing the transport facility in all shifts considering the safety of women as mandated under the Tamil Nadu Shops and Establishment Act, 1947?*
3. *If eligible, can ITC be availed for services received from the date of introduction of proviso to Section 17(5)(b)(iii) of CGST Act, 2017?*

6.3. We find that the Applicant operates in Information Technology Enabled Services (ITes) sector, and is engaged in providing business process outsourcing (BPO) services to its associate enterprise M/s. AGS Health LLC, headquartered in Washington, USA. The Applicant submits that the nature of services being rendered to the customer base outside India with different time zones necessitates the applicant to operate in various shifts throughout the day.

6.4. The Applicant further submits that they are registered under the Tamil Nadu Shops and Establishment Act, 1947 for all the places of business located in Tamil Nadu. As per the Tamil Nadu Shops and Establishment Act, 1947 read with the relevant rules and notifications prescribed therein, it is mandatory for the Applicant to provide transportation facility for woman employees working in shifts and to provide for adequate protection of safety for women employees. The relevant extract, i.e., paras 6 and 7 of the notification (G.O Ms No.61, Labour Welfare and Skill Development Department (K2) dated 02 June 2022) issued by the Government of Tamil Nadu were reproduced as below :-

“(6) Women employees shall not be required to work beyond 8.00 p.m. on any day in normal. Provided that the employer after obtaining written consent of the women employees shall allow them to work between 8.00 pm and 6.00 am, subject to providing adequate protection of their dignity, honour and safety.”

“(7) Transport arrangements shall be provided to the women employee who works in shifts. A notice to this effect shall be exhibited at the main entrance of the establishment indicating the availability of transport.”

6.5 In compliance with the said mandate, the Applicant is procuring services of leasing / renting / hiring of motor vehicles for passenger transportation and provides the same to its women employees working in shifts. Accordingly, the Applicant requests for a ruling to have clarity on the eligibility of ITC in respect of GST paid on above mentioned input services availed by the applicant. The applicant states that no recovery of cost has been made by the applicant for provision of the said facility. They further stated that ITC was not availed on leasing/renting/hiring of motor vehicles for transportation of women employees prior to the introduction of proviso to Section 17(5)(b) of the CGST Act, 2017, and that they believe that ITC should be permitted to be availed for the period beginning from the date of introduction of proviso to 17(5)(b) of the Act, *ibid*, even though the time limit for availing ITC may have elapsed as the applicant would be at a substantial loss because GST paid on aforementioned services is a sizable amount.

6.6 We now proceed to answer the queries one by one, and the first query of the applicant is *"In the facts and circumstances of the case, whether tax paid on input Services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to ensure safety and security of women employees as per Tamil Nadu Shops and Establishments Act, 1947 is eligible to be availed as input tax credit (ITC)?"*. In this regard, we note that while section 16 of the CGST Act, 2017 provides for the eligibility and conditions for taking input tax credit, Section 17 of the said act relates to Apportionment of credit and blocked credits. We find that the provisions of Section 17(5)(b) of the CGST Act, 2017 deals with the issue question. Further, we find that, clauses (a) and (b) of subsection (5) of Section 17 has been substituted, with effect from 01.02.2019, vide Notification No 02/2019 dated 29.01.2019, as per CGST (Amendment) Act, 2018 (No. 31 of 2018) dated 29.08.2018. The relevant extract of the provisions of Section 17 of the CGST Act 2017, as amended, is reproduced below for ease of reference;

"Section 17. Apportionment of credit and blocked credits.

(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)-----

(b) 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."

6.7 On perusal of the above provisions of Section 17(5) of the CGST Act, 2017 we find that the Input tax credit on services of **leasing, renting or hiring of motor vehicles** shall not be available as the same falls under the category of blocked credit. However, the proviso to the said sub-section provides 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.

6.8 Further it is seen that CBIC vide circular No. 172/04/2022 dated 06.07.2022, has clarified that the proviso after sub clause (iii) of clause (b) of subsection (5) of section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section(5) of section 17 of the CGST Act. The extract of the said circular is reproduced below;

Sl No	Issue	Clarification
	Whether the proviso at the end of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b)?	<p>1. Vide the Central Goods and Service Tax (Amendment Act) 2018, clause (b) of sub-section (5) of section 17 of the CGST Act was substituted with effect from 01.02.2019. After the said substitution, the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act provides as under: "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.</p> <p>2. The said amendment in sub-section (5) of section 17 of the CGST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub-section (5) of section 17, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21.07.2018. It had been clarified "that scope of input tax credit is being widened, and it would now be made available in respect of Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force."</p> <p>3. Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section (5) of section 17 of the CGST Act.</p>

6.9 In the instant case, as per the provisions of the Tamil Nadu Shops and Establishment Act 1947, it is obligatory on the part of the applicant to provide transport facilities to women employees working beyond 8.00 PM. The Applicant has submitted a copy of the Notification (G.O. Ms No. 61, Labour Welfare and Skill Development Department (K2), 2nd June 2022) issued by the Government of Tamil Nadu. Further, the said Notification stands extended for a period of three years with effect from 05.06.2025 vide Notification [G.O. (D). No.207, Labour Welfare and

Skill Development Department (K2), 8th May 2025]. The paras relevant to the instant case, are reproduced below for ease of reference;

"(6) Women employees shall not be required to work beyond 8.00 P.M. on any day in normal circumstances:

Provided that the employer after obtaining written consent of the women employees shall allow them to work between 8.00 P.M. and 6.00 A.M. subject to providing adequate protection of their dignity, honour and safety.

(7) Transport arrangements shall be provided to the employee who works in shifts. A notice to this effect shall be exhibited at the main entrance of the establishment indicating the availability of transport.

6.10 Accordingly, once it has become obligatory on the part of the taxpayer to extend such facilities, as stipulated under the Notification issued by the Government of Tamil Nadu dated 02.06.2022, we find that as clarified under the CBIC Circular dated 22.07.2022, the applicant is eligible to avail credit of the GST paid on input Services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to ensure safety and security of women employees, in view of the proviso to Section 17(5) of the CGST Act, 2017, subject to satisfying and fulfilling the eligibility and conditions provided under Section 16 of the CGST Act, 2017.

6.11 With respect to the second query of the applicant, i.e., *"If eligible, can entire ITC be availed by the applicant for providing the transport facility in all shifts considering the safety of women as mandated under the Tamil Nadu Shops and Establishment Act, 1947?"*, we find that, and as already discussed in detail above, the Input tax credit on services of **leasing, renting or hiring of motor vehicles** shall not be available as the same falls under the category of blocked credit and the same becomes eligible for availment as per the proviso to the said sub-section which provides 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. Hence, in the instant case the Input tax credit shall be available to the applicant on the tax paid on services of **leasing, renting or hiring of motor vehicles for providing transport facilities to women employees only who are arriving or leaving workplace between 8.00 P.M to 6.00 A.M** as the same has been made obligatory vide the Notification of Government of Tamil Nadu cited above.

6.12 With regard to the third query, i.e., *"If eligible, can ITC be availed for services received from the date of introduction of proviso to Section 17(5)(b)(iii) of CGST Act, 2017?"*, we find that though clause (b) of subsection (5) of Section 17 has been substituted, as per CGST (Amendment) Act, 2018 (NO. 31 of 2018) dated 29.08.2018, the same was brought into effect from 01.02.2019, vide Notification No.02/2019 dated 29.01.2019. In this regard, we find the said obligation was mandated on the employers by the Government of Tamil Nadu originally vide Notification G.O. Ms. No. 60, Labour and Employment (K2) dated 28th May 2019. Hence, we are of the considered opinion that the input tax credit on leasing, renting or hiring of motor vehicles meant for transportation of women employees between 8.00 pm to 6.00 am shall be available to the applicant **from 28.05.2019 onwards**. However, it is to be noted that availment of such ITC shall be subject to satisfying and fulfilling the eligibility and conditions as stipulated under Section 16 of the CGST Act, 2017.

6.13 We find that the applicant has made the following submissions with regard to their claim that the ITC should be permitted to be availed for the prior period as well. They contend that the issuance of separate clarification through Circular no.172/04/2022-GST not only provided clarity on the eligibility of ITC in such cases, but also made it clear that the said credit would be eligible from the time of introduction of said proviso, because the ambiguity that existed earlier got removed altogether only after issuance of the said circular. Accordingly, the applicant contended that the benefit of ITC cannot be denied on procedural grounds without any fault on the part of the applicant, and to this effect, they relied on the judgment pronounced by the Hon'ble Supreme Court in the case of M/s. Auriay Chamber of Commerce [1986 (25) E.L.T 867 – Supreme Court]. In view of the above, the applicant is of the opinion that GST paid on transportation facility with adequate safety measures provided to employees working in shifts would be eligible to be availed as ITC and the said ITC can be availed from the date of introduction of proviso to Section 17(5)(b)(iii) of CGST Act, 2017 with effect from 1st February 2019.

6.14 In this regard, we reiterate our findings in para 6.12 that the input tax credit on leasing, renting or hiring of motor vehicles shall be available to the applicant from **28.05.2019 onwards**, i.e., the date of the original Notification issued by the Government of Tamil Nadu, under which it was made obligatory on the part of the employers to provide transportation facilities to women employees working in shifts even though the provisions of Section 17(5)(b), as amended, came into effect from **01.02.2019 onwards**. We would also like to reiterate the fact that the said availment of input tax credit shall be subject to satisfying and fulfilling the eligibility and conditions provided under Section 16 of the CGST Act, 2017.

6.15 At this juncture, we take note of the Applicants' submissions that the input tax credit should be permitted to be availed for the prior period as well, even though the time limit for availing ITC may have elapsed, and that the same should not be denied on procedural grounds. As per the scheme of things under GST, as far as it relates to availment of ITC, sub-section (4) to Section 16 of the CGST Act, 2017, prescribes the conditions relating to the time-limit for availing ITC in clear terms as follows :-

“(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 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.”


We are of the considered opinion that the aforesaid provision cannot be undermined as being just 'procedural in nature', as claimed by the Applicant, in view of the fact that the same is not just part of the rules made under the statute, but is very much part of the statute itself, i.e., Section 16(4) of CGST / TNGST Acts, 2017. Accordingly, unless a relaxation or an exception, is provided under the statute, as in the case of (i) proviso to Section 16(4), or (ii) by way of insertion of Section 16(5), the availment of ITC is bound strictly by the time limit prescribed under Section 16(4) of the CGST Act, 2017. In view of the above, we are of the opinion that the case law cited by the Applicant, i.e., 1986 (25) E.L.T 867 – Supreme Court, involving M/s. Auriay Chamber of Commerce, do not have relevance to the instant case. Therefore, despite the fact that the input tax credit on leasing, renting or hiring of motor vehicles for providing transport facilities by the employer to women employees is available to the applicant from 28.05.2019

onwards, the same shall strictly subject to satisfying and fulfilling the eligibility and conditions provided under Section 16 of the CGST Act, 2017.

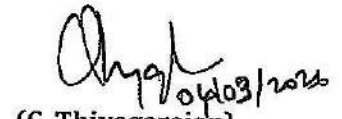
7. In view of the above, we rule as under:-

RULING

1. Yes, the applicant is eligible to avail input Services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to ensure safety and security of women employees as per Tamil Nadu Shops and Establishments Act, 1947 subject to satisfying and fulfilling the eligibility and conditions provided under Section 16 of the CGST Act, 2017.
2. Input tax credit shall be available to the applicant only on the tax paid on services of leasing, renting or hiring of motor vehicles for providing transport facilities to women employees who are arriving or leaving workplace between 8.00 P.M to 6.00 A.M.
3. The aforesaid ITC is available to the applicant from 28.05.2019 onwards, however the same is subject to satisfying and fulfilling the eligibility and conditions provided under Section 16 of the CGST Act, 2017.


(B. Suseel Kumar)
Member (SGST)




(C. Thiyagarajan)
Member (CGST)

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Copy submitted to :

1. The Principal Chief Commissioner of GST & Central Excise,
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2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.
3. The Commissioner of GST & Central Excise,
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Copy to :

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Integrated Building for Commercial Taxes
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