

Advance Ruling Authority Mumbai
PROCEEDING SHEET

TIN.....
PERIOD: 2021-22

NAME OF THE APPLICANT: M/s. India Item Society (24/2021-22)

DATE	Summary of action, action taken, order given, document taken for case file, name & designation of the officer, signature of the dealer attending and taking note of orders given by the officer.	Page No
04.01.2022	<p>Preliminary e-hearing dated 04.01.2022</p> <p>Preliminary e-hearing was held today. The Authorized representative of the applicant, Mr. Ammey Kuware Learned Deputy Manager, Shri Hemant Vastani Learned CA and Smt. Seema Shrivastav CEO were present. The Jurisdictional officer was absent.</p> <p>Application is not admitted. The question asked is as under: -</p> <p>Question:-</p> <p>Due to Pandemic and uncertainty, the exhibitors who paid the advance space rentals in FY 19-20 (including GST) to society needs refund back now and accordingly based on the facts and submissions explained herein above and now exhibition is postponed to be held in December 22, the limitation period u/s 34 of CGST Act 2017 will expire in September 23 and accordingly refund of GST to participants whether will not hit by limitation period u/s 34 of CGST Act 2017 with respect to the year when advance was received because no supply is made and tax invoice is not issued nor the exhibitors took credit of GST in their tax returns because it was a advance payment only and they can take credit of GST on the basis of tax invoice only.</p> <p>An advance is received by applicant for a Service contract which got cancelled subsequently. The applicant has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns.</p> <p>Since ITME Society does not have any other income source other than exhibition and due to postponement of exhibition, there was no income for last 2 years and society won't have income until next event. ITME Society should get GST credit without any time limit. For e.g. If India ITME Society decide not to organize the event in December 2022 due to Covid 2019 and we are of considered opinion that India ITME Society has paid the GST tax on the advance received from the party and the party has not</p>	

availed the tax credit because of certain restriction as envisaged in section 16 of the CGST Act 2017. Under the circumstances, the India ITME Society should refund the amount to their customer members with GST and the society should either get tax refund or deduct the amount of GST paid on such transaction from their future tax obligation without any time constraints mentioned in Section 34 of CGST Act 2017.

Section 97(2) reads as under :

section 97(2)

"The question on which the advance ruling is sought under this Act, shall be in respect of,-

- (a) Classification of any goods or services or both;*
- (b) Applicability of a notification issued under the provisions of this Act;*
- (c) Determination of time and value of supply of goods or services or both;*
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) Determination of the liability to pay tax on any goods or services or both;*
- (f) Whether applicant is required to be registered;*
- (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term."*

The question asked is not covered by scope of 97 (2) of GST Act. The applicant is detailed hearing in this respect. The applicant failed to prove under which clause of the above section the said question is covered. Hence the application cannot be admitted.



RAJIV MAGOO
(MEMBER)



T. R. RAMNANI
(MEMBER)