

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU  
NO.206, 2<sup>ND</sup> 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:**

Smt. D. Jayapriya, I.R.S., Additional Commissioner/ Member(CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. A.Valli, M.Sc., Joint Commissioner/Member(SGST), Office of the Commissioner of Commercial Taxes, Chennai-600 006.
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**Advance Ruling No. 10/ARA/2024 Dated: 30.05.2024**

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 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) of 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 an 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	33AAJCA1885H1ZN
Legal Name of Applicant	M/s. Access Healthcare Services Private Limited
Trade Name of Applicant(Optional)	M/s. Access Healthcare Services Private Limited
Registered Address / Address provided while obtaining user id	Kochar Technology Park, SP-31A, Ambattur Industrial Estate, Chennai – 600 058.
Details of Application	Form GST ARA – 01 Application Sl.No.85/2023/ARA, dated 12.04.2023
Concerned Officer	State: Ambattur Industrial Estate Assessment Circle  Center: Chennai North Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for	
A	Category
B	Description (in brief)
Issue/s on which advance ruling Required	1) Admissibility of input tax credit of tax paid or deemed to have been paid
Question(s) on which advance ruling Is required	1) Whether Input Tax Credit (ITC) is eligible on Contract Staffing Services received by the Applicant?

M/s. Access Healthcare Services Private Limited, Kochar Technology Park; SP-31A, Ambattur Industrial Estate, Chennai – 600 058 (hereinafter called as the applicant) are registered under the GST Act with GSTIN: 33AAJCA1885H1ZN. The applicant is a company incorporated in India under the Indian Companies Act, having its registered office at Chennai, Tamil Nadu and engaged in the business of providing Information technology (IT) and Information technology Enabled Services (ITeS) for health sector. The company offers business process outsourcing, applications services, and robotic process automation tools to healthcare providers, payers, and related service providers.

2. The applicant has preferred this application seeking Advance Ruling on the following question:

- 1) Whether Input Tax Credit (ITC) is eligible on Contract Staffing Services received by the Applicant?

3. The applicant submitted a copy of challan dated 23.03.2023 evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

**4. Statement of relevant facts, submitted by the Applicant :**

4.1. The Applicant states that being in the service sector, particularly in the IT/ITeS space, human resources form the backbone of the Applicant's activities. Technically qualified resources are hence a key to the operations of the business of the applicant.

4.2. Considering the present volatile job market, the applicant has been finding it extremely onerous to identify, train, recruit and retain suitable resources. Hence, the applicant is considering hiring the service of professional contract-staffing firm(s) to avail certain human resource management and related services.

4.3. Such firm(s) ('Staffing Firm') would issue tax invoices on the applicant towards the services rendered, along with applicable Goods and Service Tax. The services rendered fall under SAC 998513 – *Contract Staffing Services*, leviable to GST at 18% (clause 23(iii) of Notification No. 08/2017-Integrated Tax (Rate) dated 28 June 2017).

4.4. In the light of the above facts, the applicant is filing the present application before the Authority for Advance Ruling seeking an Advance Ruling on the question defined under Section 97(2)(d) of the Central Goods and Services Tax Act, 2017 ('CGST Act') which is as under:

*"(d) admissibility of input tax credit of tax paid or deemed to have been paid;"*

**5. On interpretation of law, the applicant states that –**

**Eligibility to avail Input Tax Credit**

5.1. The applicant submitted that as per Section 16 of the Central Goods and Services Act, 2017 ('CGST Act') & Tamil Nadu Goods and Services Act, 2017 ('TNGST Act'), Inputs/ input services should be used or intended to be used in the course or furtherance of the business. The relevant text of Section 16 is hereby reproduced below for reference:-

*"16. (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."*

5.2. The applicant stated that in the light of above mentioned provisions, it shall be noticed that in order to 'avail ITC on any inward supply', the supply should be used in the course or furtherance of business.' This inference finds support in the FAQs on GST published by the CBIC dated 31 March 2017. Relevant question and answer thereto is reproduced below:

"Q 4. Is credit of all input tax charged on supply of goods or services allowed under GST?"

**Ans.** A registered person is entitled to take credit of input tax charged on supply of goods or services or both to him which are used or intended to be used in the course or furtherance of business, subject to other conditions and restrictions."

5.3. The applicant further stated that firstly from the phrase "used or intended to be used", it can be fairly inferred that the entitlement to ITC is dependent on usage or even mere intention of usage of the procured supplies for application in the course or furtherance of business. And next, it shall be relevant to discuss the meaning of the phrase 'in the course or furtherance of business.' The term 'business' has been defined under Section 2(17) of CGST Act & TNGST Act in the following manner to cover a wide ambit of activities by way of an inclusive definition:

*"business includes—*

*(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;*

*(b) any activity or transaction in connection with or incidental or ancillary to sub-clause(a);*

*(c) .....*"

5.4. The applicant further stated that the phrase "in the course or furtherance of business". While the said phrase is not defined in the GST Law, the meaning of the phrase, used liberally across past indirect tax legislations, has been subjected to ample commentary and discussions, few of which are reproduced below:

In course of:

As per S.B. Sarkar's Words and Phrases of Excise, Customs & Service Tax. – 4th edition, the expression 'in course of' means 'progress or process of' or shortly 'during'.

In Manek Chowk & Ahmedabad Mfg. Co. Ltd. v. State of Gujarat [1991 (83) STC 84 (Guj.HC)], the assessee had not closed down but merely suspended its business. It made sales of its plant, machinery and stock of its Unit No.2, after getting a scheme sanctioned by the Court, in order to compromise with its creditors. The sales were held to be taxable having been made in the course of its business.

In furtherance of:

The Oxford dictionary explains the meaning of the term 'furtherance' as 'the advancement of a scheme or interest'.

Thus, if an activity is undertaken for the advancement of business it will be treated as in furtherance of business.

5.5. The applicant undertakes that any Input Tax Credit availed would be in due compliance with meeting the conditions laid out in Section 16(2) of the CGST Act, as reproduced below. Therefore, the question of credit eligibility is restricted to Section 16(1).

*"(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 added to his output tax liability, along with interest thereon, 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 of the amount towards the value of supply of goods or services or both along with tax payable thereon.”*

5.6. Based on the above provisions, the applicant submitted the following:

i) That the applicant is engaged in the provision of Information Technology enabled services such as Business Process Outsourcing ('BPO') services for clients in the healthcare industry in the United States of America, also referred to as revenue cycle management. The said activities of the Applicant certainly qualified under clause (a) of the definition of the term 'businesses' cited supra.

ii) That the applicant proposes to avail the subject services with the motive of identifying potential candidates for hiring as employees, thereby further its business operations. Hence, the said procurement of services is clearly for use or intended to be used by the Applicant in the course or furtherance of business.

#### **Credit not blocked**

5.7. The applicant further submitted that Section 17(5) of CGST Act & TNGST Act provides the cases where ITC is admissible. Relevant text of Section 17(5) is hereby reproduced below for reference:

*(5) 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 and other conveyances except when they are used—*

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

*(A) further supply of such vehicles or conveyances ; or*

*(B) transportation of passengers; or*

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

*(iii) rent-a-cab, life insurance and health insurance except where —*

*(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or*

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

(iv) Travel benefits extended to employees on vacation such as leave or home travel concession;..”

5.8. The applicant stated that the Input Tax Credit on the transaction under question does not fall under any of the above-mentioned categories, and hence is not blocked by Section 17(5).

#### Judicial precedents on credit eligibility under erstwhile indirect tax regime

5.9. The applicant submitted that considering a culmination of the erstwhile indirect tax legislations and because the CENVAT Credit provisions closely resembled ITC conditions under GST, it can be fruitful to rely upon principles laid down by various judicial fora on the matter.

5.10. In the ruling of the Hon'ble Bombay High Court in Coca Cola India Pvt. Ltd. [2009 (15) STR 657(Mum)] and also by the Hon'ble Apex Court in Doypack Systems (Pvt.) Ltd. [1988 (36) ELT 201(SC)], it was held that the expression “business” as found in the definition of “input service” had wide importation and that would include all such activities which might have both direct as well as indirect significance, and it can cover all the activities that are related to the functioning of the business. Specifically on credit eligibility on manpower supply, reliance is placed on the ruling of the Hon'ble CESTAT Allahabad in M/s. Unicure India Ltd. [2017 (3) TMI 706].

5.11. Referring to the above cited judgments the applicant submitted that from the above precedents, it can be justly inferred that under the scheme of indirect taxation, seamless flow of tax credits on business expenses has always been the legislative intent and therefore the ITC on the proposed transaction should be eligible.

#### Industry understanding under GST Law.

5.12. The applicant further submitted that under the erstwhile CENVAT Credit regime, the definition and ambit of terms such as “input service” underwent multiple amendments to keep pace with the business realities and representations from the trade and industry. Initially, nexus with the final manufactured goods/output services rendered was envisaged to be a condition for availment of credit. Subsequently, realizing business needs and to achieve the true purpose of credit flow in an indirect tax framework, the strength of the nexus theory was

diluted to allow credit on procurements as long as they were in connection of the business.

5.13 The applicant submitted that the GST Law, seen as a culmination of the erstwhile regime and learnings from the numerous judicial precedents therein, has therefore largely simplified the provisions on credit availment, staying true to the objective of preventing cascading effect of taxes. That in this light, the industry ushered in the GST regime with earnest belief of the credit provisions enhancing business commercials as also greatly expanding the tax net by bringing earlier unorganized players into the organized sector.

5.14. The applicant submitted that the Indian Staffing Federation is the apex body representing the Staffing industry / Private Employment Services that is authorised to discuss with government agencies and other trade bodies on behalf of the staffing industry/ private employment services. The ISF constitute of several professional organized staffing companies, including the proposed vendor(s) of the Applicant.

5.15. That as cited in The Economic Times dated on 01-June-2018, in the pre-GST regime, the unorganized contract staffing sector had a pricing advantage as they did not pay service tax. However, Post-GST implementation the availability of input tax credit (ITC) has prompted companies to increase their hiring of such temporary staffing services and is fundamentally restructuring the entire staffing business in India. Rituparna Chakraborty, the President of the Indian Staffing Federation, also remarked many employers prefer contractual engagements and the benefit of input credit has helped organized staffing companies to be more competitive. Previously one could not claim anything on the service tax charged but after GST one can set off the entire amount paid on outsourced staffing cost against the GST payable, which has stepped up the flexi-staffing model. Staffing firms like Team Lease Services, Ikyo Human Capital Solutions, Randstad, Kelly Services, Adecco and Spectrum Talent Management have reported up to 60% growth in business since GST roll-out. A copy of the article is attached as Annexure-D.

5.16. The applicant submitted that considering the above, it is their submission that while the industry perceived ITC availability as a game-changer for the sector, the same must be eligible for the applicant on the subject transaction.

6. The applicant is under the administrative control of State Tax Authority. The concerned authorities of the Center and State were addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the Advance Ruling application and for comments on the issues raised.

6.1 The State jurisdiction Officer viz. the Assistant Commissioner (ST), Ambattur Industrial Estate Assessment Circle reported that no adjudication proceedings under section 17(5) of the TNGST Act is pending against the taxpayer and submitted the following:



- The Taxpayer is doing Information Technology Software Service to foreign countries and is regularly claiming Refund of Unutilised ITC for Export without Payment of IGST under LUT from July 2017 till date.
- Quoting the provisions of Section 17 (5) of the of the TNGST Act the State jurisdiction officer submitted that the GST paid by the Taxpayer on Contract staffing services can be availed as ITC by the Taxpayer which is not a blocked credit as per Section 17(5)(b)(iii) of the TNGST ACT 2017.

6.2 The Joint Commissioner (ST), Intelligence-II has also remarked that no proceedings is pending in their jurisdiction.

6.3 The Central authority has not reported anything, hence it is construed that there is no pending proceedings against the applicant on the issues raised by the applicant in the Advance Ruling application.

7. The Applicant, was given an opportunity to be heard in person on 09.01.2024. Shri. Aravind Baskaran, Chartered Accountant and Abhishek Ganahari, Chartered Accountant who are the Authorized Representatives of the Applicant appeared for the hearing and they reiterated the submissions made in their application. Further they submitted additional submissions, wherein sample services agreement and sample copy of invoices were submitted.

The members requested them to submit input and output services rendered / to be rendered by the applicant, for which it was stated that they would submit at the earliest.

## **8. Additional Submission**

The applicant vide letter dated 20.02.2024 made additional submissions against the advance ruling application. They submitted that with regard to certain documents sought for perusal by the members of the advance ruling during the personal hearing on 09.01.2024 they make the following submissions:

### **8.1. Clarification on the outward supplies provided by Access Healthcare using the human resources of Quess Corp Limited**

The applicant submitted that the Company is in the business of Revenue Cycle Management, which helps hospitals, physicians and healthcare providers. Therefore, the employees of Quess Corp Limited provide the below services:

- a. Assistance in processing transactions like Charge Entry, Payment Posting, Demo Verification.
- b. Medical coding
- c. Follow up on receivables
- d. Denial management

8.2 The applicant further submitted the summary of process of hiring and initial training of employees by the Contract firm as follows:

- The company usually hires around 500 employees per month, primarily fresh college graduates.
- It plans to engage a contract firm who will handle this hiring process on behalf of the company.
- The employees hired will technically be employed by the contract firm during the initial period. Their responsibilities include providing them with necessary training and support.
- After this period, these employees will be officially transferred over to join the Company's employees
- The contract firm provides an invoice for these services to the Company, which includes Goods and Services Tax (GST).

8.3. The applicant submitted that the above arrangement allows the Company to focus on core operations while a specialized firm handles the multifaceted process of hiring and training and the cost for this service is included in the contractor's invoice, which also includes GST.

Scope of Work (SOW) agreed between the Company and Qness Corp Limited

8.4 The applicant submitted that the company has not entered into any agreement with Qness Corp Limited. That they are only at the stage of negotiation and only upon confirmation of GST impact they are likely to enter into agreement with Qness Corp Limited. The applicant have enclosed the Scope of Work (Sow) as Annexure-1 for reference. They further requested to take the records into consideration and provide them a hearing date at the earliest for conclusion of the matter.

8.5 The statement of scope of work submitted as annexure-I by the applicant is perused and reproduced below:

**STATEMENT OF WORK**

This Statement of Work dated (Date). (SOW No 1), is entered into pursuant to the Services Agreement dated 4th March 2022 ("Agreement") executed by and (Client Name) and Qness Corp Ltd..

The terms and conditions of this Agreement will govern this SOW (Scope of Work). Any capitalized term used but not defined in this SOW shall have the same meaning as set out in the Agreement. To the extent that this Statement of Work is inconsistent with or conflicts with the Agreement, this Statement of Work shall amend and supersede those inconsistent or conflicting terms of the Agreement. In all other respects, the Agreement shall remain in full force and effect according to its terms.

The SOW is effective from 23rd May 2022 ("SOW Effective Date") and comprises the following and any attachments/schedules hereto.

1. SERVICE REPRESENTATIVES OF THE PARTIES:

Client Representative Details: VivinAnto

Company Representative Details:

**2. OBLIGATIONS OF THE PARTIES TO THE AGREEMENT**

a. Recruitment

Client will provide clear specifications for the nature of the services required from the Company, in order to help source and recruit the Associates.

Company shall ensure that the Associates have cleared the Company's internal selection processes and meet Client's requirements as specified under the respective SOW.

b. Placement

Client will intimate the locations where the Services of the Associates would be needed.

Client will send a written recommendation to the Company if it wishes to relocate any of the Associates.

c. Replacement of Separated Associate(s)

In the event any Associate, deputed by the Company ceases to perform Services as specified in the Associate request form of his/her own volition for the Client, for no fault of the Client, within forty-five (45) days of deputation, the Company shall forthwith arrange for replacement of the Associate to the Client and the Client shall not have to incur additional sourcing fees that it would have paid had the original Associate continued to perform the required services.

d. Service Log

In order to aid the Company in processing its payroll, Client will intimate the Company in prescribed formats details of Services rendered (attendance, leave, advances given, sums recoverable, reimbursements payable with supporting bills, vouchers) to the Associate by the 25th of every month.

e. Disciplinary action

Client will inform the Company of any acts of misconduct by an Associate immediately and discuss the action steps to be taken, subject to providing the necessary supporting documents.

f. Withdrawal of an Associate Client will request for termination of Associate/s through its designated personnel in case of theft, fraud and acts that constitute moral turpitude. Client will give in writing the details of the theft, fraud etc. along with the supporting documents to the Company for necessary action. On receipt of such a written request, the Company will terminate the Associates immediately. In all other cases, Client may request in writing to the Company for withdrawal of the Associate/s due to any other unsatisfactory reason/ behavior/performance (post completion of performance improvement plan) by providing required notice period as specified under this SOW and/or Agreement. Company's SPOC request Client to duly sign the Employee's exit check list on the associate last

working day as per Schedule – A. The liability on the Client assets' will not be there on the Company upon signing Employee's exit check list.

g. Safety and Health

Client will not assign work of a hazardous nature without prior intimation to the Company and without provision of adequate personal protections including helmet, jacket and boots etc (as applicable).

h. Reimbursements

Any justifiable expense incurred by the Company under this SOW and mutually agreed by and in between the Company and Client, will be reimbursed by Client. Further, Client agrees to reimburse the associates expenses, if any

i. Medical Expenses Upon Client's discretion and instruction, a medical checkup for every Associate can be arranged, expenses of which will be borne by the Client.

j. Background verification

Upon Client's discretion and instruction, background verification for every Associate can be arranged, expenses of which will be borne by the Client.

k. Industry-specific Checks

Upon Client's discretion and instruction, Company shall preform license/permit verifications and fingerprinting for certain positions. Client agrees to pay the Company all related costs associated with providing such Services plus an administrative fee.

l. Reports

Company agrees to provide the reports pertaining to the Associates, as mutually agreed between the Parties from time to time.

m. Additional Services

Company may provide additional services beyond its express obligations under this Agreement at the Client's request. The charges for these services will be at the rate as mutually agreed upon in advance by the Client and the Company. The Client will be responsible for the reimbursement of business expenses incurred by the Company in connection with any additional services requested by the Client.

**3. OBLIGATIONS OF THE COMPANY**

a. The Company will devise suitable selection procedures as per the Associate revulsion form from the Client and ensure that Associates offered have the approval of the Client.

b. The Company may keep its designated personnel at its centers briefed on the service requirements with Associates / Client and ensure responsive service.

c. The Company will ensure that Associate's salaries / reimbursements are processed and reached to the Associates latest by the 2nd working day from the receipt of timely payment from the Client.

d. The Company may review Associate's performance periodically with the concerned Executive or supervisor of Client.

e. The Company personnel will communicate with the Associate's concerned, authorized representative of Client periodically to address any problems and implement solutions to the satisfaction of Client.

f. The Company may make available reports by the Client at regular intervals, as mutually agreed.

g. The Company will respond promptly and responsibly to any charge of misconduct of any kind by Associates and ensure speedy resolution of the matter in consultation with Client, as per Company policy.

h. The Company will ensure to issue identity card to each and every Associate.

i. The Company will ensure to transfer salary online to all the Associates and statutory fees to authorities, subject to receipt of the timely payment including salaries of the Associates from the Client

9 On the request of the applicant a second personal hearing was accorded on 27.03.2024. Sri Aravind Baskaran, Chartered Accountant and authorized representative of the applicant appeared for the personal hearing and reiterated the submissions made in the application and during the First Personal hearing held on 09.01.2024. Further they submitted additional submissions providing clarification on the outward supplies provided by the applicant using the human resources of Quess Corp Limited and the scope of work agreed between the applicant and Quess Corp Limited along with sample copies of the invoices issued by Quess Corp Limited in similar transactions.

**DISCUSSION AND FINDINGS:**

10.1 We have carefully considered the submissions made by the applicant in their application, submissions made during the personal hearing and the comments furnished by State Tax jurisdictional officer.

10.2 The applicant submits that they are engaged in the business of providing Information Technology (IT) and Information Technology Enabled Services (ITeS) for healthcare sector. They offer business process outsourcing, applications services, and robotic process automation tools to healthcare providers, payers and related service providers. That being in the IT/ITes space, human resources form the backbone of their activities and technically qualified resources is a key to the operations of the business of the applicant. They further state that the job market is volatile and it is found extremely onerous to identify, train, recruit and retain suitable resources. Therefore, the applicant is considering hiring the service of professional contract –staffing firm(s) to avail certain human resource management and related services. Such firm(s) ('Staffing Firm') would issue tax invoices on the

applicant towards the services rendered, along with applicable Goods and Service Tax. The services rendered fall under SAC 998513 – *Contract Staffing Services*, leviable to GST at 18% (clause 23(iii) of Notification No. 08/2017-Integrated Tax (Rate) dated 28 June 2017). The applicant has sought for the ruling on the following question:

*Whether Input Tax Credit (ITC) is eligible on Contract Staffing Services received by the Applicant?*

10.3 With regard to the issue raised by the applicant in the advance ruling application filed by them, we find that the availment of ITC is governed by the provisions of Section 16 & 17 of the CGST Act, 2017. Whereas Section 16 of the CGST Act, 2017 provides for the Eligibility and conditions for taking input tax credit, Section 17 of the said Act deals with apportionment of credit and blocked credits.

10.4 As per section 16(1) of CGST Act in order to avail ITC on any inward supply, the supply should be used *in the course or furtherance of business*. The applicant submits that they are engaged in the provision of Information Technology enabled services such as Business Process Outsourcing (BPO) services for clients in the healthcare industry in the United States of America, also referred as revenue cycle management. The said activities of the applicant is certainly a business. The applicant has submitted that they propose to avail the subject services from their supplier with the motive of identifying potential candidates for hiring as employees, thereby further its business operations. Hence, the said procurement of services is clearly for use or intended to be used by the applicant in the course or furtherance of business. In this case, the services received by the applicant are man power supply received from the supplier which is used for provision of service to their customers. Therefore, the condition that the services shall be used for furtherance of business is satisfied.

10.5 Further the applicant has submitted that they undertake that any Input Tax Credit availed would be in due compliance with meeting the conditions laid out in Section 16(2) of the CGST Act, 2017, reproduced below:

- (i) The applicant is in possession of the tax invoice or debit note, as the case may be,
- (ii) He has received the goods or services or both,
- (iii) 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 utilization of input tax credit admissible in respect of the said supply; and
- (iv) He has furnished the return under section 39
- (v) 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, the input tax credit on the said tax component shall not be allowed

In the instant case the above conditions (i) to (iv) are to be fulfilled by the applicant to be eligible for claiming the input tax credit. The condition mentioned at sl no (v) is not relevant in the instant case as the same pertains to availment of input tax credit on capital goods and plant and machinery, whereas the supplies to be received by the applicant are contract staffing services.

10.6. Further we agree with the applicants' submission that the GST paid by the applicant on availing contract staffing services is not a blocked credit as per section 17(5)(b)(iii) as below:

(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:-

.....  
**(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):

.....  
**(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:

.....  
(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:

**(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.

.....  
**(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.

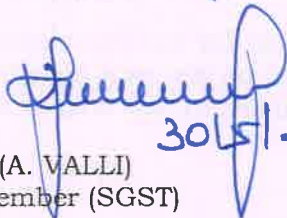
10.7 We find that in as much as the transaction under question does not fall under any of the above-mentioned categories the availment of ITC on the transaction under question is not blocked by Section 17(5) of the CGST Act, 2017.

10.8 In view of the foregoing discussion we find that in as much as the applicant is engaged in the business of providing Information Technology (IT) and Information Technology Enabled Services (ITeS) for healthcare sector and intends to avail the contract staffing services in the course or furtherance of business, the applicant is eligible to avail the input tax credit on the said contract staffing services subject to the fulfilment of conditions specified under section 16 of the CGST Act, 2017 for availment of input tax credit.

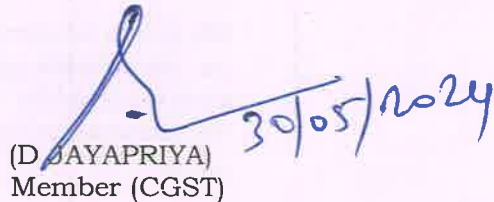
11. Based on the above discussions, we rule as under:

### RULING

The applicant is eligible to avail the input tax credit on contract staffing services under section 16(1) of GST Act,2017 subject to the fulfilment of conditions specified under the said section, as discussed in para 10 above.

  
(A. VALLI)  
Member (SGST)  
30/5/2024



  
(D. JAYAPRIYA)  
Member (CGST)  
30/05/2024

To

M/s. Access Healthcare Services Private Limited  
Kochar Technology Park,  
SP-31A, Ambattur Industrial Estate,  
Chennai – 600 058.

//by RPAD//



Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Commissioner of GST & Central Excise,  
Chennai North Commissionerate,  
No. 26/1, Mahatma Gandhi Road,  
Nungambakkam, Chennai – 600 034.
2. The Assistant Commissioner (ST),  
Ambattur Industrial Estate Assessment Circle,  
Integrated Building for Commercial Taxes and Registration,  
Room No. , III – Floor, Government Farm Village,  
Nandanam, Chennai – 600 035.
3. Master File/ Spare – 2.