

# TAX INFO

*Dated 04/10/2021*

Latest update on GST Law: Information regarding **ITC not to be reversed in case of loss of Inputs in Manufacturing process** based on the **Judgement issued by Madras High Court.**

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<b>Name of Petitioner</b>	ARS Steels & Alloy International Pvt. Ltd
<b>Name of Respondent</b>	State Tax Officer
<b>Court</b>	HC-Madras
<b>Date of Judgement</b>	24.06.2021
<b>Appeal No.</b>	W.P.No.2885 of 2021

## **Facts of the Case:**

The petitioner is engaged in the manufacture of MS Billets and Ingots. MS scrap is an input in the manufacture of MS Billets and Ingots, in turn, constitutes an input for manufacture of TMT/CTD Bars. There is a loss of a small portion of the inputs, inherent to the manufacturing process.

The impugned order seeks to reverse a portion of the ITC claimed by the petitioners, proportionate to the loss of the input during manufacturing process as per Section 17(5)(h) of the Act. which relates to goods lost, stolen, destroyed, written off or disposed by way of gift or free samples.

## **Findings of the Court:**

Section 17(5)(h) indicates loss of inputs that are quantifiable, and involve external factors or compulsions. A loss that is occasioned by consumption in the process of manufacture is one which is inherent to the process of manufacture itself. There is no dispute about the fact that every manufacturing process would automatically result in some kind of a loss such as evaporation, creation of by-products, etc.

In the case of **Rupa & Co. Ltd. V. CESTAT, Chennai (2015 (324) ELT 295)**, a Division Bench of the Court noticed that amount of consumption of the input was unavoidable in the manufacturing process and held that CENVAT Credit should be granted on the original amount of input used in spite of the fact that the entire amount of input would not amount in the finished product.

## **Decision of the Court:**

Keeping the same view, the Court ordered that the reversal of ITC involving Section 17(5)(h) by the revenue, in cases of loss by consumption of input which is essential to manufacturing loss is misunderstood, as such loss is not covered by the situations indicated under Section 17(5)(h).

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