

# TAX INFO

Dated: 23.09.2020

Latest update on GST Law: Information regarding ITC before the effective date of GST Registration cannot be claimed based on the Judgement issued by Karnataka Authority for Advance Ruling.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication

<b>Name of Applicant</b>	In re Knowlarity Communications Pvt. Ltd.
<b>Name of Court</b>	AAR-Karnataka
<b>Appeal Number</b>	KAR ADRG 62/2019
<b>Date of Judgement</b>	20/09/2019

## Facts of the Case:

The applicant states that he is engaged in the business of providing cloud telephony internet based communication solutions to its customers in different States of India through its offices in such State and has its corporate office in Gurugram, Haryana. The Company is having centralized accounting system and books of accounts are maintained at the Corporate Office located in the State of Haryana. The Company, in order to save itself from losing the amount of input tax credit of intra-State Karnataka GST, which is charged by the telecom operators on Company in the state of Karnataka, has got itself registered under the GST Law in the State of Karnataka. The effective date of registration is 01.04.2018.

## Question on which Ruling is sought

Whether or not a registered person under the Goods and Services Tax Act, 2017 can claim eligible input tax credit of goods and services tax paid on input invoices of goods or services procured or availed by a registered person before its effective date of registration under GST, where such inputs are eligible input credits and for the purpose of furtherance of business?

## Contention of Applicant:

the applicant states that it is pertinent to note that ITC is available to a "registered person" if he is in possession of invoices which are issued by the supplier in accordance with section 31 of CGST Act, 2017. A further check that has been imposed by rule 36(2) of the CGST Rules, 2017 to avail ITC which specifies that "all the applicable particulars are contained in said document". If both the said conditions are satisfied, inter-alia other provisions contained under the Act, ITC shall be available to the person.

The applicant is of the view that a person may claim the input tax credit of GST charged on invoices issued by the supplier for a particular financial year on or before the due date of submitting the return under FORM GSTR-3B for the month of September succeeding the financial year to which such invoices pertained. It is not relevant whether the invoice was issued prior to his effective date of registration under the GST Law because the law nowhere puts any such restriction on the registered person which makes him ineligible to claim input tax credit of invoices prior to the date of his registration.

## Observations:

It is very clear that a person who has been granted registration, where the person has applied for registration within 30 days from the date on which he became liable for registration, would be allowed to take credit of input tax in respect of goods held in stock which are intended to be used by that person in the course or furtherance of business. Hence there is no question of allowing credit on the input tax credit charged on the invoices dated prior to the effective date of registration relating to services and even in respect of goods, they must be available in stock as on the day prior to the effective date of registration.

## Ruling:

The applicant is not eligible to claim input tax credit of the tax paid on input invoices of goods or services procured or availed by a registered person before its effective date of registration under GST.

Further, in case of inputs being goods, the applicant is only eligible to claim input tax credit of the tax paid on such goods (inputs) lying in stock on the day previous to the effective date of registration, which are intended to be used in the course or furtherance of business, subject to other conditions and restrictions prescribed in the GST Act and in Rule 40 of the CGST Rules, in case the application for registration has been filed within thirty days from the date on which the applicant became liable for registration under the Act.

**Suresh Aggarwal, Advocate**

**Compliance & Litigation under GST**

**Address:** House No. 54, Pocket A-3, Sector-5, Rohini- 110085

**Phone:**91-9810032846; 011 - 45131427

**Email:**sureshagg@gmail.com

**Website:** <http://www.sureshtaxation.com>