

# AVAILABILITY OF ITC ON CSR ACTIVITIES UNDER GST

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Corporate Social Responsibility(CSR) is a part of compliances where the company is following the good Corporate Governance with a true letter and spirit in order to discharge its social responsibilities. As per Section 135 of the Companies Act,2013, this provision is applicable for every company having Turnover of ₹1000 crore or more or Net Profit of ₹ 5 crore or more or Net Worth of ₹500 crore or more in immediately preceding Financial Year. The Company shall constitute a committee called as “**Corporate Social Responsibility Committee**”. In every Financial Year, the company has to spend at least 2% of the average net profits during 3 immediately preceding Financial Year. If a Company has not completed 3 years from its incorporation, then 2% of the average net profit immediately preceding Financial Year will be considered here. Some examples of the CSR activities are promoting education, reducing carbon footprints, contribution towards protection of environment and health welfare activities, projects related to rural development etc.

## Question Arises:

A company spends the mandatory amount on CSR activities as per Section 135 of the Companies Act,2013 and the main question is that whether the ITC on amount spent for CSR activities is eligible or not.

**(A) Advance Ruling: In case of Polycab Wires Private Limited, no ITC is eligible against expenses incurred on CSR Activities.**

## Brief of the fact:

**Polycab Wires Private Limited-** In this Advance Ruling, it was found that the said company was a dealer of electrical goods. Polycab Wires Private Limited had taken a decision to provide the electrical goods at free of cost to Kerala State Electricity Board for the flood affected people in Kerala as its CSR activities (**restoration of power supply at flood ridden areas**). They gave the instruction to its distributors to dispatch the electrical goods to Kerala State Electricity Board. The distributors raised bills to M/s Polycab Wires Private Limited against such supply of the electrical items to Kerala State Electricity Board. The distributors issued Tax Invoices to Kerala State Electricity Board showing sales value, GST and amount with 100% discount (**hence consideration is not wholly in money, Rule 27 of CGST/KSGST Rules was followed for valuation purpose**). Here, GST liability was fully paid to the Government. M/s Polycab Wires Private Limited had reimbursed the bill raised by their distributors, showed the expenses under the head of “CSR Expenses” and claimed ITC on such supply of goods.



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After that, the company had submitted an application for Advance

Ruling in respect of the query whether the said expenses on CSR would be eligible for ITC credit or not.

#### Remarks and decisions raised by the Authority of Advance Ruling:

The AAR held that the company had distributed the goods at free of cost on CSR Activities (for restoration of power supply at flood ridden areas) and thus, the ITC would not be available as per Section 175(5) of the CGST and KSGST Act. (As per Section 175(5) of the CGST Act, Input Tax Credit shall not be available for "Lost, stolen, or destroyed goods and free samples).

**(B) Advance Ruling: In case of Essel Propack Ltd. Vs. Commissioner of CGST CESTAT Mumbai, ITC is eligible against expenses incurred on CSR Activities.**

#### Remarks raised by Essel Propack Ltd.:

As per Section 175(5) of the CGST Act, Input Tax Credit shall not be available for "Lost, stolen or destroyed goods and free samples. But it was noted that Gift is made voluntarily. But, a company is incurring the expenses on CSR Activities as per Section 135 of the Companies Act, 2013 and it is mandatory not made voluntarily. Hence, CSR expenses are made in the course or furtherance of business. Hence, ITC can be claimed on CSR expenses.

#### Remarks and decision raised by CESTAT Mumbai:

Mumbai CESTAT has allowed the Cenvat Credit in respect of expenditure on CSR and it can be availed by the Company which discharges CSR obligations.

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