

GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD:380009



ADVANCE RULING(APPEAL) NO. GUJ/GAAAR/APPEAL/2023/08
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/02)

Date : 07.12.2023

Name and address of the appellant	:	M/s. IDMC Limited, 124-128, GIDC Estate, Vithal Udyognagar, Anand, Gujarat – 388 121
GSTIN of the appellant	:	24AAACI4631E1Z3
Advance Ruling No. and Date	:	GUJ/GAAR/R/2022/14 dated 14.03.2022
Date of appeal	:	13.04.2022
Date of Personal Hearing	:	06.01.2023 and 26.07.2023
Present for the appellant	:	Hardik Shah C.A.

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘CGST Act, 2017’ and the ‘GGST Act, 2017’) are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. The present appeal has been filed under Section 100 of the CGST Act, 2017 and the GGST Act, 2017 by M/s. IDMC Limited (hereinafter referred to as Appellant) against the Advance Ruling No. GUJ/GAAR/R/2022/14 dated 14.03.2022.

3. The appellant has sought Advance Ruling on the following questions

“1. Whether contract involving supply of equipment/machinery & erection, installation & commissioning services without civil work thereof would be contemplated as composite supply of cattle feed plant under GST regime? If the supplies would qualify as composite supply, what would be the classification of this bundle and applicable tax rate thereon in accordance with Notification No. 01/2017 – CT(Rate) dated June 28, 2017 (as amended).



2. *Whether contract involving supply of equipment/machinery & erection, installation & commissioning services with civil work thereof would be contemplated as works contract service or not. If the supplies would qualify as composite supply of works contract, what would be the classification and applicable tax rate thereon in accordance with Notification No. 11/2017 – CT(Rate) dated June, 28, 2017 (as amended).?”*

4. Briefly, the facts are enumerated below for ease of reference:

5. The appellant has contended that they supply cattle feed plant which includes equipment and machinery as well as erection and installation services thereof with or without civil work; that the intention of the agreement is supply and installation of cattle feed plant and this arrangement does not include any civil work/services; that as per their understanding, their case qualifies to be composite supplies; that their supply would not qualify as ‘works contract service’; that as per definition of works contract, erection, fitting out etc should be carried out for an immovable property. Appellant further stated that in their own case having similar facts, GAAR vide reference order GUJ/GAAR/REFERENCE/2017-18/1 held that supply without civil work would not be contemplated as works contract. Appellant further relied on the case of MOH Uduman and Ors [1991 AIR 1020], T.I. Miller Ltd [1987 (31) ELT 344], Advance Ruling in case of Shilchar Technologies Ltd [GUJ/GAAR/R/07/2021]. Appellant also submitted that plant is not rooted to earth but fixed with the help of nut & bolt for efficient operation. Appellant relied upon ruling of GAAR in case of Air Control and Chemical Engineering Company Ltd [2021-TIOL-85-AAR-GST], NEC Technologies India Pvt Ltd [GUJ/GAAR/R/2020/07] and ruling of Karnataka AAR in case of M/s United Engineering Works [2019-TIOL-250-AAR-GST]. Appellant further submitted that as per the definition of ‘composite supply’, their supply of cattle feed plant along with services would qualify as composite supply and would be classifiable under the heading 8436 attracting GST @12%. In case of supply of cattle feed plant with civil work, the appellant submitted that above supply would result into immovable property and hence would be classifiable as works contract.

6. The Gujarat Authority for Advance Ruling (for short ‘GAAR’), vide Advance Ruling No. GUJ/GAAR/R/2022/14 dated 14.03.2022, ruled as follows:-

“Supply of a functional Cattle Feed Plant, inclusive of its Erection, Installation and Commissioning and related works involved for both the question 1 & 2, is Works Contract Service Supply, falling at SAC 998732 attracting GST levability at 18%.”



7. Aggrieved by the aforesaid advance ruling, the appellant has filed the present appeal.

8. The appellant in their grounds of appeal has submitted that GAAR erred in holding that

(a) there was no merit on the appellant's reliance in their own case having similar facts, on reference order No. GUJ/GAAR/REFERENCE/2017-18/1 wherein GAAR had referred the issue to Appellate Authority for Advance Ruling as the members of GAAR could not finalize their ruling.

(b) the appellant submitted that the GAAR erred in understanding the earlier ruling, wherein the two questions were, viz.

"i) whether supply and installation of plant & machinery including erection & commission services for equipment on turnkey basis without civil services would be contemplated as works contract under GST regime? and

ii) what would be the classification and rate of tax applicable to services provided along with supply of goods in above question when the same is not treated as 'works contract'?"

to which the GAAR concluded that transaction wherein no civil work is involved would not be treated as works contract. GAAR referred the second question to Appellate authority for advance ruling. Therefore, as far as first question is concerned, there is no dispute.

(c) thus, the order of GAAR was issued in violation of norms of judicial discipline as Apex Court in case of Gammon India Ltd [2011 (269) ELT 289 (SC)] has observed that two Tribunals should not take divergent views which will create judicial uncertainty in declaring the law involved on identical issues.

(d) that GAAR only considered the theory of 'test of permanency' for determining the issue and erred in holding that cattle feed plant is an immovable property as once the plant is installed and commissioned, it cannot be shifted to another place without dismantling the parts and accessories.

(e) Appellant relied upon the case of



(i) Solid & Correct Engineering Works and Ors [2010 (252) ELT 481 (SC)] wherein it was held that machine, fixed by nuts and bolts to a foundation to provide wobble free operation to the machine, is not immovable property and

(ii) Sirpur Paper Mills Ltd [2002-TIOL-200-SC-CX] wherein it was held that paper making machine cannot be construed as immovable property since the whole purpose behind attaching the machine to a concrete base was to prevent wobbling of the machine and to secure maximum operational efficiency and also for safety.

9. The appellant further submitted that GAAR departed from their own view on various advance rulings wherein installation and erection without civil work has been held as supply of movable property.

(i) In case of Air Control and Chemical Engineering Company Ltd [2021-TIOL-85-AAR-GST] GAAR observed that supply, testing and commissioning of 160 TR chilled water plant to naval dockyard is composite supply with the principal supply being of goods viz. '160 TR Chilled Water Plant'/'Chiller'.

(ii) Further, in case of NEC Technologies India Pvt Ltd, GAAR vide Advance Ruling No. GUJ/GAAR/R/2020/07 dated 19.05.2020 held that design, development and supply of Automatic Fare Collection (AFC) System does not qualify as works contract as installed AFC System cannot be said to result in emergence of immovable property.

10. Appellant also relied upon the ruling of Karantaka Appellate Authority for Advance Ruling KAR/AAAR-17/2019-20 dated 06.03.2020 wherein it was held that there is no permanency in affixing the detachable sliding and stackable glass and the same does not amount to construction of immovable property. The appellant submitted that 'test of permanency' cannot be the sole reason for concluding the permanency of the item embedded to the earth. That the tests of extent and object of annexation should be taken into due consideration before classifying a property as immovable. In view of above judicial precedents, appellant submitted that the cattle feed plant supplied along with erection and commissioning services without civil work should not be classified as 'works



contract services' since the same does not amount to construction of immovable property.

11. The appellant submitted that their supply would qualify as composite supply of cattle feed plant as it involves various machineries, equipment and services which are naturally bundled and are part of overall system. The appellant further submitted that as per note 4 of Section XVI of Tariff, where a machine including combination of machine intended to contribute together a defined function covered by one of the headings in Chapter 84, whole falls to be classified in the heading appropriate to that function and therefore, cattle feed plant merits classification under Chapter Heading 8436.

12. During the course of personal hearing held on 06.01.2023 and 26.7.2023, the representative of the appellant reiterated the submissions made in the appeal dated 13.04.2022.

FINDINGS :-

13. We have carefully gone through and considered the appeal papers, written submissions filed by the appellant, submissions made at the time of personal hearing, and Advance Ruling given by the GAAR and other materials available on record.

14. The main issue to be decided here is as to whether the contract involving supply of cattle feed plant which involves supply of equipment/ machinery along with erection, installation & commissioning services without civil work thereof would be treated as works contract services or not and rate of GST thereon.

15. As per Clause 6 of Schedule II of CGST Act 2017, Works Contract is a composite supply and same shall be treated as supply of services. The issue under consideration is as to whether the composite supplies by the appellant are works contract service under GST or otherwise.

16. The term 'works contracts' has been defined under Section 2(119) of CGST Act, 2017 as below:



“works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.”

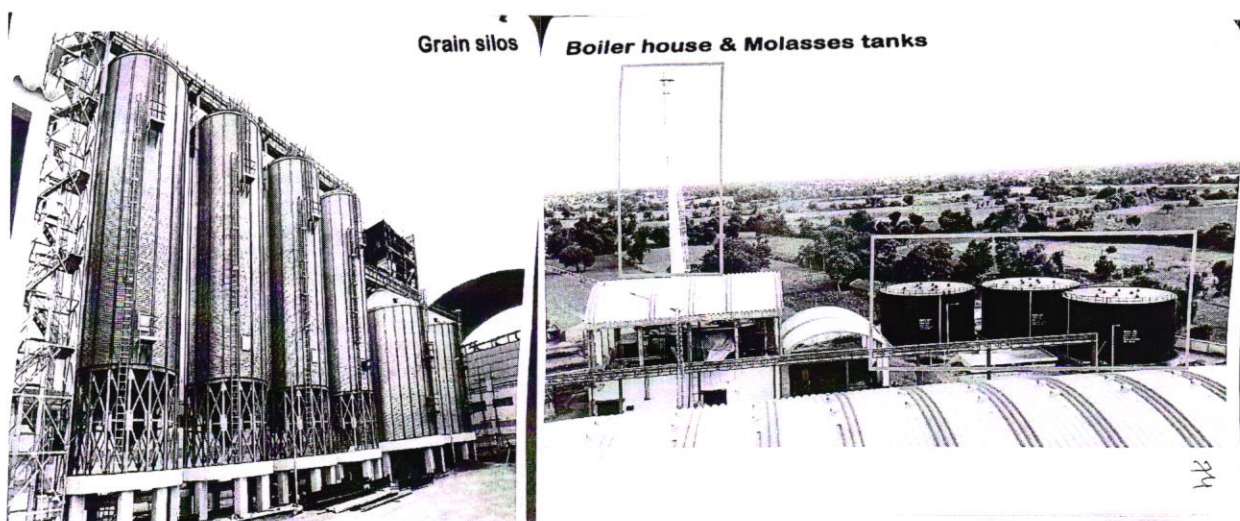
From the above, it is evident that for any supply to be classified under works contract services the same should be with respect to an immovable property.

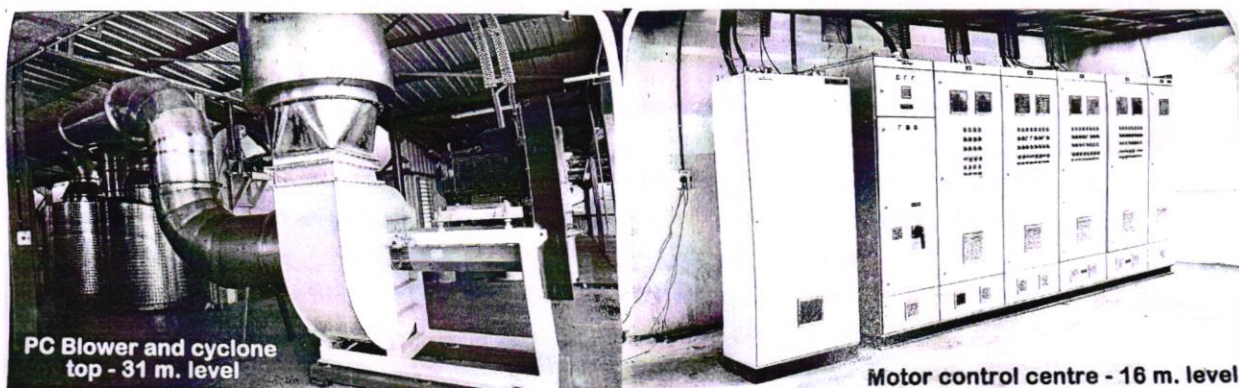
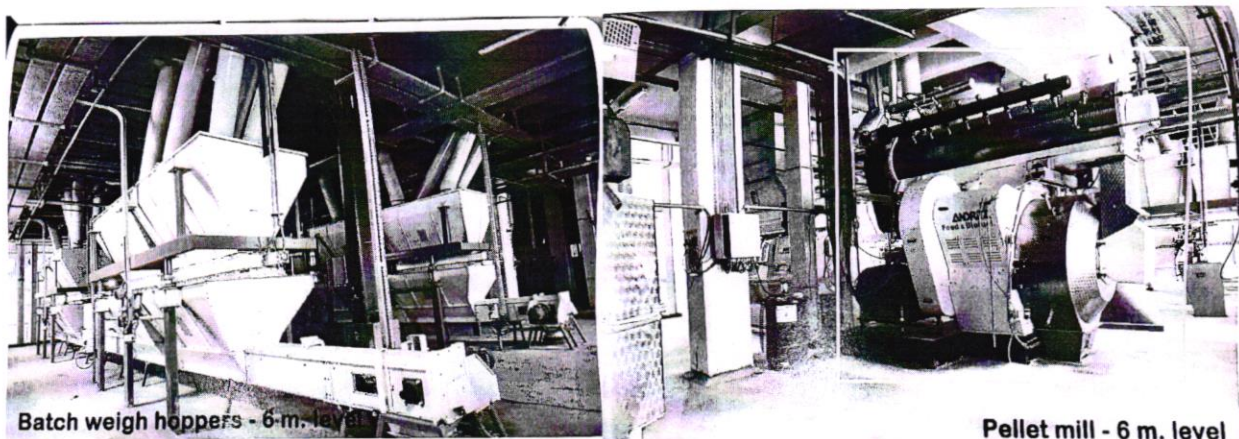
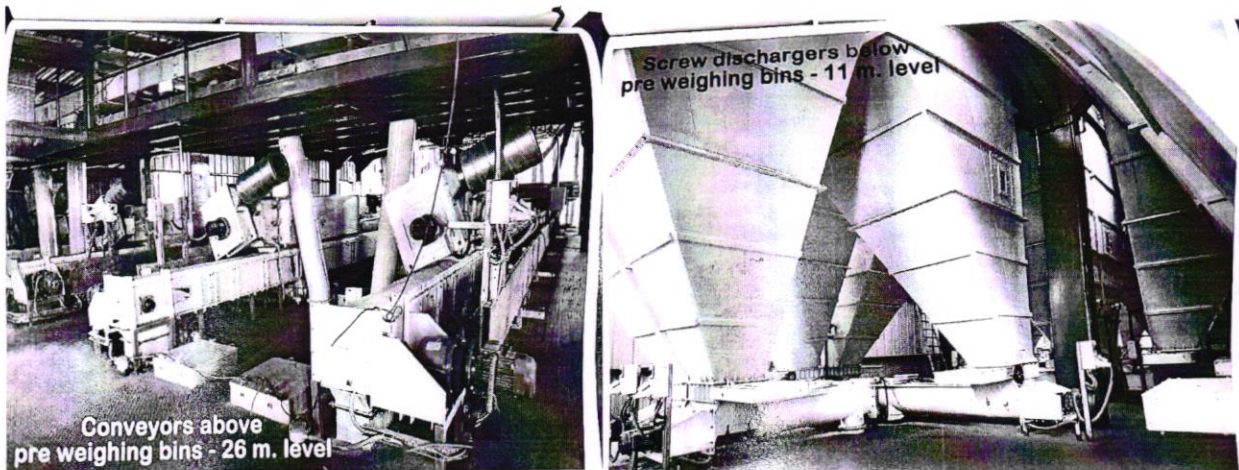
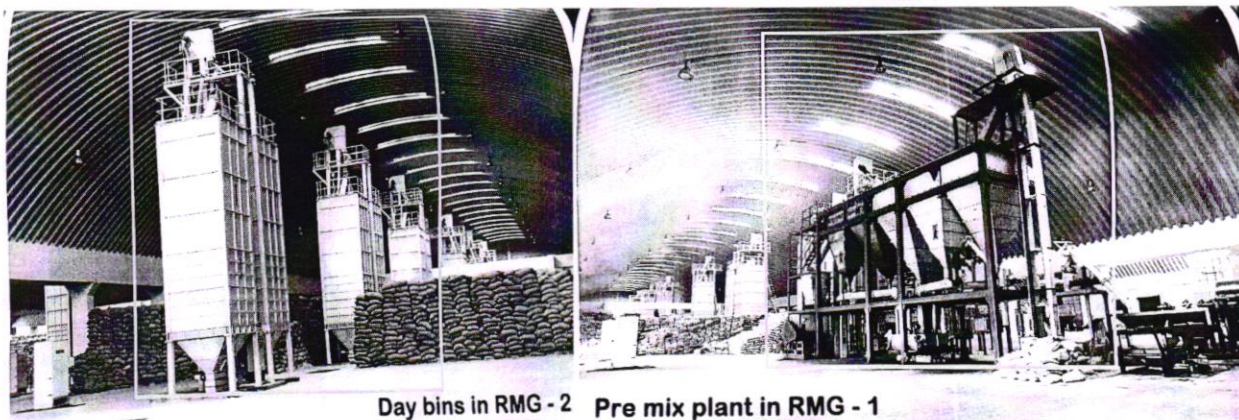
17. The term ‘immovable property’ is not defined under GST law. But the Section 3(26) of the General Clauses Act says ‘immovable property’ shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth. As per Transfer of Property Act, ‘attached to the earth’ means:

- (a) rooted in the earth, as in the case of trees and shrubs;
- (b) imbedded in the earth, as in the case of walls or buildings; or
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which is attached.

18. The issue that now requires examination is, whether the composite supply towards setting up of cattle feed plant, by the appellant without civil work can be treated as ‘immovable property’ and would fall within the ambit of ‘works contract’ as defined supra.

19. The appellant submitted the following photographs of the cattle feed plant supplied by them:





20. The appellant has submitted that they have following responsibilities with respect to plant execution:

- (i) Supply of cattle feed equipment such as pellet mill, hammer mill etc.
- (ii) Supply of other ancillary equipment/ goods such as MS Structural, MS



- Chequered plates, Conveyors for transporting raw material in the plant,
Electrical switch boards and cables etc.
- (iii) Services relating to commission, installation and erection of equipment
 - (iii) Undertaking trial runs on the machinery installed and testing of output received

21. From the above photographs and details of supplies made we find that the various equipments assembled by the appellant at their customer's premises are either fitted with foundation/structures or fitted on foundation/structures. The cattle feed plant which is set up by the appellant at their customer's premises cannot be shifted from one place to another without dismantling of all the equipments, machine parts and accessories and electrical systems. We find that the cattle feed plant supplied involves supply of goods as well as services like installation, erection and commissioning of the plant. Thus, we hold that it fulfills the criteria of an 'immovable property' as cattle feed plant is type of plant and machinery which is attached to earth or permanently fastened to anything attached to the earth.

22. We find that in the case of Duncans Industries Ltd., [CA No. 12580/1997] the Hon'ble Supreme Court of India, apart from dealing with other issues was also examining whether fertilizer plant can be construed as immovable property or not. The Hon'ble SC vide its judgment dated 03.12.1999 held as under:

"Considering the question whether the plant & machinery in the instant case can be construed as immovable property or not, the High Court came to the conclusion that the machineries which formed the fertilizer plant, were permanently embedded in the earth with an intention of running the fertilizer factory and while embedding these machineries the intention of the party was not to remove the same for the purpose of any sale of the same either as a part of a machinery or scrap and in the very nature of the user of these machineries, it was necessary that these machineries be permanently fixed to the ground. Therefore, it came to the conclusion that these machineries were immovable property which were permanently attached to the land in question. While coming to this conclusion the learned Judge relied upon the observations found in the case of Reynolds v. Ashby & Son (1904 AC 466) and Official Liquidator v. Sri Krishna Deo & Ors. (AIR 1959 All. 247). We are inclined to agree with the above finding of the High Court that the plant and machinery in the instant case are immovable properties. The question whether a machinery which is embedded in the earth is movable property or an immovable property, depends upon the facts and circumstances of each case. Primarily, the court will have to take into consideration the intention of the parties when it decided to embed the machinery whether such embedment was intended to be temporary or permanent. A careful perusal of the agreement of sale and the conveyance deed along with the attendant circumstances and taking into consideration the nature of machineries involved clearly shows that the machineries which have been embedded in the earth to constitute a fertiliser plant in the instant case, are definitely embedded permanently with a view to utilise the same as a fertiliser plant. The description of the machines as seen in the Schedule attached to the deed of conveyance also shows without



any doubt that they were set up permanently in the land in question with a view to operate a fertilizer plant and the same was not embedded to dismantle and remove the same for the purpose of sale as machinery at any point of time. The facts as could be found also show that the purpose for which these machines were embedded was to use the plant as a factory for the manufacture of fertiliser at various stages of its production. Hence, the contention that these machines should be treated as movables cannot be accepted. Nor can it be said that the plant and machinery could have been transferred by delivery of possession on any date prior to the date of conveyance of the title to the land. Mr. Verma, in support of his contention that the machineries in question are not immovable properties, relied on a judgment of this Court in *Sirpur Paper Mills Ltd. v. Collector of Central Excise, Hyderabad* (1998 1 SCC 400). In the said case, this Court while considering the levability of excise duty on paper-making machines, based on the facts of that case, came to the conclusion that the machineries involved in that case did not constitute immovable property. As stated above, whether a machinery embedded in the earth can be treated as movable or immovable property depends upon the facts and circumstances of each case. The Court considering the said question will have to take into consideration the intention of the parties which embedded the machinery and also the intention of the parties who intend alienating those machinery. In the case cited by Mr. Verma, this Court in para 4 of the judgment had observed thus : In view of this finding of fact, it is not possible to hold that the machinery assembled and erected by the appellant at its factory site was immovable property as something attached to earth like a building or a tree. The Tribunal has pointed out that it was for the operational efficiency of the machine that it was attached to earth. If the appellant wanted to sell the paper-making machine it could always remove it from its base and sell it." From the above observations, it is clear that this Court has decided the issue in that case based on the facts and circumstances pertaining to that case hence the same will not help the appellant in supporting its contention in this case where after perusing the documents and other attending circumstances available in this case, we have come to the conclusion that the plant and machinery in this case cannot but be described as an immovable property. Hence, we agree with the High Court on this point." [emphasis supplied]

In the present case too we find from the photographs of cattle feed plant submitted by the appellant and also the work order dated 16.01.19 of Deshratna Dr. Rajendra Prasad Dugdh Utpadak Sahakari Sangh Ltd., that the equipments and machineries which formed the Cattle Feed Plant were permanently embedded in the earth with an intention of running the Cattle Feed factory. These machineries are permanently fixed to the ground. Therefore the same are immovable properties which are permanently attached to the land in question.

23. Further in the case of *Municipal Corporation of Greater Bombay & Ors. Vs. Indian Oil Corporation Ltd.* [AIR 1991 SC 686] the Apex Court while considering as to whether a petrol tank resting on earth on its own weight without being fixed with nuts and bolts can be treated as permanently attached to the earth, held as under at para 32 and 33 of the said order:

"32. The tanks, though, are resting on earth on their own weight without being fixed with nuts and bolts, they have permanently been erected without being shifted from place to place. Permanency is the test. The chattel whether is movable to another place of use in the same position or liable to be dismantled and re-erected at the later place?"



If the answer is yes to the former it must be a moveable property and thereby it must be held that it is not attached to the earth. If the answer is yes to the latter it is attached to the earth. For instance a shop for sale of merchandise or eatables is a structure. The same could be sold by keeping in a push cart which has its mobility from place to place. Merely it is stationed at a particular place and business was carried on, it cannot be said that push cart is a shop. The fact that no nuts and bolts were used to imbed the tank to the earth by itself is not conclusive. Though the witness stated that the tank is capable of being shifted, as a fact the tanks were never shifted from the places of erection. By scientific process, the tanks stand on their own weight on the earth at the place of erection as a permanent structure.

33. The petroleum products are being stored through pipes and are taken out by mechanical process. The operational mechanisation also though relevant, is not conclusive. The rateable is based on the rent, which the building or land is capable to fetch. Due to erection of the tanks whether the value of the demised property had appreciated or not, is also yet another consideration. Undoubtedly, when the tanks are erected and used for commercial purposes, the value of the demised property would get appreciated. The annual letting value is capable of increase. However, the rate of increase is a question of fact but the fact remains that the value of the land gets increased by virtue of erection of the storage tanks. Considering from this perspective we have no hesitation to hold that the petroleum storage tanks are structures or things attached to the land within the definition of Sections 3(s) and 3(r) of the Act. Thereby they are exigible to property tax. In this view the appeal is allowed and the judgment of the High Court is reversed and that of the Court of Small Causes is affirmed. But in the circumstances each party is directed to pay and receive their respective costs throughout." [emphasis supplied]

Relying on the ratio laid down in the above case we find the Cattle Feed Plant supplied by the appellant cannot be moved in the same position to any other place without being dismantled and re-erected. Therefore the plant and machineries for Cattle Feed Plant supplied by the appellant is immovable and attached to earth.

24. The appellant we find has relied upon the case of Solid & Correct Engineering Works and Ors [2010 (252) ELT 481 (SC)] wherein it was held that machine, fixed by nuts and bolts to a foundation to provide wobble free operation to the machine, is not immovable property. On going through the above referred judgment, it is observed that goods involved in that case were Asphalt Drum/Hot Mix Plant which is different from the goods in the present case. In the same judgment, following observations were also made by the Hon'ble Apex court.

28. In Triveni Engineering's case (supra), the question that fell for consideration was whether a turbo alternator comprising two components (i) steam turbine and (ii) complete alternator and fixing the same on a platform brought about a new dutiable product. The Court held that the process of fixing the same on a platform and aligning them in a specified manner that turbine was nothing but a manufacturing process and a new commodity come into existence in the said process. The machine so manufactured was, however, erected on a platform specially constructed for that purpose which made the machine immovable in character. The Court declared that while determining whether an article is permanently fastened to anything attached to the earth both the intention as well as the factum of fastening has to be ascertained from the facts and circumstances of each case. The following passage is apposite in this regard :



"There can be no doubt that if an article is an immovable property, it cannot be termed as "excisable goods" for purposes of the Act. From a combined reading of the definition of "immovable property" in Section 3 of the Transfer of Property Act, Section 3(25) of the General Clauses Act, it is evident that in an immovable property there is neither mobility nor marketability as understood in the excise law. Whether an article is permanently fastened to anything attached to the earth requires determination of both the intention as well as the factum of fastening to anything attached to the earth. And this has to be ascertained from the facts and circumstances of each case."

(emphasis supplied)

30. Reliance was placed by Mr. Bagaria upon the decision of this Court in *Quality Steel Tubes (P) Ltd. v. CCE, U.P. - 1995 (75) E.L.T. 17 (S.C.)* and *Mittal Engineering Works (P) Ltd. v. CCE, Meerut - 1996 (88) E.L.T. 622 (S.C.)*. In *Quality Steel Tubes case (supra)* this Court was examining whether 'the tube mill and welding head' erected and installed by the assessee for manufacture of tubes and pipes out of duty paid raw material was assessable to duty under residuary Tariff Item No. 68 of the Schedule being excisable goods. Answering the question in negative this Court held that tube mill and welding head erected and installed in the premises and embedded to earth ceased to be goods within the meaning of Section 3 of the Act as the same no longer remained moveable goods that could be brought to market for being bought and sold. We do not see any comparison between the erection and installation of a tube mill which involved a comprehensive process of installing slitting line, tube rolling plant, welding plant, testing equipment and galvanizing etc., referred to in the decision of this Court with the setting up of a hot mix plant as in this case. As observed by this Court in *Triveni Engineering & Industries case (supra)*, the facts and circumstances of each case shall have to be examined for determining not only the factum of fastening/attachment to the earth but also the intention behind the same.

32. So also in *T.T.G. Industries Ltd. v. CCE, Raipur - 2004 (167) E.L.T. 501 (S.C.)*, the machinery was erected at the site by the assessee on a specially made concrete platform at a level of 25 ft. height. Considering the weight and volume of the machine and the processes involved in its erection and installation, this Court held that the same was immovable property which could not be shifted without dismantling the same.

In view of above, it can be inferred that the Apex Court held that intent of fastening/attachment to the earth needs to be considered; that the specific machine in question can be moved and has indeed been moved after the road construction and repair project, for which it was installed, is completed. However, if a machine is intended to be fixed permanently to a structure embedded to the earth, the movable character of the machine, according to the Supreme Court becomes extinct.

25. The appellant also relied upon the case of *Sirpur Paper Mills Ltd, ibid*, wherein it was held that paper making machine cannot be construed as immovable property since the purpose of attaching the machine to a concrete base was to prevent wobbling and to secure maximum operational efficiency. On going through the above judgment, it is observed that goods involved i.e. paper making



machine is much different from subject goods i.e. cattle feed plant. Further, Supreme Court, in above case, reasoned if someone fix a water pump on a cement base for operational efficiency and also for security it will not make the water pump an immovable property. The above reasoning cannot be applied in case of cattle feed plant as both goods have major different aspects in design, installation, size, specification and operation. Also above case was rendered under the provisions of Central Excise Act, 1944 and rules and provisions made there under are not *para materia* with the GST Act. Therefore, the case of Sirpur Paper Mills also doesn't help the present case of appellant. Further this case was distinguished by Hon'ble Supreme Court of India in the case of Duncans Industries Ltd., Vs. State of U.P. & Ors discussed at para 22 *supra*.

26. On going through the submission made by appellant before this appellate authority and before GAAR, following facts were observed:

- i. All the machines, apparatus, equipment are vital and requisite for the Cattle Feed Plants Operation and the Plant cannot function in their absence.
- ii. The Plant includes equipment receiving raw materials till packaging of finished goods.
- iii. The supply includes Installation and Erection at Customers premises. This involves equipment drawings and their layout for main feed plant, storage silo plant and steam generation plant.
- iv. The supply involves cable trench layout; electrical drawings, ETP drawings including civil construction work, including drawings of civil structure.
- v. The mechanical installation comprises supply and installation of structural platforms and tables.
- vi. The supply comprises final adjustment of the foundations including alignment and dressing of foundation surface, embedding and grouting of anchor bolts and bedplates.
- vii. Appellant shall only after the alignment has been checked by it and witnessed by the Purchaser, then afterwards only, permanently bolt down the equipment to foundations/ structure.
- viii. Appellant shall supply, fix and maintain, at its own cost, during the erection work, all the necessary centering, scaffolding, staging required not only for proper execution and protection of the said work but also for protection of the surrounding plant and equipment.
- ix. Appellant shall supply box type platforms, pipe support bridges/gantry.
- x. Appellant shall install all pipes, valves and specialities being procured from other sources.
- xi. The supply includes Testing and Commissioning of the Plant.
- xii. Supply comprises Installation and Commissioning of Electrical System.
- xiii. The supply includes trial runs of the Plant.

Further, from the contract made by the appellant with Deshratna Dr. Rajendra Prasad Dugdh Utpadak Sahakari Sangh Ltd, the equipments supplied by appellant for cattle feed plant can broadly be categorized into following:



- (i) Silo Section,
- (ii) Raw material intake equipment,
- (iii) Batching, grinding and mixing equipment,
- (iv) Molasses storage & equipment,
- (v) Pelleting equipment,
- (vi) Bagging equipment,
- (vii) Aspiration equipment,
- (viii) Feed mill housing,
- (ix) Product piping/accessories,
- (x) Electrification and instrumentation,
- (xi) Compressor and compressed air piping,
- (xii) HP & LP Steam and
- (xiii) Others/spares/weight bridge/fire extinguishers

The agreement further includes supply of services towards installation and commissioning of the above equipments of Cattle Feed Plant.

27. The orders of advance ruling authorities relied upon by appellant are completely distinguishable from the facts of the present case. In the present case the erection, commissioning and installation of cattle feed plant results in emergence of immovable property. Furthermore, as per Section 103 (1) of CGST Act, 2017, any advance ruling is binding only on the applicant who had sought it and the concerned officer or the jurisdictional officer in respect of applicant.

28. The appellant's reliance on an earlier order passed by GAAR in their own case vide reference order No. GUJ/GAAR/REFERENCE/2017-18/1 dated 13.12.2017 is highly misplaced as GAAR in the referred order could not finalize the ruling and had referred the issue to appellate advance ruling. The appellate authority did not decide the issue for lack of adequate information in the order of GAAR. Further the facts in the said case were different to that of the present case. Further, in the case relied upon, the supply was with regard to setting up of Dairy Plant. In this regard, we refer to the Board Circular No. 177/09/2022-TRU dated 03.08.2022, wherein at para 17.4, on the above issue, it was clarified by CBIC that supply, construction, installation and commissioning of a dairy plant on turn-key basis constitutes as works contract and dairy plant which comes into existence is an immovable property. The relevant portion of above circular is reproduced below:

"17.4 It is clarified that a contract of the nature described here for construction, installation and commissioning of a dairy plant constitutes supply of works contract. There is no doubt that dairy plant which comes into existence as a result of such contracts is an immovable property."



From the above, it is unequivocal that even if appellant's reliance of the above reference order/ruling be considered, Board Circular dated 03.08.2022 has rendered the same as void holding that subject plant is an immovable property and therefore the same cannot be relied upon.

29. From the above discussions, we find that Cattle Feed Plant is an immovable property and supply of goods and services by the appellant for setting up and running of Cattle Feed Plant amounts to composite supply of works contract as defined in clause (119) of Section 2 of CGST Act, 2017.

30. In view of the foregoing, we reject the appeal filed by appellant M/s. IDMC Ltd and uphold the Advance Ruling No. GUJ/GAAR/R/2022/14 dated 14.03.2022 of the Gujarat Authority for Advance Ruling.



(Samir Vakil)
Member (SGST)




(B V Siva Naga Kumari)
Member (CGST)

Place: Ahmedabad

Date: 07.12.2023