

TAMIL NADU STATE APPELLATE AUTHORITY FOR ADVANCE RULING
(Constituted under Section 99 of Tamil Nadu Goods and Services Tax Act 2017)

A.R. Appeal No.08/2025 AAAR

Date: 18.12.2025

BEFORE THE BENCH OF

Shri. Madan Mohan Singh, I.R.S., Principal Chief Commissioner of GST & Central Excise, Member, Appellate Authority for Advance Ruling, Tamil Nadu, Nungambakkam, Chennai- 600 034	Shri. S.Nagarajan, I.A.S., Commissioner of Commercial Taxes, Member, Appellate Authority for Advance Ruling, Tamil Nadu, Chepauk, Chennai - 600 005.
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Order No. AAAR/09/2025 (AR)

(Passed by Tamil Nadu State Appellate Authority for Advance Ruling under Section
101(1) of the Tamil Nadu Goods and Services Tax Act, 2017)

Preamble

1. *In terms of Section 102 of the Central Goods & Services Tax Act 2017/Tamil Nadu Goods & Services Tax Act 2017 ("the Act", in Short), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the Appellant within a period of six months from the date of the Order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the appellant has been given an opportunity of being heard.*
2. *Under Section 103(1) of the Act, this Advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act shall be binding only*
 - (a) *on the Appellant 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 Appellant.*
3. *Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the said advance ruling have changed.*
4. *Under Section 104(1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.*

Name and address of the Appellant	M/s. Shibaura Machine India Private Limited, No.65, P.O. Box No. 5, Chennai-Bangalore Highway, Chembarambakkam, Poonamallee Taluk, Tiruvallur-600 123.
GSTIN or User ID	33AAACL6155E1ZU
Advance Ruling Order against which appeal is filed	Advance Ruling No.31/ARA/2025 dated 18.08.2025
Date of filing appeal	20.09.2025
Represented by	Mr. Ranjit V Jolly, Mr.Gowtham T & Mr.Satish V, Authorised Representatives
Jurisdictional Authority - State	Sriperumbudur Assessment Circle Kancheepuram Division
Jurisdictional Authority - Center	Poonamallee Division, Chennai Outer Commissionerate
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs.20,000/- (CGST-10,000/- and SGST-10,000/-) made vide Challan CPIN 25093300372086 dated 19.09.2025.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *pari materia* and have the same provisions in like matter and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act, 2017.

2 The subject appeal was filed under Section 100(1) of the Tamil Nadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017 (hereinafter referred to 'the Act') by M/s. Shibaura Machine India Private Limited, (hereinafter referred to as 'Appellant'). The Appellant is registered under the GST Act vide GSTIN 33AAACL6155E1ZU. The appeal was filed against the Advance Ruling No.31/ARA/2025 dated 18.08.2025 passed by the Authority for Advance ruling, Tamil Nadu ('AAR') on the Application for Advance ruling filed by the Appellant.

3.1 The Appellant had applied for Advance Ruling vide application ARA-01 dated 04.10.2024, seeking a ruling on the following queries, viz.,

- 1) Whether Input Tax Credit (ITC) is eligible on firefighting system and public health equipment for expansion of factory for manufacturing activity?
- 2) What should be the basis to arrive the timeline to avail ITC on tax invoice raised by Supplier to bill "Advance Component" of the Contract?.

3.2 The AAR vide Ruling No.31/ARA/2025 dated 18.08.2025, ruled as follows :-

1. The taxes under GST paid on the fire-fighting system and public health equipment carried out for expansion of factory for manufacturing activity is not eligible for availment of Input Tax Credit (ITC) by the Appellant, as it is blocked under Sections 17(5)(c) and 17(5)(d) of the CGST/TNGST Acts, 2017.

2. The question of answering the second query on the timeline to avail ITC on the 'Advance component' involved in the instant contract, does not arise, as the main query on availment of ITC on the said contract is answered in negative.

Aggrieved over the said ruling pronounced by the AAR, the Appellant has filed the instant appeal. Under the grounds of appeal as submitted by the Appellant, they have put forth the following points in support of their defence, viz.,

3.3 The Appellant had entered into an agreement for design and construction work for new factory (hereinafter referred to as 'Contract') with M/s. SMCC Construction India Limited. The original Contract sum is INR 90,45,04,483/- (exclusive of GST). The Contract is attached and broadly classified into four categories as given below:

S No	Particulars	Amount (exclusive of GST)	Remarks
1	Civil Works	49,30,65,352	Site Grading and all civil works related to factory building
2	Pre-engineered building ('PEB') works	27,29,21,237	Supply, fabrication and erection of structural steel works and sheeting works
3	Fire Fighting System ('FFS')	4,65,36,401	Supply, installation, testing and commissioning of fire pump equipment, hydrants, sprinkler system, alarms, extinguishers, etc.
4	Public Health Engineering ('PHE')	1,74,81,313	Sanitary fixtures & fittings, sewage system, water supply system, rain water harvesting system, pumps, etc

3.4 The advance ruling was filed with respect to question on eligibility of ITC on invoices raised pertaining to S.no.3 & 4, namely, Fire-fighting system and Public Health Engineering. The images of the above-said works have been attached as Exhibit-3 & Exhibit-4 to the application for appeal, and that the Appellant is of the bonafide intention that input tax credit ('ITC') arising out of invoices being raised on them for the above-mentioned supply is available to them.

3.5 As per Section 16 of Central Goods and Services Act, 2017 ('CGST Act') & Tamil Nadu Goods and Services Act, 2017 ('TNGST Act'), goods or services or both should be used or intended to be used in the course or furtherance of the business. 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.'

3.6 The term 'business' has been defined under Section 2(17) of CGST Act & TNGST Act in below mentioned manner: -

"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)*
- (d) supply or acquisition of **goods including capital goods and services in connection with commencement or closure of business;***
- (e)"*

Accordingly, the Appellant states that any acquisition of capital goods and services in connection with commencement of business is very much a business activity.

3.7 The Appellant states that, when this definition is read with the provisions of Section 16(1) of the CGST Act, as reproduced below :-

*"..... **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.**"*

It can be understood that such procurements which are intended to be used in the course of furtherance of 'business' is eligible for availment of ITC. Based on the above provisions, the Appellant submitted that the Contract in the instant case entered is for supply, installation of Firefighting System and Public Health Engineering in the new factory commissioned for expansion of business activity. That the Appellant should hence be eligible for input tax credit on the inputs & input services used in the course or furtherance of business. Further, the Appellant had also satisfied the other conditions for availing ITC as laid down in Section 16(2) of CGST Act such as possession of tax invoice, receipt of goods/services/both, payment to supplier, etc.

3.8 Since, the eligibility and the conditions for taking input tax credit is established in the aforesaid paragraphs, the Appellant wishes to provide its interpretation on how the said credit is not blocked under the provisions of GST law. Section 17(5) of CGST Act & TNGST Act provides the cases where ITC is inadmissible. Relevant text of Section 17(5) was reproduced 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:-

.....

- (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.*

Explanation. —For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;”

3.9 The Appellant states that it can be inferred from the Contract that the above-said supply in relation to FFS and PHE are in the nature of apparatus and equipment that are being both not embedded into earth and fixed above ground. Following are the components involved in the supply related to fire-fighting system (FFS).

S No	Particulars	Amount (exclusive of GST)
1	Fire pump room equipment	51,78,561
2	Hydrant System	1,07,01,239
3	Automatic Sprinkler System	1,62,27,614
4	Fire Extinguishers	4,80,829
5	Signages	4,67,925
6	Addressable fire detection and alarm system	66,42,283
7	Public address system	46,15,914
8	Panel protection room	18,82,016
9	Miscellaneous works	3,40,020
Total		4,65,36,401

The Appellant submits that the items procured vide above table in relation with FFS are in the nature of plant and machinery and would rather not be considered as civil works to the factory.

3.10 The Appellant also provides below the table in relation to components involved in the supply related to public health engineering (PHE).

S No	Particulars	Amount (exclusive of GST)
1	Factory building & site works	1,22,45,466
2	Admin building	21,68,802
3	Canteen building	17,02,214
4	Security block	3,42,106
5	OWC Works	10,22,725
Total		1,74,81,313

The Appellant submits that all the civil work related to above procurement (buildings) was considered in civil package. The procurement made vide this Contract in relation with PHE are sanitary fixtures & fittings, sewage system, water supply system, rain water harvesting system, pumps, etc. The Appellant enclosed certain images relating to fire-fighting system and public health engineering with their application to provide a comprehensive understanding of the procurement made.

3.11 The Appellant states that certain procurement vide this Contract such as fire extinguishers, signages, sprinkler system, fire detection & alarm system are movable in nature since the same can be removed without substantial damage and can be

re-installed. Hence, this supply cannot be construed as immovable property to cover it within the ambit of Section 17(5)(c) and (d) of the CGST Act. The above mentioned items are not imbedded in earth and is movable. The appellant refers to images in Exhibit-3 to show that such procurement are not rooted in the ground/floor rendering it immovable or not possible to be maintained.

3.12 Under this context, the Appellant has brought to note that the AAR interpreted the phrase "deliver the **permanent work** to the owner" in the Contract as indicative of immovable property. However, the AAR overlooked that the Contract pertains to the construction of an entire factory building. The contract encompasses various components, including civil works, structural steel, fire-fighting systems and public health engineering. In general usage, "permanent work" typically refers to civil structures that are inherently immovable, such as the factory building itself. Other elements covered under this Contract such as fire extinguishers, sprinklers, signage and panel protections are movable apparatuses or machinery that can be relocated with minimal effort or damage. The Appellant had also submitted a photocopy of the same. Therefore, the Appellant has submitted that a blanket interpretation of "permanent work" to cover the entire contract undermines the purpose of the advance ruling process.

3.13 The Appellant understands that the Immovable property is not defined in GST Law. Section 3(26) of the General Clauses Act, 1897, provides for an expression as below:

"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."

The term "attached to the earth" has not been defined in the General Clauses Act, 1897. Section 3 of the Transfer of Property Act, however, gives the following meaning to the expression:

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

3.14 The Appellant states that the supply under question eventually satisfy the conditions laid down in the definition of *Plant and Machinery* for the purpose of GST Law. As per the explanation of the term 'Plant and Machinery' with reference to Section 17(5)(c) & (d) shall mean:

- i. Apparatus fixed to earth by foundation or structural support;
- ii. Equipment fixed to earth by foundation or structural support;
- iii. Machinery fixed to earth by foundation or structural support;
- iv. Foundation and Structural Support to Apparatus, Equipment and Machinery.

The GST Law specifically excludes plant and machinery from the ambit of works contract services/construction related to immovable property, providing an eligibility to avail ITC on such supplies.

3.15 The Appellant has also submitted that Apparatus, Equipment, Machinery are not defined under the GST Law. Hence, the inference was drawn to Mc-Graw Hills dictionary which defines these items as follows:

*“Apparatus - A compound instrument designed to carry out a specific function.
Equipment - One or more assemblies capable of performing a complete function.*

Machine - A mechanical, electric, or electronic device, such as a computer, tabulator, sorter or collator.

Machinery - A group of parts or machines arranged to perform a useful function.”

3.16 The Appellant also draws inference for the term ‘Apparatus’ from Webster's Encyclopedic Unabridged Dictionary of the English Language which reads as under:

“a group or aggregate of instruments, machinery, tools, materials etc., having a particular function or intended for a specific use. 2. any complex instrument or machine for a particular purpose. 3. any system or systematic organization of activities, functions, processes, etc., directed toward a specific goal; the apparatus of government; espionage apparatus. 4. Physiol, a group of structurally different organs working together in the performance of a particular function: the digestive apparatus”

Accordingly, a group of instruments, tools, materials etc., having a particular function or intended for a specific use at the Plant. Therefore, the fire pump room equipment, hydrant system, panel protection system get covered under the definition of plant and machinery.

3.17 The Appellant referred to the fact that the Impugned Ruling had agreed to the fact that the Fire fighting system and Public Health Engineering are correct to be classified as “Apparatus either being fixed to earth or supported through a structure”. The Appellant observed that the AAR contended that the above-mentioned apparatus performs a specific function that supports the functioning of the factory but is not directly involved in the outward supply of goods and services. However, the Authority overlooked a crucial distinction in the definition of Plant and Machinery, which specifies that the equipment must be ‘used for making outward supply of goods or services or both’, rather than requiring it to “directly used for making outward supply”. This subtle yet significant difference was not adequately considered in their evaluation.

3.18 The Appellant explained that the Fire-fighting system and sanitary works are not merely ancillary but represent prerequisite and mandatory infrastructure under various Indian laws, such as the Factories Act, 1948 and the Occupational Safety, Health and Working Conditions Code, 2020. These legislations explicitly require factories to maintain adequate safety measures including firefighting equipment and proper sanitation facilities, to safeguard the health and safety of workers and ensure

uninterrupted factory operations. Compliance with these statutory provisions is essential for a factory to lawfully function and sustain its role in making outward supply of goods or services. Therefore, these systems aid the factory in fulfilling its legal and operational obligations, forming an integral part of the process of making outward supply even if their role is indirect. This mandatory nature substantiates the argument that such apparatus is effectively "used for making outward supply" within the broader statutory framework, reinforcing their recognition as essential plant and machinery for GST purposes.

3.19 Further, the works related to FFS are also mandated under The Factories Act, 1948, read along with The Tamil Nadu Factories Rule, 1950, as amended from time to time. Relevant text from Section 38 of The Factories Act, 1948 was reproduced as below:-

"38. Precautions in case of fire.—

(1) In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain—

(a) safe means of escape for all persons in the event of a fire, and

(b) the necessary equipment and facilities for extinguishing fire.

(2) Effective measures shall be taken to ensure that in every factory all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such cases.

(3) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-sections (1) and (2)".

3.20 Further, the works related to PHE are also mandated under The Factories Act, 1948 read along with The Tamil Nadu Factories Rule, 1950, as amended from time to time. Relevant text from Section 46 of The Factories Act, 1948 was reproduced below for ease of reference:

"46. Canteens. —

(1) The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;

(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;

(f) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c)".

3.21 The Appellant refers to the ruling of Authority for Advance Ruling, Maharashtra in the case of *M/s. Nipro India Corporation Private Limited [2018 (10) TMI 745]*, wherein, it has been held that ITC is eligible on fire alarm systems and public address systems. Relevant extract was reproduced as below :-

36	Fire Alarm System	Fire alarm system for production floor	Relevant extracts of the Maharashtra factories Rules, 1563	Admissible except for civil work if any.
37	Public Address System	Public Address systems used for communication of instructions on the production floor and also in the case of emergencies.	Explanation to Sub Section V and VI of the CGST Act.	Admissible except for construction work if any.

Further, it has also been held that ITC is eligible on internal and external sewage system, sewer & venting system and sanitary ware & CP fittings. Relevant extract was reproduced as below :-

5		External sewage system	Yes	The external sewage system is used partly for disposal of sewage generated during the production process	Relevant extracts of the factories act 1948	Partly Admissible as per Section 17(1) of the GST Act
6		Internal Sewer and Venting System	Yes	The internal sewer and venting system is used for disposal of sewage generated during the production process	Relevant extracts of the factories act 1948	Admissible
7		Gardening Water Supply System	Yes	The gardening water supply system is used to supply water to the garden in the factory premises	Relevant extracts of the Maharashtra Factories Rules 1963	Not admissible as not used in course or furtherance of business and as per restrictions in Section 17(5) of the GST Act
8		Sanitary Ware and CP Fittings	Yes	Before entering the production floor every worker is required to pass through a cleanroom where he is required to wear the appropriate protective gear and wash hands for sanitation purposes	Explanation to sub section V and VI of Section 17 of the CGST Act	Admissible

Seeking inference from the above ruling and in comparison, with the Contract, the current supply under question covers the fire detection & alarm system, sewage system, sanitary-ware & fittings and public address systems. Hence, the Appellant contends that the ITC shall be eligible on the same.

3.22 The Appellant has placed reliance on the judgment by the Hon'ble Supreme Court of India that impacts the eligibility of ITC under the GST regime, on the telecommunication towers. In the case of SLP filed by Revenue vide "Commissioner, CGST Appeal-I, Delhi Vs M/s.Bharati Airtel Limited" [2025-VIL-62-SC], the Hon'ble Supreme Court has conclusively ruled on the classification of telecommunication towers. The primary issue was whether telecommunication towers should be considered immovable property under Section 17 (5)(d) of CGST Act, 2017 which would make the ITC ineligible. The Hon'ble Delhi High Court has held that telecommunication towers are not immovable property. The Court noted that these towers can be dismantled and moved without substantial damage, thereby negating the permanency test and, their attachment to land/buildings is solely for operational functionality of the antenna. Consequently, telecommunication towers were classified as "plant and machinery". And thus ITC on these towers is eligible under the GST law. Aggrieved, the Revenue filed a SLP before the Hon'ble Supreme Court which upheld the decision of the High Court, dismissing the appeal, thereby providing clarity to the matter.

3.23 The Appellant also draws attention to a recent ruling issued by the Gujarat Appellate Authority for Advance Ruling concerning the eligibility of ITC on construction-related items, which bears direct relevance to the present appeal. In the case involving M/s.KEI Industries Limited is a manufacturer of electrical cables, including Extra High Voltage cables that employs a specialised Vertical Continuous Vulcanisation Process. This manufacturing process necessitates a tall concrete tower structure to house and support the VCV line components. The company undertook the construction of this tower at its Gujarat manufacturing facility. The key issue was the eligibility of ITC under GST on inputs and input services consumed in erecting this concrete tower, considering Sections 17 (5) (c) & (d) of the CGST Act, 2017 which preclude ITC on works contract services and associated goods/services used for construction of immovable property, except when such immovable property qualifies as plant and machinery. The Gujarat AAR accepted that the VCV (Vertical Continuous Vulcanisation) manufacturing line qualifies as plant and machinery, the initial ruling denied ITC on the concrete tower, deeming it an immovable civil structure constructed on the company's own account and thus excluded under Section 17(5)(c) and (d) of the CGST Act. Disagreeing with this interpretation, the company appealed to the Gujarat AAAR, which held that the concrete tower being the foundation and structural support for the VCV line also qualifies as part of plant and machinery, and allowed ITC on the inputs and services used in constructing the tower, stating that such inputs are not barred by the ITC restrictions under the cited provisions.

3.24 The Appellant further refers the ruling of Hon'ble Delhi High Court in the case of *Commissioner of Income-Tax vs Hindustan Times Limited* [(2000) 241 IT TMI 509 (Delhi)] wherein, it is held that the assessee is eligible for investment allowance with respect to fire-fighting equipment as the same would fall under plant and machinery. Relevant extract is reproduced below:

“...In so far as the claim of investment allowance on fire-fighting equipment was concerned, the Tribunal found that the fire-fighting equipment was in the industrial undertaking for the purpose of business of the assessee, which is printing and publishing of newspapers and magazines and, therefore, the requirement under Section 32A was satisfied. Accordingly, it allowed the said claim made by the assessee.

*.....
nature. Similarly, while allowing the claim of the assessee for investment allowance on the cost of fire-fighting equipment, the Tribunal has held that the said equipment formed part of the industrial undertaking for the purpose of business of the assessee of printing and publishing of newspapers and magazines. Again, this finding is not challenged as perverse or unreasonable in the proposed question No. 2. That being so, the Tribunal has correctly come to the conclusion that the assessee is entitled to investment allowance on the said equipment.”*

Accordingly, the Appellant states that the fire-fighting equipment are rightly covered under *Plant and Machinery* in order to avail ITC.

4. Personal Hearing

4.1 The Appellant was given an opportunity to be heard on 26.11.2025. Mr. Ranjit V Jolly, Mr.Gowtham T & Mr.Satish V of M/s.Ernst & Young LLP, appeared for the personal hearing as the authorized representatives (AR) of M/s.Shibaura Machine India (P) Ltd. They reiterated the submissions made in their 'grounds of Appeal' enclosed along with the appeal application. They also furnished additional submissions during the personal hearing.

4. The AR referred to the original ruling of Authority for Advance Ruling, Tamil Nadu, wherein it was stated that firefighting system is not having any nexus with the outward supply. In this regard, the AR submitted that Firefighting system and sanitary works are not merely ancillary but represent prerequisite and mandatory infrastructure under Factories Act, 1948 and the Occupational Safety, Health and Working Conditions Code, 2020. In case of fire, the sensor gets activated and through the sprinkler system installed, water is dispensed immediately. Firefighting system is required for the safety of the factory and safety of the employees, and in the absence of Firefighting System and safety equipment, requisite Licence will not be granted. So these systems help the factory in fulfilling the legal and operational obligations, which in turn helps the outward supply. As such, they are of the opinion that ITC is available on installation of Firefighting System. The Members enquired if there is anything more to add to the submissions made in the application, to which the AR replied that there is nothing more to add.

4.3 In their written submissions made during the personal hearing, the Appellant has submitted that the Advance Ruling Authority had incorrectly interpreted Gujarat Appellate Authority Ruling in the case of M/s.Varachha Co-op Bank Ltd and the Karnataka Advance Authority Ruling in the case of M/s.Embassy Industrial Parks Ltd. They stated that Embassy Industrial Parks is primarily engaged in leasing

constructed spaces, and Varachha Co-op Bank operates in the service sector, whereas the Appellant is involved in the manufacture of Injection Moulding Machinery and that the fire-fighting system and public health engineering are essential and mandatory as per Tamil Nadu Factories Rules.

4.4 They further submitted that the GST framework constitutes a unified legislation applicable across the entire territory of India, without any state-wise differentiation. Consequently, all State authorities shall apply and interpret the provisions of GST law uniformly without deviation to ensure consistency and eliminate interpretational ambiguities and referred to Gujarat High Court decision in the case of Darshan Boardlam Ltd Versus UOI (2013 (4) TMI 326) and Hon'ble Supreme Court of India in the case of M/s.Birla Corporation Ltd. Versus Commissioner of Central Excise (2005 (7) TMI 717). They also contended that it is a well settled principle of law that when an ambiguity raises in law, benefit must necessarily go in favour of assessee than for the exemption notification. The Appellant prayed to set aside the impugned ruling and allow the Input Tax Credit.

5. Discussions and Findings:

5.1 We have carefully examined the submissions made by the Appellant in their advance ruling application and the submissions made during the personal hearing. We have also considered the issue involved, the relevant facts and the Appellant's submission / interpretation of law in respect of question on which the advance ruling is sought.

5.2 We note that the Appellant is engaged in the manufacture of injection moulding machinery and accessories. Since they are expanding their business operation, they have constructed a new factory adjacent to their existing factory, whereby they have incurred capital expenditure towards procurements in relation to setting up of this factory. We further take note of the fact that in the instant case, they have entered into a separate contract with the Supplier for design and construction work for new factory.

5.3 We understand that the procurement made vide this Contract in relation with FFS are fire extinguishers, signages, sprinkler system, fire detection & alarm system and in relation with PHE are sanitary fixtures & fittings, sewage system, water supply system, rain water harvesting system, pumps, etc. The Appellant had enclosed certain images relating to fire-fighting system and public health engineering with their application to provide a comprehensive understanding of the procurement made. We take note of the fact that that certain procurement vide this Contract such as fire extinguishers, signages, sprinkler system, fire detection & alarm system are movable in nature since the same can be removed without substantial damage and can be re-installed, as reported by the Appellant. The above mentioned items are not imbedded in earth and is movable. The appellant refers to images in Exhibit-3 to show that such procurement are not rooted in the ground/floor rendering it immovable or not possible to be maintained and hence contends that ITC would be eligible on the same.

5.4 From the aforesaid contentions of the appellant, we come to understand that the appellant most specifically emphasises the following aspects, viz.,

- (i) that the Firefighting system have a particular function or intended for a specific use at the Plant, is to be considered as an 'Apparatus', whereby the same gets covered under the definition of 'Plant and Machinery'.
- (ii) that the Public Health Engineering systems are movable in nature, whereby it falls outside the ambit of 'immovable property', and as a result, ITC on the same is not blocked under Section 17(5)(c) and (d) of the CGST Act, 2017.

5.5 In this regard, we observe that Section 16(1) of the CGST Act, 2017, prescribes the eligibility and conditions for taking ITC, and it states,

"(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."

It could be observed from the above, that the most crucial phrase to the entire scheme involving availment of ITC is "used or intended to be used in the course or furtherance of his business". While the said legal provision provides for entitlement of credit of input tax charged on any supply of goods or services or both which are used or intended to be used in the course or furtherance of business, it also comes up with a rider, viz., "subject to such conditions and restrictions as may be prescribed".

5.6 It may be seen that the provisions of Section 17 of the CGST Act, 2017 discusses about the ITC that is blocked. The relevant provisions of sub-section (5) to Section 17, which impacts the issue in the instant case, is as given below :-

"(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 -----

(b) -----

(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.

Explanation.- for the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.'

Accordingly, it becomes clear that the restriction relating to availment of ITC in the instant case is spelt out under clauses (c) and (d) of Section 17(5) of the Act, *ibid*, and both the clauses restricts ITC availment on receipt of Works Contract service, or on receipt of any goods or services or both, when made for 'construction of an immovable property'.

5.7 Further, the expression "plant and machinery" as defined in the explanation under Section 17 of the CGST Act, 2017, is extracted as below :-

***Explanation.** - For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-*

- (i) land, building or any other civil structures;*
- (ii) telecommunication towers; and*
- (iii) pipelines laid outside the factory premises.*

Whereby it is evident that the expression 'plant and machinery' talks about an apparatus, equipment and machinery fixed to earth, either by foundation or by structural support, where we observe that the crucial phrase under the instant definition is "**used for making outward supply of goods of services or both**".

5.8 However, it could be seen from the provisions of section 17(5)(c) of the Act, that the phrase, viz., 'other than plant and machinery', finds a place under the said clause, from which it gets conveyed that availment of ITC on 'plant and machinery' is not blocked under the said provision. It is to be noted here that even the phrase 'other than plant or machinery' that was part of clause (d) of Section 17(5), now stands amended as 'other than plant and machinery', retrospectively with effect from 01.07.2017 onwards, through Sl.No.124 of the Finance Act, 2025 (No.7 of 2025), which reads as below :-

"124. In Section 17 of the Central Goods and Services Tax Act, in sub-section (5), in clause (d), -

(i) for the words "plant or machinery", the words "plant and machinery" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017;

(ii) the Explanation shall be numbered as Explanation 1 thereof, and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:-

'Explanation 2. - For the purpose of clause (d), it is hereby clarified that notwithstanding anything to the contrary contained in any judgement, decree or order of any court, tribunal, or other authority, any reference to "plant or machinery" shall be construed and shall always be deemed to have been construed as a reference to "plant and machinery",.'

5.9 Therefore, it becomes crystal clear that unless the commodity or an installation gets covered under the expression "plant and machinery" as defined in the explanation under Section 17 of the CGST Act, 2017, the input tax credit of the

GST paid on the said commodity or installation stands blocked in view of the clauses (c) as well as clause (d) of Section 17(5) of the Act, *ibid.* In this regard, we find that the Appellant has contended that a group of instruments, tools, materials etc., having a particular function or intended for a specific use at the Plant, is to be considered as an 'Apparatus', and thereby the firefighting system gets covered under the definition of 'Plant and Machinery'.

5.10 At this juncture, it becomes necessary to emphasize the fact that the expression 'Plant and Machinery' is to be considered *in toto per se*, and that the same cannot be treated as a 'Plant' as such, or as a 'Machinery' as such, or as 'Plant or Machinery'. Accordingly, the expression "plant and machinery" as defined in the explanation under Section 17 of the CGST Act, 2017, is taken to mean an -

- (a) apparatus, equipment or a machinery;
- (b) which are fixed to earth either by foundation or by structural support;
- (c) which are used for making outward supply of goods or services or both;

Therefore, the only option before us is to explore whether the same falls within the category of 'Apparatus', or not. Admittedly, the Appellant is of the opinion that the same gets categorized as an 'Apparatus' and has drawn inference for the term 'Apparatus' from Webster's Encyclopedic Unabridged Dictionary of the English Language which reads as under:

*"a group or aggregate of instruments, machinery, tools, materials etc., having a particular function or intended for a **specific use**. 2. any complex instrument or machine for a **particular purpose**. 3. any system or systematic organization of activities, functions, processes, etc., directed toward **a specific goal**; the apparatus of government; espionage apparatus. 4. Physiology, a group of structurally different organs working together in the performance of **a particular function**: the digestive apparatus"*

5.11 Accordingly, the Appellant contends that a group of instruments, tools, materials etc., having a particular function or intended for a specific use at the Plant, as in the instant case, the comprehensive installation of Firefighting System and Public Health Equipment involving various items like Hydrant System, Automatic Sprinkler System, Fire Extinguishers, Fire detection and alarm system, Pipelines for waste clearance, etc are meant to perform a specific function and rightly gets covered under the definition of 'plant and machinery'.

5.12 In this regard, we note that the Appellant has entered into a Contract Agreement with M/s.SMCC Construction India Limited, New Delhi for installation of Firefighting System and Public Health Equipment to come up alongside the existing facility at Chembarambakkam, Chennai. Therein, the 'Scope of Work' has been specified as "Supply, Installation, Testing and Commissioning of Industrial Works". Further, under clause (3) to 'Article 1. General Principles' of the General Conditions of Contract, we observe the following remarks, *viz.*,

*"(3) The Contractor shall complete the Work and deliver the **Permanent Work** to the owner in accordance with the Contract, and the Owner shall make the payments of the Contract Sum as described in the Contract Agreement to the Contractor as per the terms of the Contract Agreement."*

5.13. In addition to the same, under the 'Cost Abstract' of the Contract, a detailed break-up leading to arrival of total cost to components involved in the supply related to fire-fighting system (FFS) is as below;

S No	Particulars	Amount (exclusive of GST)
1	Fire pump room equipment	51,78,561
2	Hydrant System	1,07,01,239
3	Automatic Sprinkler System	1,62,27,614
4	Fire Extinguishers	4,80,829
5	Signages	4,67,925
6	Addressable fire detection and alarm system	66,42,283
7	Public address system	46,15,914
8	Panel protection room	18,82,016
9	Miscellaneous works	3,40,020
Total		4,65,36,401

Further, the components supplied in relation to public health engineering (PHE) involves the following.

S No	Particulars	Amount (exclusive of GST)
1	Factory building & site works	1,22,45,466
2	Admin building	21,68,802
3	Canteen building	17,02,214
4	Security block	3,42,106
5	OWC Works	10,22,725
Total		1,74,81,313

5.14 From the scope of the contract entered into between the parties, it could be construed that the agreement is not just for installation/commissioning of Fire-Fighting System and Public Health Engineering and it is a composite one of 'Works Contract' Service, involving both Supply and Installation of Fire-Fighting System and Public Health Engineering. In this regard, we observe that when a comprehensive installation for a new factory set-up begins, these fittings are mostly concealed into the wall/floor of the building. They are concealed or fitted on to the building through pipes as it serves the dual purpose of safety and aesthetics. Further, on installation of the above fittings meant for the factory/facility, they do not have an independent existence and it becomes part and parcel of the entire building/infrastructure and thereby a part of the immovable property. Further, under the General Clauses Act, 1897, 'Immovable Property' has been defined under Section 3(26) as "*Immovable Property shall include land, benefits arising out of land and things attached to the earth, or permanently fastened to anything attached to the earth.*" It could be seen that these installations are normally fastened to the wall or roof of the building which in turn is attached to earth.

5.15 As far as the phrase 'fixed to earth either by foundation or by structural support' goes, it clearly conveys the fact that the apparatus, equipment or machinery is to be either fixed to earth or supported through a structure. Whereas, the above said installation in the instant case gets assimilated into the building/infrastructure, thereby becoming a part of the immovable property.

5.16 With regard to the phrase 'which are used for making outward supply of goods or services or both', it could be seen that this phrase becomes the most crucial aspect of the definition of 'Plant and Machinery'. It conveys the fact that even in the event of considering the said installation as an apparatus, equipment or machinery, they should be used for making outward supply of goods or services or both. Since the installations in the instant case does perform a specific function as in the case of an apparatus, but they help in better functioning of the factory in general. We are of the opinion that FFS and PHE are not capable of being used directly for making outward supply of goods or services or both.

5.17 Under the facts and circumstances of the instant case, we are of the considered opinion that the GST paid on the receipt of 'Works Contract' service involving the said installations for the new factory project, do not become eligible for availment of ITC as they are blocked under clause (c) of the Section 17(5) of the CGST/TNGST Act, 2017. Notwithstanding the same, even in the event of considering the said supply as an independent 'Construction Service, the same again stands blocked under clause (d) of the Section 17(5) of the CGST/TNGST Act, 2017.

5.18 At this juncture, it becomes imperative to emphasise that the 'movable nature' or 'movability' is not the only criteria which would enable an installation or a work to fall outside the ambit of 'immovable property'. Rather the 'object', 'intendment', 'marketability' of the said work or installation are also to be taken into account to determine the movable nature of the said work. In this regard, we find that in the case of M/s.Bharti Airtel Ltd., Vs. Commissioner of Central Excise, Pune, as reported in 2025 (391) E.L.T. 3 (S.C.), the Hon'ble Supreme Court has discussed and analysed the said aspect in great depth in para 11.8, as follows :-

"11.8 In view of the above decisions, we are of the opinion that merely because certain articles are attached to the earth, it does not ipso facto render these immovable properties. If such attachment to earth is not intended to be permanent but for providing support to the goods concerned and make their functioning more effective, and if such items can still be dismantled without any damage or without bringing any change in the nature of the goods and can be moved to market and sold, such goods cannot be considered immovable.

11.8.1 We may summarise some of the principles applied by the Courts in the decisions referred to above to determine the nature of the property as follows :

(1) Nature of annexation : This test ascertains how firmly a property is attached to the earth. If the property is so attached that it cannot be removed or relocated without causing damage to it, it is an indication that it is immovable.

*(2) **Object of annexation** : If the attachment is for the permanent beneficial enjoyment of the land, the property is to be classified as immovable. Conversely, if the attachment is merely to facilitate the use of the item itself, it is to be treated as movable, even if the attachment is to an immovable property.*

*(3) **Intendment of the parties** : The intention behind the attachment, whether express or implied, can be determinative of the nature of the property. If the parties intend that the property in issue is for permanent addition to the immovable property, it will be treated as immovable. If the attachment is not meant to be permanent, it indicates that it is movable.*

*(4) **Functionality Test** : If the article is fixed to the ground to enhance the operational efficacy of the article and for making it stable and wobble free, it is an indication that such fixation is for the benefit of the article, such the property is movable.*

*(5) **Permanency Test** : If the property can be dismantled and relocated without any damage, the attachment cannot be said to be permanent but temporary and it can be considered to be movable.*

*(6) **Marketability Test** : If the property, even if attached to the earth or to an immovable property, can be removed and sold in the market, it can be said to be movable.*

5.19 From the above, we note that under clause (2) of para 11.8.1, wherein the 'Object of annexation' has been discussed, it clarifies that if the attachment is for the permanent beneficial enjoyment of the land, the property is to be treated as immovable. We find that in the instant case, even in the event of considering the fact that the Public Health Engineering systems are detachable and movable, the object behind their installation is clearly to assist are basically meant for the permanent beneficial enjoyment of the land, and is to be considered as immovable. In this regard, we find that under clause (3) to 'Article 1. General Principles' of the General Conditions of Contract entered to in the instant case, the following remarks are in-built, viz.,

*"(3) The Contractor shall complete the Work and deliver the **Permanent Work** to the owner in accordance with the Contract, and the Owner shall make the payments of the Contract Sum as described in the Contract Agreement to the Contractor as per the terms of the Contract Agreement."*

5.20 We also note that under clause (3), the 'Intendment of the parties' has been discussed, and it clarifies that if the parties intend that the property in issue is for permanent addition to the immovable property, it will be treated as immovable. In view of the detailed discussions in para 5.19 above, and in view of the fact that a clause in the contract itself, specifies the permanent and immovable nature of the executed project, we are of the opinion that the said Public Health Engineering is part of the immovable property.

5.21 Further, we find that the 'Marketability Test' (clause 6), assumes immense significance in the context of the instant case. We observe that none of the component of the Public Health Engineering system and its associated civil work, as seen from the 'Cost Abstract' of the Contract as furnished above, are capable of being marketed as such, as they are tailor-made to suit the needs of a particular factory/facility, and

that they are not capable of being operated independently on their own as a stand-alone product as in the case of an air-conditioner, or any other machinery.

5.22 Therefore, such Installation of Fire-Fighting System and Public Health Engineering when attached to earth, or when fastened to anything attached to earth like wall, roof, etc., become part of immovable property, even if such items can be detached and moved, because they do not have an independent existence. Further, we find that though the Appellant contends that certain procurement vide this Contract such as fire extinguishers, signages, sprinkler system, fire detection & alarm system are movable in nature, such items are not capable of being sold in the market as such, and accordingly fail the 'marketability test'. As far as the Public Health Engineering work is concerned, items like Sanitary fixtures & fittings, pumps, etc., gets assimilated into the immovable property, and other items like sewage system, water supply system, rain water harvesting system, etc., cannot be considered as 'movable' by any means whatsoever, as they very much become part of the immovable property. We, are therefore, of the considered opinion that ITC is not eligible on the installation of Fire-Fighting System and Public Health Engineering work carried out for expansion of factory for manufacturing activity as it is blocked under Sections 17(5)(c) and 17(5)(d) of the CGST/TNGST Acts, 2017.

5.23 We are in complete agreement with the Appellant's contentions that the Firefighting system is mandatory infrastructure under Factories Act, 1948 and the Occupational Safety, Health and Working Conditions Code, 2020. Likewise, the Public Health Engineering (PHE) are also mandated under The Factories Act, 1948 read along with The Tamil Nadu Factories Rules, 1950, as amended from time to time. However, it is to be noted that such mandatory requirements, do not confer the right to avail ITC on the same, unless the conditions/restrictions provided under the CGST/TNGST Acts, 2017, are met.

5.24 At this juncture, we take note of the fact that the Appellant has referred to various case laws in support of their defence. It is to be noted here that under the scheme of advance ruling, any advance ruling pronounced by the Authority is binding only on the Appellant concerned who had sought it, as laid down under Section 103(1) of the CGST Act, 2017, which runs as,

"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 Appellant 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 Appellant."*

It becomes clear from the above that when an advance ruling pronounced in respect of an Appellant who had sought it, cannot be applied in general to any other case, the question of determining the application of any other ruling or case law, to the

case of an Appellant under the scheme of advance ruling, does not arise at all. Notwithstanding the same, it is to be admitted that in such cases where the facts and circumstances of the case remain identical, the persuasive effect that it brings to the issue, cannot be undermined.

5.25 In this regard, we find that the Appellant has relied on the ruling in respect of the Authority for Advance Ruling, Maharashtra in the case of *M/s. Nipro India Corporation Private Limited [2018 (10) TMI 745]*. In this case, it is seen that the admissibility to ITC has been discussed individual system-wise, viz., Sub-station work, DG Set, Main Feeder, Lighting System, Telephone system, LAN system, etc., whereby certain items have been ruled as eligible and others as ineligible, and accordingly becomes distinguishable. Further in this regard, we find that the ruling pronounced later by a higher forum, i.e., the Appellate Order dated 04.10.2023 of the Gujarat Appellate Authority for Advance Ruling in the case of *M/s. The Varachha Co-op Bank Ltd.*, have categorically ruled that ITC in relation to firefighting system is ineligible as follows:

“the fire safety extinguishers once fitted, no longer remains movable goods as it gets assimilated in a permanent structure i.e. administrative building of the appellant.

As the supply and installation of fire safety extinguishers, as pointed out above, makes it an immovable property, it ceases to be plant and machinery.

Hence, in view of the above, we find that the appellant is not entitled to ITC of GST paid on Fire Safety Extinguishers in view of the provisions of Section 17(5)(c) of CGST Act, 2017”.

We are therefore of the opinion that the Ruling cited by the Appellant does not help their cause.

5.26 The Appellant has placed reliance on the judgment by the Hon'ble Supreme Court of India that impacts the eligibility of ITC under the GST regime, on the telecommunication towers. In the case of SLP filed by Revenue vide “Commissioner, CGST Appeal-I, Delhi Vs M/s. Bharti Airtel Limited” [2025-VIL-62-SC], the Hon'ble Supreme Court has conclusively ruled on the classification of telecommunication towers. The Appellant states that the Hon'ble Delhi High Court has held that telecommunication towers are not immovable property, and when the Revenue filed a SLP before the Hon'ble Supreme Court, it upheld the decision of the High Court, thereby providing clarity to the matter. Here again, it is to be stated that the case becomes distinguishable from the instant case, as ‘telecommunication towers’ are in direct relation to the outward service, viz., ‘telecommunication service’, and as such do not come to their aid.

5.27 The Appellant also draws attention to a recent ruling issued by the Gujarat Appellate Authority for Advance Ruling in the case involving *M/s. KEI Industries Limited*, wherein it was held that the concrete tower being the foundation and structural support for the VCV line also qualifies as part of plant and machinery, and that the ITC on the inputs and services used in constructing the tower, is eligible and is not barred by the ITC restrictions. On perusal of the said case, we find that it

discusses about the eligibility of ITC on Capital goods in the form of Wires/Cables, electrical equipment, etc., used for the transmission of electricity from the power station of DISCOM to the factory premises of the Appellant. As Wires/Cables, electrical equipment, etc., are in direct relation to 'transmission of electricity', and as the facts of the case differ absolutely from the case of the Appellant, the said ruling does not apply to the Appellant.

5.28 As per the records furnished by the Appellant, the Contract is for installing the firefighting systems and public health equipment permanently to the building. These items once fitted, no longer remains movable goods as it gets assimilated in a permanent structure. As the supply and installation of firefighting systems and public health equipment as pointed out above, forms part of the immovable property, it ceases to be a plant and machinery. Hence, in view of the above discussions, we find that the Appellant is not entitled to avail ITC of GST paid on Fire Safety Systems & Public Health Equipment in view of the provisions of Section 17(5)(c) and 17(5)(d) of the CGST/TNGST Act, 2017.

5.29 This apart, once it is held that the ITC related to firefighting systems and public health equipment for the new factory is not available to the Appellant in the instant case, the question of answering the other query, viz., "What should be the basis to arrive the timeline to avail ITC on tax invoice raised by Supplier to bill "Advance Component" of the Contract.", does not arise, as the same is directly related to the specific contract involved in the instant case, and is very much dependent on the main query, which has been answered in negative.

5.30 In fine, the Advance Ruling No.31/ARA/2025 dated 18.08.2025 passed by the AAR is upheld, and we find no reasons to interfere with the same.

6. In view of the detailed discussion supra, we pass the following order.

ORDER

The ruling pronounced by the AAR in Advance Ruling No.31/ARA/2025 dated 18.08.2025 is upheld and accordingly, the appeal filed by the appellant is dismissed.

4/10


MADAN MOHAN SINGH
Principal Chief Commissioner of GST
& Central Excise, Tamil Nadu & Puducherry
Zone / Member AAAR


S. NAGARAJAN
Commissioner of Commercial Taxes
Tamil Nadu / Member AAAR

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(By RPAD)

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