

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.04/2025/AAAR

Date:15.09.2025.

BEFORE THE BENCH OF

Shri. Madan Mohan Singh., I.R.S., 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-in-Appeal No. AAAR/5/2025 (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 applicant 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 applicant 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 applicant.
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. KANISHK STEEL INDUSTRIES LIMITED. Old No.4, New No. 7, Thiru-vi-ka Street, Royapettah High Road, Chennai – 600 004.
GSTIN Number, if any / User id	33AABCK2367G1ZS
Advance Ruling Order against which appeal is filed	AAR Order No. 01/ARA/2025 dated 06-02-2025.
Date of filing Appeal	23-06-2025.
Represented by	Shri. CA Sankaranarayanan. V and Shri. CA Jayakumar. G, Chartered Accountants & Authorised Representatives
Jurisdictional Authority – STATE	Division: Chennai South, Zone: South-I. Circle: Mylapore
Other Authority – CENTRE	Chennai North Commissionerate, Mylapore Division, Range-II
Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Challan CPIN No. HDFC25063300477400 dated 20-06-2025. DRC-03 Debit Entry No.DC3306250482591 dated:24.06.2025, Rs.20,000/-(CGST Rs.10,000/- & SGST Rs.10,000/-)

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 (herein after referred to as 'Act') are in *parimateria* and have the same provisions in like-matters 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 Services 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 as 'the Act') by M/s. Kanishk Steel Industries Limited (hereinafter referred to as 'Appellant'). The appeal was filed against the Advance Ruling No. 01/ARA/2025 dated 06-02-2025, passed by the Authority for Advance Ruling, Tamil Nadu (hereinafter referred to as 'AAR') on the Application for Advance ruling, filed by

the Appellant. The Appellant has paid Rs.10,000/- towards CGST and Rs.10,000/- towards SGST vide Challan CPIN No. HDFC25063300477400 DATED 20-06-2025.

3. The appellant registered under the GST Act vide GSTIN 33AABCK2367G1ZS is a Limited company under the administrative control of 'STATE', and are engaged in the business of manufacturing and supply of different types of steels for decades, which are covered under HSN 72165000, 72141000 etc., taxable @18%. The Appellant has now planned to replace its existing 10.2 MW Windmill power plant with Solar Power plant with same capacity of 10.2 MW which is to be installed at Ayyanaruthu Village Kayathar Taluk, Tuticorin District at 33Kv level in Ayyanaruthu 110/33/11 SS, where the appellant have previously used for wind mill energy generation. A consolidated contract for Design, Execution, Commissioning, Installation and post commissioning support (Annual Maintenance Contract) is to be awarded to a single contractor namely M/s. PEAK QUALISH SYSTEMS (P) LTD. The Solar Power Plant panels are to be installed in the land owned by the applicant in Kayathar Taluk.

4. The Appellant had originally filed an application dated 11-03-2024 before the AAR, seeking a ruling on whether,

(i) they are eligible to take input tax credits on inputs/capital goods or input services of the items used in Design, engineering, Installation of 10.2 MW of the Solar Power plant as per MNRE & IEC standards wherein the generation of electricity from such solar plant is used for captive consumption; and

(ii) they are eligible to take input Tax credit for inputs and services for running the solar plant.

5. After detailed examination, AAR vide Order No. No. 01/ARA/2025 dated 06-02-2025 ruled that the appellant is not eligible for input tax credit on the goods and services exclusively used for the provision of exempt supply namely 'generation and supply of electricity'. Electricity, being a goods charged to Nil rate of tax, is supplied to TANGEDCO which in turn is given as Credit for adjustment towards the power consumed in the factory of manufacture and hence electricity is not captively consumed but the 'supply' is to be treated as 'exempt supply'. As per Section 17(2) and 17(3) of the CGST/TNGST Act, 2017 read with Rule 43(1)(a) of the

CGST/SGST Rules, 2017, the input tax credit exclusively used or consumed for the generation and supply of electricity which is an exempted supply is unavailable for availment as input tax credit. Accordingly, for the second query it was held that the appellant is not eligible to avail the input tax credit on any goods or services exclusively used for running or maintenance of the Solar Power Plant.

6. Aggrieved by the said order, the Appellant filed this appeal on 23.06.2025 against the Order dated 06.02.2025 passed by the AAR. In the 'Grounds of Appeal' filed by them, they have stated that,

- (a) As per Section 2(76) of Electricity Act, "Wheeling" means the operation whereby the distribution system and associated facilities of a transmission license or distribution license, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under Section 62.
- (b) As per Section 2(8) of the Electricity Act, "Captive Generating Plant" means a power plant set up by any person to generate electricity primarily for his own and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association.
- (c) The applicant uses TANGEDCO as a Mode of conveyance of electricity from solar power plant to factory. They have paid Wheeling charges to the TANGEDCO as per the Wheeling agreement. However, the agreement has not been executed so far. The existing wheeling agreement with TANGEDCO have similar terms and a fresh agreement will be executed with TANGEDCO at least a month prior to the commencement of electricity generation.
- (d) As per Section 7(1)(a) of CGST/TNGST Act, 2017,
All forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course of furtherance of business.

- (e) Citing Section 7(1)(a) of the Act, the appellant states that they transfers /intends to transfer 'Electricity from Solar Power Plant to TANGEDCO for transmission purpose only and not for sale purpose. Further, there is no consideration for transfer of ownership for electricity to TANGEDCO.
- (f) The electricity remains the property of the appellant throughout its movement from the solar plant to the factory and there is no sale, barter, or transfer of ownership, which is a key criterion for a "supply" under GST.
- (g) Since, electricity transferred to TANGEDCO is not 'supply' under GST, then there is no applicability of Section 17(2) of the Act read with Rule 43(1)(a) of the CGST/TNGST Rules, 2017.

7. In the light of the above submissions, the appellant prayed the appellate authorities to

- (i) Declare that the wheeling agreement with TANGEDCO does not amount to 'supply' under GST
- (ii) To set aside the order of the Authority of Advance Ruling denying ITC on the solar power plant under Section 17(5)(c) & (d) of the Act and ITC be allowed as per the provisions applicable to "Plant & Machinery".
- (iii) ITC on installation of solar power plant for captive consumption should be treated as eligible ITC as the power is used for the production of taxable goods, namely steel.

8. PERSONAL HEARING

8.1 Shri. CA Shankara Narayanan V, & Shri. CA Jayakumar G, Chartered Accountants appeared on 28.08.2025 for the hearing in virtual mode, as Authorised Representatives (AR) of the Appellant.

8.2 The members made it clear that this personal hearing is for the limited purpose of admission of the appeal application as there is an apparent delay in the filing of this application which was requested to be condoned by the Appellant. AR did not include the request for 'condonation of delay' in their 'grounds of Appeal', but have mentioned in para-2 of the application that the

present appeal is being filed slightly beyond the statutory time limit due to the delay in receiving critical approvals from the Tamil Nadu Green Energy Company Limited (TNGECL) which was granted only on 09-06-2025. AR further stated that the applicant is in urgent tax clarity, post which only they could practically commence their commercial activities.

9. DISCUSSION AND FINDINGS

9.1 We have carefully gone through the records of the case and the submissions made by the Appellant in their application. Before getting into the discussion on the issue in the appeal, we find that there is a delay in filing the appeal. Hence the same is required to be examined first before proceeding to consider the merits of the issue raised in the Appeal. Accordingly, the petition for condonation of delay submitted by the Appellant, is taken up for consideration.

9.2 In this regard, the provisions of Section 100 of CGST Act, 2017, which is relevant to the instant case, is reproduced below for reference: -

"100. Appeal to Appellate Authority. — (1) The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the Appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed."

9.3 From the above, it could be seen that in terms of Section 100(2) of the Act, an appeal should be filed within 30 days from the date of communication of the advance ruling order that is sought to be challenged. However, the proviso to Section 100(2) of the CGST Act, 2017, empowers the Appellate Authority to allow

the appeal to be presented within a further period not exceeding 30 days, if it is satisfied that the Appellant was prevented by sufficient cause from presenting the appeal within the initial period of 30 days.

10. We find that the date of the Advance Ruling No. 01/ARA/2025 pronounced originally by the AAR is dated 06.02.2025 and the date of communication of the order is 07-02-2025, which was received by the applicant on 08.02.2025, so the last date for filing the appeal under Section 100(2) of the CGST Act, 2017, would be 10.03.2025, and the last date for filing the appeal with a maximum condonable delay of 30 days as per the first proviso to Section 100(2) of the CGST Act, 2017, would be 09.04.2025. The appeal filed by the appellant is on 23-06-2025. Therefore, it is evident that there has been a delay of 105 days (10.03.2025 to 23.06.2025) from the last date for filing the appeal under Section 100(2) of the CGST Act, 2017.

11. As per the statute, the Appellate Authority can condone a delay of 30 days beyond the normal period of thirty days given for filing the appeal, provided sufficient cause is shown by the Appellant for such delay. In the present case, there is a delay of 105 days from the last date for filing the appeal, i.e., 10.03.2025 which is way beyond the power vested with the Appellate authority to condone, let alone examining as to whether sufficient cause for the delay was shown by the Appellant or not. Further, the Appellant has given a reason that they have received the critical approval from Tamil Nadu Green Energy Company Limited (TNEGCL) only on 09-06-2025.

12. It is pertinent to mention here that originally the AAR application was filed by the applicant during the month of March, 2024. During the personal hearing held in the month of August 2024, they have assured to submit the agreement soon. However, after more than a year of filing the application before AAR, they have received the approval only recently after which they have filed the present appeal. The inordinate delay in obtaining approval from (TNEGCL) beyond the prescribed time limit shall not be considered as valid reason/cause for the delay on their part in filing the appeal.

13. In this regard, we find that the proviso to Section 100(2) of the CGST Act, 2017, begins with the phrase "Provided that the Appellate Authority may," and ends with the phrase "allow it to be presented within a further period not exceeding thirty days". These phrases clearly convey the fact that the Appellate Authority has a discretion, i.e., they may or may not allow the appeal case to be presented within a further period not exceeding thirty days, depending upon the facts and circumstances of the case. Accordingly, it also becomes clear that even this discretionary power is restricted to a further period not exceeding thirty days, beyond the normal time limit of initial 30 days from the date of communication of the order. Apart from the same, the phrase "if it is satisfied that the Appellant was prevented by a sufficient cause from presenting the appeal", conveys the fact that sufficient cause for the delay should be expressly put forth by the Appellant, and even in the event of doing so, the Appellate Authority shall entertain the same, only if it is satisfied with the cause shown. Therefore, we are of the considered opinion that the question of allowing the appeal to be presented, even for the extended time limit of another 30 days as prescribed in the statute, does not arise in the instant case.


14. In this regard, we would like to make it clear that the Appellate Authority is not a 'Court' and hence the power to condone beyond the prescribed period does not lie with it, and therefore, we are of the opinion that these decisions cannot be applied to other cases in general. On the other hand, this Appellate Authority being a creation of the statute, is empowered to condone the delay of only a period of 30 days after the expiry of the initial period for filing appeal. As far as the language of section 100 of the CGST Act, 2017 is concerned, the crucial words are 'not exceeding thirty days' used in the proviso to sub-section (2). Further, we are of the opinion that to hold that this Appellate Authority could entertain this appeal beyond the extended period under the proviso would render the phrase 'not exceeding thirty days' wholly redundant, and no principle of interpretation would justify such a result.

15. Accordingly, since the filing of the appeal in the instant case, falls beyond the scope of powers conferred under proviso to Section 100(2) of the CGST Act, 2017, we hold that the appeal cannot be allowed to proceed on account of time limitation, and as a result, the question of discussing the merits of the issue in this case in appeal does not arise, as well.

16. In view of the facts and circumstances of the case, and based on the discussions held above, we are of the considered view that we are not satisfied with the reasons of delay advanced by the appellant as also we are not empowered to condone the delay beyond the statutory period in filing this appeal. Accordingly, we pass the following order: -

ORDER

We dismiss the appeal filed by the Appellant, M/s. Kanishk Steel Industries Limited, on the grounds of time limitation, without going into the merits of the case.


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


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



To
M/s. Kanishk Steel Industries Limited
GSTIN: 33AABCK2367G1ZS
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//by RPAD//

Copy submitted to:

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