



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2019-20/01
(In Application No.: 01/2019-20, dated 01.04.2019)

Name & Address of the Applicant	: M/s Embassy Industrial Parks Private Limited, Pathredi, Tehsil Gurugram, Gurgaon, Haryana.
GSTIN of the Applicant	: 06AACCJ2346P1ZB
Date of Application	: 01.04.2019
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	: Clause(d)- admissibility of input tax credit of tax paid or deemed to have been paid.
Date of Personal Hearing	: 03.06.2019
Present for the Applicant	: Sh. Harish Bindumadhavan (Advocate)

Memo No.: 1041/AAR

Dated: 28/8/2020

1. Statement:

- 1.1 Embassy Industrial Park Private Limited (hereinafter referred to as 'Applicant') is a private limited company incorporated in India and registered under Companies Act, 2013.
- 1.2 The Applicant has obtained GST registration for its office situated at Pathredi, Tehsil Gurugram Gurgaon Haryana 122413.
- 1.3 The Applicant is *inter alia* engaged in building and managing industrial warehousing spaces for consumers and industrial centers. The Applicant is strategically located in the proximity of key commercial, industrial and freight corridors across Maharashtra, Haryana, Tamil Nadu and West Bengal.
- 1.4 The Applicant is proposing to develop a new Industrial warehouse at Pathredi, Tehsil Gurugram, Gurgaon, Haryana 122413.
- 1.5 The Applicant procures various goods and services from various contractors for fitting-out of the warehousing spaces and provides the subject space having with all facilities and infrastructure facility on rent to various industrial consumers and manufacturers. The Applicant discharges applicable GST on such procurements.



- 1.6 Section 16(1) of Central Goods and Services Tax Act, 2017 ("CGST Act") entitles a registered person to take 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.
- 1.7 However, as per Section 17(5) of the CGST Act, a restriction is imposed with respect to input tax credit (hereinafter referred to as "ITC") on procurement of goods and services or both received by the taxable person for construction of an immovable property. However, the term 'construction' is limited to supplies to the extent capitalized to an immovable property.
- 1.8 One of the types of procurements made is that of the pre-engineered structure ("PES").
- 1.9 As can be seen in the above images, a PES is a enclosure system that always includes a structural system and often includes roof and wall cladding.
- 1.10 The pre-engineered metal system is advantageous because it economically allows for the creation of large column-free enclosures.
- 1.11 The following are generally the primary components of a PES:
- a. Primary framing consisting of rigid frames, end wall frames, bracing and brackets;
 - b. Secondary framing consisting of elements which support the roof and wall sheeting;
 - c. Roof sheeting; and
 - d. Wall cladding.

It is with respect to ITC eligibility for these items that the Applicant seeks to obtain this ruling. The details of the question of law in **Appendix 2** is accordingly submitted before this Hon'ble Authority for Advance Ruling.



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2. **Questions:**

- 2.1 Given the factual matrix as enunciated in **Appendix 1**, we wish to seek a ruling on the following question:
- 2.2 Whether input GST credit can be availed by the Applicant on pre-engineered structures which is movable in nature and accounted as "Plant and machinery" and not capitalized as an immovable property?

3. **Grounds for application/ interpretation of law in respect of which the Advance Ruling is sought:**

I. **Input credit of taxes paid in respect of pre-engineered structure eligible credit under Section 16 of the CGST Act:**

- 3.1 Section 16 details the criteria of availment of ITC on tax paid on goods and services.

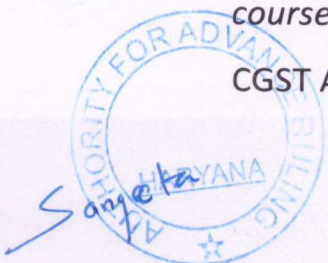
Relevant extracts of the same have been reproduced as follows:

"(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....."

- 3.2 Thus, from a bare reading of the Section, it can be seen that Section 16 of the CGST Act entitles every registered person to take input tax credit of tax charged on supply of goods or services or both which are used or intended to be used in course or furtherance of business.
- 3.3 The above criteria for availment of credit is broad both in manner as well as intent.

Meaning of "in the course of" or "furtherance of business"

- 3.4 While business has been defined under the CGST Act, the terms "in the course" "or furtherance of business" are not defined anywhere under the CGST Act or the CGST Rules made thereunder.

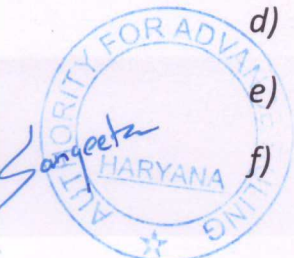


- 3.5 In the course of generally means something *"in the progress of process of"*.
- 3.6 The meaning of *"Furtherance"* as per Black's law dictionary: 6th edition 11th reprint 1997, is *"act of furthering, helping forward, promotion, advancement or progress"*.
- 3.7 Furtherance of business will, thus mean, act of furthering business, helping forward business, promotion of business, advancement of business or progress of business.
- 3.8 As mentioned above, the Applicant is into the business of building and managing industrial warehousing spaces for consumers and industrial centres and PESs helps in giving value add to its Industrial customers and managing the Industrial spaces in more efficient and effective way. In other words, the subject civil works helps the Applicant in carrying out their business in their day to day operations.
- 3.9 Therefore, basis the above submissions, given that the Applicant procures PES works which are erected in warehousing spaces rented out by the Applicant, the condition as provided under Section 16 for avilment of ITC stands satisfied.

II. **Restriction provided under Section 17(5) (c) & (d) does not apply to procurement of items for PESs:**

Credit restriction is only in so far as inputs/ input services "for construction of an immovable property"

- 3.10 Section 17(5)(d) uses the word *"for"* construction.
- 3.11 The term *"for"* is more specific than *"in relation to"*. The word *"for"* generally means *"for the purpose of"*.
- 3.12 The word *'for'* is defined in the Concise Oxford English Dictionary, 8th Ed. as under:
- a) *"in the interest or to the benefit of; intended to go to;*
 - b) *in defence, support or favour of;*
 - c) *suitable or appropriate to;*
 - d) *in respect of or with reference to;*
 - e) *representing or in place of....*
 - f) *conducive or conductively to; in order to achieve...."*



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3.13 The Hon'ble Supreme Court in the case of **Mansukhlal Dhanraj Jain & Ors. Etc. v. Eknath Vithal Ogale** etc. compared the words "for" and "relating to" and concluded that the latter has wider connotations than the former. The relevant extract is reproduced for your reference:

"There is a good deal of difference between the words "relating to the recovery of possession" on the one hand and the terminology "for recovery of possession of any immovable property". The words "relating to" are of wide import and can take in their sweep any suit in which the grievance is made that the defendant is threatening to illegally recover possession from licensee."

3.14 It can be seen from the above decisions that the word 'for' has been defined to mean in the interest of, to the benefit of, in defence of, in support or favour of, etc. Based on the above rationale, it can therefore be concluded that in order to be covered by the restrictions provided under Section 17(5)(d), the goods or services must be used directly for construction of immovable property.

3.15 In other words, with reference to section 17(5)(d) of CGST Act, read with the explanations provided therein, credit eligibility of goods or services or both is restricted only when the same is "for construction of an immovable property".

3.16 Further, the Applicant wishes to submit that for the purposes of clause (d) of section 17(5) of CGST Act, the expression 'construction' has been defined to include re-construction, renovation, additions or alterations or repairs, to the extent of capitalization of the said immovable property.

3.17 The Applicant in this regard submits that, so far the business activity of the applicant is concerned, PESs are not capitalised as immovable property but are in fact recorded as 'plant and machinery'.

3.18 They can be detached and re-used and are not considered to be the permanent civil assets. It is for this very reason that these items are not capitalized as immovable property.



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3.19 Thus, PESs are not covered under the definition of 'construction' and consequently is not restricted under Section 17(5).

4. **PESs qualify as eligible credit under Section 16 of the CGST Act, Restriction provided under Section 17(5)(d) does not apply:**

4.1 Basis the above submissions regarding the admissibility of the credit for works relating to PESs, the Applicant wishes to reiterate the analysis above as they same shall be applicable in the case of PESs as well.

4.2 The Applicant submits that as per Section 16 of the CGST Act, he is eligible to avail credit on such PESs as the same are used in the course or furtherance of Applicant's business.

4.3 It is pertinent to note that the restriction prescribed in Section 17(5) pertains to as inputs/ input services "for construction of an immovable property".

5. **Goods in question are movable:**

5.1 The Applicant submits that anything embedded to the earth and which cannot be dismantled and moved, strictly are covered under the ambit of "immovable property", thus restricting the same from availment of ITC as per Section 17 (5)(c) & (d) of the CGST Act.

5.2 The term immovable property has not been defined under GST Act, therefore reference needs to be taken from General Clauses Act, 1897.

5.3 Section 3(26) of the General Clauses Act, 1897, does not provide an exhaustive definition of the said expression. It reads :

"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."

5.4 Similarly, Section 3 of the Transfer of Property Act, 1882 does not spell out an exhaustive definition of the expression "immovable property". It simply provides that unless there is something repugnant in the subject or context 'immovable property' under the Transfer of Property Act, 1882 does not include standing timber, growing crops or grass.

5.5 Though the terms “attached to the earth” are not defined in the GST law, reference can be drawn Section 3 of the Transfer of Property Act, 1882 wherein it is defined that anything:

- a) Rooted to the earth, as in 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.

5.6 PESs are basically steel structures consisting of columns, roof truss, purlins etc. that are pre-fabricated in a factory in accordance with design specifications and later erected in site using bolts.

5.7 These are tailor made based on client’s requirements and actual design calculations.

5.8 Designing and fabrication is done in factory. Building components are brought to site and then joined at the site. All connections are bolted.

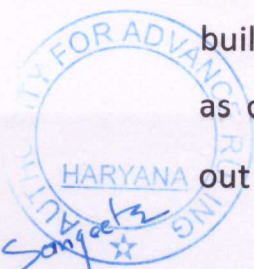
6. Erection:

6.1 The steel structures are lifted into place by crane and then bolted together Below is an image of PES under installation.

7. Foundation:

7.1 Foundation for PESs are made with conventional concrete systems, usually open foundations. These structures are very light (they can weigh as little as 50 kg per square meter, excluding the foundations and floor slab), the foundations are designed to firmly anchor the structure to ground preventing them from being blown away by the wind. The slab provides a strong and stable base for the foundation and avoids direct contact of the foundation with soil. As seen above, PES foundation slab merely rests on the ground and are not imbedded in the earth. Therefore they cannot be classified as “immovable property” as described above.

7.2 Pre-engineered structures are different from that of conventional concrete buildings. They are often preferred as they are more efficient and effective as compared to concrete structures. Analysis of same has been brought out below:-



Feature	Pre-Engineered Steel Structures (PES)	Concrete Buildings (RCC)
Capacity	Steel may carry up to 6 times its own weight.	The carried load of concrete is almost equal to its weight
Erection	Easy, fast and efficient. Erection costs and time are accurately forecast based on extensive experience with similar buildings.	Concrete construction takes more time to complete because it must be poured on site and allowed to cure before proceeding.
Clear Spans	Larger, up to 90 meters without interior columns.	Smaller and the larger the span the heavier the structure.
Building Height	Higher	Shorter
Changes	Flexible, tailor-made, changes and revisions can be made easily. Future expansion is simple, easy and cost-effective. One supplier to coordinate changes.	It is nearly impossible to modify a concrete building to meet changing future needs. To expand the structure, the contractor must build a new structure with foundations, columns and most likely must break part of the old structure.
Applications most beneficial to	Industrial and Commercial.	Houses, Villas, and Parliaments
Cost	Overall cost is generally less and accurately defined and forecast.	Overall cost could be higher and is difficult to accurately define and forecast.
Fabrication	Done in shop-controlled conditions.	Mostly at site in variable conditions.
Material Specifications	Precise and fixed, carefully and accurately controlled under supervision in the production facility.	Variable, non-homogeneous. The properties of concrete vary widely due to variations in its proportioning and mixing.
Dimensions	Precise and accurate measurements carried out by automated machines.	Potential for significant errors as most of the work is man made on site.
Material Foundations	Lighter, simple design and easy to construct.	Variable and generally require extensive heavy foundations.

7.3 There are a number of advantages associated with adopting PESs by any industry. Some of them are listed below:-

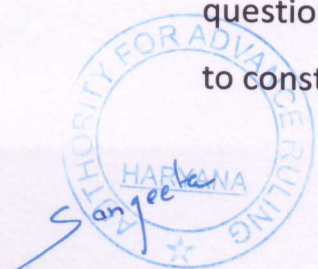
- a) PESs are joined together using bolts which allows expansions, which may be required in the future, to be done in a cost effective and simple manner.
- b) PESs are architecturally versatile since designs can be developed in software and the structure can be fabricated using machines to achieve the desired shape without any compromise.
- c) The structure is light in weight and flexible enough to offer greater resistance when compared to conventional concrete structures.
- d) It also requires less manpower at site and results in reduction/saving in cost to company.
- e) The process eliminates multiple parties to streamline construction and save time and money.

7.4 Therefore, it can be summarized that:-

- a) PESs are pre-fabricated structures that are erected in the site and joined together using bolts. They are not inextricably linked to the construction itself.
- b) The foundation is a slab which rests on the ground and neither rooted to the earth nor embedded in the earth nor attached for the permanent beneficial enjoyment as the same can be detached and re-used at another site.
- c) It is adopted to meet business requirements efficiently and effectively and hence it is in the course or in the furtherance of business.

8. Inapplicability of the decision of the West Bengal Authority for Advance Ruling in the case of Tewari Warehousing:

8.1 In the Advance Ruling issued by the authority for Advance Ruling, West Bengal, in the case of **M/s. Tewari Warehousing Co Private Limited**, the question was whether the applicant is eligible for input tax credit pertaining to construction of warehouse using pre-fabricated technology.



8.2 The Authority reasoned that if the article cannot be used without fastening or attaching it to the earth and is not removed under ordinary circumstances, it may be considered permanently fastened to anything attached to the earth.

8.3 Furthermore, in the context of the GST Act, if the article attached to the earth is not agreed to be severed before supply or under a contract for supply, it ceases to be goods and, for that matter, a moveable property.

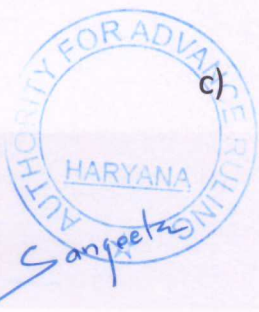
8.4 The Authority opined that the pre-fabricated movable structures do not constitute the property of the warehouse. They are building blocks applied to a civil structure attached to the land to construct a complete warehouse. The warehouse cannot be conceived without the beneficial enjoyment of the civil structure, which is an integral part of the property. On this basis, warehouse being constructed was classified as an "immovable property" and credit was not admissible on inward supplies pertaining to PES technology.

8.5 However, on analysing the above decision, the Applicant submits that the above decision cannot be relied upon and the same has to be distinguished based on factual grounds:

a) The Authority has assumed that the most important component of a warehouse is the floor on which the goods will be kept. However, this is not in the case of the Applicant as warehousing provided by them is not just for storing goods but also involves protecting the goods from sunlight, rain, wind and other forces of the external environment.

b) Only a comprehensive structure consisting of walls and roof can safeguard the goods being warehoused. The beneficial enjoyment of the PES structure is of paramount importance and the concrete base only plays a supportive role. Whereas ITC relating to the concrete base is clearly ineligible, the ITC pertaining to PES structure should be available and that is what the question pertaining to in the Application.

c) Further, the Authority has also assumed that the intention of the Applicant is to make the PES as a permanent structure. However, the



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very reason why PES is preferred over conventional building is that it offers movability. Hence, when a PES is assembled in a place, the intention is definitely not to make it a permanent structure but rather to facilitate hassle-free shifting based on changing business requirements.

- d) The Authority has also held the PES warehouse cannot be relocated by unfixing the pre-fabricated structures alone and that dismantling of the floor is necessary. However, in reality the entire structure can be dismantled without any damage to its components and can be reassembled at another location without any need to dismantle the floor of the previous location.

9. Judicial Precedents in relation to credit admissibility:

- 9.1 In the Advance Ruling issued by the authority for Advance Ruling, Uttarakhand, in the case of **M/s VINDHYA TELELINKS LTD**, the question was whether the applicant is eligible for input tax credit on goods & services used in erection of infrastructure, which consists of "steel tabular pole, galvanized iron wire, nuts &, bolts, optical fibre cables, plastic pipes, clamps", for telecommunication service providers since the infrastructure provided by the applicant is different from "Telecommunication Tower".
- 9.2 It was held that the infrastructure provided by the applicant is different from "Telecommunication Tower" and it is not an immovable property as it can be easily be moved to another place for use without any damage to the entire infrastructure.

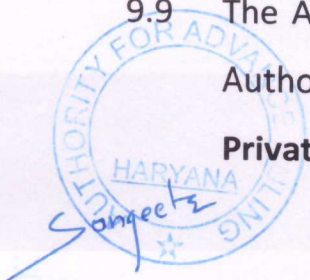
The infrastructure being a movable property can be classified as 'goods' in terms of section 2(52) of CGST/SGST Act, 2017. The infrastructure provided being different from Telecommunication Tower, the applicant can avail Input Tax Credit on GST paid on the goods & services in terms of section 16(1) of CGST/SGST Act, 2017, consumed while providing the supply in question.

- 9.3 As mentioned in the facts of the case, PES are movable in nature and thus applying the decision of the Advance Ruling Authority, the Applicant would be rightly eligible for Input Tax credit.



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- 9.4 In view of the above, on applying three test referred above, PES cannot be termed as immovable property for the following reasons:
- a) They are not immovable property;
 - b) They cannot be said to be attached to earth;
 - c) The setting up itself is not intended to be permanent at a given place.
 - d) It can be moved based on business requirements.
- 9.5 The Applicant further places reliance on the advance ruling issued by the Authority of the advance ruling in the case of **M/s BAHL Paper Mills LTD**, where the question was whether credit will be available on office fixtures & furniture, AC, plant & sanitary fittings on the newly constructed building on its own account, for furtherance of business, and is capitalized in books of accounts.
- 9.6 It was held that as per the explanation to Section 17 of the CGST Act, availment of credit was not admissible in respect of land, building or any civil structure; therefore sanitary fittings being the integral part of the land was not an admissible credit.
- 9.7 However, credit of GST is available on office fixtures & furniture, A.C. plant. The said advance ruling has placed reliance on the CBIC Board Circular No. 943/04/2011-CX dated 29th April 2011 wherein it was clarified that the goods such as furniture and stationery used in an office within the factory are goods used in the factory and are used in relation to the manufacturing business and hence the credit of the same is allowed.
- 9.8 Further Reliance can be placed on the judgement in the case of **M/s Balkrishna Industries Ltd Vs CCE, Jaipur-I** wherein it has held that the credit on duty paid on air-conditioners installed in the office of factory is admissible. Further, the goods such as furniture and stationery used in the office within the factory are goods used in relation to the manufacturing business and hence credit is to be allowed on the same.
- 9.9 The Applicant further places reliance on the Advance ruling issued by the Authority of the advance ruling in the case of **Nipro India Corporation Private Limited** where the question was whether the input tax credit of tax



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paid on cost proposed to be incurred in relation to civil works, mechanical works and electrical works can be admissible under the CGST Act, 2017.

9.10 It was held that the goods in question are used or intended to be used in course of furtherance of business and as per section 16 of the GST Act "Every registered person subject to such conditions and restrictions as may be prescribed would be entitled to take credit of input tax charged on supply of goods or services or both to him which are used or intended to be used in course of furtherance of business".

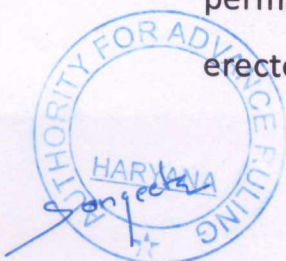
9.11 Further it is understood that credit with respect to various plant and machinery is admissible as per Section 16 of the CGST Act.

9.12 From the above, it can be inferred that the credit of input tax charged on the supply in the nature of various plant and machinery items are to be allowed as it is admissible under CGST/SGST Act 2017.

9.13 Thus, the Applicant submits that with reference to the explanation provided in section 17(5)(d) of CGST Act, the goods in question i.e., PES which are in the nature of supporting civil works are movable fit-outs which would qualify as eligible input tax credit.

10. Discussion:

10.1 The applicant is engaged in building and managing industrial and warehousing spaces for consumers and industrial Centre. It procures goods and services from various contractors for fitting out the warehousing spaces and provides subject space and infrastructure facility on rent to various industrial consumers and manufacturers. It discharges the GST liability with regard to such procurement. One of the types of procurement is pre-engineered structure (PES). The applicant also submitted that the PES are not capitalized as immovable property but are recorded as plant and machinery. They can be detached and reused and are not considered to be permanent civil assets. The PES are pre-fabricated structures that are erected at the site by way of joining with bolts. The foundation is made of



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concrete and it rests on the earth, neither rooted to nor embedded in the earth for permanent beneficial enjoyment. The applicant seeks ruling with regard to the availability of Input Tax Credit against the procurement of PES.

- 10.2 Dealing with the contention of the applicant, it is important to discuss some of the relevant provisions contained in the CGST/ HGST Act, 2017. Section 2(52) defines goods as ***“every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply”***.
- 10.3 Section 16(a) of the Act provides for eligibility of Input Tax Credit. It reads as ***“in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed”***.
- 10.4 Section 17 of the GST Act deals with Apportionment of credit and blocked credits. Section 17(5)(d) reads as ***“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”***.
- 10.5 Now, as per the definition of goods some movable property is excluded from the category of goods whereas at the same time, some immovable properties are treated as goods. But the terms movable and immovable property have not been defined under the GST Act. In laymen terms, any goods that can moved is a movable property and which cannot be moved is immovable property.
- 10.6 But the General Clauses Act 1897 and the Transfer of Property Act defines both these terms. 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”***. Whereas, Section 3(36) defines movable property



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as ***“property of every description, except immovable property”***. So as per this definition, any property which does not qualify to be immovable property, is a movable property. This definition of immovable property under the General Clauses Act is affirmative in nature as against the definition contained in the Transfer of the property Act 1882, which is negative in nature. As per TPA, immovable property does not include standing timber, growing crops or grass. It further says that *“attached to the earth”* means:

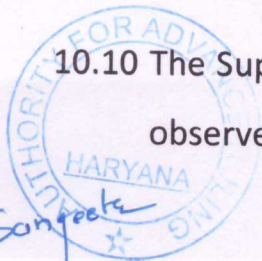
- (a) rooted in the earth, as in the case of trees and shrubs;
- (b) imbedded in the earth, as in the case of walls or buildings; or
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.

10.7 Now, section 17(5)(d) bars any taxpayer to avail the benefit of Input Tax Credit in case where the goods or services or both received by the said person are used for the construction of an immovable property even if it is in the course or furtherance of business.

10.8 As per the definition of immovable property contained in the General Clauses Act and the Transfer of Property Act, it is clear that things attached to the earth or permanently fastened to anything attached to the earth is immovable property. Anything imbedded in the earth or attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached, qualifies to be attached to the earth.

10.9 As far as the contention of the applicant regarding procurement of PES and subsequent fitting to be in the course of business is concerned, it is admitted that the same is in course of business but the question is whether the applicant is eligible to ITC in light of the provisions contained in section 17(5)(d) of the CGST/ HGST Act. The applicant shall be eligible to ITC only if it is so established that the property i.e. warehouse constructed/ erected by way of PES qualifies to be movable property.

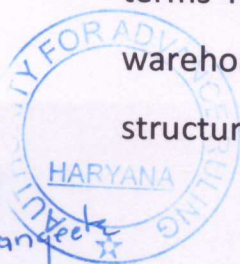
10.10 The Supreme Court in Triveni Engineering and Industry Limited (2000) case observed that in order to determine whether an article is permanently



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 English Law also attaches great significance to the degree and nature of annexation. The Allahabad High Court in S/S Triveni N L Limited has observed that "*permanently fastened to anything attached to the earth*" has to be read in the context for the reason that nothing can be fastened to the earth permanently so that it can never be removed. If the article cannot be used without fastening or attaching it to the earth and it is not removed under ordinary circumstances, it may be considered permanently fastened to anything attached to the earth. The applicant has submitted that the concretionary foundation rests on earth it is neither attached to nor imbedded in the earth. But the contention of the applicant is rejected because since the concretionary structure rests on the earth, it is naturally attached to the earth by way of gravitational pull of the earth.

10.11 Further, when any object is said to be imbedded in earth, it does not mean that a part of it is to be inserted/ put deep beneath the earth by digging the earth for several meters. For laying any foundation especially in case of area of considerable dimension as in case of a warehouse, the top soil has to be removed, surface has to be leveled and some part of foundation stone always rests with in the earth. So this contention of the applicant that the support base of the warehouse made of PES neither attached to nor imbedded in the earth is rejected.

10.12 As regards the issue of the non-permanent nature of the PES structure is concerned, it has already been discussed that the degree and nature of annexation is vital to the decision whether a property is a movable property or an immovable property. In the case of applicant, the warehouses are rented out to industrial consumers and manufacturers. These warehouses cover considerably large area and caters to the need of business which in terms requires permanence and stability. So, it cannot be said that the warehouses constructed/ erected by way of fixing pre-engineered structures is non-permanent in nature.

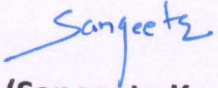


11. Ruling:

11.1 In light of the above discussion it is concluded that the warehouses constructed/ erected by the applicant are an immovable property for the purposes of GST Law and the applicant is not eligible to ITC in view of the provisions contained in section 17(5)(d).

Ordered accordingly.
To be communicated.

18.06.2019
Panchkula.


(Sangeeta Karmakar)
Member CGST




(Madhubala)
Member SGST

Regd. AD/Speed Post

**M/s Embassy Industrial Parks Private Limited,
Pathredi, Tehsil Gurugram, Gurgaon, Haryana.**

Copy to:

1. The Principal Commissioner of Central Goods & Service Tax, GST Bhawan, Plot No. 36-37, Sector-32, Gurugram, Haryana.
2. Deputy Excise and Taxation Commissioner (ST), Gurugram (North).

o/c