

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU**  
**No.207, 2<sup>nd</sup> FLOOR, PAPJM BUILDING, No.1, GREAMS ROAD,**  
**CHENNAI 600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND**  
**UNDER SECTION 98(4) OF THE TNGST ACT, 2017**

**Members present:**

<b>Shri C.Thiyagarajan, I.R.S.,</b> <b>Additional Commissioner/Member (CGST),</b> <b>Office of the Commissioner of GST and</b> <b>Central Excise,</b> <b>Audit I Commissionerate,</b> <b>Chennai - 600 101.</b>	<b>Shri B.Suseel Kumar, B.E., MBA.,</b> <b>Joint Commissioner/Member (SGST),</b> <b>Authority for Advance Ruling,</b> <b>Tamil Nadu,</b> <b>Chennai - 600 006.</b>
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**Advance Ruling No. 31/ARA/2025, dated 18.08.2025**

- 1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/TNGST Act 2017, within 30 days from the date on which the ruling sought to be appealed is communicated.*
- 2. 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 applicant who had sought it in respect of any matter referred to in sub-section (2) Section 97 for advance ruling.*
  - (b) On the concerned officer or the Jurisdictional Officer in respect of the applicant.*
- 3. In terms of Section 103(2) of the Act, this Advance Ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
- 4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*
- 5. The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (herein referred to as the Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.*

GSTIN Number, if any/ User id	33AAACL6155E1ZU
Legal Name of Applicant	M/s. Shibaura Machine India Private Limited
Trade Name of Applicant	M/s. Shibaura Machine India Private Limited
Registered Address/ Address provided while obtaining User id	No.65 (P.O Box No.5), Chennai-Bangalore Highway, Chembarambakkam, Poonamallee Taluk, Thiruvallur, Chennai – 600 123.
Details of Application	Application Form GST ARA-01 received from the applicant on 04.10.2024.
Jurisdictional Officer	State – Sriperumbudur Assessment Circle, Kancheepuram Division  Centre – Chennai Outer Commissionerate, Poonamallee Division.
Nature of activity (s) (proposed/present) in respect of which advance ruling sought for  A. Category  B. Description (in brief)	Factory/Manufacturing  Input Tax Credit eligibility on fire-fighting system and public health equipment for expansion of factory for manufacturing activity
Issues on which advance ruling required	Admissibility of Input Tax Credit of tax paid or deemed to have been paid
Question(s) on which advance ruling is required	1) Whether Input Tax Credit (ITC) is eligible on fire-fighting 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?

M/s. Shibaura Machine India Private Limited, No.65, (P.O Box No 5), Chennai-Bangalore Highway, Chembarambakkam, Poonamallee Taluk, Thiruvallur, Chennai – 600 123 (hereinafter called as the “Applicant”) are registered under the GST Act with GSTIN 33AAACL6155E1ZU. The Applicant has made a payment of application fees of Rs.5,000/- each under sub rule (1) of Rule 104 of CGST Rules, 2017 and SGST Rules, 2017.

2. The applicant has sought advance ruling on the following questions,
- 1) Whether Input Tax Credit (ITC) is eligible on fire-fighting 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. The applicant is engaged in the business of manufacturing of injection moulding machinery and accessories. The applicant is expanding their business operation and have constructed a new factory adjacent to its existing factory. They have incurred capital expenditure towards procurements in relation to setting up of this factory. They had entered into a separate contract with the Supplier for Supply, installation, testing & commissioning of Industrial Works for the new factory. The said construction works includes Civil Works, Pre-engineered Building Works, Fire Fighting installation services, Public Health Equipment installation services, leviable to GST at the rate of 18%.

**4. Statement containing the Applicant's interpretation of law**

4.1. The Applicant had entered into an agreement for erection of civil works, fire-fighting systems and public health engineering 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

4.2. The Applicant is of the bonafide intention that input tax credit ('ITC') arising out of invoices being raised on them for the above-mentioned supply (FFS and PHE) are

eligible. 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.'

4.3. 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 Applicant states that any acquisition of capital goods and services in connection with commencement of business is very much a business activity.

4.4. The Applicant states that, when this definition is read with the provisions of Section 16(1) of the CGST Act, as reproduced below (full text in Para 14):

**"..... 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 Applicant submits that the Contract entered is for supply, installation, testing and commissioning of the fire-fighting system and public health equipment in the new factory commissioned for expansion of business activity. That the Applicant should hence be eligible for input tax credit on the inputs & input services used in the course or furtherance of business. Further, the Applicant 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, payment to supplier, etc.

4.5. Further, Section 17(5) of CGST Act & TNGST Act provides the cases where ITC is inadmissible. Relevant text of Section 17(5) is hereby reproduced below 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:-*  
*(a) motor vehicles for transportation of persons.....*

*(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;”*

4.6. The Applicant 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
<b>Total</b>		<b>4,65,36,401</b>

The Applicant 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.

4.7. The Applicant 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
<b>Total</b>		<b>1,74,81,313</b>

4.8. The Applicant submits that all the civil work related to above procurement (buildings) was considered in civil package (Sl. No. 1 of table in paragraph 11). 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 Applicant enclosed certain images relating to fire-fighting system and public health engineering with their application to provide a comprehensive understanding of the procurement made.

4.9. The applicant 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 Applicant 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."*

4.10. 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."*

Also, the above-mentioned items are not imbedded in earth and is movable. Accordingly, the Applicant submits this Contract for supply and installation of these FFS items & PHE does not fall under the ambit of immovable property as mentioned in Section 17(5)(c) and (d) of the CGST Act. Thereby, the Applicant states that they are eligible to ITC on supply of all works covered under this Contract.

4.11. Without prejudice to the above, even in a case where those are argued to be immovable property, these will eventually satisfy the conditions laid down in the definition of *Plant and Machinery* for the purpose of GST Law. Relevant extract of explanation of the term *Plant and Machinery* under Section 17(5) is reproduced below for ease of reference:

*"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"*

4.12. Hence, the term Plant and Machinery with reference to Section 17(5)(c) & 17(5)(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.

4.13. 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. The Applicant states that Apparatus, Equipment, Machinery are not defined under the GST Law. Hence, the inference is drawn to McGraw 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."

4.14. The Applicant also draws inference for the term 'Apparatus' from Webster's Encyclopaedic Cambridge 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"*

4.15. 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 gets covered under the definition of *plant and machinery* in the context of GST Law. Accordingly, the Applicant submits that Input Tax Credit on the transaction under question does not fall under any of the categories of Section 17(5), and hence not blocked.

4.16. 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 is reproduced below for ease of reference:

*"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)".*

4.17. 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 is 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)".

4.18. Further, the Applicant submits that these items are duly categorized as "Plant and Machinery" in its books of accounts. These are currently parked in the "Capital Work-In-Progress" and would be capitalized in the books of accounts once the factory premises is commissioned.

4.19. The Applicant 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 is re-produced below for ease of reference:

36		Fire Alarm System			Fire alarm system for production floor	Relevant extracts of the Maharashtra Factories Rules, 1963	Admissible except for civil construction work if any.
37		Public Address System			Public address System is used for communication of instructions on the production floor and also in the case of emergencies.	Explanation to sub-section V and VI Section 17 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 is re-produced below for ease of reference:

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 applicant contends that the ITC shall be eligible on the same.

4.20. The Applicant 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 Applicant states that the fire-fighting equipment are rightly covered under *Plant and Machinery* in order to avail ITC.

4.21. In relation to the second query on the availment of ITC on advance portion paid, the applicant has submitted that as per the clause 8 of Contract, the Applicant has paid the Supplier an amount equal to 10% of the Contract price as an advance, upon issuance of Letter of Award. The Supplier has issued tax invoice for receipt of this advance payment ('first invoice'). However, there will be no actual supply of goods or services or both at that specific point in time when such first invoice was issued.

4.22. The Applicant wishes to state that while it has fulfilled most of the conditions specified in Section 16(2) of the CGST Act, for availment of ITC, the condition with respect to receipt of supply as mentioned under Section 16(2)(b) of CGST Act.

*"(b) he has received the goods or services or both."*

Referring the above, it can be understood that the Applicant would not stand to fulfill the above condition at the time of receiving the invoice pertaining to payment of advance. This means that the ITC is eligible only upon receipt of supply of goods or services or both as the case may be, which concludes only once the last invoice is raised by the Supplier wherein such advance is concluded to be fully adjusted.

4.23. The Applicant states that the Supplier once commences to execute the Contract starts to issue his subsequent invoices ('running bills' or 'RA bills') based on completion of payment milestones as defined in the Contract. When the Supplier

starts to raise the RA bills, he has three components which is gross billing, adjustment of advance (raised in the first invoice), and the net billing. In the instant case, the Supplier has adjusted 10% of the gross amount on all RA bills as the mobilization advance which was paid during the time of issuance of first invoice. The Applicant enclosed the sample copies of invoices (first invoice, one RA bill and one material bill) raised by the Supplier with their application along with highlighting the portion of adjustment which are discussed above.

4.24. The Supplier had raised the first invoice with respect to the supply under question in the FY 2022-23 (March 2023). However, the receipt of last invoice wherein the advances are fully adjusted, was issued in FY 2024-25. One of the conditions specified in Section 16(2) to avail ITC on invoices is the receipt of goods or services or both.

4.25. However, as per Section 16(4) of the CGST Act,

*"(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier."*

4.26. In the instant case, on a plain reading, time limit to avail ITC on the first invoice raised by the Supplier shall fall on 30 November 2024. On the contrary, the Applicant would not have fulfilled the conditions to avail such ITC as the receipt of goods or services or both would fall after the above-said time limit. As per the *doctrine of Harmonious Construction*, a provision of the statute should not be interpreted or construed in isolation but as a whole, so as to remove any inconsistency or repugnancy.

4.27. Moreover, it may be noted that the Section 16(2) contains a *non-obstante* clause overriding other provisions of Section 16. Given the same, the provisions of Section 16(2) shall prevail in case of any conflict between Section 16(2) and other sub-sections of Section 16. The applicant contends that the right to avail ITC arises after the last date of availing the said credit as per as per Section 16(4).

4.28. Further, the Applicant places its reliance on ruling of Hon'ble Allahabad High court in the case of *M/s. Century Laminating company V/s. Commissioner of Central Excise, Meerut [2015 (3) TMI 130 - Allahabad High Court]*, wherein it has been held as follows:

*"when certain goods based on the invoice was received during the period of six months but the last and final lot was received after the period of six months, we are of the opinion that Rule 57D(6) now Rule 57G(2) of the Rules being procedural in nature does not dis-entitle the claim of the assessee for claiming Modvat credit. In the absence of any deliberate delay, coupled with the fact that the transaction executed by the assessee, being a bonafide one and, based on the direction of the Superintendent, Central Excise dated 8th February, 1995, the assessee, in the instant case, was entitled for Modvat credit"*

4.29. Therefore, based on the above contentions, the Applicant is of the view that it can avail the credit on input tax on receipt of supply of goods or services or both against an invoice irrespective of the receipt of supply after the last date under Section 16(4) of the CGST Act. Without prejudice to the above, with the above said time limit (on a plain reading) fast approaching as on the date of filing this present application, the Applicant sought to secure the Input Tax Credit on the invoices as a precautionary measure by availing it in the GSTR-3B return of the tax period - October 2024, with respect to all the invoices. Nonetheless, they have assured that the credit will not be utilized until an outcome on this application is provided.

5. The applicant is under the administrative control of State Tax. The concerned authorities of the Centre and State were addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the ARA application and for comments on the issues raised. No remarks have been received from the Centre Authority as well as State Authority. Hence, it is construed that there are no pending proceedings on the questions raised by the applicant in their advance ruling application.

### **Personal Hearing**

6. The applicant was given an opportunity to be heard in person on 16.04.2025 vide this office memorandum No.23/2024, dated 03.04.2025. Mr.Rajaram R and Mr.Gowtham T of M/s.Ernst & Young LLP appeared for the personal hearing as the authorised representatives (AR) of M/s. Shibaura Machine India Private Limited. The AR reiterated the submissions made in their application for advance ruling. They explained that the applicant is engaged in the business of manufacture of injection moulding machinery and its accessories. They stated that they are expanding its business operation and have constructed a new factory adjacent to its existing factory and has incurred capital expenditure towards procurements in relation to setting up of the new facility. The procurement under this contract, also involves installation of fire pump equipment and sanitary fixtures and fitting, sewage system, etc., which are not embedded to earth and fixed above ground. When the Members enquired about the capitalization aspect, the AR explained that while the portion relating to civil work is capitalized as building, the other fixtures and equipment are capitalized as 'Plant and Machinery' in their books of accounts. Likewise, when the members enquired about the mode of availment of ITC, especially when the contract is a composite one involving both civil work and installation of goods. The AR explained that ITC is availed only on the fixture/equipment portion and not on the civil work portion, based on the break-up available under the 'Cost Abstract' and 'Bill of Quantities' that forms part of the contract. They further stated that the ITC availed on the fixture/equipment in question will not be utilized until an outcome to this application is provided. They cited the ruling of AAR, Maharashtra in the case of M/s. Nipro India Corporation Private Limited in their support.

6.1. Consequent to transfer and posting of the Member (CGST) of Authority of Advance Ruling, another personal hearing was granted to the Applicant on 24.07.2025. Mr. Ranjit V Jolly, and Mr. Gowtham T, 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 already during the original hearing held on 16.04.2025. In addition to the same, they invited the attention of the Members to the images furnished in page 547 of the application for advance ruling filed pertaining to Fire Fighting Systems and Public Health Engineering Systems installed in the new factory premises. They explained that the Fire Fighting Systems include Fire hydrants, sprinkler system, etc and Public Health Engineering includes Pipelines for Waste clearance to ensure a safe and secure environment for workers. In this regard, they further stated that under page 15 of the application filed, the details of relevant items are furnished under B1, C1, C3 & C4.

## **7. Discussions and Findings:**

7.1 We have carefully examined the submissions made by the applicant 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 applicant's submission / interpretation of law in respect of question on which the advance ruling is sought. The applicant has sought for Advance Ruling on the issue of availing Input Tax Credit on GST paid on supply, installation of Firefighting Systems and Public Health Equipment in their existing factory. We find that the query is liable for admission as it gets covered under Section 97 (2) (d) of CGST/TNGST Act, 2017 under "admissibility of input tax credit of tax paid or deemed to have been paid".

7.2 We note that the applicant is engaged in the business of manufacture of injection moulding machinery and accessories. Since they are expanding their business operation, they have constructed a new factory adjacent to its 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 Supply, installation, testing & commissioning of Works for the new factory.

7.3 To begin with, the relevant provisions of Section 16(1) of the CGST Act, 2017, that prescribes the eligibility and conditions for taking ITC, is as below :-

*"(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"**.

7.4 It may be seen that the provisions of Section 17 of the CGST Act, 2017 discusses about the blocked credits. However, 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 embargo in relation to availment of ITC in the instant case revolves very much around 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 service or both, when made for 'construction of an immovable property.

7.5 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".

7.6 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 1.07.2017 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 1<sup>st</sup> 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".'*

7.7 With these aspects in mind, we now proceed to examine the transaction involved and its purpose, in order to determine the ITC eligibility or otherwise in the instant case. Accordingly, the crucial aspects that are to be discussed and decided in the instant case of the applicant are :-

- (i) Whether the execution of project in the instant case results in the creation of an immovable property or not?
- (ii) Whether the resultant fire-fighting system and public health equipment installation for the factory gets categorised as 'Plant and Machinery' or not? and
- (iii) Whether the execution of the project qualifies as 'Works Contract' or not?

7.8. In this regard, we note that the applicant 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."*

7.9. 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
<b>Total</b>		<b>4,65,36,401</b>

7.10. 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
<b>Total</b>		<b>1,74,81,313</b>

7.11. We note that the Applicant submits that all the civil work related to above procurement (buildings) was considered in civil package (Sl. No. 1 of table in paragraph 11). The procurement made vide this Contract in relation with PHE are sanitary fixtures & fittings, sewage system, water supply system, rain water harvesting system, pumps and etc.

7.12. From the scope of the contract entered into between the parties, it could be seen 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, wherein the break-up of the cost involved on Supply and Installation of Fire-Fighting System and Public Health Engineering has been provided separately. 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. This apart, we find 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. The fact that the clause in the contract itself, which specifies the permanent and immovable nature of the executed project, viz., "*(3) The Contractor shall complete the Work and deliver the Permanent Work to the owner in accordance with the Contract,*", proves the case in point.

7.13. At this juncture, we note that during the personal hearing held on 16.04.2025, when the Members enquired about the capitalization aspect, the AR had stated while the portion relating to civil work is capitalized as building, the other fixtures and electrical works are capitalized as 'Plant and Machinery' in their books of accounts. In this regard, it is seen that the Accounting Standards prescribe accounting of revenue expenses and capital expenses. If the expenses are in the nature of capital expenses and are related to fixed assets, then they are capitalised. Merely, accounting an

immovable property as a movable property or accounting a particular item under a different head, does not obviate the immovable nature of the item being accounted.

7.14. Accordingly, we now move on to discuss as to whether the resultant Fire-Fighting System and Public Health Engineering installation for the factory gets categorised as 'Plant and Machinery' or not? In general parlance, an installation or even a factory is referred to as a 'Plant', and a Machinery is taken to mean 'A group of parts or machines arranged to perform a useful function'. However, it is to be noted that the categorisation as to 'Plant and Machinery', for the purposes of availment of ITC, is not to be determined as it is meant in general parlance, and that the same is liable to be determined strictly in line with the definition prescribed under the statute. Further, the expression 'Plant and Machinery' is to be considered in *toto per se*, and that the same cannot be seen 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;

7.15. At this juncture, we take cognizance of the fact that the terms 'Apparatus', 'Equipment', 'Machinery' are not defined under the GST Law, and so we consider the definitions of the respective items as provided by the Applicant in their application for advance ruling, drawing inference to Mc-Graw Hills dictionary, wherein these items have been defined as follows :

***"Apparatus** - A compound instrument designed to carry out a specific function.  
**Equipment** - One or more assemblies capable of performing a complete function.  
**Machinery** - A group of parts or machines arranged to perform a useful function."*

It could be seen from the above, that 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. These items would likely fall under the term Apparatus.

7.16. 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.

7.17. 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 these 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.

7.18. With regard to the aspect as to whether the transaction involved in the instant case qualifies as 'Works contract' or not, we note that under Sl.No.7 of the Statement of relevant facts furnished along with the application for advance ruling, the applicant had contended that the above said fire alarm installation services fall under SAC 995413 and are leviable to GST at the rate of 18%. In this regard, we find that the contract of goods and services which are naturally bundled and supplied in conjunction with each other, as in the instant case, gets covered as a 'composite supply' as defined under Section 2(30) of the CGST Act, 2017, which is reproduced below :-

*"(30) 'composite supply' means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;"*

When the said composite supply involves a contract for building, construction, erection, installation or commissioning of any immovable property, wherein the transfer of property in goods is involved in the execution of such contract, it becomes a classic case of 'works contract' service, which is defined as under Section 2(119) of CGST Act, 2017,

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

And such composite supplies under specific circumstances, are to be treated as a supply of 'Services', as laid down in paragraph 6 of Schedule II of the CGST Act, 2017, which reads thus,

**"6. Composite supply**

*The following composite supplies shall be treated as a supply of services, namely:—*

*(a) works contract as defined in clause (119) of section 2; and*

*(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration."*

The fact remains that the instant case of the applicant ideally gets covered as a composite service of 'Works Contract' as specified under Section 2(119) of the CGST/TNGST Act, 2017.

7.19. From the above, we infer the following aspects, in relation to the contract involved in the instant case, i.e.,

- (a) That the Fire-fighting System and Public Health Equipment works proposed in the contract is for the 'New Factory Project' which is a comprehensive one meant for the entire factory, and not in relation to a specific machinery/equipment.

- (b) That the execution of the said project amounts to rendition of a composite "Works Contract" Service by the supplier, in as much as it involves supply of materials as well as supply of service including installation, testing, commissioning, etc.
- (c) That the output, viz., the installation of Firefighting System and Public Health Equipment for the factory, results in a 'Permanent Work' of immovable nature to be delivered to the owner.
- (d) That the said output cannot be considered as 'Plant and Machinery' as defined under the Act as they are not capable of being used directly for making outward supply of goods or services or both.

7.20. 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.

7.21. At this juncture, we find that the applicant has relied on the case laws in respect of (i) the ruling of Authority for Advance Ruling, Maharashtra in the case of *M/s. Nipro India Corporation Private Limited [2018 (10) TMI 745]*; and in this regard, we wish to state that as per Section 103(1) of the CGST Act, 2017, advance rulings are applicable only to the applicant concerned. However, the persuasive effect that it brings to the context of the case shall be considered provided the facts and circumstances of the case are the same. As far as the case involving M/s.Nipro India Corporation (P) Ltd., is concerned, it is seen that the admissibility to ITC has been discussed individual system-wise, viz., Fire Alarm System, Public Address System, External Sewage System, External Sewer and Venting System, Sanitary Ware and CP fittings, etc. In this regard, we observe that while the said ruling has been pronounced on 28.05.2018, the rulings that were pronounced later, viz.,

(i) The Ruling in KAR ADRG 109/2019 dated 30.09.2019 of the Karnataka Authority for Advance Ruling in the case of M/s.Embassy Industrial Park (P) Ltd., wherein it has been Ruled that

*"it is pertinent to note that the items do not have independent existence and are part and parcel of the entire building, a building with infrastructure.....once these immovable properties come into existence, they get merged in to the common "building space with modern infrastructure and facilities" and hence are excluded from the definition of "plant and machinery as applicable to Section 17(5) of CGST Act, 2017" and*

ii) 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 ruled

*"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".*

Therefore, the Ruling quoted by the Applicant does not help their stand.


7.22. As per the records furnished by the Applicant, the Contract is for installing the fire-fighting 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 fire-fighting systems and public health equipment as pointed out above, makes it an immovable property, it ceases to be a plant and machinery. Hence, in view of the above discussions, we find that the Applicant is not entitled to ITC of GST paid on Fire Safety Systems & Public Health Equipment in view of the provisions of Section 17(5)(c) of CGST /TNGST Act, 2017.

7.23. Accordingly, once it is held that the ITC related to fire-fighting systems and public health equipment for the new factory is not available to the applicant 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 and Subsequent Adjustment of Advance in the Service Bills showing both Gross and Net amount.", 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.

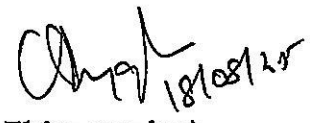
8. In view of the above, we rule as under:

**RULING**

1. The taxes under GST paid on the fire-fighting system and public health equipment work carried out for expansion of factory for manufacturing activity is not eligible for availment of Input Tax Credit (ITC) by the applicant, 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 itself ineligible.

  
(B. Suseel Kumar)  
Member (SGST)



  
(C. Thiyagarajan)  
Member (CGST)

To

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(By RPAD)

**Copy submitted to:**

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