

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

(constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

**BEFORE THE BENCH OF**

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax  
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AADCN1920C1ZZ
Legal Name of Applicant	Nipro India Corporation Private Limited
Registered Address/Address provided while obtaining user id	Plot No. E-1, MIDC Kesurdi, Taluka - Khandala, Dist. Satara -412 802
Details of application	GST-ARA, Application No. 33 Dated 28.02.2018
Concerned officer	Superintendent, Central Tax - Range I, Shirwal, Dist. – Satara
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Factory/Manufacturing
B Description (in brief)	Nipro India Corporation Private Limited is engaged in manufacturing of medical equipments such as dialyzers, blood tubing sets, arterial fistulas and syringes and needles.
Issue/s on which advance ruling required	(iv) admissibility of input tax credit of tax paid or deemed to have been paid
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

**PROCEEDINGS**

(under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by Nipro India Corporation Private Limited, the applicant, seeking an advance ruling in respect of the following question :

*"Whether on facts and circumstances of the case, the input tax credit of tax paid on costs proposed to be incurred in relation to activities mentioned in Annexure 4 can be treated as 'admissible under the Central Goods and Services Tax Act, 2017 ('CGST Act, 2017')?"*

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

**02. FACTS AND CONTENTION - AS PER THE APPLICANT**

The submissions, as reproduced verbatim, could be seen thus -

**STATEMENT OF RELEVANT FACTS HAVING A BEARING ON THE QUESTION(S) ON WHICH ADVANCE RULING IS REQUIRED.**



**1. Background of operations:**

- 1.1. The Applicant, a private limited company incorporated under the provisions of the Companies Act, 1956 holding GST registration number ('GSTIN') AADCN1920C1ZZ with effect from 1st July 2017, is located at Plot No. E-1, MIDC, Kesurdi, Khandala, Taluka-Khandala, Dist. Satara-412 801.
- 1.2. The Applicant is engaged in the manufacturing of medical equipments such as dialyzers, blood tubing sets, arterial fistulas, syringes and needles.
- 1.3. The Applicant runs a manufacturing facility at Shirwal, Maharashtra. Goods manufactured by the Applicant are sold within India and also exported outside India.
- 1.4. The Applicant proposes to undertake an extension of its manufacturing facility ('Extension Project') located at MIDC, Kesurdi, Khandala, Taluka-Khandala, Dist. - Satara. The Applicant has awarded a contract to a vendor for the execution of this Extension Project.
- 1.5. The list of activities and nature of costs proposed to be undertaken/ incurred under the Extension Project are provided in Annexure 4.
- 1.6. Based on the activities, the costs proposed to be incurred under the Extension Project can be broadly bifurcated into the following categories:
  - i. Costs for Civil Works;
  - ii. Cost for Mechanical Works; and
  - iii. Costs for Electrical Works

**2. Questions before the Authority of Advance Ruling:**

- 2.1 The Applicant has approached the Authority of Advance Ruling to determine the admissibility of input tax credit of tax paid on costs proposed to be incurred in relation to activities mentioned in Annexure 4.
- 2.2 The Applicant believes that input tax credit in relation to Civil Works' should be inadmissible under Section 17 (5) (c) and Section 17 (5) (d) of the CGST Act, 2017, because such costs pertain to construction of an immovable property other than plant and machinery. However, the Applicant submits that input tax credit in relation to 'Mechanical Works' and 'Electrical Works' should be admissible as such costs pertain to construction of plant and machinery.
- 2.3 The Applicant craves leave to submit such further facts at or before the hearing of the application as may be relevant.

**Statement containing the Applicant's interpretation of admissibility of input tax credit in respect of the aforementioned activities**

The Applicant prefers to present the application before this Hon'ble Authority on the following, among other grounds, each of which is taken in the alternative and without prejudice to the others.

**1. Applicant's interpretation of law or facts:**

- 1.1. According to Section 16 (1) of the CGST Act, 2017, every registered person is 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 by him in the course or furtherance of his business.
- 1.2. Accordingly to Section 16 (2) of the CGST Act, 2017 read with the second proviso to the section, among others, the following conditions need to be satisfied for the purpose of availing input tax credit:
  - i. The recipient is in possession of a tax invoice or debit note issued by a registered supplier;
  - ii. The recipient has received the goods or services or both;
  - iii. The tax charged in respect of the supply has been paid to the Government;
  - iv. The recipient has furnished statutory GST returns in terms of Section 39 of the CGST Act, 2017; and
  - v. The payment is made to supplier within 180 days from the date of issue of invoice.



- 1.3. In addition to the above, there are certain restrictions imposed on availment of input tax credit under Section 17 (5) of the CGST Act, 2017. Relevant extract of the provision is 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:- .....*

- (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; .....*

*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. ... "(emphasis supplied)

- 1.4. The above provision suggests that no input tax credit would be available in respect of:
- works contract services received for construction of an immovable property; and
  - goods and/or services received for construction of an immovable property.

Therefore, the Applicant does not contest a claim to input tax credit on costs of civil works under the Extension Project. However, the provision also suggests that input tax credit would be available where such works contract services, goods and/or services are received for construction of an immovable property in the nature of plant and machinery.

- 1.5. Therefore, the present application for advance ruling is being filed to determine the eligibility of input tax credit in relation to costs proposed to be incurred for Mechanical Works' and 'Electrical Works' under the Extension Project. 'Mechanical Works' entails activities in the nature of Plumbing work, Fire Protection work, Air Conditioning work, etc. and 'Electrical Works' entails activities in the nature of Sub-station work, DG Set work, Lighting System work, etc. A detailed break-up of activities proposed to be undertaken in the nature of Mechanical Works' and 'Electrical Works' is provided in **Annexure 4**.
- 1.6. The term 'plant and machinery' has been defined under Explanation II to Section 17 (5) of the CGST Act, 2017 to mean any apparatus, equipment and machinery fixed to earth by foundation or structural support and used for making outward supplies. However, 'plant and machinery' excludes land, building, or any other civil structures, telecommunication towers and pipelines laid outside the factory premises. Therefore, it is evident that input tax credit of 'plant and machinery', unless specifically excluded, is available when used for making outward supplies.
- 1.7. The Applicant submits that none of the costs mentioned in Annexure 4 fall within the scope of exclusions specified under Explanation II to Section 17 (5) of the CGST Act, 2017. Therefore the question that merits consideration is whether these 'plant and machinery' can be said to have been used for making outward supplies.
- 1.8. The usage of plant and machinery for making outward supplies may be of the following 2 types:
- Directly used for making outward supplies i.e. having a direct nexus for making outward supplies; and
  - Indirectly used for making outward supplies i.e. having an indirect but essential nexus for making outward supplies.
- 1.9. The Applicant would like to submit that costs incurred for 'Mechanical Works' and 'Electrical Works' are indirectly used for making outward supplies i.e. such costs are essential for carrying out operations for making outward supplies and if such costs are not incurred, the operations for making outward supplies would be impacted. For instance, the Air Conditioning work is essential/ indispensable in the manufacturing facility because the products manufactured by the Applicant



- (medical products) are required to be produced in a sterile environment under controlled temperatures to adhere to minimum quality requirements, failing which the products manufactured will not be suitable for their required medical purposes.
- 1.10. Similarly, the plumbing work is essential/ indispensable in the manufacturing facility because the products manufactured by the Applicant require purified RO water to adhere to minimum quality requirements, failing which the products manufactured will not be suitable for their required medical purposes. The manufacturing process results into discharge of hazardous waste which is required to be disposed in an environment friendly manner, failing which the Applicant would be in violation of statutory environmental regulations.
- 1.11. The issue of determining whether goods can be said to be used in the manufacture of goods or not has been dealt with by the Supreme Court in the case of **J.K. Cotton Spinning and Weaving Mills Co. Ltd. Vs. Sales Tax Officer, Kanpur [1997 (91) E.L.T. 34 (S.C.)]** [Enclosed as **Annexure 5**]. In this case, the issue was regarding the eligibility of goods to be included in the registration certificate of the dealer under Section 8 (3) (b) of the Central Sales Tax Act, 1956 ("CST Act") only if such goods are used in the manufacture of processing of goods. The Supreme Court held that where any particular process or activity is so integrally related to the ultimate manufacture of goods so that without that process or activity manufacture may, even if theoretically possible, be commercially inexpedient, goods intended for use in the said process or activity would fall within the expression "in the manufacture of goods". They need not be ingredients or commodities used in the processes, nor must they be directly and actually needed for "turning out or the creation of goods". *Relevant extract of the judgement if reproduced below for your reference:*
- "8. .... Where any particular process is so integrally connected with the ultimate production of goods that but for that process, manufacture or processing of goods would be commercially inexpedient, goods required in that process would, in our judgment, fall within the expression "in the manufacture of goods."*
- 9. In our judgment if a process or activity is so integrally related to the ultimate manufacture of goods so that without that process or activity manufacture may, even if theoretically possible, be commercially inexpedient goods intended for use in the process or activity as specified in Rule 13 will qualify for special treatment....*
- 12. ....in a factory manufacturing cotton and other textiles, certain electrical equipment in the present stage of development would be commercially necessary. For instance, without electric lighting it would be very difficult to carry on the business. Again electrical humidifiers, exhaust fans and similar electrical equipment would in the modern conditions of technological development normally be regarded as equipment necessary to effectually carry on the manufacturing process. We are not prepared to agree with the High Court that in order that "electrical equipment" should fall within the terms of Rule 13, it must be an ingredient to the finished goods to be prepared, or "it must be a commodity which is used in the creation of goods." If, having regard to normal conditions prevalent in the industry, production of the finished goods would be difficult without the use of electrical equipment, the equipment would be regarded as intended for use in the manufacture of goods for sale and such a test, in our judgment, is satisfied by the expression "electrical."*
- 1.12. The Applicant would be happy to furnish any additional information that would be necessary to help ascertain the eligibility of input tax credit.
- 1.13. Further, the Applicant submits that costs pertaining to 'Mechanical Works' and 'Electrical Works' are intended to be capitalized in the books of accounts under the head 'plant and machinery'.
- 1.14. Basis the above background, in the present case, the Applicant submits that the activities relating to 'Mechanical Works' and 'Electrical Works' should fall under the definition of plant and machinery. Since the same are used for making outward supplies, the input tax credit in relation to costs incurred for such activities should be available.

**Conclusion:**

Basis the above submissions, in the current case, the Applicant believes that input tax credit in relation to costs incurred for 'Mechanical Works' and 'Electrical Works' should be admissible as such costs pertain to construction of plant and machinery.

**Further to above submissions, we most respectfully pray that:**

- Allow us to reiterate all the submissions without prejudice to one another;
- Grant a personal hearing to put forth our contentions and explain our submissions before passing any order in this regard;



- Allow us to amend, alter and add to the present application;
- Allow us to produce additional documents and other material during the time of Personal Hearing; and
- Pass such orders and directions as may be deemed proper and necessary.

### 03. CONTENTION – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

In this regard the details asked by 'Advance Ruling Authority (GST), Mumbai is submitted as under

The applicant has provided the details of activities proposed to be undertaken in the nature of Mechanical Works' and 'Electrical Works' in form of Annexure -4 to their application. On going through the Annexure-4 submitted by the applicant it appears that the 'Mechanical Works' mainly entails activities in the nature of Plumbing works, Fire Protection Works, Air Conditioning Works and the 'Electrical Works' mainly entails activities in the nature of Sub-station works, DG Set Works, Lighting Systems, etc.

Basis the submission made by the applicant it appears that the Mechanical Works' and 'Electrical Works are indirectly associated with the course or furtherance of their business and are essential for carrying out manufacturing process. Therefore, it appears that the ITC in relation to works mentioned at Sr. No. 3 & 4 of Annexure -4 (Mechanical & Electrical Works) to the application is available to the applicant, in absence of any such restriction. The applicant has already agreed that no ITC is available in relation to civil works. As such it appears that there is no infirmity in the interpretation of the applicant.

### 04. HEARING

The case was taken up for Preliminary hearing on dt. 28.03.2018 with respect to admission or rejection of present application when Ms. Aabha S Lekhak, Sh. Kanval Ashar and Mr. Shivraj Mhaske, Advocates along with Sh. Manoj Pawar, Senior Executive appeared and made oral submissions requesting for admission of application as per their contentions made in ARA. (They were orally requested to make submissions with respect to specific contracts in execution of work in the project and were also requested to clarify in detail their eligibility of cenvat credit in respect of all sub-heading under mechanical and electrical works as given in their ARA individually). No body was present from the side of Jurisdictional Officer but written submissions has been sent by post.

The application was admitted and final hearing was held on 17.04.2018, Ms. Aabha S Lekhak, Advocate alongwith Sh. Nitin Vijaivergia, C.A. Sh. Atul Phakhale Business controller and Sh. Rahul Wangnul , Engineer head appeared and made detailed written submissions in support of their claim for Cenvat Credit. They also orally stated that claims in respect of DMAC yard costs, indirect expenses and design cost may also be allowed to them. No body was present from the side of Jurisdictional Officer, hence his earlier written submission is considered for this issue.



## 05. OBSERVATIONS

We have gone through the facts of the case and various written submissions made by the applicant and jurisdictional officer during the course of the proceeding before us.

1. We find that the Applicant, is a private limited company incorporated under the provisions of the Companies Act, 1956 holding GST registration number ('GSTIN') AADCN1920C1ZZ with effect from 1st July 2017. The Applicant is engaged in the manufacturing of medical equipment such as dialyzers, blood tubing sets, arterial fistulas, syringes and needles.

2. The Applicant runs a manufacturing facility at Shirwal, Maharashtra. Goods manufactured by the Applicant are sold within India and also exported outside India. The Applicant proposes to undertake an extension of its manufacturing facility ('Extension Project') located at MIDC, Kesurdi, Khandala, Taluka-Khandala, Dist. - Satara. The Applicant has awarded a contract to a vendor for the execution of this Extension Project. The list of activities and nature of costs proposed to be undertaken/ incurred under the Extension Project are provided in Annexure 4 by the Applicant.

### 3. Further factual position as stated by the applicant in his application is as under

He submitted that based on the activities, the costs proposed to be incurred under the Extension Project can be broadly bifurcated into the following categories:

- i. Costs for Civil Works;
- ii. Cost for Mechanical Works; and
- iii. Costs for Electrical Works.

The Applicant does not contest a claim to input tax credit on costs of civil works under the Extension Project. However, the provision u/s 17(5) (c) and 17(5) (d) of CGST ACT also suggests that input tax credit would be available where such works contract services, goods and/or services are received for construction of an immovable property in the nature of plant and machinery.

4. Therefore, the present application for advance ruling is being filed to determine the eligibility of ITC in relation to costs proposed to be incurred for 'Mechanical Works' and 'Electrical Works' under the Extension Project. 'Mechanical Works' entails activities in the nature of Plumbing Works, Fire Protection Work, Air-Conditioning Works, etc and 'Electrical Works' entails activities in the nature of Sub station Work, D G Set Work, Lighting System Work, etc.. A detailed break up of activities proposed to be undertaken in the nature of 'Mechanical Works' and 'Electrical Works' is provided in Annexure 4.

In view of the above submissions and contentions of the applicant we first of all refer to the provisions under the GST Act with respect to availment of input tax credit which would be applicable to the facts of the present case as stated and submitted by the applicant.

We find that only two sections of the GST Act being, Section 16- in respect of eligibility and conditions for taking input tax credit and Section 17 which provides for apportionment of credit and blocked credits would require reference in respect of the questions raised in the present application.

In view of Section 16 and Section 17 of the GST Act being extremely important and relevant for decision in the present case, both these Sections are reproduced as under:-

**Section 16.** (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.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is 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;

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

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39;



Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

(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 due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

17. (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(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 and other conveyances except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vehicles or conveyances; or

(B) transportation of passengers; or

(C) imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) for transportation of goods;

(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre;

(iii) rent-a-cab, life insurance and health insurance except where—

(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

(iv) travel benefits extended to employees on vacation such as leave or home travel concession;

(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;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(g) goods or services or both used for personal consumption;



(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

(6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

*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.*

Thus from Section 16 of the GST Act it is very clear that

“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 or furtherance of business. Thus the goods are used or intended to be used in course or furtherance of business.

Further we find that conditions for taking input tax credit have been given in Section 16 which are as under:-

- The person has to be in possession of tax invoices, debit note or other prescribed tax paying documents.
- Has received goods or services or both.
- The tax charged in respect of such supply is actually paid.
- He has furnished return under Section 39.
- Where depreciation on tax component of cost of capital goods and plant and machinery is availed, the ITC on such tax component would not be allowed.
- Would not be allowed to take credit after due dates as prescribed.

We find that apart from conditions as laid down under Section 16 of the GST Act, Section 17 provides for restrictions and factual position and situations where ITC would not be available. The same are very clear from plain reading of Section 17 as referred and detailed above.

Thus in view of the above factual position we find that at the time of the hearing we had requested the applicant that taking into consideration the specific contracts in execution of the project, they were required to clarify in detail their eligibility of input tax credit in respect of all sub heading under mechanical and electrical works as given in their ARA individually.

We find that the applicant as per request above at the time of the Final Hearing had submitted details with respect to nature, function, use, utility and its relation to plant or machinery or to their business which would be relevant to ascertain their eligibility for ITC claims in their application. The details as submitted by the applicant are reproduced below and an additional column in respect of the view of the members of this Advance Ruling Authority with respect to eligibility of ITC in respect of relevant portion of work is added to the submissions and claims as made by them. The same is as under:-

Sr no	Major Head	Activities	Sub activity	Whether ITC intended to be claimed or not by the applicant .	Usage and nexus with outward supplies	Relevant extracts of statute	View and Decision of the members of this Advance Ruling Authority
1	BUILDING WORKS	Structural work, external finishing work, internal finishing work ,M and E related civil work	Diff. civil works	NO	NO ITC is applicable , hence not given in details ,	No	Not Eligible
2		Internal finishing works	Other Works (Overhead crane)	Yes	The overhead crane is used for movement of goods on the production floor.	Section 16(1) of the CGST Act.	Admissible





3		M & E related Civil Works		Yes	The M & E related civil work is structural support for mechanical and electrical works used for making outward supplies.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Not admissible as the civil work is not in relation to plant and machinery and is not covered in the explanation.
4	Mechanical work	Plumbing	Internal and domestic water distribution supply system	yes	Internal and domestic water distribution supply system is used to provide drinking water and water for sanitation to the employee working on the production floor.	Relevant extracts of the factories act 1948 .	Not admissible as the goods are used for construction of immovable property which are not used for making outward supply of goods or services but are installed in order to comply with the mandatory requirements of Section 18 & 19 of the Factories Act, 1948 and Rule 49 of Maharashtra Factory Rules 1963 and therefore not eligible as per Section 17(5) of the GST Act.
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
9			Dismantling Work	No	—	—	Not admissible
10		Fire Protection Work	Internal Fire Hydrant System	Yes	Equipments or apparatus used for fire protection on the production floor.	Relevant extracts of the Factories Act,1948 and Maharashtra Factories Rules, 1963.	Not admissible as it does not fall under the definition of P&M as given in Explanation in Section 17 of the GST Act



11			Sprinkler Works				Not admissible as it does not fall under the definition of P&M as given in Explanation in Section 17 of the GST Act
12			Extinguishers				Not admissible as it does not fall under the definition of P&M as given in Explanation in Section 17 of the GST Act
13			Fire Documentation				Not admissible as it does not fall under the definition of P&M as given in Explanation in Section 17 of the GST Act
14			Dismantling Work	No	--	--	Not admissible
15		Air Condition Work	Air-Conditioning Equipments	Yes	Heating, ventilation and air conditioning ('HVAC') equipment on the production floor is required to adhere to cleanroom environment conditions	Relevant extracts of the ISO standards have been enclosed	Admissible
16		Air-Conditioning Piping Work and Accessories		Admissible			
		Ventilation Fans		Admissible			
17		Air-Distribution System		Admissible			
18		Automatic Control System		Admissible			
19			Relocation Work	No	--	--	Not admissible
20		Utility Work	Compressed Air Supply System	Yes	The compressed air supply system is essential for supplying compressed air necessary for running machines and drying of dialyzers on the production floor.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible
21			Steam Supply System		Steam is used in the production process to maintain the specific required temperature. In order to manufacture Hollow Fibres, constant supply of steam is required to maintain the specific temperature.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible
22			Process Chilled Water Supply System		The processed chilled water supply system is essential for supplying chilled water for production or product cooling process. In order to manufacture Hollow Fibres, constant supply of processed chilled water is required	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible



					to maintain the specific temperature.		
23			Purified Water Supply System		The purified water supply system is essential for supplying purified water to be used in the production process.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible
24			N2 Supply System		The nitrogen supply system is essential for supply of nitrogen necessary in the production process. Nitrogen (being an inert gas) is used as a blanket for isolating product from the atmosphere.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible
25			Process Waste Water Supply System		The process waste water supply system is used for disposal of wastes and effluent generated during the production process.	Relevant extracts of the Factories Act, 1948	Admissible except in respect of pipelines outside factory premises and civil work even inside factory premises.
26			Local Exhaust System		The local exhaust system is used for extracting fumes from production process and ventilating machine rooms (where air conditioning fans are placed).	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible
27			HSD-Oil Supply System		The HSD-Oil supply system is used to supply fuel for the boiler for steam generation. Steam is used in the production process to maintain the specific required temperature. In order to manufacture Hollow Fibres, constant supply of steam is required to maintain the specific temperature.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible
28	Electrical Works	Sub-Station Work		Yes	The sub-station is used for electricity supply for production / utilities for production.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible except for civil construction work if any.
29		DG Set Power Supply System			The DG set power supply system is used for electricity back up for production / utilities for production.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible except for civil construction work if any.
30		Main Feeder Distribution			The main feeder distribution system is used for electricity supply to utilities used in the production process.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible except for civil construction work if any.
31		Lighting System Work			The lighting system works are used for illuminating the production floor, in absence of which	Relevant extracts of the Maharashtra Factories Rules, 1963 .	Admissible except for civil construction work if any.



					production would not be possible.		
32		Emergency and Exit Light Fixtures			Emergency and exit light fixtures are installed on the production floor to be used in the case of emergency operations.	Relevant extracts of the Maharashtra Factories Rules, 1963 .	Admissible except for civil construction work if any.
33		Socket Outlet Work			In order to maintain cleanliness on the production floor, socket outlets are an essential facility.	Relevant extracts of the Maharashtra Factories Rules, 1963 .	Admissible except for civil construction work if any.
34		Telephone System			Intercom and external communication systems is a basic necessity to facilitate communication within and outside the factory premises.	Relevant extracts of the Maharashtra Factories Rules, 1963 .	Admissible except for civil construction work if any.
35		LAN System			LAN connectivity of computers on production floor with main server used for configuring commands for operation of machines.	Explanation to sub section V and VI of Section 17 of the CGST Act.	Admissible except for civil construction work if any.
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 of Section 17 of the CGST Act.	Admissible except for civil construction work if any.
38		Lightning Protection System			Lightning protection for production floor and production utilities.	Relevant extracts of the Maharashtra Factories Rules, 1963 .	Admissible except for civil construction work if any.
39		Demolition Work		No	—		Not admissible

06. In view of the deliberations as held hereinabove, we pass the order as under :

### ORDER

(under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA-33/2018-19/B- 41 Mumbai, dt. 28.5.2018

For reasons as discussed in the body of the order, the question is answered thus -



Question :- "Whether on facts and circumstances of the case, the input tax credit of tax paid on costs proposed to be incurred in relation to activities mentioned in Annexure 4 can be treated as 'admissible under the Central Goods and Services Tax Act, 2017 ('CGST Act, 2017')?"

Answer :-As per details in relevant column of the Table under main heading views and decisions of members of the Advance Ruling Authority.



—sd—  
**B. V. BORHADE**  
(MEMBER)

—sd—  
**PANKAJ KUMAR**  
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai - 400021

**CERTIFIED TRUE COPY**

  
**MEMBER**  
**ADVANCE RULING AUTHORITY**  
**MAHARASHTRA STATE, MUMBAI**