TAMILNADU STATE APPELLATE AUTHORITY FOR ADVANCE RULING  
(Constituted under Section 99 of Tamil Nadu Goods and Services Tax Act 2017)  
  
A.R.Appeal No.04/2022 AAAR Date:t7.04.2023  
  
BEFORE THE BENCH OF  
  
Sh. Mandalika Srinivas, LR.S., Sh. Dheeraj Kumar, LA.S.,  
  
Principal Chief Commissioner of GST & Principal Secretary/Commissioner of  
Central Excise, Commercial Taxes,  
  
Member, Appellate Authority for Advance Member, Appellate Authority for Advance  
Ruling, Tamil Nadu Ruling, Tamil Nadu  
  
Order-in-Appeal No. AAAR/01/2023 (AR)  
  
(Passed by ‘Tamil Nadu State Appellate Authority for Advance Ruling under Section 101(1) of  
the Tamil Nadu Goods and Services Tax Act, 2017)  
  
Preamble  
  
I. In terms of Section 102 of the Central Goods & Services Tax Act 2017/Tamil Nadu Goods &  
Services Tax Act 2017(“the Act”, in Short), this Order may be amended by the Appellate  
authority so as to rectify any error apparent on the face of the record, if such error is noticed by  
the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the  
| jurisdictional officer or the applicant within a period of six months from the date of the Order.  
Provided that no rectification which has the effect of enhancing the tax liability or reducing the  
amount of admissible input tax credit shall be made, unless the appellant has been given an  
| opportunity of being heard.  
  
| 2. Under Section 103(1) of the Act, this Advance ruling pronounced by the Appellate Authority  
| under Chapter XVII of the Act shall be binding only  
  
(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of  
Section 97 for advance ruling:  
  
(b) on the concerned officer or the jurisdictional officer in respect of the applicant.  
  
3. Under Section 103 (2) of the Act, this advance ruling shall be binding unless the law, facts or  
  
| circumstances supporting the said advance ruling have changed.  
  
4. Under Section 104(1) of the Act, where the Appellate Authority finds that advance ruling  
pronounced by it under sub-section (1) of Section 101 has been obtained by the appellant by  
fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such  
ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made  
| thereunder shall apply to the appellant as if such advance ruling has never been made.  
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Name and address of the appellant | M/s. Coral Manufacturing Works India Private Limited,  
No.150,Villarasampatti Naal Road,  
Nasiyanur Road, Villarasampatti,  
Erode,  
Tamil Nadu 638 107.  
GSTIN or User ID 33AAICC4646F 1ZT  
  
| Advance Ruling Order against | Order No. 12/ARA/2022 dated: 31.03.2022  
which appeal is filed  
  
Date of filing appeal — as 2025 — Sa ml |  
Represented by a ai Shri. V.Ravindran, Advocate : =  
Jurisdictional Authority-Centre Salem Commissionerate, Erode-I Range” |  
Jurisdictional Authority -State The Assistant Commissioner (ST),  
  
Thindal Assessment circle wees  
Whether payment of fees for filing | Yes. Payment of Rs. 20,000/- made vide challan No.IDIB  
appeal is discharged. If yes, the | 22053300057984 dated 11.05.2022, and IDIB  
  
amount and challan details 22053300079488 dated 12.05.2022.  
  
At the outsei, we would like to make it clear that the provisions of both the Central Goods  
and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are in pari materia and  
have the same provisions in like matter and differ from each other only on few specific  
provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a  
reference to the Central Goods and Service Tax Act, 2017 would also mean a reference to the  
same provisions under the Tamil Nadu Goods and Service Tax Act, 2017.  
  
1.1 The subject appeal has been filed under Section 100 (1) of the Tamilnadu Goods &  
Services Tax Act, 2017/Central Goods & Services Tax Act 2017 by M/s. Coral Manufacturing  
Works India Private Limited, (herein after referred as the Appellant), having their registered  
office at No. 150, Villarasampatti Naal Road. Nasiyanur Road, Villarasampatti, Erode, Tamil  
Nadu, 638 107. They are registered under GST with GSTIN 33AAICC4646F 1ZT. The appeal is  
filed against the Order No. 12/ARA/2022 dated 31.03.2022 passed by the Tamil Nadu State  
Authority for Advance ruling on the application for advance ruling filed by the Appellant.  
  
2. The Appellant has stated that they are in the process of completing the establishment of an  
Integrated Factory Building to manufacture and supply generators for wind operated electricity  
generators (WOEG). The Integrated factory building that was being constructed, was a special  
kind of two-in-one building in the sense that it was not merely a conventional roofed factory  
building to protect the men, machineries and materials from rain and shine, but was a plant and  
machinery in itself due to its incrementally strong and large foundation, large numbers of pillars,  
10 metres highly placed gantry beams with support mountings across the length and breadth, rails  
  
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over the floor and beams for facilitating the overhead cranes to handle, move and operate heavy  
parts of the Generators from one work-station to another and finally to load the generators on to  
the special trucks to carry the generators to the destination, These facilities built into the building  
make the entire building undoubtedly a plant and machinery to make the WOEG.  
  
emi As huge amount of steel, cement, structures, pre-cast, reinforced concrete beams,  
poles etc. are used in the process to make the above Integrated Factory Building and as huge GST  
amount is paid on these items when converted in to Works contract service (WCS), the Appellants  
felt in a bonafide manner that they may be entitled to Input Tax benefit under Sec. 16 of the CGST  
Act, 2017.  
  
3. The Appellant had sought Advance Ruling on the following questions:  
Whether input tax credit of GST is admissible for supply of the following goods & services :-  
  
(a) steel, cement and other consumables etc.. to the extent of their actual usage in the execution  
of the works contract service when supplied for construction of immovable property, in the form  
of the factory which is an Integrated Factory building with Gantry Beam, which in turn used for  
mounting across the pre-cast concrete beams, poles and over which the crane would be operated;  
  
(b) structures, Pre cast, reinforced concrete beams, poles etc. (purchased as it is) which are used  
as supports to mount and operate the crane over 10 metres from ground, as shown in the pictures  
attached; and  
  
(c) Other capital goods, like rails which are fixed over the concrete arms for smooth travel of  
the over-head crane.  
  
4. The Advance Ruling Authority (ARA) pronounced the following rulings in Para 9 of the  
Order, as under:  
  
1. Input Tax Credit of GST paid on Steel, cement and other consumables are not  
available for the appellant as per the findings at Para 8 of the ruling.  
  
2. The eligibility to credit of GST paid on structures. Pre cast, reinforced concrete beams,  
poles etc. (purchased as it is) and other capital goods are not answered as the question  
is not substantiated with the factual documents.  
  
5. Aggrieved with the above ruling, the Appellant has filed the present appeal. The grounds of  
appeal are as follows:  
  
SA “The ruling conveyed in the Order No. 12/ARA/2022 dated 31.03.2022 [impugned] not  
sustainable in law and the appellants wish to make the grounds of appeal, especially against the  
findings in para 8.1 and 8.2.and against decision in para 9 of the impugned advance ruling. In  
addition, the appellants is making the following specific response to the findings in Paras 6.1 to  
7.4 of the impugned advance ruling, as per the table given below:-  
  
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impugned order  
  
and ruling sought by  
the appellant.  
  
Para Ref. Gist of order | Response to the findings in the impugned order.  
which is also the grounds of appeal.  
5 =i  
6.1 of the Capturing of facts | pacts in brief have been captured correctly,  
  
obtained reports from the jurisdictional officers  
and thereafter the application of the appellants  
was admitted for issue of advance ruling on  
merits ought not to have been disposed on in the  
manner it was done in the impugned order. [Last  
line of Para 6.1. of the impugned order refers. |  
  
Capturing of facts  
  
7.1. of the ; : Facts in brief have been captured correctly and  
impugned order oes ‘eine rephrasing | the issues to be decided in the language of ARA  
the issues to be) a:¢ also more or less correct. Therefore no  
decided by the ARA. specific comments on this sub-para.  
a  
7.2 to 7.3 of the Incremental cer Apart from the recognition of the facts, the ARA  
impugned order noe ’ Excavation, | t49k note of the facts, documents and the  
Foundation, Column submissions made in the form of CDs, Drawings  
= ent hoae level, | and the Chartered Accountant’s/Chartered  
Foundation refill, Engineer’s certification taken on record for .  
increment in the size  
of plinth Beam &  
Precast etc...  
apparently admitted  
by ARA, based on  
the documents /  
details provided &  
submissions made.  
—  
  
7.3 & 7A. of the  
impugned order  
  
In so far as the  
  
observation about  
non-submission of  
documentary proof  
  
for purchase of the  
pre-cast/ supports, or  
the details of “other  
capital goods’ and  
the factual details as  
to whether ‘rails’ are  
procured by them  
per-se or rails are  
also  
  
There is no provision under Sec.98 of the CGST  
Act, 2017 for the ARA to dispose of an  
application in the manner that has been decided  
in the impugned order. The ARA having sought  
admitted the application for advance ruling on  
merits and also collected additional inputs in  
connection with such application for ruling from  
the appellants and the jurisdictional officers and  
therefore the ARA ought to have decided the  
issue on merits. The observations made in para  
7.3. and 7.4 and the order passed as per para 9(2)  
are not consistent with the provisions of Sec.98  
of the CGST Act, 2017.  
  
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Ba2 In so far as the ruling to deny the Input Tax Credit GST paid on steel, cement and other  
consumable are concerned, the ARA relies on the interpretation of the provisions of section 17  
(5) (d) of the GST Act in para 8.1. The definition of immovable property is neither reproduced  
  
nor any findings given thereon, although there is a reference to the General Clauses Act in para  
Sul.  
  
5.3 According to Section 3(26) of the General Clauses Act, 1897, immovable property  
includes "land, benefits to arise out of land, and things attached to the earth, or permanently  
fastened to anything attached to the earth".  
  
5.4 The issue particularly raised in the application of the Appellant for advance ruling was  
that whether the Section 17 (5)(d) restricted the eligibility to the ITC for goods and services or  
both received by a taxable person for construction of an immovable property other than ‘plant  
and machinery’. From the simple reading of the above provisions, it could be understood that the  
law presupposes a situation where plant and machinery [attached to the earth] could be one of the  
exceptions to expression “immovable property”. There is no definition cited from GST law for  
immovable property. Even though there is no discussion or findings in the impugned order on  
the definition of the expression “immovable Property” as per General Clauses Act, it is clear that  
“plant and machinery” having been carved out of the definition of immovable properties, are  
eligible for ITC as per Sec.17(5)(d).  
  
5.5 This would leave a simple point to be decided in the present case as to whether ITC on  
goods or services or both which g0 into the making of the integrated factory building of the  
appellant and which is indisputably used as plant and machinery [without which the appellant  
cannot carry out their manufacturing activity] would come under the exception carved out under  
section (17) (5) (d). The ARA, for addressing the pertinent question, made only a bald  
observation in impugned order in para 8.2 which is extracted below for immediate read:-  
  
"In the case at hand, the supply received by the appellant results in construction of a civil  
structure which is the form of factory. The factory is nothing but a building where people use  
machines to produce goods or service or both. The foundation and walls through are  
Strengthened is again only a part of factory, which is in the genre of ‘Civil Structure’. Any  
Jactory premises will be designed and constructed to the support the ‘Plant and machinery’  
to be housed in it for the operation/ production of the goods for which such factory is intended.  
The entire construction of the ‘Tategrated factory premises’ with the strengthening of the  
walls, increase in the volume/ size of plinth beam, etc are only part of civil structures of the  
Sactory housing the ‘Plant and Machinery’ and are not the foundation with which such plant  
and machinery’ are fixed to earth. The same, at best is an added measure to bear the load of  
the ‘plant and machinery’ installed in the factory. Therefore, the additional foundation/  
beams are to be considered as any other civil structures’. Excluded Jrom the explanation of  
‘Plant and machinery’.”  
  
5.6 ARA didnot distinguish and differentiate the conventional factory from that of an integrated  
factory wherein the integrated factory served the main purpose of ‘plant and machinery’ .  
  
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5.7 The Appellant during the course of the personal hearing suggested that the ARA could  
personally visit the factory premises to understand the special attributes of the integrated factory  
and capture the differences between conventional factory and integrated factory. But. ARA sought  
pictures in the form of drawing. photographs and supported by Cost/Chartered Accountant and  
Chartered Engineer’s certificate. In para 3.2 and 3.3 these facts are acknowledged.  
  
5.8 Moreover the scope and courage of section 17 (5)(c) and (d) were also highlighted by citing  
a Supreme Court decision as also a ruling on the very same ARA as brought out in para 3.3 (h).  
  
5.9 Copies of the above rulings of the S.C in the case of Jayaswal Neco Ltd. Vs CCE, Rajpur  
[2015 (4) TMI 569 S.C.] and the ruling of TN ARA in the case of SHV Energy Pvt. Ltd. [reported  
in 2021 (4) TMI 882] are submitted as part of the appeal.  
  
5.10 The appellant had purchased steel, cement, structures, pre-cast and other consumables for  
the purposes of constructing the integrated factory building. It is however immaterial as to  
whether the suppliers of these goods had billed separately as supply of goods with relevant HSN  
in their invoices or billed these goods as part of their works contract services, which Works  
Contract, for GST purposes, is supply of service. Thus the supply of goods cited above got  
merged with work contract service and this is why the contractor had billed all the items by citing  
SAC 9954. Further the table given under 7.3 of the impugned order, omitted to include the invoice  
No.40/24.03.2021 of Arcons on the appellants, wherein the supply of goods under HSN 3402 and  
HSN 8414 are made. Nonetheless, in so far as the Teamage Builders Pvt. Ltd., the main contractor  
is concerned and whose bills alone were extracted in para 7.3. of the impugned order, the lack of  
separate invoices for supply of the goods (listed above), ipso facto, would not make any difference  
as the arrangement with the contractor was such that these items are meant to be worked upon  
and used in the foundation, gantry beams, precast and pillars.  
  
5.11 The ARA having collected additional data, details, documents, certifications and also  
having, obtained official reports from the state as well central GST authorities, ought to have  
confronted with the appellants if there were any deficiencies in the data, documents, but should  
not have left the query unanswered under section 98 of the GST Act. Para 6.1 (last line) clearly  
is not supporting the ruling conveyed in para 9 (2).  
  
6. Personal Hearing:  
  
6.1 The Appellant was granted personal hearing through Virtual Personal Hearing as required  
under law before this Appellate Authority on 15.07.2022. The Authorized representative of the  
Appellant Shri.V.Ravindran, Advocate reiterated their submissions made along with their appeal  
applications. He requested the authority to extend him with a physical hearing to explain the  
technical aspects with the help of visual representations. He was told that the members are able  
to visualize the technicalities of an Integrated Factory Building and was enquired whether the AR  
still insists on a physical hearing. The AR stated that he shall not insist on physical hearing and  
continued his submissions with regard to the merits of the matter.  
  
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paid on steel/cement for such Integrated Factory if procured by them, but as the Tuling was not  
forthcoming they had entered into Works Contract Services (WCS). He stated that they will  
require ruling on their eligibility to ITC on steel/cement/pre-cast sections etc required for the  
future phase of construction/expansion of the Integrated Building, which he claimed as a part of  
“Plant and Machinery”. The AR was asked to furnish his submissions in detail with specifics-and  
the supporting documents on or before 20" July 2022.  
  
6.3 In response the appellants have filed written submissions on 20.07.2022 stating that the  
findings and pronouncement of ARA which are under contest in this appeal are:  
  
(a) 9. To sum up, the applicant procures services of ‘Works Contract’ of Construction  
of ‘Integrated Factory Premises’ desi gned to take the load of various ‘Plant and Machinery’ to be  
housed for operations. The incremental foundations made is not the “foundation with which the  
Plant and Machinery are fixed to earth’, which is held as eligible along with the ‘Plant and  
Machinery’ as per the Explanation under Section 17 of the GST Act. Also, the applicant has not  
established that they individually procures steel, cement and other consumables for the works  
executed by their suppliers, thus the invoices for such goods have not been established to be in  
the name of the applicant, Therefore, the credit of steel, cement and other consumables even in  
proportion to the incremental volume of the earth foundation, side walls, beams, etc. are not  
available as credit to the applicant. No ruling is extended on the ‘Pre-cast, Reinforcements,  
Supports’ said to have been purchased as it is by the applicant and ‘Other Capital goods’ as the  
required facts of procurement and documentary substantiation is not made before us.  
  
(b) Applicant’s factory was being constructed with concrete foundation. Earth work, foundation,  
plinth beams and tie beams are designed to support the precast concrete gantry beams.  
  
(c) The civil engineering is done at enhanced levels for the erection of the gantry beams and  
eventual mounting and operation of the overhead cranes. The civil engineering on the above  
aspects at a higher level is not at all needed for the normal requirements for the construction of a  
conventional factory building comprising merely the walls and roof. The higher extent of the civil  
works in the present case is essentially to meet the need to install the gantry, rails with a view to  
install and operate the overhead cranes. The above said stronger structure supporting the roof and  
sidewalls of the factory is incidental  
  
(d) The enhanced levels of civil engineering design and erection are primarily to construct pillars  
and gantry beams to adequately support the mounting, and operations of overhead cranes.  
  
(e) Rails ete. are being fixed over the concrete structure for the overhead crane movement.  
  
(f) In this case, the entire input supply in question is undoubtedly for “business” only. Yet, the  
issue of apportionment (between the inward Works Contract Service (WCS) supply attributable  
for the erection and operation plant and machinery, and that for factory side walls and roof) arises  
  
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because the GST incidence on the input supply in question (the WCS received for construction  
of integrated factory) covers the fixation of plant and machinery to earth by foundation and  
structural support which inevitably doubles up as load-bearing structure for the roof and sidewalls  
(which are immovable property for which ITC may be said to be blocked). Such stronger structure  
is necessitated only to bear the additional load/ range of force and pressures that may arise to the  
structure on account of the movement of the overhead cranes by themselves and the weight (load  
of materials/components) that these cranes would be handling (while lifting, moving.  
shifting). The said foundation and structural supports are used to fix the apparatus, equipment, and  
machinery namely the gantry, the rails and the overhead cranes.  
  
(g) Appellant is admittedly procuring WCS only but the WCS provider procures his inputs viz.  
steel, cement and other consumables. Going forward, for the expansion work, the appellant would  
subject to the outcome of the advance ruling on the eligibility of ITC, can take ITC for such future  
WCS contracts for the expansion works of identical nature. Advance ruling sought is therefore  
valid and it need not necessarily be supported by receipt of the inputs in the name of the appellant.  
  
(h) GST on WCS for construction of plant and machinery is not blocked under section 17. Just  
because, the construction serves the factory roof and sidewalls also, it cannot be said that  
incremental foundations (the increment is only to sustain the plant and machinery) made is not  
the ‘foundation with which the Plant and Machinery are fixed to earth. Saying so is obviously  
contrary to fact. Otherwise, there was absolutely no need for the appellant to spend for reinforced  
structures. It is obviously and undeniably to enable the erection and operation of the plant and  
machinery only and nothing else.  
  
(i) The issue is only apportionment of the GST incidence on the WCS of which a basic portion is  
attributable to the factory walls and roof and the incremental engineering 1s purely for the plant  
and machinery. This issue is fairly captured in our submissions noted in paragraph 3.2 of the  
impugned order. The ARA too captured this fact and concluded fairly on facts that “....-- the  
applicant procures services of Works Contract of Construction of ‘Integrated Factory premises’  
designed to take the load of various ‘Plant and Machinery’ to be housed for operations”, yet  
fumbled in legal conclusions.  
  
(j) Legally, the Explanation to section 17 excludes “other” civil structures. Civil structure-to the  
extent attributable to factory roof and sidewalls-is “other” civil structure but the incremental  
structural inputs that are entirely dedicated for plant and machinery only and nothing else are  
expressly allowed for ITC. But for the need to support the plant and machinery, the incremental  
structural reinforcements are unnecessary. In other words, the extra strength built for the structure  
is un-attributable to factory but attributable exclusively to erect and operate the plant and  
machinery. AAR has missed in applying this aspect to the law even while accepting this factual  
position. This was the reason as to why the physical hearing was also sought to show the video  
graph of the plant, its nature and the role of the structural reinforcements to the functioning of the  
over-head cranes in the manufacturing process. Nonetheless, since the Hon’ble Members  
expressed that they had seen such factories and understood the purpose of such incremental  
structural reinforcements, the prayer for physical hearing was not insisted upon.  
  
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(k) According to section 95(a), advance ruling is in relation to the supply of goods or services or  
both being undertaken or proposed to be undertaken by the applicant. For the WCS and a few  
items required for the plant and machinery, 8 documents were supplied, which are at pages 2 to  
9 of letter dated 06.12.2021, submitted to the Authority of Advance Ruling, which were part of  
the present appeal. These documents would indicate the SAC code as 9954 and HSN Code as  
3402 & 8414.The documents for supply of Steel, Cement and other consumables would not be  
obviously there, as they were not directly purchased from the contractor as per the initial contract,  
but going forward for the expansion work, the appellant is contemplating. Therefore, advance  
ruling was not shut out by the non-furnishing of documents for transactions that have not taken  
place as yet but in the pipeline.  
  
(J) As detailed in paragraph 2 in the Facts-part in the appeal under consideration, we respectfully  
submit that a view can fairly be taken that the structure being constructed is essentially for plant  
and machinery-the roof and sidewall load being incidental-the GST suffered on the entire WCS  
should qualify for ITC. Assuming for a moment that the plant and machinery in this case can  
operate in the open air, the appellant would be entitled to the whole of the ITC on the civil  
construction for plant and machinery. The appellant pleaded out of abundant caution for  
apportionment only to the extent of the incremental civil construction as applied for-excluding  
the basic structure strength normally required for sidewalls and roof of the factory. Therefore, the  
advance ruling be given as prayed for in the appeal, so that the appellant would be able to finalize  
their financial accounts, in so far as the capitalization of the capital goods are concerned, under  
IT provisions, consistent with the Advance Ruling that may be given herein.  
  
7. Discussion and Findings:  
  
We have gone through the facts of the case, documents placed on record, Order of the Advance  
Ruling Authority & submissions made by the appellant before this appellate forum.  
  
7.1 The appellant has raised the following four issues praying to set aside the orders of the  
Advance Ruling Authority, Tamil Nadu.  
  
i) The appellant pray for setting aside the impugned order and allow the ITC benefit sought  
  
for by them..  
  
ii) The appellant also prays for adoption of just and fair interpretation of the provisions of  
Section 17 (5) (c) & (d) of the CGST Act,2017 wherein an exception has been given to  
bar / restriction to the ITC benefit in the case of plant and machinery, as in the present  
case the GST paid on goods and services or both (in so far as they pertain to that part of  
the integrated factory building, which is serving as plant and machinery for the appellants’  
manufacturing operations. );  
  
iii) The appellants further pray for application of the ratio of the Supreme Court decision and  
the ARA ruling, in the facts and circumstances of the present case and allow the ITC  
prayed for to the extent stated in prayer (ii) above.  
  
iv) The appellants also pray for proper appreciation on the Chartered Engineer’s certificate  
so as to rule that the integrated factory of the appellant is not nearly a conventional factory  
  
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but also a ‘plant and machinery’ meant to carry out manufacturing activity and that the  
claim of ITC [attributable to that part of integrated factory building which functions as  
‘Plant and Machinery’] is confirmed to be correct in law”.  
  
7.2. During the virtual personal hearing held on 15-07-2022, the Authorized representative of  
the Appellant made the submissions with regard to the issues raised before AAR. He stated that  
pillars are the one which hold the cranes at about 10m height and bears the weight. The overhead  
cranes runs on the rails placed on beams resting on the pillars which are part of the Integrated  
factory. He stated that they had sought ruling on their eligibility to ITC on the GST paid on  
steel/cement for such Integrated Factory if procured by them, but as the ruling was not  
forthcoming they had entered into Works Contract Service (WCS). He stated that they will require  
ruling on their eligibility to ITC on steel/cement/pre-cast sections etc. required for the future phase  
of construction/expansion of the Integrated Building, which he claimed as a part of ‘Plant and  
Machinery’.  
  
7.3 The issue raised before us is the prayer to set aside the impugned order and allow the Input  
Tax Credit benefit sought for by the appellants.  
  
(i) The appellant’s contention that the Integrated factory building that constructed, was a  
special kind of two-in building in the sense that it was not merely a conventional roofed  
factory building to protect the men, machineries and materials from rain and shine, but was  
a plant and machinery in itself as its incrementally strong and large foundation, large numbers  
pillars, 10 metres highly placed gantry beams with support mountings across the length and  
breadth, rails over the floor and beams for facilitating the overhead cranes and these facilities  
built into the building make the entire building a plant and machinery to make the wind  
operated electricity generators (WOEG) needs examination.  
  
(ii) It is pertinent to refer the provisions of the CGST Act,2017 relating to the input tax credit  
eligible for the plant and machinery in sub-section (5) of section 17 of the CGST Act,2017 for  
which relevant provisions are extracted here for sake of convenience:  
  
(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-  
section (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 coniract 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.  
  
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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.  
  
(iii) From the reading of the above Explanation to the definition, input tax credit is available in  
respect of works contract services and goods or services or both received by a taxable person for  
Plant and Machinery that are used for making outward supply of goods or services or both. Hence,  
the contention of the appellant needs to be examined as to whether the integrated factory building  
could be considered as Plant and Machinery for the benefit of input tax credit.  
  
(iv) In the additional submissions made along with video clip of the construction of the factory  
building, the Appellant contended that they had procured WCS only. but the WCS provider  
procures his inputs viz. steel, cement and other consumables and for the expansion work, the  
appellant would subject to the outcome of the advance ruling on the eligibility of ITC, can take  
ITC for such future WCS contracts for the expansion works of identical nature. In this regard,  
section 17(5) (c) of the CGST Act,2017 provides for blocking of input tax credit on works contract  
service 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. Here, the appellant did not carry  
on the supply of works contract service and the eligibility or otherwise will be deliberated while  
examining the contention of treating the factory as Plant and Machinery since the above condition  
is excluded for Plant and Machinery.  
  
(v) According to section 95(a) of the CGST Act, 2017, advance ruling is in relation to the supply  
of goods or services or both. being undertaken or proposed to be undertaken by the appellant. The  
appellant filed copies of documents for procurement of works contract service before the Advance  
Ruling authority. Here, the provisions of section 95(a) read with section 97(2)(d) of the CGST  
Act,2017 regarding, admissibility of input tax credit of tax paid or deemed to have been paid,  
answers the admissibility of the prayer for advance ruling sought by the appellant.  
  
7.4 The contentions of the authorized representative of the appellant made at the time of  
virtual hearing and subsequent filing of additional grounds along with photo copies of the factory  
premises constructed are considered at great length. For the sake of convenience, the photo copies  
of the factory premises constructed taken from the visuals presented in a pen-drive by the  
Authorised Representative are reproduced below:  
  
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7.5 Examination of the above photographs and the averments made by the appellants would  
reveal that the factory premises have been constructed with large numbers of pillars, gantry  
beams with support mountings across the length and breadth, rails with a view to install and  
operate the overhead cranes. But the pillars and beams are found to be commonly erected as  
structurals to bear the weight of overhead crane as well as to support the walls and roofs  
constructed alongside such pillars. Thus, there are two purposes of the pillars & beams involved  
in the construction of factory building, one relates to structural support to move the overhead  
crane and other one to support side walls and roof of the Integrated factory building premises to  
protect it from outside environment.  
  
7.6 In the additional submissions, the appellant reiterated the construction of integrated factory  
building as plant and machinery and eligibility of Input ‘Tax Credit on input supply in respect of  
so called plant and machinery. Initially they contended that inward works contract supply service  
would be eligible for plant and machinery. But they sought for advance ruling only on the grounds  
as per additional submission which are as follows:  
  
“Appellant is admittedly procuring WCS only but the WCS provider procures his inputs viz. steel,  
cement and other consumables. Going forward, for the expansion work, the appellant would  
subject to the outcome of the advance ruling on the eligibility of ITC, can take ITC for such future  
WCS contracts for the expansion works of identical nature. Advance ruling sought is therefore  
valid and it need not necessarily be supported by receipt of the inputs in the name of the  
appellant.”  
  
7.7 In this regard, the point to be decided is whether the integrated factory building is plant and  
machinery or not.  
  
7.8 In the case of the appellant, they have erected pillars, gantry beams, rails and beams for  
movement of overhead crane in the factory premises. The CGST Act,2017 states that “plant and  
machinery” means apparatus, equipment, and machinery fixed to carth 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 exclude land, building or any other civil structures.  
  
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7.9 First we look into the question of whether the overhead crane fixed in the factory premises  
can be classified as plant and machinery. This crane is falling under HSN 8426 and taxable at 9%  
CGST+9% SGS'T in schedule UI under S1I.No.327 of rate notification No.1/2017 Central Tax  
Rate. Chapter 84 deals with machinery and hence the overhead crane would fall under the  
category of plant and machinery. As per the [explanation under section 17 of the CGST Act.2017,  
the expression “plant and machinery” means apparatus, equipment, and machinery fixed to carth  
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. Therefore, the structural support  
erected in relation to overhead crane alone would cover under the extended meaning of plant and  
  
machinery.  
  
7.10 rom the materials made available before us, the integrated factory building per se is not  
to be categorized as plant and machinery. The overhead crane and its proportionate structural  
support would be categorized as plant and machinery as per the explanation to Section 17 of the  
‘TNGST Act.2017. Such structural support would not fall under the category of blocked input tax  
credit. Hence the appellant would be cligible for input tax credit proportionate to the extent of  
structural support erected in relation to overhead crane alone subject to fulfillment of conditions  
stipulated in section 17(5)(c) and (d) of the CGSYT Act.2017 and explanation thereunder.  
However, they are not eligible for input tax credit relating to construction of other civil structure  
like side walls. roof of the Integrated factory building.  
  
7.11 In other words, the eligibility of ITC would be as follows:  
  
(i) The appellants are entitled to the eligible ITC on overhead rails and gantry beams laid  
exclusively for the purpose of movement of overhead crane.  
  
(ii) The appellants are entitled to proportion of eligible ITC in respect of structural support for  
overhead crane by applying the ratio of Load transferred by overhead crane, railings and gantry  
beams to the pillars and beams to the total load including roof, walls ctc., whose load are  
transferred to the pillars and beams of the integrated factory building i.e.  
  
(Load transferred by Overhead Crane, railings and gantry beam  
  
(Eligible ITC on works to the pillars and beams)  
  
contract service for  
  
construction of integrated  
  
factory building) (Total load of the integrated factory building including roof  
walls etc., whose load are transferred to the pillars and beams)  
  
Ba) ca re  
  
(iii) However, they are not cligible for input tax credit relating to construction of other civil  
structure like side walls, roof of the Integrated factory building.  
  
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=  
  
In view of the above, the appeal is allowed and orders of the AAR is modified to the extent  
mentioned in the foregoing paragraph,  
  
8. With regard to the appellant’s prayer for application of the ratio of the Supreme Court  
decision and the ARA ruling, , the Hon’ble Supreme Court in the case of M/s. Jayaswal Neco  
Ltd. Vs, Commissioner of Central Excise, Raipur [2015 (4) TMI 569] had upheld the MODVAT  
  
sought it and on the concerned officer or the jurisdictional officer in respect of the appellant and  
hence it is not applicable to the present case.  
  
9. In view of the above facts, we rule as under:  
  
RULING  
  
and explanation thereunder,  
  
(ii) However, they are not eligible for input tax credit as per section 17(5)(c) and (d) of the CGST  
Act,2017 relating to construction of other civil Structure like side walls, roof of the Integrated  
factory build ing.  
  
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JHEE )  
  
J KUMAR (MANDALIKA SRINIVAS)  
Principal Secretary/ Pr. Chief Commissioner of GST  
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Tamil Nadu /Member AAAR Member AAAR  
  
//By RPAD //  
To  
  
M/s Coral Manufacturing Works India Private Limited,  
  
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ADVANCE RULING  
  
17 APR 2023  
  
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