



BEFORE THE AUTHORITY FOR ADVANCE RULINGS
for the State of Andhra Pradesh (Goods and Service Tax)
(5th Floor, O/o Chief Commissioner of Commercial Taxes, D.No:5-56, Block-B, R.K
Spring Valley Apartments, Edupugallu, Vijayawada-521151.)

Present:

Sri. J.V.M Sarma (Member)

Sri.Amaresh Kumar (Member)

On the 9th day of October, 2018

Ruling No. AAR/AP/ 14 (GST)/2018

In

Application No.AAR/ 22 (GST)/2018

1	Applicant	M/s Maruti Ispat & Energy Private Limited (GSTIN:37AAF7CM7368H1Z1) # Survey 167C, 167D,167E, Madhavaram Village, Mantralayam Mandal, Kurnool, District, A.P - 518439.
2	Jurisdictional Officer	Assistant Commissioner(State Tax), Adoni –I Circle, Kurnool Division,
3	Present for the Applicant	Sri. Mahesh Soni (Authorized Representative)
4	Present for the Jurisdictional Officer	Remarks not Received
5	Date of Personal hearing	14 th September 2018

Note: Under Section 100 of the APGST Act'2017, an appeal against this ruling lies Before the appellate authority for advance ruling constituted under section 99 of APGST Act'2017, within a period of 30 days from the date of service of this order.

M/s Maruti Ispat & Energy Private Limited, (hereinafter also referred as applicant), having GSTIN: 37AAF7368H1Z1 are involved in manufacturing of Steel, and production of Power

2. The applicant had filed an application in Form ARA-01, for seeking advance ruling on certain issues through online on 31.07.2018 vide acknowledgment No.AD370518000170J. The applicant had paid the prescribed fee in prescribed format and the CPIN : 180537000004543 and CPIN : 18073700221722, the issues on which the clarifications sought by the applicant are as follows..

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- 1) Whether we are eligible to take GST input on Goods which are used for installation (Foundation) of plant and machinery?
- 2) Whether we are eligible to take GST input services which are used for installation (Foundation) of plant and machinery?
- 3) Whether we are eligible to take GST input on goods which are used for protection (by creating sheds)_ for plant and machinery?
- 4) Whether we are eligible to take GST inputs on services which are used for protection (by creating shed) for plant and machinery? “

On verification of basic information of the applicant, it is observed that the applicant falls under State jurisdiction, i.e Adoni –I Circle, of Kurnool Division (as per the bifurcation lists of tax payers between the Centre and State in the prescribed manner), accordingly, the application has been forwarded to the jurisdictional officers and also a copy marked to the Central Tax authorities to offer their remarks as per the Sec. 98(1) of CGST / APGST Act'2017, and requested for the information.

In response to this communication, the concerned jurisdictional officer, not offered any remarks. As the limitation period for disposal of the application is closure, the authority proceeded further.



Accordingly ,a personal hearing is called for on 14th September 2018, to hear from the applicant. Sri.Mahesh Soni (authorized representative) had attended on behalf of the applicant and submitted the facts of case.

The authorized representative submitted that the nature of industry, and for the production of the final product, required buying machinery and other required material to set up the industry. The machinery and other relevant material so purchased have to be installed in a proper manner to carry out the manufacturing process. As a part of installation the applicant has to construct foundation, sheds for protecting the plant.

Observations of the authority:

M/s Maruti Ispat & Energy Private Limited, (here in after called as 'applicant'), is a private limited company, and manufacturers of steel and generation of power. The applicant submitted that they had DRI (direct reduced iron)i.e spong iron unit and they involve in generation of power. They stated the nature of industry and product requires... buying of large plant and machinery for installation and protection of this plant & machinery, they required to lay foundations, and also to construct the sheds. They have drawn the attention of this authority, the section 17(5)(c) & sec 17(5)(d) of CGST Act,2017, and submitted there is no restriction to claim input, with respect to items related to plant & machinery. Further, they stated structural support and civil structure are covered as per the explanation to the said provisions. They submitted the digging process is done with regard to creation of foundation for specific installation of plant & machinery and is completely suitable only for the specific plant & machinery. They highlighted the word 'support' used in explanation not only means support from base, but also support from all the ways, creating sheds is to protect the plant & machinery. Further, they submitted the list of goods and services, which are to be used for their plant and machinery as input.

This authority requested the applicant, to submit the photographic evidences, in support of his claim. The same is received through mail by this authority



Statutory Provisions:

17. (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.

On being perusal of photographic evidences and submissions made by the applicant, we are of the opinion that the argument of the applicant to treat civil structures as structural support for plant and machinery is not tenable. The civil structures under consideration is squarely falls other civil structures which is excluded as per the explanation to the proviso as stated above. Hence, this authority is of the opinion the claim of the applicant is not justifiable. Accordingly, the ruling is as follows....



RULING

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Ruling : As per the material on record and photographic evidences of the applicant, on which sought for clarification does not fall under the ambit of explanation to the proviso to the Section 17(5) of CGST / APGST Act,2017. Hence, the applicant is not entitled to claim the input tax credit on the goods and services.



Sd/- (J.V.M SARMA)
Joint Commissioner (State Tax),
Authority for Advance Ruling,
Andhra Pradesh.



Sd/-(AMARESH KUMAR)
Joint Commissioner (Central Tax),
Authority for Advance Ruling,
Andhra Pradesh.

