



Tax alert: Gujarat Appellate Authority for Advance Ruling holds ITC eligible for concrete tower construction

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The Gujarat Appellate Authority for Advance Ruling (AAAR) has held that input tax credit (ITC) shall be eligible on inputs and input services used for construction of concrete tower supporting the manufacturing activities of the appellant.

In a nutshell



The appellant sought an advance ruling on ITC eligibility on inputs/input services used for construction of concrete tower which is an integral part of its manufacturing process.



The Gujarat AAR denied the said ITC on grounds of being restricted on account of works contract services for immovable property. Aggrieved, the appellant filed appeal before AAAR.



The concrete tower is an essential foundation and structural support for the appellant's manufacturing process.



AAAR held that ITC shall be eligible on construction of the concrete tower used to support the vertical continuous vulcanization lines as it qualifies as "plant and machinery".



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Background

- The appellant¹, engaged in the manufacture and supply of extra high voltage (EHV), medium voltage (MV), and low voltage (LV) cables, sought to upgrade its technology by setting up a new manufacturing plant in Gujarat using the vertical continuous vulcanization (VCV) process.
- This process required the construction of a specialized concrete tower to support the VCV manufacturing line.
- The Gujarat Authority for Advance Ruling (AAR) initially denied the eligibility of input tax credit (ITC) on inputs and input services used for the construction of this concrete tower, citing restrictions towards works contract services for construction of immovable property as provided under section 17(5)(c) and 17(5)(d) of the Central Goods and Services Tax Act, 2017 (CGST Act).
- Aggrieved by the AAR order, the appellant has filed an appeal before the Gujarat Appellate AAR (AAAR).
- The appellant argued that the concrete tower is an essential foundation and a structural support for the VCV manufacturing line, which qualifies as plant and machinery. The construction should be considered as part of plant and machinery, and thus eligible for ITC.

Observations of the Gujarat AAAR

- On going through the layout of the VCV line, the AAAR agreed with the appellant's stand that the concrete structure is essential to support and erect the VCV lines.
- It has been stated by the appellant that the VCV tower serves as a critical foundation and support system for the manufacturing process; that it provides stable base for tower components; that it absorbs vibrations and ensures accurate positioning of extruder, cross head and other elements.
- "Plant and machinery" as defined under GST Law, specifically includes foundation and structural support.
- Further, "other civil structures" excluded from "plant and machinery" means civil structures other than foundation and structural support to plant and machinery.
- If ITC is sought on construction of foundation and structural support relating to plant and machinery, it moves out of the ambit of section 17(5)(c) and (d) of the CGST Act,' even if it is on their own account.
- Drawing analogy from Circular No. 219/13/2024-GST, dated 26 June 2024, it was observed that when ITC is not restricted even in respect of ducts and manholes used in OFCs, the ITC for construction of concrete tower, similarly, cannot be restricted.
- Appellant is eligible for availing the ITC on inputs and input services used for construction of the concrete tower to support and erect the VCV lines at the factory.

Deloitte comments

The ruling has emphasized the interpretation of "plant and machinery" to include foundations and structural supports, excluding general civil structures. In other words, it underscores the importance of the functional role of structures in determining ITC eligibility under the GST Law. The ruling demonstrates a positive trend for taxpayers, where authorities have been increasingly focusing on functional tests and allowing ITC for towers used to support manufacturing process.

¹ M/s. KEI Industries Ltd. 2025-VIL-37-AAAR



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