



## Tax alert: Input tax credit on freshwater storage tank and effluent guard pond held to be eligible

**12 August 2025**

The Kerala Authority of Advance Ruling has held that input tax credit shall be eligible in respect of construction of freshwater storage tank and effluent guard pond, that holds an integral role in the manufacturing process, subject to its classification as 'plant and machinery' and its integral use in manufacturing process.

### In a nutshell



The company plans to construct a freshwater storage tank and effluent guard pond. The structures are integral to the core manufacturing operations of the applicant.



The issue for consideration was whether input tax credit would be eligible in respect of construction of these structures.



Applying functionality test, the AAR observed that the structures are not passive civil structures but integral components of production infrastructure. Dominant function is operational, not structural.



It has been held that the structures merit classification as "plant and machinery" subject to its capitalization as plant and machinery and use in the manufacturing process.



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## Background

- The applicant is a public limited company engaged in manufacturing ossein which is derived from animal bones and produces gelatin using ossein.
- To enhance operational efficiency in the manufacturing unit producing ossein, the company plans to construct a freshwater storage tank with 2,000 KL capacity and a guard pond (effluent storage tank) with 7,000 KL capacity.
- These facilities are crucial for maintaining uninterrupted plant operations through proper water storage and effluent management and are integral to their plant and machinery.
- These assets have been capitalized in the company's books of accounts.
- The applicant has approached the Advance Ruling Authority to determine eligibility for claiming input tax credit (ITC) on GST paid for goods and services used in this construction. It contends that the same does not get covered under the restrictions prescribed in respect of ITC eligibility for construction of immovable property under the GST Law.

## Observations of the Authority of Advance Ruling

- If the freshwater tank and effluent guard pond are considered as "construction of an immovable property," ITC would ordinarily be blocked unless they fall within the exception for "plant and machinery" defined in the GST Law.
- As defined, "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. However, the definition expressly excludes land, buildings, and other civil structures.
- These assets are integral to the core manufacturing operations of the applicant. The freshwater tank ensures uninterrupted availability of water necessary for the production process, while the guard pond provides essential effluent storage capacity to meet environmental compliance and enable continuous operation.
- In tax jurisprudence, assets that perform such specific, process-integrated roles are typically treated as "plant" rather than as mere buildings.
- Though constructed using civil work elements like concrete and steel, the tanks serve as functional apparatus, more akin to large equipment used for fluid storage and waste treatment. The tanks do not fall under land or building. If it is a civil structure, it would not be eligible for ITC.
- Reference was made to Supreme Court (SC) judgement in the case of **M/s. Safari Retreats Private Ltd. & Ors. V. Commissioner<sup>1</sup>**. Applying the functionality and essentiality criteria laid down by the SC, the authority observed that both the assets serve indispensable roles in the manufacturing process of the applicant and are not passive civil structures. Their dominant function is operational, not structural. Therefore, these assets merit classification as "plant and machinery".
- Accounting treatment alone is not conclusive for legal classification under GST law, but it serves as a corroborative factor, particularly when the statutory definition of "plant and machinery" employs similar terminology.
- Reference was also made to Tamil Nadu advance ruling in the case of **M/s. SHV Energy Private**

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<sup>1</sup> 2024-VIL-45-SC

**Limited**<sup>2</sup> wherein it was held that ITC on a fire water reservoir tank would be admissible only if the asset was capitalized as "plant and machinery" and not under "immovable property."

- Based on the above, it was concluded that subject to the condition that the said structures are capitalized as plant and machinery and of their integral use in the manufacturing process, ITC on the goods and services used in their construction is admissible under law. The restrictions prescribed in respect of ITC eligibility for construction of immovable property would not be applicable

#### **Deloitte comments**

This is a welcome ruling that has held that ITC shall be eligible in respect of construction of water storage tanks and effluent storage tanks that are integral to the manufacturing process, subject to its capitalization as "plant and machinery" in books. The ruling would be helpful in evaluating scenarios where structures are constructed using civil work elements but can be regarded as a functional apparatus, where the dominant function is operational, not structural. Also, emphasis has been laid on the aspect of capitalization as "plant and machinery". One may want to evaluate the classification of such assets for income-tax purposes as 'plant and machinery' and eligibility to claim depreciation thereon.

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