



**TELANGANA STATE AUTHORITY FOR ADVANCE RULING**  
**CT Complex, M.J Road, Nampally, Hyderabad-500001.**  
**(Constituted under Section 96(1) of TGST Act, 2017)**

**Present:**

**Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)**  
**Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)**

**A.R.Com/13/2021**

**Date:09.12.2021**

**TSAAR Order No.29/2021**

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]**

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1. M/s. Vijayneha Polymers Private limited, 8-3-332 Ground floor, Mailardevpally, Rangareddy, Telangana- 500 005 (36AABCV7309K1Z2) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.

**4. Brief facts of the case:**

The applicant M/s. Vijayaneha Polymers Pvt Ltd., has constructed a factory building wherein they have hired works contractors for executing the construction in (2) different ways.

- a. Where the applicant provided material and contractor provided construction services.
- b. The contractor provided both material and services.

Such construction included foundation of machinery, rooms for chillers, boilers, generators and transformers, erecting of electrical poles, laying of internal roads, factory building, internal drainage, laboratory etc., The applicant is desirous of obtaining clarification regarding eligibility of ITC on the amounts charged by the contractor for these services. Hence the application.

**5. Questions raised:**

1. The advance ruling is sought on availability of ITC on GST charged by the contractor supplying service of works contract.

**6. Personal Hearing:**

The Authorized representatives of the unit namely Sri Shalini Kacholiya, CA & Sr. Manager, Finance attended the personal hearing held on 12-11-2021. The authorized representatives reiterated their averments in the application submitted.

## 7. Discussion & Findings:

As seen from the facts of the case, the applicant has either purchased goods or services for construction of immovable property on his own account or engaged the works contractor for supply of construction services. The Section 17(5) of the CGST/SGST Acts states among others that input tax credit shall not be available in respect of the following:

- a. "...
- b. ...
- 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 of alterations or repairs, to the extent of capitalization, to the said immovable property;"

The explanation to Section 17 defines the meaning of "plant & machinery" as follows:

"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 support but excludes---

- (i) Land, building or any other civil structures;
- (ii) Telecommunication towers; and
- (iii) Pipelines laid outside the factory premises.

The above provisions when read in tandem lead to the following conclusions with respect to the facts of the present case:

1. ITC cannot be availed on works contract services for construction of an immovable property except for erection of plant & machinery.
2. ITC can be availed on plant & machinery as defined in the explanation to Section 17 i.e., on apparatus, equipment & machinery fixed to earth by foundation or structural support; which means plant & machinery and machine foundation are eligible for ITC.
3. Plant & machinery will not include building or other civil structures and pipelines laid outside factory premises.
4. ITC cannot be availed on goods or services or both received by a tax payer on his own account for construction of immovable property.

In light of the above conclusions, the applicant is eligible for ITC to the extent of machine foundation only.

## 8. The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
The advance ruling is sought on availability of ITC on GST charged by the contractor supplying service of works contract.	The applicant is eligible for ITC to the extent of machine foundation only.



(S.V. KASIVISWARA RAO)  
ADDL. COMMISSIONER (STATE TAX)

(B. RAGHU KIRAN)  
ADDL. COMMISSIONER (CENTRAL TAX)

**[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]**

To  
M/s. Vijayneha Polymers Private limited,  
8-3-332 Ground floor, Mailardevpally, Rangareddy,  
Telangana- 500 005.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Secunderabad Commissionerate, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad 500 004.

Copy to:

1. The Superintendent (Central Tax) Shivrampally Range. 2nd Floor, H.No.10-3-301 to 303, Serene Heights, above Ratnadeep Super Market, Humayan Nagar, Masab Tank, Hyderabad-500 028.

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Superintendent (Grade-I)