M/s NMDC Limited, Bacheli, Dantewada (South Bastar), Chhattisgarh, through Shri P.K. Mahapatra, Assistant General Manager (Finance). GSTIN is printed as 22AAACN7325A3Z3 on most pages; page 1 prints 22AAACN7325A1Z5.

Appellate Authority for Advance Ruling — Chhattisgarh

No. STC/AAAR/03/2019/78 dated 03/09/2019 (as printed on page 1). The o… Dated **03.09.2019**

Q Questions Before the Authority

- Whether input tax credit can be availed on design and engineering of lighting for plant road, boundary wall and watchtower.
- Whether input tax credit can be availed on supply of plant and equipment for lighting of plant road, boundary wall and watchtower.
- Whether input tax credit can be availed on erection of plant and equipment for lighting of plant road, boundary wall and watchtower.

F Facts

NMDC is setting up a 3 MTPA greenfield integrated steel plant at Nagarnar, Chhattisgarh, which runs round the clock. It awarded Package 33, the lighting of the plant road, boundary wall and watchtower, to M/s Bajaj Electricals Ltd under a contract dated 10.03.2017 with a total price of about Rs. 19.2 crore. The scope covers design and engineering, supply of poles, fittings, lamps, switch boxes and cable pipes, and their erection, along with civil foundations for the structures.

H Ruling

Design and engineering of lighting for plant road, boundary wall and watchtower	**Input tax credit not available. AAR ruling upheld.**	The order disposes of all three questions together and gives no separate per-question reasoning. The denial rests on the immovable-structure finding and the lack of outward-supply nexus.
Supply of plant and equipment for lighting of plant road, boundary wall and watchtower	**Input tax credit not available. AAR ruling upheld.**	Same basis as the design item. The order holds the items are civil structures with foundations, not plant and machinery.
Erection of plant and equipment for lighting of plant road, boundary wall and watchtower	**Input tax credit not available. AAR ruling upheld.**	Same basis as the other items. The erection work is treated as construction of immovable property under section 17(5)(c) and (d).

The Appellate Authority held that the three items are denied input tax credit because the lighting installation is an immovable civil structure, not plant and machinery, and the works contract and construction restrictions in section 17(5)(c) and (d) therefore apply. It also held that the nexus with outward supply was not established. The appeal

was dismissed and the AAR's ruling of 24.04.2019 was upheld.

R Reasoning

The Appellate Authority accepted that the test of movability is not decisive but held that the items fail the definition of plant and machinery, which requires apparatus fixed to earth that is used for making outward supply. It treated the lighting system as civil structures on foundations, relying on the contract's scope, the price schedule and the Supreme Court's decisions in TTG Industries and Duncans Industries on what is immovable. It found no nexus between the lighting and outward supply, so the exclusion of construction from section 17(5)(c) and (d) could not be invoked. It distinguished the Delhi High Court's Vodafone decision on telecom towers, which concerned output services, and the cited Cenvat capital goods cases as arising under the repealed regime.

P Provisions Relied On

- Section 100(1) of the CGST Act, 2017 (appeal)
- Section 101 of the CGST Act, 2017 (appellate advance ruling)
- Section 16(1) of the CGST Act, 2017 (eligibility of credit)
- Section 17(5)(c) and (d) of the CGST Act, 2017 (works contract and construction of immovable property)
- Explanation to section 17 of the CGST Act, 2017 (definition of plant and machinery and its exclusions)
- Explanation to section 17(5) (meaning of construction)
- Section 2(19), 2(59), 2(83) and 2(119) of the CGST Act, 2017 (capital goods, input, outward supply, works contract)
- Section 103(1) of the CGST Act, 2017 (binding effect of advance rulings)
- Section 3(26) of the General Clauses Act, 1897 and section 3 of the Transfer of Property Act, 1882 (immovable property)
- CBIC Circular No. 58/1/2002-CX dated 15.01.2002 (as referred to in the impugned order)

! For the Practitioner

This is a useful appellate authority ruling for any taxpayer building plant-road, boundary or perimeter lighting on concrete foundations, since it treats such installations as civil structures and denies credit on their works contract and construction costs. It confirms that the plant and machinery exception needs a clear outward-supply nexus, not just a functional link to plant operations. It does not decide whether lighting fittings or poles inside a factory that directly serve production qualify, and it does not reconcile the Vodafone and Bharti Airtel line of cases in any depth. The order also notes that an advance ruling binds only the applicant.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> cg_aaar_03_2019-20_03.09.2019_nmdc.pdf

Prepared 07-11-2026.

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