

M/s. Mother Earth Environ Tech Pvt Ltd.

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 46.1/2020 dated 30-07-2021

Q Questions Before the Authority

- Whether the term 'other civil structure' used in the definition of 'Plant and Machinery' restricts the Land filling Pit from considering it as Plant & Machinery and thereby restricts ITC to be availed on it.

F Facts

The applicant is engaged in the business of solid waste management and has constructed a land filling pit for the processing and disposal of hazardous waste. They sought an advance ruling on whether they are eligible to claim Input Tax Credit (ITC) on the goods and services used for the construction of this land filling pit. The applicant contends that the pit qualifies as 'plant and machinery' and is not an excluded 'civil structure' under the GST law.

H Ruling

Eligibility of ITC on Land filling Pit

The Landfilling pit is a civil structure and not a plant or machinery.

ITC is not available under Section 17(5)(d) of the CGST Act, 2017.

The Authority for Advance Ruling held that the land filling pit is a civil structure and does not qualify as plant and machinery. Consequently, the applicant is not entitled to claim input tax credit on the goods and services used for its construction. The ruling emphasizes that the structure is an immovable property excluded from the definition of plant and machinery.

R Reasoning

The Authority relied on the definition of 'plant and machinery' provided in the Explanation to Section 17(5) of the CGST Act, 2017, which explicitly excludes 'land, building or any other civil structures'. It observed that the land filling pit involves extensive civil engineering work and is embedded in the earth, thereby attaining the character of an immovable property. The Authority concluded that the structure does not meet the criteria for 'plant and machinery' and falls squarely within the exclusion clause for civil structures. Therefore, the input tax credit is blocked under Section 17(5)(d) of the CGST Act.

P Provisions Relied On

Section 17(5)(d) of the CGST Act, 2017

Section 17(5)(d) of the KGST Act, 2017

Section 98(4) of the CGST Act, 2017

Section 98(4) of the KGST Act, 2017



For the Practitioner

This ruling clarifies that **land filling pits** are considered **civil structures** and are ineligible for ITC under the GST regime. It serves as a negative precedent for taxpayers attempting to classify large-scale environmental infrastructure as 'plant and machinery' to bypass the **Section 17(5)(d) exclusion**. Practitioners should note that this ruling reinforces a strict interpretation of the exclusion clause for immovable property.

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 -> kar_aar_46.1_2020_motherearthenvirontechpvtltd.pdf

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