

**GIB/KN/Shri Keshav/12.09.2019/AAR-337**

**Advance Ruling Category :** Input Tax Credit

**State :** Karnataka

**Order No.:** GIB/KN/Shri Keshav/12.09.2019/AAR-337

**Name of Entry :**

Shri Keshav Cements & Infra Limited

**Date :** 12-09-2019

**Breif Issue :**

**Facts & Issue Of The Case :**

Shri Keshav Cement and infra limited is a registered public limited company engaged in the business of manufacturing of cement. The applicant has migrated into the GST law and is registered in the State of Karnataka bearing GSTIN No. 29AAACK8074H128. The cement manufactured from the plants is taxable under GST at a bundled rate of 28% under HSN 2523. The applicant has sought the advance ruling on the following Issues :

- Whether the company is eligible to take input tax credit as 'inputs / capital goods' or 'inputs services' of the items enlisted in Annexure-4 of this application in terms of Section 16 & 17 of the CGST/SGST & KGST Act ? Additionally, whether the capital goods and inputs constitute plant & machinery of the Applicant which are used in the business of Manufacturing Cement and hence not blocked input tax credit under section 17(5) of the CGST/KGST/IGST Act ?
- Whether the applicant company is permitted to avail the entire input tax credit of the enlisted items in annexure 4 of this application, being used towards the electric energy generated from the captive power plant and transmitted to the cement manufacturing plants which are physically located at the district locations within the state of Karnataka in terms of sections 17(1) and 17(2) of the CGST/KGST/IGST act and subsequently utilize the same for payment of output tax on cement sold by the applicant ?
- Whether the applicant company is required to reverse input tax credit on the electric energy generated by it at its plant and banked with the KPTCL, GESCOM & HESCOM and which is unutilised at the end of six months from the date of banking and is deemed to be consumed by KPTCL, GESCOM and HESCOM at the end of six months ?

**Decision of Advance Ruling Authority :****Decision :**

Those goods whose value has been capitalized in the books of account would not be considered as inputs and the applicant will not be entitled to credit of input tax in relation to such goods. The applicant is entitled to input tax credit in respect of goods other than capital goods as the list of the goods given in Annexure 4 to the application it cannot be inferred as to where capitalization has been done. Equipments and machinery which are fixed to earth by foundation or structural support alone are entitled to qualify as plant and machinery. Therefore, the goods answering to this definition alone shall be qualified to be treated as 'plant & machinery'. Section 17(5) (c) shall not be apply and credit of input tax shall not be available in respect of Other Goods.

The applicant company is required to reverse input tax credit on the unutilized electric energy banked with KPTCL, GESCOM & HESCOM and for which the applicant receives a consideration in terms of the wheeling and banking agreement as discussed in the preceding paragraphs.