NATION TAX MARKET	**KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM**	KERALA GST State Goods & Services Tax

BEFORE THE AUTHORITY OF: Shri Jomy Jacob IRS &

: Shri Mansur M.I.

Legal Name of the applicant	M/s. Nitta Gelatin India Limited
GSTIN	32AABCK1582H1ZT
ARN No.	AD3201230031236
Address	P.B. No. 4262, 56/715, SBT Avenue, Panampilly Nagar, Ernakulam, Kerala- 682036
Advance Ruling sought for	1. Whether M/s. Nitta Gelatin India Limited is entitled to avail Input Tax Credit (ITC) on the GST paid on goods and services used for construction of the Fresh Water Storage Tank? 2. Whether M/s. Nitta Gelatin India Limited is entitled to avail Input Tax Credit (ITC) on the GST paid on goods and services used for construction of the 'Guard Pond' (Effluent Storage Tank) to enhance the storage capacity of the effluent storage facility for ensuring uninterrupted production process?
Date of Personal Hearing	20.06.2025
Authorized Representative	Shri.Soman N L, Chartered Accountant.

ADVANCE RULING No.KER/19/2025 Dated 27.06.2025

1. M/s. Nitta Gelatin India Limited, P.B. No. 4262, 56/715, SBT Avenue, Panampilly Nagar, Ernakulam, Kerala-682036 *(hereinafter referred to as the applicant)* is a manufacturing company producing Gelatin and registered under GST Act 2017 bearing GSTIN 32AABCK1582H1ZT.

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2. In this ruling, a reference to the provisions of the CGST Act, Rules and Notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the Notifications issued thereunder.

3. The issues on which advance ruling are sought are stated above.

4 Contentions of the Applicant

4.1 The applicant is a public limited company engaged in manufacturing Gelatin using Ossein, which is derived from animal bones. The company operates two manufacturing units - one at Koratty for Ossein production and another at Kakkanad for Gelatin production. To enhance operational efficiency at the Koratty facility, the company plans to construct a fresh water 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. The applicant has approached the Advance Ruling Authority to determine eligibility for claiming input tax credit on GST paid for goods and services used in this construction. They maintain these structures qualify as capital assets since they form an essential part of the production plant and machinery.

4.2 The applicant's contentions regarding input tax credit for the guard pond (effluent storage tank) construction are:

4.2.1 The applicant considers the fresh water storage tank as a capital asset eligible for input tax credit upon capitalization in their books of accounts, being an integral part of the factory's plant and machinery. They refer to Section 16 of the CGST Act 2017 which permits input tax credit for capital goods used in business operations.

4.2.2 While the tank uses cement concrete in construction, the applicant argues it doesn't fall under the exclusions mentioned in Section 17(5)(c) & (d) since it's not merely a civil structure but an essential component of the manufacturing process that supplies water for plant operations. They cite explanations stating

that foundations and structural supports for plant and machinery qualify for input tax credit, and the civil structure portion should be classified as plant and machinery used in manufacturing.

4.2.3 The applicant references Order No. 10/AAR/2021 dated 31.03.2021 from the Tamil Nadu State Authority for Advance Ruling, where input tax credit was allowed for a fire water reservoir construction when capitalized as plant and machinery rather than immovable property.

4.3 The applicant's contentions regarding input tax credit for the fresh water storage tank construction are:

4.3.1 The processing plant's effluent requires treatment and discharge as per Pollution Control Board norms.

4.3.2 The proposed guard pond forms part of the effluent treatment plant and will be capitalized in the company's books. Its primary purpose is to store effluent during any disruption in the treatment process. The guard pond is an inseparable part of the plant and machinery essential for manufacturing operations.

4.3.3 Section 17 of the CGST Act 2017 permits input tax credit for goods and services used in constructing plant and machinery, including foundations and structural supports, provided these are capitalized in the company's books. The guard pond construction thus qualifies as being in the course of business.

4.3.4 The CGST Act defines plant and machinery as equipment fixed to earth for making outward supplies. The guard pond is so closely linked to the plant and machinery that manufacturing cannot occur without it.

4.3.5 The applicant maintains the guard pond is an essential, inseparable component of the manufacturing plant and machinery, not merely a civil

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structure excluded from the plant and machinery definition. Therefore, input tax credit should be available for its construction components.

5. Comments of the Jurisdictional Officer

The application was forwarded to the jurisdictional officer as per provisions of Section 98 (1) of the CGST Act. The Jurisdictional officer has not submitted any remarks and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that no proceedings are pending on the issue against the applicant.

6. Personal hearing

The applicant was granted opportunity for personal hearing on 10-09-2024 and a rehearing was conducted on 20/06/2025 due to the change of Central and State members. Shri.Soman N L, Chartered Accountant represented the applicant for both the personal hearings, and reiterated the contentions made in the application.

7. Discussion and Findings.

7.1. Since the applicant is seeking a ruling on eligibility to avail Input Tax Credit (ITC) on GST paid on goods and services used for the construction of the fresh water storage tank and the effluent guard pond, the subject matter squarely falls under Section 97(2)(d).

7.2 The matter has been carefully examined along with the applicant's submissions. The core issue relates to the eligibility of input tax credit on goods and services used for constructing the water tank and effluent treatment plant, which the applicant claims are integral to their plant and machinery. It is noted that these assets have been capitalized in the company's books of accounts.

7.3 The eligibility conditions for availing input tax credit (ITC) are outlined in Section 16(1) and subsequent sub-sections, while Section 17 contains the restrictive provisions. Section 16(1) of the CGST Act is the enabling provision that allows a registered person to take credit of input tax charged on any supply of

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goods or services used in the course or furtherance of business, subject to prescribed conditions. In principle, GST paid on construction of assets used for business (such as factory plant installations) would be eligible for ITC under this general rule, unless a specific exclusion in Section 17 applies.

7.4 Section 17(5)(c) & (d) – Blocked Credits for Construction of Immovable Property: Section 17(5) lists certain supplies on which ITC is disallowed (commonly called "blocked credits"), notwithstanding the general entitlement in Section 16. Clauses (c) and (d) of Section 17(5) are particularly relevant here:

- Section 17(5)(c) bars ITC on "*works contract services* when supplied for construction of an *immovable property* (other than plant and machinery), except where the works contract service is an input for further supply of works contract service."
- Section 17(5)(d) bars ITC on "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."

7.5 These provisions mean that if the fresh water tank and effluent guard pond are considered the "construction of an immovable property," ITC would ordinarily be blocked unless they fall within the exception for "plant and machinery." Notably, an Explanation to Section 17(5) clarifies the scope of "construction" and the definition of "plant and machinery":

- "Construction" *includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property*. In other words, any capitalized construction activity related to immovable property is within the ambit of the ITC restriction.
- "Plant and Machinery" is specifically defined to mean *"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 this definition *"includes such foundation and structural supports but excludes – (i) land, building or any other civil structures; (ii)*

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telecommunication towers; and (iii) pipelines laid outside the factory premises."

7.6 The Explanation to Section 17(5) of the CGST Act, 2017 provides that "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. This creates an important exception: even though something may be immovable property in the ordinary sense (being fixed to the earth), if it qualifies as "plant and machinery," input tax credit (ITC) on its construction is not blocked under clauses (c) and (d) of Section 17(5).

7.7 The legal question, therefore, turns on whether the fresh water storage tank and the effluent guard pond constructed by the applicant are to be regarded as "plant and machinery" or as excluded "civil structures." Based on the submissions, it is evident that the 2000 KL fresh water tank and the 7000 KL guard pond are integral to the core manufacturing operations of the applicant. The fresh water 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. These structures are not administrative buildings or ornamental constructions; rather, they serve dedicated and essential production-related functions. 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. Given this characterization, and the fact that they are capitalised in the books as part of plant and machinery, we hold that the said structures fall within the definition of "plant and machinery" under the Act.

7.8 Now it has to be determined whether the water tank and effluent treatment plant would by any chance fall under *"(i) land, building or any other civil*

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structures; (ii) telecommunication towers; and (iii) pipelines laid outside the factory premises" in which case, they would fall out of the scope of plant and machinery. Obviously, the tank is neither a telecommunication tower nor a pipeline outside the factory. Now it has to be ascertained whether the tank falls under "land, building or any other civil structures." Obviously, the tanks do not fall under land or building and hence, what is to be ascertained is whether the tank is a civil structure or not. If it is a civil structure, it would not be eligible for ITC and if otherwise, it would be eligible for ITC. The applicant has claimed that the tank is not a civil structure by itself, but an integral part of manufacturing unit itself.

7.9 The crucial test, as mentioned, is whether the item is a civil structure or part of plant and machinery. The very same issue was recently decided by the Hon'ble Supreme Court of India in M/s Safari Retreats Private Ltd. & Ors Vs Commissioner (CIVIL APPEAL NO. 2948 OF 2023) and a clear criterion has been laid out to distinguish 'plant and machinery' from 'civil structure'. After in-depth discussion, the Hon'ble Court ruled that-

> *The question whether a mall, warehouse or any building other than a hotel or a cinema theatre can be classified as a plant within the meaning of the expression "plant or machinery" used in Section 17(5)(d) is a factual question which has to be determined keeping in mind the business of the registered person and the role that building plays in the said business.* ***If the construction of a building was essential for carrying out the activity of supplying services, such as renting or giving on lease or other transactions in respect of the building or a part thereof, which are covered by clauses (2) and (5) of Schedule II of the CGST Act, the building could be held to be a plant.*** *Then, it is taken out of the exception carved out by clause (d) of Section 17(5) to sub-section (1) of Section 16. Functionality test will have to be applied to decide whether a building is a plant. Therefore, by using the functionality test, in each case, on facts, in the light of what we have held earlier, it will have to be decided whether the construction of an immovable property is a "plant" for the purposes of clause (d) of Section 17(5).*

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7.10 The Supreme Court emphasized that the classification of an asset must be based not merely on its form or structural characteristics, but on its functional role in the taxpayer's business. If a building or structure is essential for carrying out the taxable activity such as renting space, manufacturing goods, or processing outputs, it may be considered as "plant" rather than an excluded "civil structure." The Court remitted the matter in *Safari Retreats* to the High Court for a factual determination of whether the mall in question was essentially the plant of the taxpayer's renting business. Applying this test to the present case, both the Fresh Water Storage Tank and the Guard Pond serve indispensable roles in the manufacturing process of the applicant. These installations are not passive civil structures but integral components of the production infrastructure, facilitating uninterrupted operations and regulatory compliance. Their dominant function is operational, not structural. As such, they fulfill the functionality and essentiality criteria laid down by the Supreme Court. Therefore, these assets merit classification as "plant and machinery," and the restriction under Section 17(5)(d) is not attracted.

7.11 It is also relevant to note that the applicant has capitalized both the Fresh Water Storage Tank and the Guard Pond under "Plant and Machinery" in their books of accounts. While accounting treatment alone is not conclusive for legal classification under GST law, it serves as a corroborative factor, particularly when the statutory definition of "plant and machinery" employs similar terminology. In *Order No. 10/AAR/2021 dated 31.03.2021* issued by the Tamil Nadu Authority for Advance Ruling in the case of M/s. SHV Energy Private Limited, the Authority 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." This condition was imposed to ensure consistency in classification and to prevent misuse of the plant and machinery exception under Section 17(5). In the present case, the applicant's treatment of the tanks as capital assets forming part of plant and machinery reinforces their functional characterization and supports their eligibility for input tax credit.

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7.12 In conclusion, once the Fresh Water Storage Tank and the Guard Pond are functionally established as "plant and machinery" integral to the manufacturing operations of the applicant, the restrictions under Section 17(5)(c) and (d) of the CGST Act cease to apply. The statutory exclusion for immovable property does not extend to apparatus or equipment forming part of the production infrastructure. The ruling thereby aligns with the overarching objective of the GST framework to ensure seamless flow of credit and to avoid cascading of taxes on capital inputs used in the course of business. Accordingly, subject to the condition that the said structures are capitalized as plant and machinery and used in furtherance of the applicant's taxable output, input tax credit on the goods and services used in their construction is admissible under law.

8. Given the observations stated above, the following rulings are issued;

RULING

Question No.1 Whether M/s. Nitta Gelatin India Limited is entitled to avail Input Tax Credit (ITC) on the GST paid on goods and services used for construction of the Fresh Water Storage Tank?

RULING: Yes, M/s. Nitta Gelatin India Limited is entitled to avail Input Tax Credit (ITC) on the GST paid on goods and services used for construction of the Fresh Water Storage Tank, subject to its capitalization as plant and machinery and use in the manufacturing process.

Question No.2 Whether M/s. Nitta Gelatin India Limited is entitled to avail Input Tax Credit (ITC) on the GST paid on goods and services used for construction of the 'Guard Pond' (Effluent Storage Tank) to enhance the storage capacity of the effluent storage facility for ensuring uninterrupted production process?

RULING: Yes, M/s. Nitta Gelatin India Limited is entitled to avail Input Tax Credit (ITC) on the GST paid on goods and services used for construction of the

'Guard Pond' (Effluent Storage Tank), subject to its capitalization as plant and machinery and its integral use in the manufacturing process.

Jomy Jacob IRS
Additional Commissioner of Central Tax
Member

Mansur M.I.
Joint Commissioner of State Tax
Member

To,

M/s. Nitta Gelatin India Limited
P.B. No. 4262, 56/715, SBT Avenue,
Panampilly Nagar, Ernakulam, Kerala-682036

Copy submitted to,

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin- 682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department,Tax Towers, Karamana, Thiruvananthapuram – 695002.(email: cst.sgst@kerala.gov.in)
3. The Commissioner of Central Tax and Central Excise, Cochin Commissionerate.

Copy to,

1.The Additional Commissioner, TPS (HQ), Thiruvananthapuram.
2. The Deputy Commissioner, ITMD,O/o the Commissioner of State Tax.
3.The Assistant Commissioner/State Tax Officer, Taxpayer Services Circle, Panampilli Nagar, Ernakulam. (email: ekmtpsckknd.sgst@kerala.gov.in)
4.The Superintendent,Central Tax, Ernakulam Division, Ernakulam Range-4.