

**GUJARAT AUTHORITY FOR ADVANCE RULING  
GOODS AND SERVICES TAX  
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,  
AHMEDABAD – 380 009.**



**ADVANCE RULING NO. GUJ/GAAR/R/2025/62**  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2025/AR/14)

**Date: 23 / 12 / 2025**

Name and address of the applicant	:	PREMLATA RAKESH JAIN [Trade Name:- M/s Sambhav Warehousing] Plot No 124, Sector 4, Gandhidham, Kachchh, Gujarat- 370201
GSTIN of the applicant	:	24AEJPJ0437K2ZK
Jurisdiction Office	:	Office of the Assistant Commissioner of State Tax, Unit-103, Range-25, Division-12, Gandhidham.
Date of application	:	16.04.2025
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(d)
Date of Personal Hearing	:	04.12.2025
Present for the applicant	:	Shri Mehul Pandya , Advocate

**Brief facts:**

Premlata Rakesh Jain, [Trade Name: M/s Sambhav Warehousing] Plot No 124, Sector 4, Gandhidham, Kachchh, Gujarat- 370201 [for short – ‘applicant’] is registered under GST and their GSTIN is 24AEJPJ0437K2ZK.

2. The applicant is a provider of Storage and Warehouse service. The applicant is constructing a warehouse and need to purchase Cement, Steel, beam, column etc. for construction of the warehouse. They would also avail the Construction services for the same. As per the applicant, earlier the Input Tax Credit (ITC) on construction related material or services were covered under Block Credit under Section 17(5) of the CGST Act, 2017 and cannot be claimed even though the same was used for the furtherance of business. However, subsequent to the judgement of the Supreme Court in the case of *Safari Retreats*, they require an advance ruling in the matter. They have, therefore, sought an advance ruling on the following question: -

*Whether ITC is admissible for the goods or services utilized for the construction of warehouse or shed from which storage and warehousing services are provided as furtherance of business or provided on rent.*



3. As per the applicant's interpretation of law, ITC would be allowed on construction expenses for building intended for leasing, treating such building as plant based on their functional use, in view of the judgement of the Supreme Court in the case of *Safari Retreats*.

4. Personal hearing was granted on 04.12.2025 wherein Shri Mehul Pandya , Advocate, appeared on behalf of the applicant. Shri Pandya reiterated the facts & grounds as stated in the application.

### Discussion and findings

5. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same, except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

6. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made both oral and written during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

7. We find that the applicant has sought a ruling on the availability of Input Tax Credit on the materials and services used in the construction of the warehouse/ shed which they intend to use for the furtherance of business or for leasing it out to tenants. They also agree that ITC is blocked under Section 17(5) of the CGST Act, 2017 but in view of the judgement of Supreme Court in the case of *Safari Retreats*, the same is available by applying the functional use concept.

8. Since the applicant has relied upon the judgement of the Supreme Court in the case of *Chief Commissioner of Central Goods and Services Tax Vs Safari Retreats Pvt. Ltd.* [2024 (90) G.S.T.L. 3 (S.C.) ], we deem it necessary to go through the judgement of *Safari Retreats* and the Supreme Court's interpretation of Section 17(5) on the issue. In *Safari Retreats*, the respondent was engaged in the construction of a shopping mall for the purpose of letting it out to different tenants. For the said construction vast quantities of material, inputs and services were



required in the form of cement, sand, steel, aluminium, wires, plywood, paint, lifts, escalators, air-conditioning plants, electrical equipment, transformers, building automation systems etc., and also consultancy services, architectural services, legal and other professional services, engineering services and other services including the services of a special team of international designers specialised in the construction of Malls. The issue before the Supreme Court was whether the restrictions imposed by Section 17(5)(c) and Section 17(5)(d) for availment of ITC will apply in their case. Section 17(5)(c) restricts ITC on works contract service when supplied for construction of an immovable property, with the exception that they are received by the taxable person for the construction of '*plant and machinery*', as defined in the explanation to Section 17. Section 17(5)(d) restricts ITC on goods or services or both received by a taxable person for the construction of an immovable property on his own account including when such goods or services or both are used in the course or furtherance of business, with the exception that they are received by the taxable person for the construction of '*plant or machinery*'. For ease of reference, the said section along with the definition of '*plant and machinery*' as defined in the explanation to Section 17 is reproduced below: -

*Section 17: Apportionment of credit and blocked credits.-*

\* \* \* \*

*(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-*

\* \* \* \*

*(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 or alterations or repairs, to the extent of capitalisation, to the said immovable property;*



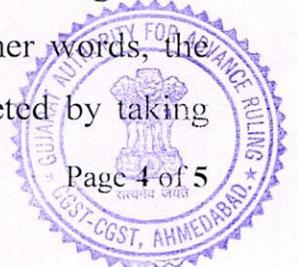
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*Explanation.- For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-*

- (i) land, building or any other civil structures;*
- (ii) telecommunication towers; and*
- (iii) pipelines laid outside the factory premises.*

9. The Supreme Court observed that the expression '*plant and machinery*' used in Section 17(5)(c) and '*plant or machinery*' used in Section 17(5)(d) are different and the definition of '*plant and machinery*' given in the explanation to Section 17 will not apply to the expression '*plant or machinery*' used in Section 17(5)(d). While the Supreme Court has categorically held that there is no scope to give any meaning to the expression '*plant and machinery*' used in clause (c) of Section 17(5) other than its plain and natural meaning, which has been specifically defined in the explanation of Section 17, the same is not the case with the expression '*plant or machinery*' used in Section 17(5)(d). Thus, we find that as per the plain meaning of the expression '*plant and machinery*' used in clause (c) of Section 17(5), plant and machinery excludes land, building or any other civil structures and therefore the ITC of the works contract services supplied for the construction of an immovable property, which in the case of the applicant is warehouse/shed is not available.

10. Coming to the blockage of ITC on the goods or services or both used for the construction of an immovable property on his own account, mentioned in clause (d) of Section 17(5), the Supreme Court held that since the exclusion is only for '*plant or machinery*', which is not defined, the functionality test has to be applied. The Supreme Court further held 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. In other words, the Supreme Court held that the word "*plant*" will have to be interpreted by taking



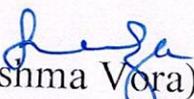
recourse to the functionality test. We find that the applicant has relied upon this observation of the Supreme Court while interpreting the term '*plant or machinery*', used in Section 17(5)(d). The applicant's view is that they would be eligible to avail ITC on the Cement, Steel, beam, column etc. and construction services used for construction of their warehouse as they would be used for the furtherance of their business i.e. providing storage and warehousing services, or would be leased to a tenant. We, however, find that subsequent to the judgement of *Safari Retreats*, the Legislature vide Section 124 of the Finance Act, 2025 has amended Section 17(5)(d) and substituted the words '*Plant or Machinery*' with the words '*Plant and Machinery*' with effect from 01.07.2017. Another explanation was also added in Section 17(5)(d), as per which, for the purpose of clause (d), anything contrary contained in any judgment, decree or order of any court, tribunal, or other authority, any reference to "*plant or machinery*" shall be construed and shall always be deemed to have been construed as a reference to "*plant and machinery*". This amendment read with the new explanation has basically nullified the effect of the judgement of the Supreme Court in *Safari Retreats* as far as the interpretation of Section 17(5)(d) is concerned. The said provisions have come into effect from 01.10.2025, which was notified vide Notification No. 16/2025-CT dtd. 17.09.2025. Therefore, the definition of '*plant and machinery*' substituted in Section 17(5)(d) in place of '*plant or machinery*' will be that provided in Explanation 1 to Section 17, which restricts ITC on land, building or any other civil structures. Thus, the applicant is not eligible to avail ITC on the Cement, Steel, beam, column etc. and construction services used for construction of their warehouse, which is used for providing storage and warehousing services, or given on lease to a tenant.

11. In view of the foregoing, we rule as under: -

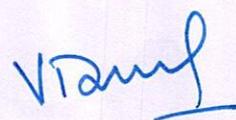
### RULING

*Ques: Whether ITC is admissible for the goods or services utilized for the construction of warehouse or shed from which storage and warehousing services are provided as furtherance of business or provided on rent.*

*Ans: No, for the reasons mentioned aforesaid.*

  
(Sushma Vora)  
Member (SGST)  
Place: Ahmedabad  
Date: 23.12.2025



  
(Vishal Malani)  
Member (CGST)