

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

SHAFEEQ S, Joint Commissioner, CGST & CX JAYDIP KUMAR CHAKRABARTI, Senior Joint
Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	KANISKA ENGINEERING INDUSTRIES LLP
Address	N.H.2, Delhi Road, J.L. 21 Village: Bangihati, P.O. Mallickpara, P.S. Serampore, Hooghly-712203
GSTIN	19AAXFK5399M1ZZ
Case Number	WBAAR 03 of 2025-26
ARN	AD1905240142087
Date of application	April, 07, 2025
Jurisdictional authority (State)	Srirampore Charge
Jurisdictional authority (Centre)	Rishra Division, Howrah Commissionerate
Order number and date	06/WBAAR/2025-26 dated 16.07.2025
Present for Applicant	None

1.1 At the outset, we would like to make it clear that the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a

reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The fact of the case as it appears from the submission made by the applicant in FORM GST ARA-01 is that the applicant constructed warehouse/godowns at J.L.21, which is also declared as the place of business of the applicant in the certificate of registration under the said acts. After completion of the construction work of the said warehouse, the applicant obtained the completion certificate from the competent authority on 22nd December, 2023.

1.3 The applicant leased the said warehouse, measuring about 263652 square feet to M/s Whirlpool of India limited vide Lease Agreement dated November 18th, 2023, on a monthly lease rent of Rs. 57,84,009/- plus GST @18% thereon and handed over the possession of the said ware house to said lessee on January 25th, 2024 which was subject to a rent free period for initial few months.

The applicant company had paid the IGST, CGST and WBGST of Rs. 1,80,24,768/- Rs. 51,04,107/- and Rs. 51,04,107/- respectively, on the inward supply of said inputs/input services used for the construction of said warehouse, and it includes the taxes paid on Reverse Charge mechanism against the transportation of the construction materials.

The applicant had received the inward supplies of following inputs/input services amongst others, prior to the issuance of the completion certificate of said warehouse by the competent authority;

- (i) Prefabricated steel building
- (ii) Structural Installation of Prefabricated building
- (iii) Works Contracts for various civil works, which majority includes structural erections, flooring etc
- (iv) Ready mix concrete, paver block, stone chips and its laying etc

The applicant states that the inward supplies received for the construction of said warehouse have been categorized under the following heads for the purpose of proper appreciation of the case:

- (a) Inward supplies relating to construction of building i.e. construction service provided by builders, developers & contractor
- (b) Inward supplies relating to goods & services which are directly used for construction of building

- (c) Inward supplies relating to expenses in the form of repairs & maintenance, additions etc, which are capitalized in the books of account, and
- (d) Inward supplies relating to expenses in the form of repairs & maintenance, additions, alterations etc which are not capitalized in the books of accounts

1.4 In light of aforesaid circumstances, the applicant has filed this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking an advance ruling as to-

(i) Whether the input tax credit (in brevity "ITC") against the inward supply of said input/input service used for the construction of said warehouse can be claimed and utilized to pay the tax on the outward supply of services provided by way of renting of said warehouse in case such construction expenses are capitalised in books?

(ii) Whether the input tax credit (in brevity "ITC") against the inward supply of said input/input service used for the construction of said warehouse can be claimed and utilized to pay the tax on the outward supply of services provided by way of renting of said warehouse in case such construction expenses are not capitalised in books?

1.5 As per sub-section (2) of section 97 of the GST Act, the question on which the advance ruling is sought under this Act, shall be in respect of, —

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

1.6 The concerned officer, Assistant Commissioner, Rishra Division, Howrah CGST & CX Commissionerate replied vide C. No. V(15)11/RDN/AAR/Adjn/2025/496 dated 21.05.2025 that two questions on which advance ruling was sought for, has duly been taken care of by section 97(2)(d) of the CGST Act, 2017 and hence the questions raised are in compliance with section 97(2) of the CGST Act, 2017 as well.

Further, the concerned officer states that no proceeding pertaining to the questions raised in the application by the applicant is either pending/contemplated or has been decided in any

legal/quasi-judicial fora under any of the provisions of this Act. Hence, the application may be considered for admission in terms of first proviso to sub-section (2) of section 98 of the CGST Act, 2017.

1.7 The question on which advance ruling is sought by the applicant is found to be covered under clause (d) of sub-section (2) of section 97 of the GST Act.

1.8 This authority fixed a date for personal hearing on 19.06.2025 for admission of the application for advance ruling and the date was intimated by mail to the applicant. None appeared in response to the mail. Another date for hearing was fixed on 04.07.2025. Meanwhile the applicant has uploaded a submission vide Reply No. ZD190725002086G. It is learnt from the submission that the applicant does not want to pursue with the application for advance ruling filed by him. The applicant has requested to cancel the application for advance ruling for non-prosecution with liberty to file fresh.

1.9 In view of the above fact and keeping in mind that no personal hearing in the matter could take place due to non-appearance of the applicant and/or his authorized representative, the application is not admitted. It is hereby rejected. The liberty as requested for is granted.

(SHAFEEQ S)

Member

West Bengal Authority for Advance Ruling

(JAYDIP KUMAR CHAKRABARTI)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 16th July, 2025

To,

KANISKA ENGINEERING INDUSTRIES LLP

N.H..2, Delhi Road, J.L. 21

Village: Bangihati, P.O. Mallickpara, P.S. Serampore, Hooghly-712203

Copy to,

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Commissioner, Howrah Commissionerate, 15/1, Stand Road, M.S. Building, Kolkata-700001
- (4) The Charge Officer, Srirampore Charge, Srirampore Court Compound, Hooghly, Pincode-712201
- (5) Office Copy