

AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI -600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Shri B. Senthilvelavan, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6.

ORDER No. 19 /ARA/2021 Dated: 18.06.2021

GSTIN Number, if any / User id	33AADCK4657K1ZC
Legal Name of Applicant	M/s. KLF NIRMAL INDUSTRIES PRIVATE LIMITED
Trade Name of the Applicant	K.L.F NIRMAL INDUSTRIES (P) LIMITED
Registered Address / Address provided while obtaining user id	557, SF77, RS32,33 Nichampalayam, Kallakulam, Erode-638055
Details of Application	Form GST ARA- 001 Application Sl.No.6/2021 dated 08.03.2021
Concerned Officer	Centre: Salem Commissionerate State:
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for	
A Category	Factory/Manufacturing
B Description (in brief)	The applicant is engaged in procuring and extracting/Crushing edible oils and manufacturing Coconut Milk & Coconut Milk Powder by pressing and spray dryer at their mills in the states of Kerala and Tamil Nadu.

Issue/s on which advance ruling required	i. Admissibility of input credit of tax paid or deemed to have been paid.
Question(s) on which advance ruling is required	1. Whether the company is eligible to take input tax credit as inputs/capital goods or input services of the items used in Design, Engineering, Supply, Execution (EPC) of 265KW Roof top Grid Solar PV Power Plant as per MNRE & IEC Standards 2. Whether the company is eligible to take input tax credit for inputs and services for running the solar plant.

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

K.L.F NIRMAL INDUSTRIES (P) LIMITED, 557,SF77,RS32,33 Nichampalayam, Kallakulam,Erode-638055 (hereinafter called the 'Applicant') is registered under the GST Vide GSTIN 33AADCK4657K1ZC. They have sought Advance Ruling on the following questions:

1. Whether the company is eligible to take input tax credit as inputs/capital goods or input services of the items used in Design, Engineering, Supply, Execution (EPC) of 265KW Roof top Grid Solar PV Power Plant as per MNRE & IEC Standards

2. Whether the company is eligible to take input tax credit for inputs and services for running the solar plant.

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that their company has a plant in Erode for extracting edible oils etc. The applicant is in the process of installing/ has installed a captive roof top solar grid connected power plant in the edible oil extracting plant. They have furnished the copy of the order placed on KCP Solar Industry vide purchase order reference KLF/PO/PRI/20-21/43 dated 6.8.2020 and invoice no 135/20-21 dated 10.9.2020. The solar panels have been installed at the top of the roof of the factory building and oil tanks. Electricity generated from the solar plant has been fully consumed to produce taxable goods. A consolidated contract was placed for design, engineering, supply, erection of 265Kw Roof top Grid Solar PV Power Plant as per MNRE & IEC Standards. The system includes 790 panels. Each panel has 335 watt peak and a total capacity is 264.65 KW. They have stated that the Roof top Grid solar PV Power is for captive consumption within the premises. There is no third-party sale and the units generated by the solar plant are consumed for operating the edible oil extraction plant. The operation is done by a reference signal received by the smart meter from the main panel which is synchronised with the solar system. In case there is a failure of the smart meter there is a system called reverse base relay protection fixed in the main panel room which will shut down the solar generation. In order to avoid any discharge to the grid (zero discharge). Solar generation is done only when there is a consumption (discharge) in the main panel which is being sensed by the smart meter. If there is no consumption the smart meter will shut down the complete solar system.

2.2 The applicant has also stated that under the Central and State Electricity regulations, they are required to seek permission for setting up of captive power plant for generating electricity at its solar power plant. They have furnished copy of Memo no. L/23/003097/M/s K L F Nirmal-220 KW/2020 dated 24.12.2020 issued by the Tamil Nadu Generation and Distribution Corporation Ltd. The commercial terms for the approval is given in point 13 of the approval and the relevant extract is given below:

(13) At present as per the Hon'ble TNERC's Grid Connectivity and Intra State Open Access Regulations 2014, parallel operation charges (Rs 15000/- per month per MW or part thereof as per TNERC order no 5 of 2019 dated 29.3.2019) as fixed by the Hon'ble TNERC has to be paid by the generator. This charge is applicable as the generator is availing parallel operation with grid for captive use of solar power without availing open access and it is subject to revision based on TNERC order issued from time to time."

2.3 They have submitted that the system installed does not envisage any surplus electricity and therefore no arrangement is required to be made with TNEB for any surplus. Therefore, the applicant is not required to enter into a Wheeling and Banking agreement with Tamil Nadu Generation and Distribution Corporation Ltd.

2.4 On the Interpretation of Law the applicant has stated that they are in the business of extracting/crushing/pressing edible oils of various types grades & producing coconut milk & milk powder from its plant at Nichampalayam. In their view, the above activities constitute business in terms of section 2(17) of the CGST/TNGST Act 2017. The applicant has referred to the definitions of capital goods, inputs and input services under Section 2(19), 2(59) & 2(60) of CGST Act 2017. They have also referred to the provisions of Section 16(1) & 16(2) of CGST Act 2017. They have stated that in order to avail input tax credit the following additional conditions have to be fulfilled:

- (1). the capital goods have been capitalised in the books of the applicant.
- (2). the capital goods are used or intended to be used in the course of furtherance of business.

The applicant has also referred to the provisions of Section 17 of the CGST Act 2017. They have submitted that the primary conditions provided in section 16 of the CGST/TNGST Act have been complied with. The solar equipments purchased qualify as 'plant and machinery' as they are equipment apparatus and machinery used by the taxable person for its business of supplying taxable goods. The applicant is in possession of invoices and the input tax credit sought to be availed are available in the GST site. Hence the inputs, input services and capital goods for use of erection, commissioning and installation of solar power plant are permissible input tax credit under section 17 of the CGST/TNGST Act.

2.5 The applicant has also submitted that even though inputs/capital goods and input services are used for generation of electrical energy, the electrical energy is used solely for captive/own use for extraction/crushing/pressing/pressing and supply of taxable goods (i.e. edible oils, coconut milk & coconut milk powder). The business of the applicant is extraction/crushing/pressing/pressing and sale of edible oils and the solar power plant meets the criteria of being used in the business of extraction and sale of edible oils since the power generated from this plant is used to operate the plant. Hence it is eligible for input tax credits on all inputs, input services and capital goods (solar plant) installed at Nichampalayam. The applicant has relied upon the decision of Supreme Court in CCE vs Solaris Chemtech (2007) 214 ELT 481 wherein the apex court held that fuel either utilised directly or for generating electricity as an intermediary product is integrally connected with several operations which results in the emergence of final product namely cement/caustic soda. Hence MODVAT credit on LSHS used in production of electricity cannot be denied. The applicant has stated that in the instant case the solar plant is used for generating electricity which is used in the plant for extracting/crushing/pressing/pressing edible oils, coconut milk & coconut milk powder. The generation of electricity in the instant case which is used in the plant for extracting edible oils is therefore integration to the extraction of edible oils at the plant. Further, The activity of production of electric energy is a supply to self as the electricity produced is captively used. The production of electricity in the solar plant is an intermediate process in the extraction of edible oil. The entire electricity generated is consumed captively and no part of the energy produced is sold or discharged into the grid. Hence, the applicant is of the view that they are entitled to claim input credit as detailed above.

3.1 Due to the prevailing pandemic situation and in order not to delay the proceedings, the applicant was addressed through the email address mentioned in their application to seek their willingness to participate in the digital hearing vide email dated 07.04.2021. The applicant consented and the hearing for the admission of application was held on 09.04.2021. The authorized representative appeared for the hearing virtually and reiterated their submissions. They stated that the electricity generated from solar generator for which the eligibility of input tax credit is claimed is completely used for taxable supplies. They stated that the expenses are capitalized for which they were asked to furnish a write up on the same and the relevant account details. They were also

asked to furnish a write-up on outward supplies along with sample copies of invoice.

4 In furtherance to the hearing held on 09.04.2021, the applicant submitted the following documents vide their letter dated 23.04.2021:

- The Fixed Asset Register for year 20-21 for KLF Nirmal Industries Pvt Ltd -to show that asset number FA83766 having a description Solar Power Plant 265 KW (TN) has been capitalized for a sum of Rs 10098670.
- The relevant extract of Capital Work in Progress account of the unit along with the GST ledger - to show that the applicant has not transferred the GST element of invoice raised by KCP solar Industry & Sri Devi Steels.
- Copies of invoice no 135/20-21 dated 10.9.2020 issued by KCP Solar Industry and invoice no G1349 dated 13.8.2020 issued by Sri Devi Steels.
- In their write up the applicant has stated that they are engaged in extracting edible oils and its by products. More than 91% of the production of the plant is made up of coconut/virgin coconut oil, coconut milk powder, dessicated coconut and coconut cake. The entire output of the plant is transferred to the depots situated in Tamilnadu, Kerala and Karnataka. A delivery challan is prepared for transfers to depots in the states of Kerala and Karnataka.
- They have enclosed copies of the following bills:
 - i. TN03/20873 /FY21dated 10.2.21 issued for sale of Coconut oil and Gingelly Oil
 - ii.TN03/20938 /FY21dated 03.03.21 issued for sale of Coconut Milk Powder/ Coconut Oil/ Low Fat DC/ Virgin Coconut oil
 - iii.TN03/29065/FY21 dated 12.03.21 issued for sale of Coconut Oil Cake

5 The Centre Jurisdictional authority who has the administrative jurisdiction over the applicant has stated the following:

- The applicant is admittedly engaged in the manufacture of goods. Electric Energy is classified under TH No. 27160000 of the First Schedule to the Customs Tariff Act, 1975 and hence, Electric Energy is considered as goods. Accordingly, Electric power is one of the inputs required for carrying out the process of manufacturing. Further, in terms of Sl. No. 104 of Notification No. 02/2017(Rate) dated 28.06.2017, electrical energy is exempted from tax under CGST Act, 2017.
- Section 2(59) of the CGST Act, 2017 provides that 'input' means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business. Also, 'capital goods' are defined under Section 2(19) ibid as goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business. From the above, it infers that goods which have been capitalized in the books of accounts would not qualify to be considered as inputs.
- As per Section 16(1) of the CGST Act, 2017, tax payer is entitled to credit of input tax charged on any supply of goods and/or services made to them and used by them in furtherance of business subject to the conditions and restrictions as specified in Section 16(2) and Section 17 of the CGST Act, 2017. Further, as per Serial number (c) under subsection 5 of Section 17 provides input tax credit shall not be available in respect of "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 services.
- In the instant case, though electric energy is fully exempted under GST, the same were fully capatively consumed by the applicant for manufacture and supply of taxable goods viz. Edible oils. Hence, it is opined that the applicant may be entitled for availment of eligible input credits after taking into account that the entire production of electric energy is capatively consumed within their factory and no wheeling and banking agreement were made with TANGEDCO for surplus/unused electric energy. Also, the said availment can be made subject to the condition, that the goods in question received by

them are not for construction of an immovable property other than 'Plant and machinery' as stipulated under Section 17(5) ibid.

- They have also stated that there are no pending proceedings in respect of the issue raised by the applicant in their ARA application.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant, all the additional submissions made during the hearing and thereafter and the submissions of the Jurisdictional authorities. The applicant is engaged in the business of extracting/crushing/pressing edible oils of various types grades & producing coconut milk & milk powder from its plant at Nichampalayam. They are in the process of installing/ has installed a captive roof top solar grid connected power plant in the edible oil extracting plant. Now the applicant has applied for ruling on the following questions: -

1. Whether the company is eligible to take input tax credit as inputs/capital goods or input services of the items listed in Appendix -A .

2. Whether the company is eligible to take input tax credit for inputs and services for running the solar plant.

The ruling is sought on the issues relating to input tax credit availability on purchase of capital goods and input tax credit availability on goods and services for running the solar plant and hence is admissible under Section 97(2)(d) of the CGST Act, 2017.

7.1 The Applicant is engaged in extracting/ crushing/pressing of edible oils of various grades and producing coconut milk and milk powder from its plant. They have installed a captive roof top solar power grid of which the electricity generated from will be captively consumed by them in the process of their manufacture. They have furnished the copy of the order placed on M/s.KCP Solar Industry vide purchase order reference KLF/PO/PRI/20-21/43 dated 6.8.2020 for design, engineering, supply, erection of 265Kw Roof top Grid Solar PV Power Plant as per MNRE & IEC Standards quoting a price of Rs.95,22,000/-. The said power plant has been supplied by M/s. KCP Solar Industry for the price quoted and paying both CGST& SGST amounting to Rs.8,47,458/- vide invoice no 135/20-21 dated 10.9.2020. From the purchase order it is seen that the supply is a works

contract comprising of designing, engineering and erection along with supply of the product which has been done as a whole process. The solar panels have been installed at the top of the roof of the factory building and oil tanks. Electricity generated from the solar plant has been fully consumed to produce taxable goods. A consolidated contract was placed for design, engineering, supply, erection of 265Kw Roof top Grid Solar PV Power Plant as per MNRE & IEC Standards. The system includes 790 panels. Each panel has 335 watt peak and a total capacity is 264.65 KW. They have stated that the Roof top Grid solar PV Power is for captive consumption within the premises. There is no third party sale and the units generated by the solar plant are consumed for operating the edible oil extraction plant. The operation is done by a reference signal received by the smart meter from the main panel which is synchronised with the solar system. In case there is a failure of the smart meter there is a system called reverse base relay protection fixed in the main panel room which will shut down the solar generation. In order to avoid any discharge to the grid (zero discharge). Solar generation is done only when there is a consumption (discharge) in the main panel which is being sensed by the smart meter. If there is no consumption the smart meter will shut down the complete solar system. It has also been stated that at present as per the Hon'ble TNERC's Grid Connectivity and Intra State Open Access Regulations 2014, parallel operation charges (Rs 15000/- per month per MW or part thereof as per TNERC order no 5 of 2019 dated 29.3.2019) as fixed by the Hon'ble TNERC has to be paid by the generator. This charge is applicable as the generator is availing parallel operation with grid for captive use of solar power without availing open access and it is subject to revision based on TNERC order issued from time to time. They have also submitted copy of the TNERC order.

7.2 Applicant has submitted that the primary conditions provided in section 16 of the CGST/TNGST Act have been complied with. The solar equipment purchased qualify as 'plant and machinery' as they are equipment apparatus and machinery used by the taxable person for its business of supplying taxable goods. The applicant is in possession of invoices and the input tax credit sought to be availed are available in the GST site. Hence the inputs, input services and capital goods for use of erection, commissioning and installation of solar power plant are permissible input tax credit under section 17 of the CGST/TNGST Act. It is submitted that even though inputs/capital goods and input services are used for generation of electrical energy, the electrical energy is used solely for captive/own

use for extraction/crushing/pressing/pressing and supply of taxable goods (ie edible oils, coconut milk & coconut milk powder). The business of the applicant is extraction/crushing/pressing/pressing and sale of edible oils and the solar power plant meets the criteria of being used in the business of extraction and sale of edible oils since the power generated from this plant is used to operate the plant. Hence they are eligible for input tax credits on all inputs, input services and capital goods (solar plant) installed at Nichampalayam.

8.1 Before proceeding further, the statutory provisions relevant to Input Tax Credit are analysed as under. Section 16(1) to (3) of CGST Act 2017 & TNGST Act 2017 provides the "Eligibility and conditions for taking Input tax credit" is as follows:

16. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

Explanation—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and (d) he has furnished the return under section 39:

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

From the above, as per Section 16(1), it is evident that a registered person is entitled to take credit of Input Tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of

his business. Section 16(2) provides that such person will be eligible for such credit only when he is in possession of a tax invoice, has received the goods or services, paid the tax charged on such supply and has furnished the returns. Section 16(3) provides that if depreciation is claimed the ITC on the said tax component is not available. The plain reading of the above statute and applying to the case at hand, prima facie, indicates that the registered person should have paid tax and should possess an invoice to that effect and the goods/ services so supplied to him must be used in the course of business or furtherance of business. The Applicant has adduced copies of the tax invoices to establish the tax payment and the goods have been received by them. In their additional submissions submitted by the Chartered accountants of the Applicant vide letter dt.23.04.2021, it has been stated that the GST element involved in the project cost of the Solar panel has not been capitalized, thus have fulfilled provisions of Section 16(3) of the Act. From the foregoing it is seen that the applicant has complied with the conditions of section 16 (1), (2) and (3).

8.2 The applicant is admittedly engaged in the manufacture of goods. Electric Energy is classified under TH No. 27160000 of the First Schedule to the Customs Tariff Act, 1975 and hence, Electric Energy is considered as goods. Accordingly, Electric power is one of the inputs required for carrying out the process of manufacturing. Further, in terms of SI.No.104 of Notification No. 02/2017(Rate) dated 28.06.2017, electrical energy is exempted from tax under CGST Act, 2017. However, in the case of the Applicant, though electric energy is fully exempted under GST, the same is going to be fully capitively consumed by the applicant for manufacture and supply of taxable goods viz. Edible oils as certified by the order issued by the Tamil Nadu Generation and Distribution Corporation Ltd vide Copy of Memo no. U23/003097/M/s KL F Nirmal-220 KW/2020 dated 24.12.2020 which has been enclosed as Appendix B. The commercial terms for the approval is given in point 13 of the approval and the relevant extract is given below:

"(13) At present as per the Hon'ble TNERC's Grid Connectivity and Intra State Open Access Regulations 2014, parallel operation charges (Rs 15000/- per month per MW or part thereof as per TNERC order no 5 of 2019 dated 29.3.2019) as fixed by the Hon'ble TNERC has to be paid by the generator. This charge is applicable as the generator is availing parallel operation with grid for captive use of solar power without availing open access and it is subject to revision based on TNERC order issued from time to time."

Further it is observed that solar generation is done only when there is a consumption (discharge) in the main panel which is being sensed by the smart meter. If there is no consumption the smart meter will shut down the complete solar system. Hence the electricity generated by the said solar power plant can only be consumed captively and the applicant has not entered into any wheeling agreement with the Tamil Nadu Generation and Distribution Corporation Ltd. Thus it is seen that the electricity generated is qualified to be considered an input used in the manufacture of end product namely edible oils, which is their product of manufacture and is taxable as seen from the sample invoices which have been listed out in their additional submissions which are as follows:

Invoice No	Date	Descript	Taxable amount	GST	Total before 'PCS	TC S	Grand total
TN03/20873 / FY21	10.2.21	Coconut oil and Gingelly Oil	586017	29300.85	615318	nil	615318/-
TN03/20938 / FY21	3.3.21	Coconut Milk Powder/ Coconut Oil/ Low Fat DC/ Virgin Coconut OIL	2292992.8	169649	356264	nil	3562642
TN03/20965 / FY21	12.3.21	Coconut Oil Cake	756300.00	37815.00	794115 .00	596.0	794711.00

8.3 Coming to the eligibility of credit on capital goods, it is seen that the term capital goods is defined as under: -

Section 2(19):

"capital goods" means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business"

From the above definition, to avail credit on capital goods, the applicant should have capitalised the value of such goods and such goods should be used or intended to be used in the course of business. The provision relevant to blocked credits is given under Section 17(5) of the Act, which is as under:

(5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (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 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.

As seen above, Section 17(5) further stipulates certain conditions for availing Input tax credit wherein, clauses (c) and (d) provide for blocking of credits on works Contract service / construction, but it excludes 'Plant and Machinery' which is defined under the Explanation to the Section.

8.4 In the case at hand, the whole designing, engineering, supplying and installation have been done as works contract and as the said solar power plant being Plant and Machinery, the related Credits are not blocked under this Section. On verification of the submissions, from the Fixed Asset Register for year 20-21 it is seen that asset number FA83766 having a description "Solar Power Plant 265 KW (TN)" has been capitalized for a sum of Rs 10098670/-. On verification of the Work-in-Progress account, it is seen that apart from the invoice of M/s.KCP Solar Industry for supply of the solar power plant, the applicant has grouped the invoices received from M/s. Sri Devi Steels, Perundurai, M/s. United Tools& Machinery, Erode, M/s. Sri Palani Andavar Hardwares, Perundurai ,M/s. Sree Vinayaga Roofing Products, Perundurai and RENJITH . K (BABU RADHAKRISHNAN) as Gross Block Plant & Machinery-TN (Tamil Nadu) and in all

such cases, the amount of goods/services excluding GST has been capitalised thus satisfying the condition laid down at Section 16(3). While the purchase order has been raised on M/s. KCP Solar Power Industry for Design, Engineering, supply & Execution (EPC) of 264.5 KW Roof Top Grid-Tie Solar PV Plant as per MNRE & IEC Standards using solar wedge inverter, the grouping under Gross Block Plant & Machinery mentioned above and claim of credit on the goods/services grouped under such plant and machinery is not substantiated thus not satisfying explanation under Section 17(5). As the entire set up of the solar power plant is vested with M/s. KCP Solar Industry, and has been installed by them, the work executed under Invoice no 135/20-21 dated 10.9.2020 alone qualifies as Plant & Machinery and the credit of GST paid in the said invoice amounting to Rs.8,47,458/- is alone not blocked under this section and hence available as credit.

8.5 To sum up, it is seen that the applicant has entered into works contract for design, engineering and installation along with supply of solar power panel for an agreed consideration of Rs. 1,03,69,458/- which includes the tax of Rs.8,47,458/-. They have procured the said product for use in their business and they have also stated that the entire amount excluding the GST component has been capitalised thereby depreciation on the GST element has not been claimed for which they have produced documentary evidences. Further they have produced copies of invoices for M.S.Channels and Loading charges etc., and claimed credit of GST paid on such goods/services, grouped under "Gross Block Plant & Machinery-TN (Tamil Nadu)" while in the Appendix-A annexed to the application, they have submitted invoices of M/s.KCP Solar Industries from whom they have ordered to purchase the solar power plant along with connected services of design, engineering etc and required their eligibility to credit on this alone. The works contract services received from M/s. KCP Solar Industry, being Plant & Machinery, the credit of Rs.8,47,458/- raised under Invoice no.135/20-21 dt. 10.09.2020 listed as Appendix-A to the application is eligible as credit. However the GST component on other invoices grouped under "Gross Block Plant & Machinery-TN (Tamil Nadu)" is not available as credit for the reasons mentioned above. Thus the applicant is eligible for availing input tax credit as inputs/capital goods or input services of the items used in Design, Engineering, Supply, Execution (EPC) of 265KW Roof top Grid Solar PV Power Plant as per MNRE & IEC Standards procured from M.s KCP Solar Industries as they have been found to comply with the provisions of Sections

16(1) and (2), 17(5) of the CGST Act,2017 and that they are found to be using the electricity so generated captively only in the process of manufacture of edible oils, which is a taxable commodity.

9. Coming to the second question Whether the company is eligible to take input tax credit for inputs and services for running the solar plant, it is seen that they have not furnished the list of inputs and services that will be used in running the solar plant as they have done for the capital goods vide Appendix-A and elaborated it with the Fixed Assets and Work-in-progress register. They have not even attempted to substantiate their stand in this regard. Hence we refrain from passing a ruling in this respect for want of valid inputs.

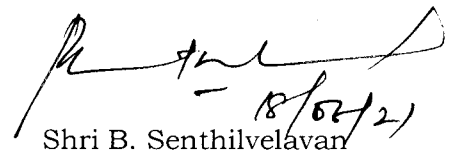
10. In view of the above, we rule as under:-

RULING

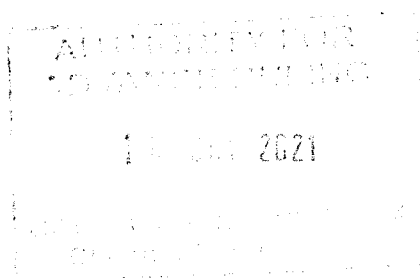
1. The applicant is eligible to take input tax credit to the extent of Rs.8,47,458/- as GST paid on acquiring the Design, Engineering, Supply, Execution (EPC)of 265KW Roof top Grid Solar PV Power Plant as per MNRE & IEC Standards from M/s. KCP Solar Industry vide Invoice no. 135/20-21 dated 10.9.2020 listed in Appendix-A.
2. In respect of eligibility to credit of goods/services utilised in running the plant, no ruling is pronounced as the details of such input goods/ services which are proposed to be or used in running the plant have not been furnished before us.



Shri Kurinji Selvaan, V.S
(Member SGST)



Shri B. Senthilvelavan
(Member CGST)



To,

K.L.F Nirmal Industries (P) Ltd,

557,SF77, RS32,33

Nichampalayam,

Kallakulam,

Erode-638055

//By RPAD//

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & Central Excise, Salem Commissionerate.
No 1, Foulkes Compound, Anaimedu, Salem- 636001.

4. The Assistant Commissioner (ST), Perundurai Assessment Circle,
New No 299, Bhavani Main Road, Perundurai - 638 052

5. Master File/ Spare-2