

# SKKA IDT ALERT

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## *Can Input Tax Credit be availed on Fire Safety System Installation?*

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The availability of ITC on the installation of fire safety systems is a subject of Litigation, indicating that it may be subject to varying interpretations and potential disputes.

Section 17(5)(c) of the CGST Act, 2017 explicitly states that ITC shall not be available for works contract services supplied for the construction of an immovable property (other than plant and machinery), except in cases where it is an input service for further supply of works contract services.

For better understanding, it is important to consider the definitions provided within the CGST Act. According to Section 2(119) of the CGST Act 2017, **"works contract" encompasses various activities, including the installation of fire safety systems, as part of a contract for the building, construction, fabrication, completion, erection, fitting out, improvement, modification, repair, maintenance, renovation, alteration, or commissioning of any immovable property involving the transfer of property in goods.**

As per the aforementioned definition, it is evident that the installation of a fire safety system qualifies as a works contract service. However, the crucial aspect to analyze is whether it falls within the scope of the restrictions stipulated in Section 17(5) of the CGST Act, particularly whether it can be classified as plant and machinery. If it can be categorized as such, there is a possibility that it may qualify for an exception to the restrictions and thereby enable the availment of input tax credit (ITC). ***Conversely, it should be noted that if the installation of the fire safety system is capitalized together with the building, it unequivocally leads to the conclusion that ITC cannot be claimed under the provisions of the GST Act.***

Furthermore reliance can be placed on the ruling given in the case of ***M/s. Synergy Global Steel Pvt. Ltd, bearing NO.HAR/HAAR/R/2019-20/03, Dated 19th June 2019*** wherein the Haryana Authority for Advance Rulings has ruled that ITC on items such as the sewage treatment plant, firefighting system, cables for electricity transmission, PCC Poles, structural steel, cable end kits, HDPE pipes, GO switch, and laying of cables and electrical installations for transmission of electricity is not admissible due to the provisions outlined in Section 17(5) of the CGST Act.

Nevertheless, **there are two alternative approaches to consider.** First one being, by recording the said transaction as an expense instead of capitalizing the same, it may be possible to avail ITC, the reason being, Explanation to Section 17(5)(c) specifies that goods or services received in association with construction, to the extent capitalized

to the immovable property, are specifically excluded. Hence, treating the installation of fire safety systems as an expense might provide an avenue for ITC. Secondly, by categorizing the fire safety system as an electrical equipment in the Balance Sheet, it may potentially fall under the exception category mentioned in Section 17(5)(c) of the CGST Act. This exception allows for the avilment of Input Tax Credit (ITC) when works contract services are supplied for the installation of Plant & Machinery.

### **Our comments:**

*To conclude the same, it is possible to avail Input Tax Credit (ITC) on the installation of the fire safety system by considering either of the two approaches mentioned above. However, it is important to note that there may be potential future disputes regarding the eligibility and treatment of ITC. Therefore, it is advised to be prepared for any such disputes, taking them into account in the decision-making process.*

*Complied By Ms. Srishti Saraf and Ms. Kajal Singh and Mr. Piyush Sharma*



### **CONNECT WITH US**

39A, Jorapukur Square Lane (Behind Girish Park),  
Room # 202, Kolkata- 700006, WB, INDIA  
T | 033-7960-9924  
E | [info@skkassociates.com](mailto:info@skkassociates.com)  
W | [www.skkassociates.com](http://www.skkassociates.com)

### **Advocate Ankit Kanodia**

LLM, LLB, FCA, CS, B.Com(H), CIDT- ICAI  
Indirect Tax Litigation & Consultancy  
39A, Jorapukur Square Lane (Behind Girish Park),  
Room # 205, Kolkata- 700006, WB, INDIA.  
T | 098315 43580  
E | [ankit@advocateak.com](mailto:ankit@advocateak.com)  
W | [www.advocateak.com](http://www.advocateak.com)