

M/s JSW Energy Limited

Appellate Authority for Advance Ruling — Maharashtra

MAH/AAAR/SS-RJ/01/2018-19

Dated 02.07.2018

Q Questions Before the Authority

- Whether the supply of coal or any other inputs on a job work basis by JSL to JEL is covered under job work.
- Whether the supply of power by JEL to JSL generated from such inputs qualifies under job work.
- Whether job work charges payable to JEL by JSL are governed by job work provisions under GST.

F Facts

JSW Steel Limited (JSL) proposed to procure coal and supply it to JSW Energy Limited (JEL) for conversion into electricity, which would then be supplied back to JSL for captive use in its steel manufacturing units. JEL was to receive job work charges for processing the coal into power, while residual fly ash and by-products would vest with JSL. JEL sought an advance ruling on whether this processing arrangement qualified as job work under GST, and appealed after AAR held that generating a new commodity (electricity) amounted to manufacture and could not be job work.

H Ruling

Job work treatment for conversion of coal into electricity	Does not qualify as job work	Failed requirements under Section 2(68) and Section 143 of CGST Act
Applicability of job work provisions to processes amounting to manufacture	Qualifies as job work provided statutory conditions are fulfilled	AAR ruling modified on this principle

The AAAR modified the AAR order, holding that **processing amounting to manufacture can qualify as job work** under GST if statutory conditions are met. However, on facts, the AAAR held that the proposed transaction between JEL and JSL **does not qualify as job work** under Section 2(68) and Section 143 of the CGST Act. The authority observed that JSL required coking coal for steelmaking whereas steam coal was being used for power generation, and electricity injected into the State grid could not be directly brought back to the principal's premises as mandated by Section 143.

R Reasoning

The AAAR accepted the legal principle that under Section 2(68) of the CGST Act, a process carried out by a job worker on goods belonging to a principal can qualify as job work even if it results in manufacture. However, under Section 143 of the CGST Act, job work requires that inputs sent by the principal must be returned or processed goods brought back to the principal's premises without third-party intervention. In this arrangement, power generated was fed into the MSEDCL utility grid, making it physically and legally impossible for JSL to directly bring back the processed goods without third-party regulation. Furthermore, JEL provided major inputs like water

and air itself, exceeding permissible minor additions by a job worker as laid down in Supreme Court precedent.

P Provisions Relied On

Section 2(68) of the CGST Act, 2017

Section 2(72) of the CGST Act, 2017

Section 143 of the CGST Act, 2017

Rule 45 of the CGST Rules, 2017

CBIC Circular No. 38/12/2018-GST dated 26.03.2018

Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017

! For the Practitioner

Establishes that **processes resulting in manufacture can qualify as job work**, overruling AAR's narrow interpretation. However, job work benefits will be denied where inputs are routed through utility grids outside the direct control of the principal and job worker, or where essential primary inputs are supplied by the job worker rather than the principal.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> jsw-order-maharashtra.pdf

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