M/s. KEI Industries Limited, Phase III, SP-919-920-922, RIICO Industrial Area, Bhiwadi, Alwar, Rajasthan (GSTIN 08AAACK0251C1Z7). Appeal No. RAJ/AAAR/APP/05/2018-19 against Advance Ruling No. RAJ/AAR/2018-19/09 dated 01.08.2018.

Appellate Authority for Advance Ruling — Rajasthan

Order No. RAJ/AAAR/05/2018-19 dated 5.12.2018 (the day is partly obsc… Dated **05.12.2018**

Q Questions Before the Authority

- Whether the copper XLPE armoured low tension power cables supplied by the Appellant to M/s. Vedanta Ltd. would be covered under the scope of Sl. No. 1 of Notification No. 03/2017-CT(Rate), so as to attract the concessional rate.

F Facts

KEI Industries manufactures power cables and supplies them to M/s. Vedanta Ltd., which uses them to power machinery in its petroleum operations under a Pre-NELP licence originally granted to Cairn Energy India Pvt. Ltd. Vedanta placed purchase orders dated 14.11.2017 (amended 12.01.2018), and a DGH certificate dated 18.01.2018 stated that the cables were required for petroleum operations. The order records that the supplies were invoiced and moved on 22.01.2018 and 24.01.2018, and that the advance ruling application was filed on 09.05.2018.

H Ruling

Whether the power cables supplied to Vedanta are covered by Sl. No. 1 of Notification No. 03/2017-CT(Rate)	**No ruling given**	The supplies were undertaken before the application was filed on 09.05.2018, so they are outside the scope of section 95(a). Continuing warranty does not make the supply one 'being undertaken'. The merits of entry 24 and condition 1 were not decided.

The Appellate Authority declined to give a ruling on the question. It held that the transactions had already been undertaken before the application was filed, so they fall outside the definition of advance ruling in section 95(a) of the CGST Act. It also rejected the argument that continuing warranty obligations meant the supply was still being undertaken.

R Reasoning

The Authority reads section 95(a) of the CGST Act as limiting advance rulings to supplies being undertaken or proposed to be undertaken by the applicant. The DGH-certified supplies were invoiced and dispatched in January 2018, well before the May 2018 application. The Authority also held that the appellant's point about ongoing

warranty did not change this, because the principal supply was already complete. It rejected the appellant's argument that the lower authority's admission of the application barred a maintainability objection at the appellate stage. It relied on section 95(a) and the appellate powers under sections 100 and 101, and on the appellant's own cited cases, which it found distinguishable.

P Provisions Relied On

- Section 95(a) of the CGST Act, 2017 (definition of advance ruling)
- Section 97(2) of the CGST Act, 2017
- Section 100 of the CGST Act, 2017
- Section 101 of the CGST Act, 2017
- Notification No. 03/2017-CT(Rate) dated 28.06.2017, Sl. No. 1, Condition 1 and entry 24 (referred to in the question, not deci…
- Corresponding provisions of the Rajasthan GST Act, 2017

! For the Practitioner

This order is useful for showing that an advance ruling is confined to transactions being undertaken or proposed, and that warranty obligations on completed supplies do not bring a transaction within that scope. Practitioners should not rely on it for the concessional-rate merits, because the Authority expressly declined to rule on them. Whether the earlier Authority's merits findings on accessories, materials and consumables were set aside is not clear from the summary, so the full order should be checked on that point.

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 -> aaar-raj-5-2018_dtd._05.12.18_kei.pdf

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