A2Z INFRA ENGINEERING LIMITED (Appellant), Raipur, Chhattisgarh. GSTIN 22AAECA1203A1ZX

Appellate Authority for Advance Ruling — Chhattisgarh

Order No. CG/AAAR/01/2018-19, dated 14.11.2018 (Date-14.11.2018 as pri… Dated **14.11.2018**

Q Questions Before the Authority

- Whether the activities undertaken by the appellant, by way of supply of goods and services to CSPDCL under the IPDS works contract, fall within the scope and limits of Notification No. 24/2017-Central Tax (Rate) dated 21 September 2017, so as to attract the concessional rate of 6% CGST and 6% SGST, or whether the rate is 9% CGST and 9% SGST as held by the Advance Ruling Authority.

F Facts

The appellant is an integrated electrical business group engaged in maintenance and engineering services. It was awarded a works contract by Chhattisgarh State Power Distribution Company Limited (CSPDCL), which was entrusted by the Government of Chhattisgarh with executing the Government of India's Integrated Power Development Scheme (IPDS) for sub-transmission and distribution infrastructure and electrification work in 15 circles through eight packages. The appellant contended that its supply to CSPDCL is a supply of services to a governmental authority for non-commercial use and should attract 6% CGST and 6% CGGST.

H Ruling

Rate of tax on the appellant's supply of works contract services to CSPDCL under the IPDS scheme	**9% CGST and 9% SGST (AAR ruling upheld; appeal dismissed)**	The order does not set out formal numbered Q and A items. This row reflects the single issue decided. The concessional 6% rate under Notification 24/2017-CT(Rate) is held not to apply, because the works were not shown to be **meant predominantly for use other than for commerce, industry, or any other business or profession**.

The Appellate Authority dismissed the appeal and upheld the Advance Ruling Authority's order dated 19.07.2018 (STC/AAR/03/2018). The concessional 6% rate under Notification 24/2017 is not available, and the applicable rate is **9% CGST and 9% SGST** . The bench found no anomaly in the AAR's decision and grounds.

R Reasoning

The bench held that the concessional entry at item (vi) of Notification 11/2017-CT(Rate), as substituted by Notification 24/2017-CT(Rate), must be read literally, because concessional rate notifications are strictly construed. The test is the use of the structure, not the objects of the IPDS scheme or the non-profit character of the programme. The infrastructure will ultimately be used for distribution of electricity, for which CSPDCL collects tariff charges, which is commerce or business. The bench also rejected the argument that no one bears the IPDS cost, since the cost can be reflected in future electricity tariffs. The appellant's argument that CSPDCL's commercial objects under its MOA are irrelevant was not accepted on the facts the bench relied on.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

Section 99 of the Chhattisgarh GST Act, 2017 (constitution of the Appellate Authority), as printed in the heading

Section 100 of the CGST Act, 2017 and the CGGST Act, 2017 (appeal to the Appellate Authority)

Section 101 of the CGST Act, 2017 and the CGGST Act, 2017 (proceedings, as cited in the heading)

Notification No. 24/2017-Central Tax (Rate) dated 21.09.2017, amending entry at serial no. 3, item (vi), of Notification No. 11/…

Sections 9(1), 11(1), 11(5), 15 and 16 of the CGST Act, 2017, cited as the enabling powers of Notification 24/2017 (as printed…

! For the Practitioner

This order is useful for contractors supplying works to government-linked utilities under central schemes, because it shows that the concessional rate depends on the predominant end use of the structure, and that a state power distribution company's commercial tariff-based business can defeat the 6% rate. It settles that the objects of a government scheme do not by themselves qualify the supply for the concession. It does not decide the rate for works where the completed asset is not used for commercial distribution, nor does it consider the pre-amendment or other entries of the notification in detail, and it is a bench-level appellate decision whose reasoning may be challenged.

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 -> cg_aaar_01_2018-19_14.11.2018_a2z.pdf

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