

M/s UTTAR PRADESH POWER CORPORATION LTD

Appellate Authority for Advance Ruling — Uttar Pradesh

Appeal Order No. 13/AAAR/2021 dated 21.01.2021

Q Questions Before the Authority

- Whether there is a supply of service by the applicant Corporation in recovery of expenses from DISCOMs as well as UPPTCL and other power companies by way of book entries and hence, liable to GST;
- Whether inclusion clause in subsection (2) of Section 15 of CGST Act, 2017 providing for inclusion of incidental expenses in value of supply apply to applicant's case when there is no supply of a service by the Corporation to the DISCOMs as well as UPPTCL and other power companies so as to make the stated recoveries from DISCOMs, UPPTCL and other power companies liable to GST, if answer to question I is negative;
- If the answer to I or II is in affirmative, whether recovery against certain expenses such as interest cost, salary, depreciation, etc. which do not attract GST due to either they being exempt or non-taxable will also be liable to GST;
- Whether transfer of miscellaneous incomes of the applicant Corporation to DISCOMs, UPPTCL and other power companies will attract GST;
- If the answer to I or II is in affirmative, whether GST paid on all taxable expenditure will be allowed as ITC to the corporation for further adjustment of GST payable on recovery of expenses by way of book entries.

F Facts

The Appellant is a state government undertaking that purchases electricity in bulk and supplies it to its five subsidiary distribution companies (DISCOMs) on a 'no profit no loss' basis. The Appellant recovers both direct power procurement costs and indirect operational and management expenses from these DISCOMs through book entries. The Appellant sought an advance ruling on whether these cost recoveries constitute a taxable supply of service under the GST regime.

H Ruling

The Appellate Authority for Advance Ruling was **deadlocked** due to a difference of opinion between the two members. Consequently, no ruling could be issued on the questions raised by the Appellant. The original Advance Ruling order is deemed to be not in operation.

R Reasoning

The Member (CGST) was of the opinion that the activities related to operational and management expenses meet the definition of supply under Section 7(1) of the CGST Act, 2017, and are not naturally bundled with the supply of electricity. Conversely, the Member (SGST) concluded that the subject expenses are part and parcel of the process of supplying electricity, which is the principal supply. Since the principal supply of electricity is exempt from GST, the Member (SGST) reasoned that the ancillary supply of services is also exempt. Due to this **divergence in interpretation** regarding the nature of the supply and the applicability of the composite supply

provisions, the authority could not reach a consensus.

P Provisions Relied On

Section 7(1) of the CGST Act, 2017	Section 15(2) of the CGST Act, 2017
Section 16 of the CGST Act, 2017	Section 17 of the CGST Act, 2017
Section 2(30) of the CGST Act, 2017	Section 2(90) of the CGST Act, 2017
Schedule III of the CGST Act, 2017	Rule 36 of the CGST Rules
Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017	

! For the Practitioner

This order serves as a **non-precedential outcome** because the appellate authority failed to reach a majority decision. It does not settle the taxability of cost recoveries by state power utilities, leaving the legal position ambiguous. Practitioners should note that the original ruling is effectively nullified, but the underlying issue remains unresolved for similar entities.

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 -> up_aaar_13_2020-21_21.01.2021_uppc.pdf

Prepared 13-10-2026.

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