M/s Triveni Turbine Limited (appellant; GSTIN 29AAACT4550H1ZA)

Appellate Authority for Advance Ruling — Karnataka

ORDER NO:-KAR/AAAR/01/ 2019-20, Dated:- 03.04.2019 Dated **03.04.2019**

Q Questions Before the Authority

- Whether the turbine generator set to be supplied by the applicant to the buyer for use in a waste-to-energy project is covered under Sl. No. 234 of Schedule I of Notification No. 1/2017-IGST (Rate) dated 28.06.2017 as 'Renewable energy devices and parts for the manufacture of waste to energy plants/devices' attracting 5% levy?

F Facts

The appellant manufactures steam turbines and enters into contracts for the design, manufacture, supply, commissioning and installation of turbine generator sets. Its contract is with Jindal Urban Waste Management (Guntur) Ltd, a company formed to execute a municipal solid waste to energy project awarded by the Government of Andhra Pradesh. The appellant supplies a 20 MW turbine generator set for that project, which the order describes as a steam turbine with casing, rotor, bearings, governing and control systems and instrumentation.

H Ruling

Turbine generator set supplied for use in a waste-to-energy project: coverage under Sl. No. 234, Schedule I	**Covered; attracts 5% rate (as printed in the order's ruling, which cites 'Notification No. 1/2017-IT(Rate)')**	Applies only when the turbine is supplied for setting up the waste-to-energy plant. A turbine per se is not eligible. The order's ruling refers to 'IT(Rate)' but the notification discussed throughout is the Integrated Tax (Rate) notification; the entry is 84, 85 or 94 heading as read at para 26 of the order.

The Appellate Authority set aside the Karnataka Authority for Advance Ruling's ruling dated 17.11.2018. It held that the **turbine generator set supplied for the waste-to-energy project is covered under Sl. No. 234 and attracts 5% GST** . It also held that a turbine per se is not eligible, and the concession applies only when the turbine is supplied for setting up the waste-to-energy plant.

R Reasoning

The Appellate Authority read the phrase 'waste to energy plants/devices' in entry (e) of Sl. No. 234 broadly, holding that 'plant' and 'device' cover the entire waste-to-energy conversion process and not only devices that convert waste itself into energy. It held the Advance Ruling Authority's view, that a turbine converts steam and not waste, to be an incorrect reading. The turbine generator set was held to be an integral part of the plant. For the heading test, the order applied Note 4 to Section XVI of the Customs Tariff and classified the set under sub-heading 8406 82, within Chapter 84. The order relied on CBIC Circular No. 80/54/2018-GST dated 31.12.2018 (para 11), which limits the concession to goods used in the initial setting up of renewable energy and

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waste-to-energy plants, and placed weight on the supplier's obligation to satisfy itself of the end use. The 13-day delay in filing was condoned under the proviso to Section 100(2).

P Provisions Relied On

- Section 97 of the CGST/KGST Act, 2017 (advance ruling application, as recited in the order)
- Section 99 of the KGST Act, 2017 (constitution of the Appellate Authority, as recited in the order)
- Section 100 and Section 100(2) of the CGST/KGST Act, 2017, including the proviso on condonation of delay
- Section 101 of the CGST/KGST Act, 2017 (heading of the proceedings)
- Notification No. 01/2017-Integrated Tax (Rate) dated 28.06.2017, Schedule I, Sl. No. 234, entry (e) 'Waste to energy plants/d…
- Explanations (iii) and (iv) to Notification No. 01/2017-Integrated Tax (Rate), as set out in the order
- Customs Tariff Act, 1975: Chapter 84, heading 8406 (sub-heading 8406 82), and Section XVI Note 4
- CBIC Circular No. 80/54/2018-GST dated 31.12.2018, para 11

! For the Practitioner

This order is useful for suppliers of turbine generator sets and similar equipment to waste-to-energy projects in Karnataka, as it adopts a wide reading of 'plant/devices' in entry (e) of Sl. No. 234. It settles that a turbine supplied for setting up such a plant may attract 5% rate under Chapter 84. The order does not decide that a turbine is eligible when supplied for ordinary power plants or as a stand-alone item. It also does not settle the treatment of other components, and it turns on end-use documentation under the CBIC circular. Practitioners should check the buyer's end-use evidence and the current text of the entry before relying on it.

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 -> kar_aaar_01-2019-20-triveni-turbine.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com