Vertiv Energy Private Limited (appellant before the Appellate Authority)

Appellate Authority for Advance Ruling — Maharashtra

ORDER NO. MAH/AAAR/SS-RJ/22/2019-20, Date- 07.02.2020 Dated **07.02.2020**

Q Questions Before the Authority

- Whether the contract with Delhi Metro Railway Corporation (DMRC) for supply, erection, installation, commissioning and testing of UPS systems qualifies as a works contract under Section 2(119) of the CGST Act, 2017.
- If yes, whether such supply to DMRC is taxable at 12% under Sr. No. 3(v) of Notification No. 11/2017-Central Tax (Rate), as amended w.e.f. 25.01.2018.
- Appellate issue: whether the Advance Ruling Authority (AAR) was right in holding that the supplies under the DMRC contract form a 'composite supply' under Section 2(30) read with Section 2(90) of the CGST Act, 2017, when that question was not put to it in the application.

F Facts

The appellant manufactures UPS systems at its Maharashtra units (Ambernath and Pune) and holds GST registrations in Maharashtra and Delhi. Under a contract dated 20.01.2014 with DMRC, which continued into the GST regime, it supplies UPS systems and also performs erection, installation, testing and commissioning at DMRC sites. The appellant invoices the goods separately from its Maharashtra GSTIN and the services separately from its Delhi GSTIN.

H Ruling

Whether the DMRC contract supplies (UPS goods plus erection, installation and commissioning) are a composite supply under Section 2(30) read with 2(90)	**No. The AAR ruling is modified so that the supplies are not a composite supply.**	The order does not decide the works contract question or the 12% rate. The appellant accepted the AAR's finding that the contract is not a works contract, and the Appellate Authority did not disturb it.

The Appellate Authority modified the AAR ruling so that the supplies under the DMRC contract are not a 'composite supply' under Section 2(30) read with Section 2(90). The Authority held that the Maharashtra and Delhi GSTINs are distinct taxable persons under Section 25(4), so the single-taxable-person requirement is not met. It also held that the goods and services are not supplied in conjunction with each other, and that neither can be treated as the principal supply. The order does not restate a rate for the separate supplies.

R Reasoning

The Authority held that a composite supply under Section 2(30) must be made by a single taxable person, and that the Maharashtra and Delhi GSTINs are distinct persons under Section 25(4) even though they belong to one

legal entity. It also found that the services are performed only after title to the goods has passed to DMRC, so they are not supplied in conjunction with the goods. Lastly, it held that the goods and services are equally indispensable, so neither can be identified as the principal supply under Section 2(90). The AAR's reliance on the single contract was rejected because a single contract does not by itself create a composite supply.

P Provisions Relied On

- Section 2(30) of the CGST Act, 2017 (composite supply)
- Section 2(90) of the CGST Act, 2017 (principal supply)
- Section 25(4) of the CGST Act, 2017 (distinct persons across States)
- Section 2(119) of the CGST Act, 2017 (works contract), as referred to in the questions and the AAR ruling
- Section 100 of the CGST Act, 2017 (appeal to the Appellate Authority), as cited by the appellant

! For the Practitioner

This order is useful where one contract covers goods from one State registration and installation services from another registration of the same legal entity, and the AAR has treated the bundle as one composite supply. It supports the view that separate GSTINs are separate taxable persons, so a composite supply under Section 2(30) cannot be made out. The order does not decide the rate for the separate supplies, and it does not decide whether the contract is a works contract, because the appellant accepted the AAR on that point. Its effect is limited to the facts and contract before 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 -> mah_aaar_ss-rj_22_2019-20_07.02.2020.pdf

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