Allied Digital Services Ltd

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-90/2018-19/B-159, Mumbai, dated 19/12/2018 (Maharashtra… Dated **19.12.2018**

Q Questions Before the Authority

- Whether the amount received for supply of services during the post GST period to the Government of Maharashtra (Home Department) as per the contract in question are taxable under SGST/CGST Act?
- If answer to the question No.1 is in affirmative then what is the rate of tax under SGST/CGST?

F Facts

The applicant entered into a 2013 agreement with the Home Department of the Government of Maharashtra to design, develop, implement and maintain a comprehensive CCTV-based city surveillance system for Pune and Pimpri-Chinchwad, for a total fee of about Rs. 224 crore over 5 years and 10 months. The project went live on 27 October 2015, before GST, and 20% of the fee was paid on go-live, with the remaining 80% payable in 20 quarterly instalments. The applicant asked whether post-GST receipts under this pre-GST contract are taxable and, if so, at what rate.

H Ruling

Whether post-GST receipts from the Home Department under the pre-GST contract are taxable under SGST/CGST	**Yes, taxable (affirmative)**	The supply is a composite supply of works contract involving immovable property, so it is a supply of services under Schedule II para 6(a).
Rate of tax under SGST/CGST if taxable	**18% (9% CGST and 9% SGST)**	Applies under Sr. No. 3, item (ii) of Notification No. 11/2017-Central Tax (Rate), as amended. The 6% rate for government works is not available because the work is not original work.

The authority held that the surveillance project is a composite supply of works contract under section 2(119) of the GST Act, because CCTV cameras fixed to street light poles are immovable property and the contract involves transfer of property in goods. It further held that the work is not original work, so the reduced 6% rate for government works is not available. The post-GST receipts are therefore taxable at 18%, being 9% CGST and 9% SGST.

R Reasoning

The authority found that the various supplies under the contract (design, supply, installation, commissioning and maintenance) are naturally bundled and form a single composite supply under section 2(30). It then treated the CCTV system fixed to street light poles as immovable property, applying the Supreme Court tests in TTG Industries and related cases, so the contract is a works contract under section 2(119). Relying on the CPWD Works Manual 2014 definition, it held that the work is not original works, which excluded the reduced 6% rate for

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government entities. The authority therefore applied the 18% composite works contract rate under Notification No. 11/2017-Central Tax (Rate), as amended by Notifications No. 20/2017 and No. 1/2018.

P Provisions Relied On

- Section 2(30) CGST Act, 2017 (composite supply)
- Section 2(119) CGST Act, 2017 (works contract)
- Schedule II, para 6(a) CGST Act, 2017
- Sections 97 and 98 CGST Act and MGST Act, 2017 (advance ruling)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 3 item (ii)
- Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017
- Notification No. 31/2017-Central Tax (Rate) dated 13.10.2017
- Notification No. 1/2018-Central Tax (Rate) dated 25.01.2018
- CPWD Works Manual 2014, para 1.3.1 (meaning of original works)
- TTG Industries Ltd v. CCE, (2004) 4 SCC 751, and related Supreme Court decisions on immovable property

! For the Practitioner

This order helps practitioners treat CCTV, surveillance and similar systems fixed to public infrastructure as immovable property, and so as a works contract taxable at 18% rather than as goods. It also shows that the 6% government works rate is unavailable unless the work is original work as the CPWD Manual defines it. It does not decide the treatment of the applicant's earlier VAT-paid transfer of capital assets, the valuation of supplies, or the time of supply for receipts under pre-GST contracts. The order is appealable before the Maharashtra Appellate Authority for Advance Ruling, and the outcome of any appeal is not shown in the document.

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 -> ara_order_90_2018_maharashtra_allied_dsl.pdf

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