M/s Andhra Pradesh Technology Services Limited, R&B Building, 3rd Floor, MG Road, Vijayawada-520010

Authority for Advance Ruling — Andhra Pradesh

Ruling No. AAR/AP/11(GST)/2018 in Application No. AAR/16(GST)/2018,… Dated **04.09.2018**

Q Questions Before the Authority

- Whether the e-procurement Transaction Fee collected on behalf of the IT E&C Department results in supply of goods or services or both, within the meaning of 'supply' as defined in law.
- Whether the tax liability arises on the e-procurement Transaction Fee collected on behalf of the IT E&C Department.

F Facts

The applicant, a company engaged in supplying services, runs the State e-procurement platform. Under G.O.Ms.No.11 (23.07.2010), bidders pay a transaction fee, including service tax, in favour of the applicant, and the applicant holds those collections in separate accounts as fund-manager for the IT E&C Department. The applicant receives 5% service charges on the corpus and transaction fee under G.O.Ms.No.17 (31.10.2017), and it has been remitting GST at 18% on those service charges.

H Ruling

Whether the e-procurement Transaction Fee collected for the IT E&C Department is supply of goods or services or both	**It is 'supply' as defined in the SGST Act, 2017 and the CGST Act, 2017**	The reply does not specify whether the supply is of goods, services, or both. The order's reasoning treats the applicant as a fund-manager or custodian, not as the supplier of the fee.
Whether tax liability arises on the e-procurement Transaction Fee collected on behalf of the IT E&C Department	**No tax liability arises on the amounts so collected**	The amounts are for services rendered by the State Government (IT E&C Department), which are nil-rated under entry 6 of Notification 12/2017-Central Tax (Rate), dated 28.06.2017. The applicant's own 5% service charge is taxable as a separate service.

The authority held that the e-procurement Transaction Fee collected on behalf of the IT E&C Department is 'supply' as defined in the SGST Act, 2017 and the CGST Act, 2017. It further held that no tax liability arises on the amounts so collected, because they are consideration for services rendered by the State Government (the IT E&C Department) that fall under the nil-rate entry 6 of Notification 12/2017-Central Tax (Rate).

R Reasoning

The authority observed that the applicant acts as fund-manager under a direction from the IT E&C Department and cannot use the funds without that Department's approval. It treated the transaction fee held as custodian as not attracting tax on the applicant's part. The applicant's own 5% service charge is consideration for its

independent services, and is taxed as such. The fee is consideration for State Government services, which entry 6 of Notification 12/2017-Central Tax (Rate) exempts at nil rate. The order also refers to the definition of 'supply' in Section 7 of the SGST Act, 2017.

P Provisions Relied On

- Section 7 of the SGST Act, 2017 (definition of supply), and the corresponding definition under the CGST Act, 2017
- Entry 6, Notification 12/2017-Central Tax (Rate), dated 28.06.2017 (Chapter 99, nil-rated services by Central/State Governme…
- G.O.Ms.No.4, dated 17.02.2005 (business model and collection of transaction fee, cited as background)
- G.O.Ms.No.11, IT&C Department, dated 23.07.2010 (para 6, transaction fee collection and account)
- G.O.Ms.No.17, dated 31.10.2017 (5% service charge and 95% balance management; para 5 cited)
- G.O.Ms.No.23, dated 03.08.2005 (e-procurement corpus fund and portal utilisation, as referenced)
- Section 174(2)(d) and (e) of the CGST/SGST Act, 2017 (referred to regarding GST collected without legal basis; not decided)

! For the Practitioner

This ruling helps government-appointed e-procurement or fund-management agencies that collect fees on behalf of a department. It settles that such collections, held as custodian for a department's services, are not taxable in the agency's hands. It does not decide the tax treatment of the agency's own 5% service charge, which the order treats as taxable. It also declines to rule on the GST the applicant has already collected at 18%. Those amounts are referred to the jurisdictional authorities for remittance procedure, and the order notes possible forfeiture under Section 174(2)(d) and (e).

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 -> ap_11-2018_04.09.18_aptsl.pdf

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