Cable Corporation of India Limited

Authority for Advance Ruling — Maharashtra

GST-ARA-63/2018-19/B-134, Mumbai, dated 3/11/2018 (03.11.2018) Dated **03.11.2018**

Q Questions Before the Authority

- Whether the supply of transportation services, rendered by the Applicant, will be exempt from the levy of GST in terms of Sl. no. 18 of Notification No. 12/2017 - Central Tax (Rate) dated 28th June, 2017.

F Facts

The Applicant, a manufacturer and distributor of power and control cables, was engaged to supply, lay and terminate a 220kV U/G cable package under two separate contracts: a goods contract covering engineering, manufacture, supply and testing of the cables, and a services contract covering route survey, transportation, insurance, delivery, laying, jointing, testing and commissioning. Each contract contained a cross-fall breach clause. The Applicant hires a goods transport agency (GTA) for the transportation and discharges GST on that service under reverse charge.

H Ruling

Whether the Applicant's transportation services are exempt under Sl. no. 18 of Notification No. 12/2017-CT(Rate) dated 28.06.2017	**No (answered in the negative)**	The transportation forms part of a composite works contract supply, which the order treats as taxable at 18% under Sl. no. 3(ii) of Notification No. 11/2017-CT(Rate). The scan reads the entry both as 3(ii) and 3(11), so verify the entry against the notification.

The Authority answered the question in the negative: the Applicant's transportation services are not exempt under Sl. no. 18 of Notification No. 12/2017-CT(Rate). The two contracts, linked by the cross-fall breach clause, form a single composite works contract supply, and the artificial bifurcation of the contracts was held not legal or proper. The composite supply is taxable at 18% under the works contract entry of Notification No. 11/2017-CT(Rate).

R Reasoning

The Authority found that the Applicant does not itself transport the goods but hires a GTA and discharges reverse charge, so it is the recipient of the transport service and not a supplier of it, which takes it outside the exemption. It held that the first contract cannot be performed without the second, and that the cross-fall breach clause makes both contracts one indivisible works contract, relying on the Supreme Court in Indure Ltd (2010). It also followed its own earlier ruling in Shri Dinesh Kumar Agarwal (GST-ARA-36/2017-18/B-43, 04.06.2018). The order rejected the applicant's reliance on Gannon Dunkerley and Ishikawajima-Harima as not governing a contract with a single source responsibility.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

- Sl. no. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (exemption for transport of goods by road, excludi…
- Sl. no. 3(ii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (rate for works contract services; scan reading u…
- Section 2(119) of the GST Act (works contract, as relied on by the Authority)
- Section 10(1)(a) and (d) of the IGST Act, 2017 (place of supply, as cited by the jurisdictional officer)
- Explanation to Sl. no. 9 and 11 of Notification No. 11/2017-CT(Rate) (definition of goods transport agency, as quoted by the A…
- Section 2(30) and 2(90) of the CGST Act (composite and principal supply, as quoted by the Applicant)
- Order GST-ARA-36/2017-18/B-43 dated 04.06.2018, Shri Dinesh Kumar Agarwal (Maharashtra AAR)
- M/s Indure Ltd v. Commercial Tax Officer (Supreme Court, 20.09.2010, C.A. No. 1123 of 2003)

! For the Practitioner

This order helps practitioners defend against attempts to claim the Sl. no. 18 transport exemption on a turnkey or EPC cable contract where transport is bundled with supply and installation under a cross-fall breach clause. It makes clear that splitting a works contract into separate goods and service contracts will not avoid 18% GST on the composite supply if the contracts are interdependent. It does not decide the position for separately contracted transport with genuinely independent consideration, and its reasoning rests heavily on the facts of the cross-fall clause.

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_63_2018_maharashtra_ccil.pdf

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