

Dinesh Kumar Agrawal

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-36/2017-18/B-43

Dated **04.06.2018**

Q Questions Before the Authority

- Whether Standalone Contract of transportation merits classification under Service code 9965 and whether same is exempt under Entry No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017?
- Whether composite supply of transportation and insurance merits classification under Service code 9965 and whether same is exempt under Entry No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017?
- Whether composite supply of 'loading of goods at the premises of the supplier, transportation in own/hired trucks to the project site, unloading and handling of goods at project site and in-transit insurance' merits classification under Service code 9965 and whether same is exempt under Entry No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017?
- Whether supply of services namely 'loading of goods at the premises of the supplier, transportation in own/hired trucks to the project site, unloading and handling of goods at project site and in-transit insurance' under Service Contract (under Split Contract) merits classification under Service code 9965 and whether same is exempt under Entry No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017?
- Whether supply of services namely 'loading of goods at the premises of the supplier, transportation in own/hired trucks to the project site, unloading and handling of goods at project site and in-transit insurance' under EPC Contract merits classification under Service code 9965 and whether same is exempt under Entry No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017?
- Whether transportation charges received by the applicant are liable to GST, specially when the applicant is not a goods transport agency (GTA)?

F Facts

The applicant, an individual contractor, proposed to undertake turnkey Engineering, Procurement, and Construction (EPC) projects for solar power plants and transmission facilities. The scope of work encompassed design, equipment procurement, transportation, transit insurance, storage, civil works, erection, and commissioning. The applicant submitted draft EPC contracts and claimed that transportation charges should be exempt from GST under Entry No. 18 of Notification No. 12/2017-Central Tax (Rate) because he is not a Goods Transport Agency (GTA) and does not issue consignment notes.

H Ruling

Liability to GST on transportation charges received by non-GTA contractor under EPC contract

Answered in the affirmative; taxable as a **works contract under section 2(119)**

Applies to single indivisible EPC contracts resulting in immovable property

The Authority held that the proposed EPC agreement is a single, indivisible contract for solar power plant construction, constituting a composite supply of a **works contract** under section 2(119) of the CGST Act. The transportation of equipment cannot be carved out as a standalone service or isolated exempt supply. Consequently, transportation charges received by the applicant under the EPC contract are liable to GST as part of the works contract service.

R Reasoning

The Authority analyzed the terms of the draft EPC agreement as a whole and noted that the applicant's single-point responsibility covers design, equipment supply, freight, civil foundation work, installation, testing, and commissioning. The resulting solar power plant involves civil structures and is intended to function as an immovable property at the project site. Following Supreme Court rulings on immovable property, the transaction qualifies as a works contract under section 2(119) of the CGST Act. Because the supply is an integrated works contract, individual activities like transportation cannot be split up to seek exemption under Entry No. 18 of Notification No. 12/2017-Central Tax (Rate).

P Provisions Relied On

Section 2(119) of the CGST Act, 2017

Section 2(30) of the CGST Act, 2017

Entry No. 18 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017

Section 97 of the CGST Act, 2017 / MGST Act, 2017

Section 98 of the CGST Act, 2017 / MGST Act, 2017

! For the Practitioner

An EPC contractor carrying out turnkey projects cannot artificially segregate freight charges to claim the GST exemption available to non-GTA transporters. Where the overarching contract involves erection, installation, and civil work yielding an immovable structure, all constituent activities are treated as part of a single **works contract**. Furthermore, advance ruling authorities will decline to rule on hypothetical standalone or split contract structures unless actual draft agreements for those arrangements are produced.

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 aar 36 2017-18 b-43 04.06.2018 dka.pdf

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