

EMCO LIMITED

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 16/2018-19/B- 74

Dated 25.07.2018

Q Questions Before the Authority

- Whether GST is leviable on the transportation charges levied by the Applicant on PGCIL?
- In case the GST is payable, what would be the rate of GST to be charged on such charges?

F Facts

The Applicant entered into two contracts with Power Grid Corporation of India Limited (PGCIL) for a transmission line project: an Ex-works Supply Contract for products and a Service Contract covering inland transportation, insurance, erection, testing, and commissioning. The Applicant sought clarification on whether GST applies to the transportation charges recovered under the contract and the applicable tax rate, contending that freight charges were exempt under Notification No. 12/2017-Central Tax (Rate).

H Ruling

Leviability of GST on transportation charges levied on PGCIL	Answered in the affirmative	Treated as integral part of a composite supply
Rate of GST applicable on transportation charges	18%	Sr. no. 3(ii) of Notification No. 1/2017-Central Tax (Rate)

The Authority held that the transportation charges are an **integral component of a composite works contract** and not a standalone transportation service. Consequently, GST is leviable on such charges at the rate of 18%.

R Reasoning

The AAR observed that despite executing two separate agreements (Supply Contract and Service Contract), both contracts were cross-linked through cross-fall breach clauses and single-source responsibility provisions, making them inter-dependent and part of a single indivisible project. Relying on the Supreme Court ruling in M/s. Indure Ltd., the Authority concluded that the overall contract is a **works contract** under Section 2(119) of the CGST Act, 2017 involving erection, commissioning, and transfer of property in goods. Under Schedule II entry 6(a), works contracts are classified as a supply of services. Therefore, transportation is an element of the composite works contract and attracts 18% GST under Sr. No. 3(ii) of Notification No. 1/2017-Central Tax (Rate).

P Provisions Relied On

Section 2(119) of CGST Act, 2017

Section 2(30) of CGST Act, 2017

Section 8 of CGST Act, 2017

Schedule II entry 6(a) of CGST Act, 2017

Notification No. 1/2017-Central Tax (Rate)

Notification No. 12/2017-Central Tax (Rate)

! For the Practitioner

Tax practitioners should note that artificial splitting of turnkey projects into separate supply and service contracts will not convert freight or transportation components into exempt standalone GTA services when **cross-fall breach clauses** link the contracts. Where contracts are interdependent, the entire consideration, including freight, is taxable at the applicable works contract GST rate of 18%.

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 -> maha-gst-ara-16-b-74 dt. 25.07.18 emco.pdf

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