

KHILARI INFRASTRUCTURE PRIVATE LIMITED

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 04/2017-18/B-28, Mumbai, dt. 05.05.2018

Dated **05.05.2018**

Q Questions Before the Authority

- Determination of GST leviable on operation and maintenance work order given by municipal corporations.
- Admissibility of ITC (input Credit tax) of purchases against such work order.
- Determination of responsibility of municipal authority of discharging such GST Liability payable to contractor.
- Applicability of GST on Service Contract where labour job Contribute 95% to 98% of Contract Value and 2-3% as Oil and Lubricant and pertains to consumable Purchase to operate the Existing Plant.

F Facts

The applicant is a registered civil contractor engaged in the operation and maintenance (O&M) of sewage treatment plants (STP) and solid waste processing plants for various municipal corporations and local authorities. Although labour accounts for 95% to 98% of the contract value, the contracts require the applicant to supply spares, consumables, replacement parts, and chemicals. Municipal bodies refused to reimburse GST, claiming the O&M activities were exempt municipal functions under Article 243W of the Constitution of India.

H Ruling

GST rate on O&M work orders for municipal bodies	CGST & SGST @ 9% each (01.07.2017 to 21.08.2017), CGST & SGST @ 6% each (22.08.2017 to 24.01.2018), exempt post 25.01.2018	Exemption post 25.01.2018 is subject to goods value not exceeding 25% of total contract value
Admissibility of Input Tax Credit (ITC)	Eligible	Subject to terms and conditions under Sections 16 to 22 of CGST Act and Rules 36 to 45
Responsibility to discharge GST liability	Liability is on the supplier	Legal statutory liability rests with supplier regardless of contractual recovery terms with recipient
GST applicability on contracts with 95%-98% labour component	CGST & SGST @ 9% each (01.07.2017 to 21.08.2017), CGST & SGST @ 6% each (22.08.2017 to 24.01.2018), exempt post 25.01.2018	Exemption post 25.01.2018 is subject to goods value not exceeding 25% of total contract value

The authority held that the O&M contracts involve supply of goods alongside services, constituting a composite supply rather than pure services. The contracts attracted **18% GST** from 01.07.2017 to 21.08.2017 and **12% GST**

from 22.08.2017 to 24.01.2018. Exemption applies post-25.01.2018 only if the value of goods supplied does not exceed 25% of the total composite supply value.

R Reasoning

Contract terms demonstrated that the applicant is responsible for replacing damaged parts, installing equipment, and providing consumables and spares, ruling out classification as **pure services** under Serial No. 3 of Notification No. 12/2017-Central Tax (Rate). Prior to 25.01.2018, composite supplies of works contract to municipal entities were taxable under Notification No. 11/2017-Central Tax (Rate) as amended by Notification No. 20/2017-Central Tax (Rate). With effect from 25.01.2018, Notification No. 02/2018-Central Tax (Rate) inserted Entry 3A exempting composite supplies to local authorities provided the goods component does not exceed 25%. Under Section 9 of the CGST Act, statutory liability to pay tax is on the supplier, irrespective of whether the recipient municipal body reimburses it. Input tax credit is available to the supplier under Section 16 subject to statutory conditions.

P Provisions Relied On

Section 9 of the CGST Act, 2017

Section 16 to 22 of the CGST Act, 2017

Rules 36 to 45 of the CGST Rules, 2017

Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017

Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (Sr. No. 3)

Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017

Notification No. 02/2018-Central Tax (Rate) dated 25.01.2018 (Sr. No. 3A)

Article 243W of the Constitution of India

! For the Practitioner

This ruling establishes that municipal O&M contracts involving repair, spare parts, or consumables cannot be claimed as pure services. Practitioners handling contractors for municipal bodies can rely on this order to verify eligibility for exemption under **Entry 3A of Notification No. 12/2017-CT(R)** by ensuring the goods component is capped at 25%. It also clarifies that local body refusal to pay GST does not absolve the contractor of its statutory liability to deposit tax.

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 04 2017-18 b-28 khilari infrastructure pvt ltd.pdf

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