LEENA POWER TECH ENGINEERS PVT LTD

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-51/2018-19/B-124, Mumbai, dated 3/10/2018 (printed as 3/1… Dated **03.10.2018**

Q Questions Before the Authority

- Whether CIDCO is covered under the definition of the term 'Government Entity' as per Notification No. 31/2017-Central Tax (Rate) dated 13 October 2017?
- If CIDCO falls under the definition of Government Entity, whether the tax rate of 12% (CGST 6% + SGST 6%) is applicable to the contract entered into by the Applicant with CIDCO, in pursuance of Notification No. 24/2017-Central Tax (Rate) dated 21 September 2017 read with Notification No. 31/2017-Central Tax (Rate) dated 13 October 2017?

F Facts

The Applicant is an electrification contractor that undertakes power supply infrastructure work for government entities. It holds two work orders from City and Industrial Development Corporation of Maharashtra Limited (CIDCO): one for power supply infrastructure for project-affected people at the Navi Mumbai International Airport (dated 21.06.2017), and one for distribution network and 33/0.4 kV substation works at Ulwe Node, Navi Mumbai (dated 11.01.2013). CIDCO is 100% owned by the Government of Maharashtra and was set up under state resolutions and notifications of 1970 to 1972 to develop New Bombay.

H Ruling

Whether CIDCO is a 'Government Entity' under Notification No. 31/2017-CT(Rate) dated 13.10.2017	****Yes**, answered in the affirmative**	CIDCO is established by the State Government with 100% participation by way of equity or control, to carry out a function entrusted by the State Government.
Whether 12% (CGST 6% + SGST 6%) applies to the Applicant's contract with CIDCO under Notification No. 24/2017 read with No. 31/2017	****Concessional rate of 12%** applicable to the supply of goods or services after 13.10.2017**	Applies under Sr. No. 3 item (vi)(a) of Notification No. 11/2017 as amended, subject to the column 5 proviso. From 14.11.2017 only composite supply of works contract under clause (119) of section 2 of the CGST Act qualifies, per Notification No. 46/2017.

The Authority held that CIDCO is a Government Entity under Notification No. 31/2017-CT(Rate). It further held that a concessional rate of 12% applies to the Applicant's works contracts with CIDCO from 13.10.2017, subject to the conditions of the notification.

R Reasoning

The Authority traced CIDCO's constitution through the 1970, 1971 and 1972 Government resolutions and notifications and concluded that CIDCO was established with full state control to carry out the New Bombay development function, so it falls within the definition of Government Entity inserted by Notification No. 31/2017. It then treated the Applicant's work as original works under para 1.3.1 of the CPWD Manual, 2014, and the

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

erstwhile Finance Act, 1994 definition, predominantly for non-commercial use. It found the column 5 proviso satisfied because the works were entrusted to CIDCO by the State Government, citing the Navi Mumbai airport resolution and the 1971 Ulwe notification. The Authority also noted that from 14.11.2017 only composite supply of works contract qualifies under Notification No. 46/2017.

P Provisions Relied On

- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 3 items (iii), (vi) and (vii) and explanation (x)
- Notification No. 24/2017-Central Tax (Rate) dated 21.09.2017
- Notification No. 31/2017-Central Tax (Rate) dated 13.10.2017
- Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017
- CGST Act, 2017, section 2, clause (119) (composite supply of works contract)
- Maharashtra Regional and Town Planning Act, 1966, section 113 and sub-section (3A)
- CPWD Manual, 2014, para 1.3.1 (original works)
- Government of Maharashtra resolutions dated 18.03.1970 and 24.01.1972 and notification dated 20.03.1971

! For the Practitioner

The order is useful for works contractors dealing with CIDCO or similar state-owned development bodies, since it settles that CIDCO is a Government Entity and that the 12% rate is available for original works from 13.10.2017. Practitioners should note that the column 5 condition was found satisfied on the particular work orders cited, and that the order does not address other entities or other contracts. The ruling binds only the Applicant, and the scan is partly unclear on some dates and section references.

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_51_2018_maharashtra_lpte_pvt_ltd.pdf

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