

M/s. Chamundeshwari Electricity Supply Corporation Limited

Authority for Advance Ruling — Karnataka

KAR ADRG 09/2023, dated 17.02.2023

Q Questions Before the Authority

- Whether the Corporation is considered as 'Governmental Authority' or 'Local Authority'?
- Whether the Corporation is exempt from filing of Annual Return in Form GSTR-9 and Form GSTR-9C under the Second Proviso to Section 44 of the CGST and KGST Acts?
- Whether the Corporation is eligible to claim input tax credit on the inward supply of goods and services which are capitalized in the books of accounts?
- Whether the Corporation is eligible to claim input tax credit on the inward supply of services against output taxable supplies of support and auxiliary services and other supply of taxable goods?
- Whether the Corporation is eligible to claim input tax credit (on inputs, input services and capital goods) proportionately on the taxable output supply of support services and goods (scrap etc.) as per the provisions of Rule 42 and 43 of the CGST and KGST Rules?
- Whether the Corporation is eligible to claim taxes paid under RCM, as input tax credit?
- Whether Additional Surcharge collected from Open Access Consumer as per sub-section (4) of Section 42 of the Electricity Act, 2003, clause 8.5.4 of the Tariff Policy 2016, Clause 5.8.3 of the National Electricity Policy and Clause 11 (vii) of the KERC (Terms and Conditions for Open Access) Regulations, 2004, is taxable under the GST Acts?
- Whether 'Wheeling and Banking Charges' allowed by Commission (KERC) as 5% and 2% of the energy input into the distribution system by Open Access consumer is taxable under the GST Acts?

F Facts

The applicant is a state-owned electricity distribution company engaged in the distribution and sale of energy. It sought clarification on its status as a governmental authority, its exemption from filing annual returns, its eligibility for input tax credit on various inward supplies, and the taxability of additional surcharges and wheeling/banking charges collected from open access consumers.

H Ruling

Status as Governmental/Local Authority	Cannot be considered as either	Does not meet the criteria under the relevant notification
Exemption from filing GSTR-9/9C	Not exempted	Second proviso to Section 44 is not applicable
ITC on capitalized goods/services	Eligible	If used in the course or furtherance of business

ITC on inward supplies against taxable output	Eligible	Subject to Section 17(2) and Rules 42 and 43
Proportionate ITC on inputs/services/capital goods	Eligible	Subject to Section 17(2) and Rules 42 and 43
ITC on taxes paid under RCM	Eligible	Subject to Section 17(2) and Rules 42 and 43
Taxability of Additional Surcharge	Taxable	Considered a supply under Section 7(1) of the CGST Act
Taxability of Wheeling and Banking Charges	Exempted	Covered under Entry 25 of Notification No. 12/2017-Central Tax (Rate)

The authority ruled that the applicant is not a governmental or local authority and is not exempt from filing annual returns. It confirmed the applicant's eligibility to claim input tax credit on capitalized goods and services, as well as on inward supplies used for taxable output, subject to the apportionment rules. Finally, it held that additional surcharges are taxable under the GST Act, while wheeling and banking charges are exempt.

R Reasoning

The authority determined the applicant is not a governmental authority because it does not fulfill the specific functional requirements under the relevant notification. Regarding ITC, it relied on Section 16 and 17 of the CGST Act, emphasizing that credit is available for business-related supplies but must be apportioned for exempt supplies. The additional surcharge was deemed a taxable supply as it is a charge for services provided by the distribution licensee. Conversely, wheeling and banking charges were classified as services of transmission or distribution of electricity, thus qualifying for the exemption under Notification No. 12/2017-Central Tax (Rate).

P Provisions Relied On

Section 44 of the CGST Act	Section 16 of the CGST Act
Section 17 of the CGST Act	Section 7 of the CGST Act
Rule 42 of the CGST Rules	Rule 43 of the CGST Rules
Notification No. 12/2017-Central Tax (Rate)	

! For the Practitioner

This ruling clarifies that state-owned electricity distribution companies are generally not exempt from GST compliance requirements like annual returns. It provides a **favorable precedent** for the exemption of wheeling and banking charges, while confirming that additional surcharges collected from open access consumers are **taxable supplies**.

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 -> [knaar_order_no. 092023_chamundeswari_electricity_supply_corporation_ltd_1.pdf](#)

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