

EMC Ltd

Authority for Advance Ruling — West Bengal

04/WBAAR/2018-19

Dated 11.05.2018

Q Questions Before the Authority

- Whether the Applicant is liable to pay tax on separate freight bills raised for inland/local transportation under a contract split into supply of materials and supply of allied services.

F Facts

The Applicant was awarded contracts for setting up transmission lines and sub-stations (Tower Package) by M/s Power Grid Corporation of India. The project was divided into two separate agreements: a First Contract for ex-factory supply of materials, and a Second Contract for allied services including inland transportation, in-transit insurance, erection, and commissioning. The Applicant issued separate freight bills for transportation and claimed exemption as a non-GTA service provider under Notification No. 12/2017-Central Tax (Rate).

H Ruling

Taxability of separate freight bills under split contracts for execution of a Tower Package

Taxable at 18% as part of composite works contract service.

Price components of both contracts must be clubbed together under Serial No. 3(ii) of Notification No. 11/2017-Central Tax (Rate).

The Authority ruled that the Applicant supplies an indivisible **works contract service** under Section 2(119) of the GST Act, of which freight and transportation are mere components. Consequently, GST must be paid at **18% on the entire composite value** of the supply, including material supply, freight, transportation, erection, and commissioning.

R Reasoning

The First Contract for material supply cannot be executed independently of the Second Contract because the place of supply involves movement and assembly at site pursuant to Section 10(1) of the IGST Act. Both agreements are explicitly linked by a **cross fall breach clause**, establishing a single-source responsibility contract where a breach in one contract automatically constitutes a breach in the other. This interdependence converts the split arrangements into an indivisible composite works contract service under Section 2(119) of the GST Act. Therefore, individual elements like freight cannot be severed to claim standalone transport exemption, and the total contract value is taxable at 18% under Notification No. 11/2017-Central Tax (Rate).

P Provisions Relied On

Section 97(2)(a) of the CGST/WBGST Act, 2017

Section 97(2)(e) of the CGST/WBGST Act, 2017

Section 2(119) of the CGST/MBGST Act, 2017

Section 10(1)(a) of the IGST Act, 2017

Section 10(1)(d) of the IGST Act, 2017

Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017

Notification No. 11/2017-Central Tax (Rate) dated 28/06/2017

! For the Practitioner

This ruling highlights that splitting turnkey infrastructure projects into separate material supply and freight/erection contracts will not enable lower tax rates or freight exemptions if bound by **cross fall breach clauses**. Practitioners representing EPC contractors should ensure that split contracts are analyzed as composite works contract supplies when cross-default liability exists.

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 -> wb aar04 2018-19 dt 11-05-18 emc.pdf

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