M/s Kalyan Toll Infrastructure Ltd., Vidhya Deep, 15/3 Manoramaganj, Indore-452001

Authority for Advance Ruling — Madhya Pradesh

Order Number 16/2019, order dated 25/09/2019 (Case Number 04/2019; c… Dated **25.09.2019**

Q Questions Before the Authority

- Whether the work constitutes a composite contract or a separate contract for each work undertaken?
- What is the effective rate of tax in the given facts?

F Facts

The applicant, a company registered under the Companies Act, won an e-tender from MP Power Generating Company Ltd (MPPGCL) for the balance general civil and related electrical and mechanical works package of the 2x660 MW Shree Singaji Thermal Power Project, Stage II, near Village Dongalia, Khandwa. The scope includes civil, structural and architectural work for O&M and services buildings, six weighbridges, a fitness centre cum gym, water supply pipelines and electrical work. The bid was priced item by item, but the parties proposed to invoice on a consolidated basis through running bills.

H Ruling

Whether the contract is a composite contract or a separate contract for each work	**Not a composite contract; each supply under the contract is chargeable to tax individually**	Ruling para 8.1 reads 'not consolidated contract'; the reasoning at para 7.10 states the work 'cannot be termed as composite supply'. Each supply is taxed according to its own classification and the rate applicable at the time of supply.
Effective rate of tax in the given facts	**No single effective rate; rate determined item by item. Concessional 12% (CGST 6% + SGST 6%) under Sr. No. 3(vi) applies only to supplies within the scope of work entrusted to MPPGCL by the Government of Madhya Pradesh**	Items outside that scope, including the Fitness Centre cum Gym, do not qualify for the exemption under Sr. No. 3(vi). Their rate follows the GST Tariff and the applicable exemption notifications.

The Authority held that the tender is **not a composite supply** and that the works are not naturally bundled, so each supply is to be taxed separately. The concessional 12% rate under Sr. No. 3(vi) of Notification No. 11/2017-CT(Rate) is available only for supplies that fall within the scope of work entrusted to MPPGCL by the Government of Madhya Pradesh. MPPGCL was accepted as a Government Entity, but items outside that scope, such as the fitness centre cum gym, do not qualify.

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

R Reasoning

The Authority found the tender, though a single work order, lists distinct works with separate remuneration, and that these items are disjoint in character and not 'naturally bundled' in the ordinary course of business under Section 2(3). For that reason it was not a composite supply under Section 2(30). It accepted MPPGCL as a Government Entity, relying on the 100% state shareholding and the explanation to Notification No. 11/2017-CT(Rate) as amended by Notification No. 31/2017-CT(Rate). Under Sr. No. 3(vi), the concessional rate requires the services to have been procured in relation to a work entrusted by the Government, so only items within that entrusted scope qualify. The Authority also followed its earlier order in Shreeji Infrastructures (18.10.2018), which held construction of residential quarters outside the exemption.

P Provisions Relied On

- Section 97(2) of the CGST/SGST Act, 2017 (advance ruling application; the discussion cites clause (a))
- Section 98(4) of the CGST/SGST Act, 2017
- Section 2(3) of the CGST Act, 2017 (naturally bundled supply)
- Section 2(30) of the CGST Act, 2017 (composite supply)
- Section 2(119) of the CGST Act, 2017 (works contract), as referred to in the notification
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 3(vi) and its explanation of 'Government Entity'
- Notification No. 31/2017-Central Tax (Rate) dated 13.10.2017
- Section 103(2) and Section 104(1) of the GST Act (validity of the ruling)
- Authority's earlier order in M/s Shreeji Infrastructures India P. Ltd. dated 18.10.2018 (cited, not a provision)

! For the Practitioner

This order is useful for government-entity works contracts where a single tender bundles separately priced works, because it indicates that such a bundle is not automatically a composite supply and that the 12% rate must be tested item by item against the entrusted scope. The Authority also treats MPPGCL as a Government Entity under the 2017 notifications. The ruling binds only the applicant and does not decide the classification or rate of any specific item, nor the status of works outside the stated scope beyond its observation on the gym. Practitioners should check the full order for the reasoning on individual items.

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 -> order_ms_kalyan_toll_infrastructure_ltd.pdf

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