M/s Siemens Ltd., Plot No. 6A, Sector-18, Maruti Industrial Area, HUDA, Gurugram (North), Haryana (GSTIN 06AAACS0764L1ZA)

Authority for Advance Ruling — Haryana

ADVANCE RULING NO.HAR/HAAR/R/2018-19/23 (In Application No.:23/2… Dated **09.11.2018**

Q Questions Before the Authority

- Whether the freight charges covered by the Applicant under the contract from Power Grid Corp India, without issuance of a consignment note, will be eligible for exemption from GST as prescribed in S. No. 18 of Notification No. 12/2017-Central Tax Rates dated 28-06-2017, and the corresponding S. No. 18 of Notification No. 43/ST2 dated 30-06-2017 issued by the Haryana Govt.

F Facts

The Applicant is an associate of a joint venture of Siemens AG (Germany) and Sumitomo Electric Industries (Japan), which holds a contract with Power Grid Corporation of India for an HVDC link between Pugalur and North Trichur. The overall scope is split into six contracts, and the Applicant holds the onshore supply contract (Third Contract, supply on ex-works basis) and the onshore services contract (Fifth Contract) covering port handling, local transportation, insurance, unloading, storage, installation, testing and commissioning. The Applicant engages local transporters who issue consignment notes to the Applicant, which then charges local transportation to Power Grid without issuing its own consignment note.

H Ruling

Exemption for freight charges recovered from Power Grid without issuance of a consignment note, under S. No. 18 of Notification No. 12/2017-Central Tax Rates and the corresponding S. No. 18 of Notification No. 43/ST2 (Haryana)	**Not eligible for exemption. GST applies on the freight charges under Section 8 of the CGST/SGST Act, 2017.**	The order treats the freight as part of a composite supply under the Fifth Contract, so it takes the GST rate of the principal supply in that bundle. The order does not state the rate or identify the principal supply in the text.

The Authority held that the six contracts are not individual, separate or stand-alone contracts, and that the activities under the Fifth Contract form a composite supply under Section 2(30) read with Section 8 of the CGST/SGST Act, 2017. GST is therefore leviable at the rate applicable to the principal supply. The Applicant is **not eligible** for the claimed exemption under S. No. 18 of Notification No. 12/2017-Central Tax Rates or the corresponding Haryana entry, because transportation is not a stand-alone activity.

R Reasoning

The Authority first found that the six contracts are inter-related and cannot be treated as independent or

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

stand-alone contracts, so it examined only the activities under the Fifth Contract, as the Applicant had asked. It noted that those activities (port handling, loading, transport, insurance, storage, installation and commissioning) are naturally bundled and supplied in conjunction with each other, and it applied the illustration to the definition of composite supply in Section 2(30). Under Section 8, a composite supply is taxed as the supply of its principal supply, defined in Section 2(90). Because transportation is part of that composite supply and not a separate, stand-alone activity, the exemption in S. No. 18 of the central and Haryana notifications could not apply.

P Provisions Relied On

- Section 97(2) of the CGST/SGST Act, 2017 (clause under which the question was raised)
- Section 2(30) of the CGST/SGST Act, 2017 (definition of composite supply)
- Section 2(90) of the CGST/SGST Act, 2017 (definition of principal supply)
- Section 8 of the CGST/SGST Act, 2017 (tax liability on composite supplies)
- Notification No. 12/2017-Central Tax Rates dated 28-06-2017, S. No. 18 (exemption for transport of goods by road, excluding…
- Notification No. 43/ST2 dated 30-06-2017 (Haryana), S. No. 18, as cited in the order
- Notification No. 13/2017-Central Tax Rates dated 28-06-2017 (GTA reverse charge), referred to in the facts

! For the Practitioner

This ruling is useful for a practitioner whose freight or transport charges sit inside a larger bundled onshore contract with installation or commissioning, because it shows the Authority will look at the whole package and treat the freight as part of a composite supply taxed at the principal supply's rate. It does not decide what the rate of the principal supply is, and it does not address freight where a separate goods transport agency has been engaged and charged on a standalone basis. The order states that its answer is limited to the facts given, so it should not be read as a general rule on all freight recovered without a consignment note.

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 -> har_aar_23_2018-19_09.11.2018_sl.pdf

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