M/s Vertiv Energy Private Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-17/2019-20/B-107, Mumbai, dt. 4.10.2019 Dated **04.10.2019**

Q Questions Before the Authority

- Whether the contract entered into with DMRC for supply, erection, installation, commissioning and testing of UPS system qualifies as a supply of works contract under Section 2(119) of the CGST Act?
- If yes, whether such supply made to DMRC would be taxable at the rate of 12% in terms of Sr. no. 3(v) of Notification No. 11/2017 - C.T. (Rate), as amended w.e.f. 25.1.2018?

F Facts

The applicant manufactures UPS systems at its Maharashtra factory and entered into a contract with Delhi Metro Rail Corporation on 20.1.2014 for supply, installation, testing and commissioning of UPS systems. The goods are dispatched from Maharashtra under invoices and e-way bills naming DMRC, while erection, installation and commissioning are performed by the applicant's separately registered New Delhi branch. The applicant raised separate invoices for goods and services, and the UPS units are fixed to foundations by nuts and bolts and can be dismantled and moved.

H Ruling

Q1: Whether the DMRC contract for supply, erection, installation, commissioning and testing of UPS systems is a works contract under Section 2(119) CGST Act	**No. Answered in the negative.**	The UPS system is not immovable property, since it can be uninstalled and shifted without significant damage, even though it is bolted to a foundation.
Q2: Whether such supply to DMRC would be taxable at 12% under Sr. no. 3(v) of Notification 11/2017-C.T.(Rate)	**Not answered.**	The authority treated this as not arising because Q1 was answered in the negative. On the composite supply it held that GST is payable on the whole contract at 18%, with the principal goods falling under HSN 8504.

The authority held that the DMRC contract is not a works contract under Section 2(119) of the CGST Act, because the installed UPS system does not result in the emergence of immovable property. It treated the transaction as a composite supply in which supply of goods (UPS units) is the principal supply, and held that the whole contract attracts GST at 18%. The second question on the 12% rate was not answered because the first was answered in the negative.

R Reasoning

The authority accepted that the installed UPS does not result in an immovable property, so the works contract definition in Section 2(119) is not met. It then examined the contract and found that the goods and installation services are supplied in conjunction in the ordinary course of business, which brings the transaction within the

composite supply definition in Section 2(30). Since the UPS units form the principal supply, the authority held that the GST rate follows the goods classification, which the applicant stated as HSN 8504 at 18%. The authority did not rely on Schedule II entry 6(a) to reach its conclusion, though it discussed it.

P Provisions Relied On

- Section 2(119) of the CGST Act (definition of works contract)
- Section 2(30) of the CGST Act (definition of composite supply)
- Schedule II, entry 6(a) of the CGST Act (works contract treated as supply of services)
- Sr. no. 3(v) of Notification No. 11/2017-C.T.(Rate), as amended w.e.f. 25.1.2018 (referred to in Q2, not decided)
- Section 97(2) of the CGST Act and Section 98 of the CGST and MGST Acts (advance ruling procedure)
- Section 96 of the Maharashtra GST Act, 2017 (constitution of the Authority)
- HSN heading 8504 (as stated by the applicant for UPS)

! For the Practitioner

This ruling is useful for suppliers of movable equipment such as UPS systems who also install and commission them at client sites. It settles that equipment merely bolted to a foundation for stability is not immovable property, so the works contract concession for railways is not available on those facts. It does not decide the 12% rate question, and the conclusion rests on the particular DMRC contract and its separate invoicing. The order can be appealed to the Maharashtra Appellate Authority for Advance Ruling.

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_->_mh_aar_17_2019-20_b-107_04.10.2019_vepl.pdf

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