# M/s Vihan Enterprises (Legal Name - Swati Dubey)

Authority for Advance Ruling — Madhya Pradesh

**Order No. 05/2020 dated 16-01-2020 (Case No. 24/2019), Authority for Ad…** Dated **16.01.2020**

## Q Questions Before the Authority

- Whether the explanation to Entry No. 234 of Schedule I to Notification No. 01/2017-Central Tax (Rate), as amended, applies to the construction of a new 33/220 kV Pooling Substation at Badwar, REWA, with an associated 220 kV DCDS transmission line (3.0 km) and feeder bay work on a turnkey basis under World Bank financing (Bid ID RUMS/2016-17/372/014, Lot-I).
- Whether, on the facts, the value of all goods supplied under the contract, independent of the works contract being executed, forms part of the works contract and is taxed as a service.

## F Facts

The applicant is engaged in a turnkey works contract for building a 33/220 kV pooling substation at Badwar, Rewa, with an associated 220 kV double-circuit transmission line and feeder bay work, for Rewa Ultra Mega Solar Limited under World Bank financing. The contract is a single document divided into separately valued activities: supply of substation equipment and transmission line material, erection, testing and commissioning, and civil work. Clause 7.11 of the contract treats the civil works and installation services as a works contract subject to VAT at 2%, deducted by the principal. The applicant charged GST at goods rates on the supply of goods and at works contract rates on the services.

## H Ruling

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| **Whether the explanation to Entry 234 (Notification 01/2017-CT(Rate)) applies to the substation and transmission line turnkey works contract** | **No. The explanation does not apply to the supply of works contract service under this contract.** | Applies because the applicant does not supply any Entry 234 renewable energy device or part. The ruling is limited to this contract and the applicant. |
| **Whether value of goods supplied under the turnkey contract, independent of the works contract, forms part of the works contract and is taxed as service** | **No. Equipment and materials for sub-stations, feeder bays and the transmission line are not included in the value of the works contract for civil work for substation and feeder bay.** | Goods supplied under a turnkey contract are not brought into the works contract merely because other parts are works contract, unless transfer of property in those goods is involved in the works contract. The ruling does not state a rate for these goods. |

The Authority held that the goods listed in Entry No. 234 are not part of the supply under this contract, so the explanation to Entry No. 234 does not apply to the works contract service. It further held that equipment and materials for sub-stations, feeder bays and the transmission line are not included in the value of the works


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

contract for civil work for the substation and feeder bay.

## R Reasoning

The Authority relied on the definition of works contract in section 2(119) and on the deeming provision that treats works contract as a supply of service. It read the explanation to Entry No. 234 as operating only where Entry 234 goods are supplied along with a service under Entry No. 38, and found that the applicant supplied none of the listed devices or their parts. The Authority also noted that the contract itself segregates goods from works contract services, with separate values in para 5.1 and Annexures I to V and the VAT clause at para 7.11. Goods whose property is not transferred in the execution of a works contract were therefore held to fall outside the works contract value.

## P Provisions Relied On

- Section 97(2) CGST/SGST Act, 2017 (questions raised)
- Section 98(4) CGST/SGST Act, 2017 (ruling power)
- Section 2(119) CGST Act, 2017 (definition of works contract)
- Section 103(2) CGST Act, 2017 (binding effect of ruling)
- Section 104(1) CGST Act, 2017 (ruling declared void)
- Notification No. 01/2017-Central Tax (Rate), Schedule I, Entry 234 and its explanation
- Notification No. 11/2017-Central Tax (Rate), Entry 38, as inserted by Notification No. 27/2018-Central Tax (Rate)
- Notification No. 24/2018-Central Tax (Rate) (amendment inserting explanation to Entry 234)
- CBIC Press Release No. 78/2018 dated 22-12-2018 (31st GST Council recommendations)
- Corresponding provisions of the MP GST Act, 2017

## ! For the Practitioner

The ruling helps EPC and turnkey contractors in the power sector who build substations and evacuation lines for renewable plants but do not themselves supply Entry 234 devices. It confirms that the 70:30 deemed split under the Entry 234 explanation does not apply to such contracts, and that goods supplied under a turnkey contract are not automatically pulled into the works contract value. It does not state the GST rate applicable to the goods, the rate for the works contract service, or the treatment of the applicant's other supplies. It binds only the applicant and the jurisdictional officers under section 103(2), subject to section 104.

### 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 -> mp_aar_05_2020_16.01.2020_ve.pdf

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