M/s Wonder Cement Limited, Makrana Road, Madanganj-Kishangarh, District Ajmer, Rajasthan 305801

Authority for Advance Ruling — Rajasthan

Advance Ruling No. RAJ/AAR/2019-20/22 Dated **10.10.2019**

Q Questions Before the Authority

- Whether there is any 'Asset Transfer' involved which is leviable to GST in the work of shifting and raising of transmission lines owned by RRVPNL by M/s Wonder Cement Ltd.?
- Without prejudice to the submissions made above, if there is an 'Asset transfer' which is a Supply under GST, then who is liable to pay GST?
- If above GST is to be paid by the Applicant, then the same will be exempt vide Entry 4 of Notification no. 12/2017-Central Tax (rate) dated 28.06.2017?

F Facts

The applicant, a cement manufacturer, needs existing 220 kV and 132 kV power lines owned by Rajasthan Rajya Vidyut Prasaran Nigam Limited (RRVPNL) moved out of its mining area. The work is being executed by the applicant under RRVPNL's supervision, with the applicant bearing the cost. RRVPNL's demand included a 5% supervision charge, shutdown charges, and GST at 18% on the full cost estimate, which RRVPNL characterised as an 'asset transfer' under clause 3.6 of its cost estimate.

H Ruling

The authority gave no advance ruling on the merits. It held that RRVPNL's corrigendum dated 24.09.2019 replaced the words 'GST @ 18% applicable on asset transfer' with 'GST @ 18% applicable on cost of Infrastructure for Value of Supply'. Because the asset transfer point on which the questions rested no longer existed, the authority treated the questions as redundant.

R Reasoning

The authority admitted the application under section 97(2)(e) and (g) and noted the applicant was registered and no proceedings were pending. The jurisdictional officer had argued that the transfer was not a supply, relying on section 7(1), section 15, Schedule II clause 4(a), section 2(52) and section 3(26) of the General Clauses Act, but the authority did not adopt or reject that view. It instead relied on the RRVPNL corrigendum, which removed the asset transfer characterisation, and so declined to answer. The order does not decide whether the transmission lines are goods or immovable property.

P Provisions Relied On

Section 97(2)(e) and (g) of the CGST/RGST Act, 2017 (admissibility of the application)

Section 100 of the CGST/RGST Act, 2017 (appeal, as noted in the order)

Section 99 of the CGST/RGST Act, 2017 (Appellate Authority, as noted in the order)

Section 7(1) of the CGST Act, 2017 (definition of supply, as quoted by the jurisdictional officer)

Section 15 of the CGST Act, 2017 (value of supply, referred to by the jurisdictional officer)

Schedule II, clause 4(a) of the CGST Act, 2017 (transfer of business assets, as quoted by the jurisdictional officer)

Section 2(52) of the CGST Act, 2017 (definition of goods, as quoted by the jurisdictional officer)

Section 3(26) of the General Clauses Act (definition of immovable property, as quoted by the jurisdictional officer)

RRVPNL Circular No. F&R 1235 dated 07.08.2018 (specifications and cost estimates)

RRVPNL Corrigendum No. RVPN/SE/T&C/COR/TECH/F./D.973 dated 24.09.2019

! For the Practitioner

This is a no-ruling order, and it gives no authority on whether a shifting of supervised PSU transmission lines is a supply. The practical point is that a corrigendum from the party that issued the demand removed the 'asset transfer' label and made the question academic. Practitioners should not cite this order for any view on the merits, including the jurisdictional officer's comments on immovable property and Schedule II clause 4. The order also does not address the exemption under Entry 4 of Notification 12/2017-Central Tax (Rate).

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 -> raj_aar_22_2019-20_10.10.2019_wcl.pdf

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