Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Limited (GSTIN 23AADCM6175E2ZM)

Authority for Advance Ruling — Madhya Pradesh

Order No. 14/2018 dated 18-09-18 (Case No. 17/2018). The order number… Dated **18.09.2018**

Q Questions Before the Authority

- Whether clause (vi)(a) of Sr. No. 3 of the table to Notification No. 11/2017-Central Tax (Rate) dated 28 June 2017 is applicable to the works contract services received by the applicant, and the determination of the applicant's liability to pay tax on them. The application cites clauses (b) and (e) of section 97(2) of the CGST/SGST Act, 2017.

F Facts

The applicant is a distribution company, wholly owned by M.P. Power Management Co. Ltd., which is itself wholly owned by the Government of Madhya Pradesh. It carries out rural and urban electrification work, including under DDUGJY, IPDS, Saubhagya, ADB, SSTD and FSP schemes, using contractors who supply materials and carry out erection. The applicant sought to apply the concessional 12% rate to the works contract services it receives from those contractors.

H Ruling

Concessional 12% GST rate under Notification No. 24/2017-CT(Rate) read with No. 31/2017-CT(Rate) for the electrification projects	**Not entitled. The concession does not apply to the applicant's projects.**	The projects are undertaken for business purposes, as the applicant's Memorandum of Association objects concern trading of electrical energy, so the non-commercial use condition is not met.
Applicable GST rate on works contract services received by the applicant	**18% (9% CGST and 9% SGST)**	The ruling places the services under entry (ii) of Sr. No. 3 of Notification No. 11/2017-CT(Rate), not the clause (vi)(a) concession that the applicant cited.

The authority accepted that the applicant is a Government Entity under the definition in Notification No. 31/2017-Central Tax (Rate). It held that the applicant is **not entitled to the concessional 12% rate** under Notification No. 24/2017 read with Notification No. 31/2017, because the projects are undertaken for business purposes. The applicable rate on the works contract services is **18% (9% CGST and 9% SGST)** .

R Reasoning

The authority first tested Government Entity status under Notification No. 31/2017, found that the State holds full control over the applicant, and accepted that status. It then looked at the nature of the work. The projects build distribution lines and sub-stations meant predominantly for sale of electricity, and the Memorandum of Association commits the applicant to business activity, so the works are not for use other than commerce or business. Under the definition of works contract in section 2 and serial no. 6 of Schedule II, the contracts are composite supplies of

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service. The authority held that they fall under entry (ii) of Sr. No. 3 of Notification No. 11/2017, attracting 18%. The ruling does not treat the applicant's government ownership as decisive.

P Provisions Relied On

- Section 97(2)(b) and (e) of the CGST Act, 2017 and MPGST Act, 2017 (as cited in the application)
- Section 98 of the CGST Act, 2017 and MPGST Act, 2017
- Section 2 of the CGST and MPGST Acts (definition of works contract)
- Schedule II, serial no. 6, of the CGST and MPGST Acts (works contract treated as supply of service)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 3, entry (ii) and clause (vi)(a) as cited
- Notification No. 24/2017-Central Tax (Rate) dated 21.09.2017, entry (vi) (concessional 6% CGST rate)
- Notification No. 31/2017-Central Tax (Rate) dated 13.10.2017 (definition of Government Entity)
- Notifications No. 20/2017, 46/2017 and 01/2018-Central Tax (Rate), listed as amendments
- Section 103(2) and section 104(1) of the GST Act (validity of the ruling)

! For the Practitioner

A practitioner advising a state-owned power distribution company or other government-owned entity can use this order to see that Government Entity status alone does not secure the 12% rate for works contracts. The rate turns on whether the works are for non-business use, and an entity whose objects are commercial will face 18% even on public-scheme electrification. The order binds only the applicant and does not decide the rate for works that are clearly non-commercial, such as educational or clinical structures. Its reasoning on business purpose is a finding of fact about this applicant's objects and projects, so a different entity with different objects may reach a different result.

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 -> 14-2018_mppkvvcl.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com

Patron Accounting LLP