M/s. Madhya Pradesh Power generating Company Limited

Authority for Advance Ruling — Madhya Pradesh

Order No. 12/2019 dated 26/07/2019 (Case No. 10/2019) Dated **26.07.2019**

Q Questions Before the Authority

- What is the rate of GST on the contract for construction of building and structure for the colony at village Siveria for the 2x660 MW Shree Singaji Thermal Power Project Stage-II Khandwa, under Notification No. 11/2017 as amended by Notifications No. 24/2017 and 31/2017?
- What is the rate of GST on construction contracts for residential quarters at various power houses of MPPGCL, under Notification No. 11/2017 as amended by Notifications No. 24/2017 and 31/2017?

F Facts

The applicant is a 100% Madhya Pradesh State Government company. The State Government entrusted it with the 2x660 MW Shree Singaji Thermal Power Project Stage-II at Khandwa, and the applicant awarded a trunkey contract to M/s Shreeji Infrastructure India Pvt Ltd for 599 residential quarters for plant personnel, together with internal roads and drains. The applicant contended that residential colony construction is part and parcel of the power project and so qualifies for the reduced rate available to government entities.

H Ruling

Q1: GST on works contract for 599 residential quarters and colony building at Shree Singaji Stage-II, Siveria	****18% (9% CGST + 9% SGST) under SAC 9954****	Applies to the contract awarded to Shreeji Infrastructure India Pvt Ltd. Ruling is valid subject to s.103(2) until declared void under s.104(1).
Q2: GST on residential quarter construction contracts at various MPPGCL power houses	**No categorical ruling given**	The Authority held the question too generic and said it cannot be decided without examining specific contracts.

The Authority held that the works contract for construction of 599 residential quarters at Shree Singaji Stage-II shall attract **GST at 18% (9% CGST + 9% SGST) under SAC 9954** . It followed its earlier order No. 15/2018 dated 18.10.2018 in Shreeji's own application and found no material showing that the State Government had entrusted residential quarters to the applicant. The Authority declined to give a categorical ruling on the second, generic question about contracts at various power stations.

R Reasoning

The Authority admitted the application under s.97(2)(a) because it concerned the rate applicable under Notification No. 11/2017-CT(R) and the corresponding State notification. It held that the applicant's earlier ground, that the Government had described the sole work as electricity generation, did not show that residential quarters were entrusted to the applicant. It rejected the argument that the power project includes colony construction,

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reasoning that construction of residential quarters cannot be treated as work entrusted by the Government. The concessional 12% rate for services procured by a government entity under entry 3(vi) of Notification No. 11/2017 is conditional on the services being procured in relation to work entrusted by the Government, and no such entrustment was shown. The Authority therefore followed its order No. 15/2018 and applied 18% under SAC 9954.

P Provisions Relied On

- Section 97(2)(a) of the CGST Act / MPGST Act, 2017 (admissibility, as stated in the order)
- Section 98(4) of the CGST Act / MPGST Act, 2017 (ruling)
- Section 103(2) of the CGST Act / MPGST Act, 2017 (binding effect)
- Section 104(1) of the CGST Act / MPGST Act, 2017 (declaring ruling void)
- Notification No. 11/2017-CT(R) dated 28.06.2017, serial No. 3, entry 3(vi), and its proviso on Government Entity services
- Notification No. 20/2017 dated 22.08.2017 (amendment, as cited)
- Notification No. 24/2017 dated 21.09.2017 (amendment, as cited)
- Notification No. 31/2017 dated 13.10.2017 (amendment and definition of Government Entity, as cited)
- SAC 9954 (construction services)
- Order No. 15/2018 dated 18.10.2018 of this Authority (precedent in Shreeji Infrastructure's case)
- Section 2(25) of the Electricity Act, 2003 (as cited by the applicant)

! For the Practitioner

This order helps practitioners see that the Authority will not extend the government-entity concession to residential colonies merely because they sit inside a government-entrusted power project. It settles the rate at 18% under SAC 9954 for the Shreeji contract in this case. It does not decide the rate for other MPPGCL residential contracts, which the Authority declined to rule on, and its ruling binds only the applicant and this contract. Practitioners should check whether a specific government entrustment order covers the residential work before relying on the 12% 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 -> mp_aar_12_2019_26.07.19_mppgcl.pdf

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