Navi Mumbai Municipal Corporation

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-122/2018-19/B-68, Mumbai, dated 10/06/2019 (Maharashtra… Dated **10.06.2019**

Q Questions Before the Authority

- Whether online tendering is to be considered a supply of goods or a supply of services.
- Whether offline tendering is to be considered a supply of goods or a supply of services.
- Under which tariff head online tendering should get taxed.
- Under which tariff head offline tendering should get taxed.
- If tendering is a service, whether it is an administrative service or a specific service.

F Facts

The applicant is a municipal corporation constituted under the Bombay Provincial Municipal Corporation Act, 1949, which procures goods and services for civic works through tendering. Tenders are issued in two ways: online, through the corporation's website or the State tender portal, where the application, fee payment and bid submission are done electronically, and offline, where the bidder buys a printed tender form from the corporation's office and submits fees and hard-copy bids manually. The applicant sought to know how each process is classified under GST and under which tariff heading it falls.

H Ruling

Q1: Online tendering, goods or services	****Supply of services****	The Authority reasoned that the tender process is intangible and delivered over the internet, so it is not 'goods' under section 2(56) of the CGST Act.
Q2: Offline tendering, goods or services	**Supply of services**	Applies to offline tendering in its entirety, including sale of the tender form, payment of tender fees and submission of bids. The order does not treat the form sale as a separate supply of goods.
Q3: Tariff head for online tendering	****Heading 9997** (services)**	Taken as the residual 'other services' heading in Chapter 99, since tendering is not specifically listed. The rate is not stated in the ruling.
Q4: Tariff head for offline tendering	**Heading 9997 (services)**	Same residual heading as online tendering. The rate is not stated in the ruling.
Q5: Administrative or specific service	**Residual services heading 9997**	The Authority did not classify tendering as an administrative or specific service. It placed tendering under the residual heading.

The Authority held that online tendering is a supply of services. It also held that offline tendering, taken as a whole (including sale of the tender form, payment of tender fees and submission of bids), is a supply of services and not

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of goods. Both processes fall under the residual services heading 9997, and tendering is covered by that residual heading.

R Reasoning

The Authority applied the definitions of 'goods' and 'services' in section 2(56) and section 2(12) of the CGST Act. It found that the online tender process is intangible and delivered through the internet, and it drew support from the definition of online information and database access services in section 2(17) of the IGST Act. For offline tendering, it held that the sale of tender forms is not incidental to the corporation's business and that the bidding process, including fee collection and bid evaluation, consists of intangible services. As the Chapter 99 headings do not specifically cover tendering, it placed both processes under the residual heading 9997.

P Provisions Relied On

- Section 97 of the CGST Act and MGST Act (filing of application for advance ruling)
- Section 98 of the CGST Act and MGST Act (order of advance ruling)
- Section 2(56) of the CGST Act, 2017 (definition of goods)
- Section 2(12) of the CGST Act, 2017 (definition of services)
- Section 2(17) of the IGST Act, 2017 (online information and database access or retrieval services)
- GST services tariff, Chapter 99, headings 9954 to 9999, including residual heading 9997

! For the Practitioner

The order settles that tendering processes, both online and offline, are treated as services under residual heading 9997 for municipal bodies and similar procurement agencies. Practitioners can rely on it for classification, but the order does not state the GST rate. The applicant's argument for 12% (HSN 4911) and the concerned officer's view of 18% or 12% are not adopted in the ruling. Rate applicability for tender-form sales and tender fees therefore remains unresolved by this order.

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 -> maharashtra aar 122 2018-19 nmmc 10.06.19.pdf

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