M/s P.S. Electricals, 76, CH-01, 8th Cross, 4th Main, Jayanagar, Mysore - 570014 (GSTIN 29ADQPP5361C1Z8)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 41/2019, Dated: 16th September, 2019 Dated **16.09.2019**

Q Questions Before the Authority

- What is the rate of tax applicable to the composite supply of works contract as defined in clause (119) of Section 2 of the CGST Act, 2017, undertaken by the applicant, that is, whether GST at 18% or 12% is to be charged by the supplier?
- If the GST rate of 18% (9% CGST + 9% SGST) under serial no. 3 against heading 9954 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 applies, would it be in order for the applicant to charge GST at 12% (6% CGST + 6% SGST) in view of the amendments by Notification Nos. 31/2017 (13.10.2017) and 1/2018 (25.01.2018), given that Notification No. 20/2017 (22.08.2017) is stated to be not applicable?

F Facts

The applicant, a proprietary electrical contractor, carries out design, erection, testing and commissioning of transformers, transmission lines and electrical works. It was awarded nine subcontract work orders by a principal contractor, M/s Mega Engineering and Infrastructures Limited, whose main works were awarded by Karnataka state entities such as Krishna Bhagya Jala Nigam Limited, Karnataka Neeravari Nigam Limited and Karnataka Power Transmission Corporation Limited. The main works were awarded before GST but amended after GST came into force, and the applicant charged tax first at 9% CGST and 9% SGST and later at 6% and 6%.

H Ruling

Rate of tax on composite supply of works contract (clause 119, Section 2, CGST Act) undertaken by the applicant	****9% CGST and 9% KGST (18% in total)****	Applies under item (ii) of serial no. 3 of Notification No. 11/2017-CT (Rate). The applicant's subcontracts are not covered by item (ix).
Whether tax may be charged at 6% CGST and 6% SGST under the amended entry 3 (Notification Nos. 31/2017 and 1/2018)	****No. Tax remains at 9% CGST and 9% SGST****	Item (ix), which provides 6% for subcontracts, applies only where the principal contractor's main contract with the Government entity falls under item (iii) or item (vi). The main contract here (supply, design, erection, transmission and commissioning of transformers and lines, and electrical works) falls under neither.

The authority ruled that the composite works contract undertaken by the applicant is taxable at **9% under the CGST Act and 9% under the KGST Act** . It held that the amendments to Notification No. 11/2017-Central Tax (Rate) have no effect on the applicant's taxability, because the subcontracts fall under item (ii) of serial no. 3 and not under item (ix) of that entry.

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

R Reasoning

The authority first examined the nature of the subcontract. It found that item (ix) of serial no. 3, inserted with effect from 25.01.2018, covers subcontracts only where the main contract between the principal contractor and the Government entity is a works contract under item (iii) or item (vi). The main contract here was for transmission, transformers, lines and electrical works, which is not within those items. Before the amendment the applicant's services fell under item (ii), taxable at 9%, and the authority held that they continue to fall under item (ii) at 9% under both CGST and SGST. The authority also noted at paragraph 7.2 that the CGST and KGST provisions are the same except where specifically stated.

P Provisions Relied On

- Section 2(119) of the CGST Act, 2017 (definition of composite supply of works contract)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, serial no. 3, heading 9954, items (ii), (iii), (vi) and (ix)
- Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017 (referred to in the question as not applicable)
- Notification No. 24/2017-Central Tax (Rate) dated 21.09.2017 (noted in the order as an amendment)
- Notification No. 31/2017-Central Tax (Rate) dated 13.10.2017
- Notification No. 1/2018-Central Tax (Rate) dated 25.01.2018
- Sections 97 and 98(4) of the CGST Act, 2017 and the corresponding KGST Act, 2017 provisions
- Rule 104 of the CGST Rules, 2017 and the KGST Rules, 2017

! For the Practitioner

This ruling is useful for electrical and transmission subcontractors working under state-government projects through a principal contractor. It confirms that the 6% rate under item (ix) is available only where the head contract itself falls within items (iii) or (vi), so a subcontractor cannot claim 6% merely because the ultimate employer is a government body. It does not decide the rate where the head contract falls under item (iii) or (vi), and it binds only the applicant, though it is persuasive for similar facts.

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 -> kar_aar_41_2019_pse_16.09.19.pdf

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