M/s QUATRO RAIL TECH SOLUTIONS LIMITED

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 93/2019, Dated: 27th September, 2019 Dated **27.09.2019**

Q Questions Before the Authority

- What is the rate of tax for sub-contractors who execute works contract work, such as supply of goods or services or both pertaining to Railways, based on an order received from a main contractor who received the work order directly from Railways?
- Does the rate of tax of 6% under serial no. 3(v) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended, apply to sub-contractors?
- If the answer to question 2 is yes, from which date is it applicable?

F Facts

The applicant, a limited company, supplies and installs, tests and commissions automatic signalling equipment and LC gates under a sub-contract from the main contractor, M/s Alstom System India (Private) Limited. The main contractor holds a contract from DFCCIL for electrification, signalling and telecommunication works on the Bhaupur-Khurja section of the eastern dedicated freight corridor. The sub-contract is a single EPC contract with separately stated supply and installation values, and the applicant billed the main contractor at 9% under Sl. No. 21(ii) of the rate notification.

H Ruling

Rate of tax for the applicant's sub-contract works, and whether the 6% entry 3(v) rate applies to sub-contractors	**Liable to 6% under CGST Act and 6% under KGST Act, or 12% under IGST Act, under entry 3(v) of Notification No. 11/2017-Central Tax (Rate) as amended by Notification No. 20/2017-Central Tax (Rate)**	The order treats the sub-contract as covered by entry 3(v) because the work pertains to Railways. The supplier and recipient in the chain are immaterial. This answers Questions 1 and 2 together, as the ruling's first paragraph does.
Effective date of the 12% rate	**12% (6% CGST + 6% SGST/UTGST, or 12% IGST), applicable from 22.08.2017**	The order states that before 22.08.2017 the work was taxable at 18% under entry 3(ii) of Notification No. 11/2017-Central Tax (Rate).

The sub-contract work is a composite supply of works contract pertaining to Railways and falls within entry 3(v) of Notification No. 11/2017-Central Tax (Rate), as amended by Notification No. 20/2017. The applicant's supply is liable to 6% under the CGST Act and 6% under the KGST Act, or 12% under the IGST Act. The 12% rate applies from 22.08.2017.

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

R Reasoning

The authority found the sub-contract to be a works contract under section 2(119) of the CGST Act, since it involved excavation, casting and plastering and so construction, erection, commissioning or installation of original works on immovable property. It then examined whether the work pertains to Railways and held that the DFCCIL freight corridor is railway network work, and that 'pertaining to Railways' is wider than work executed for Indian Railways. It also held that entry 3(v) does not require the contract to be executed for Railways, so the identity of the supplier and recipient is immaterial. Because the entry 3(v) rate was introduced by Notification No. 20/2017 with effect from 22.08.2017, the 12% rate applies only from that date.

P Provisions Relied On

- Section 97 of the CGST Act, 2017 and Section 97 of the KGST Act, 2017 (application for advance ruling)
- Section 98(4) of the CGST Act, 2017 and Section 98(4) of the KGST Act, 2017 (order under the Act)
- Section 2(119) of the CGST Act, 2017 (definition of works contract)
- Entry No. 3(v) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended
- Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017 (amendment inserting entry 3(v))
- Entry No. 3(ii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (rate before 22.08.2017, as stated in the order)

! For the Practitioner

A practitioner advising a sub-contractor on railway signalling or allied works can use this order to support the 12% (6% CGST and 6% SGST, or 12% IGST) rate under entry 3(v) for work pertaining to Railways, from 22.08.2017. It also supports the view that the entry does not require the recipient to be Indian Railways. The order does not decide whether a particular project pertains to Railways beyond the DFCCIL freight corridor facts, and it does not address the applicant's own 9% billing under Sl. No. 21(ii), which the order does not reconcile.

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_93_2019_27.09.2019_qrtsl.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