M/s Sameera Trading Company

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 84/2019, Date: 25-09-2019 Dated **25.09.2019**

Q Questions Before the Authority

- Whether GST is applicable on local sale of used second hand Wind Turbine Generator (WTG) / (Wind Mill) with accessories?

F Facts

The applicant, a registered partnership firm, generates electricity from 108 wind mills under a power purchase agreement with Bangalore Electricity Supply Company Limited (BESCOM). It proposes to sell 42 wind mills in one geographical area on an as-is, where-is basis without dismantling them, for a single price. The buyer is to obtain the land lease from the Government and enter a new electricity purchase agreement, and the applicant has no role after the sale.

H Ruling

Whether GST applies on local sale of used wind turbine generator / wind mill with accessories	**Yes. Taxable at 2.5% under CGST Act and 2.5% under KGST Act**	Treated as a composite supply with wind mills as principal supply, under entry 234 of Schedule I of Notification No. 1/2017-CT(Rate) dated 28.06.2017. The second-hand goods provisions (Rule 32(5) CGST Rules and Notification No. 10/2017-CT(Rate)) were held inapplicable.

The supply of used Wind Turbine Generators or wind mills with accessories is a **composite supply** of wind mills, with the wind mills as the principal supply. It is taxable at **2.5%** under the CGST Act in terms of entry 234 of Schedule I of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, and similarly at 2.5% under the KGST Act, 2017.

R Reasoning

The Authority held that the applicant's primary activity is generation and sale of electricity, not buying and selling second-hand goods, so Rule 32(5) of the CGST Rules, which governs valuation for second-hand goods dealers, does not apply. Notification No. 10/2017-CT(Rate), issued under section 9(4) of the CGST Act, concerns supplies by unregistered persons on reverse charge, and was held irrelevant because the applicant is a registered supplier. The sale of wind mills was treated as disposal of business assets under clause 4 of Schedule II of the CGST Act, making the applicant the supplier of goods. Because the mills and accessories are sold for a single price, the transaction was treated as a composite supply, and entry 234 of Schedule I of Notification No. 1/2017-CT(Rate) fixed the rate at 2.5%.

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

P Provisions Relied On

- Section 97 of the CGST Act, 2017 and KGST Act, 2017 (application for advance ruling)
- Section 98(4) of the CGST Act, 2017 and KGST Act, 2017 (order)
- Rule 104 of the CGST Rules, 2017 and KGST Rules, 2017 (Form GST ARA-01)
- Section 2(105) of the CGST Act, 2017 (definition of supplier)
- Clause 4 of Schedule II of the CGST Act, 2017 (disposal of business assets)
- Rule 32(5) of the CGST Rules, 2017 (valuation for second-hand goods)
- Section 9(4) of the CGST Act, 2017
- Section 11(1) of the CGST Act, 2017
- Notification No. 10/2017-Central Tax (Rate) dated 28.06.2017 (second-hand goods exemption, reverse charge)
- Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, Schedule I, entry 234 (wind mills at 2.5%)

! For the Practitioner

This ruling helps sellers of used wind mills or WTGs, and their buyers, by confirming that such a sale attracts 2.5% GST under both CGST and KGST as a composite supply, rather than the second-hand goods regime. It also indicates that a registered generator selling its own installed assets is not a second-hand goods dealer for this purpose. The order does not decide the position for a dealer who regularly buys and sells used wind mills, nor the treatment of land lease transfers or any post-sale electricity purchase arrangements. Practitioners should read the full order for the factual basis on which the applicant's primary activity was found to be electricity generation.

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 84 2019 25.09.2019 stc.pdf

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