

SHREE POWERTECH

Authority for Advance Ruling — West Bengal

12/WBAAR/2022-23 dated 21.10.2022

Q Questions Before the Authority

- Whether in the facts and circumstances of the case, does the activity carried out by the applicant falls under Heading 9954: Entry No. 3(iv)(a) of Notification No. 11/2017-CT(R) and liable to tax @ 12%?

F Facts

The applicant is a sub-contractor engaged by M/s KCC Buildcon Private Limited to perform the shifting of electrical utilities for the construction of the 4-laning of the Barasat-Krishnagar section of NH-34. The applicant contends that this activity is a works contract service related to the construction of a road and should therefore be eligible for the concessional GST rate applicable to road construction projects.

H Ruling

Applicability of Entry No. 3(iv)(a) of Notification No. 11/2017-CT(R) for shifting of electrical utilities

No, the activity cannot be regarded as a composite supply of works contract by way of construction of road.

The ruling specifically denies the concessional rate for this sub-contracted activity.

The Authority ruled that the applicant's activities cannot be classified as a composite supply of works contract by way of construction of a road under the specified notification. Consequently, the applicant is not entitled to the concessional tax rate of 12% under Entry No. 3(iv)(a).

R Reasoning

The Authority reasoned that the applicant is providing services to the main contractor, not the NHAI, and that the scope of work is limited to the shifting of utilities. It determined that while such shifting may be ancillary to the main road construction project, the sub-contracted service itself does not constitute the **construction of a road**. The Authority relied on the definition of 'recipient' under Section 2(93) of the GST Act to establish that the service is provided to the main contractor, and cited the Rajasthan AAR ruling in the case of Gaurish Sharma to support the view that there is **no nexus** between the sub-contracted utility shifting and the main road construction contract.

P Provisions Relied On

Section 2(93) of the GST Act

Section 2(119) of the GST Act

Section 97(1) of the GST Act

Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017

! For the Practitioner

This ruling serves as a **negative precedent** for sub-contractors performing utility shifting work, clarifying that such activities are viewed as independent services rather than integral parts of road construction. It highlights the difficulty in claiming concessional rates for sub-contracted services when the scope of work is limited to utility relocation. Practitioners should note that the Authority strictly interprets the 'construction of road' entry to exclude ancillary utility works performed by sub-contractors.

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 -> [shree powertech advance ruling.pdf](#)

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