Siemens Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-69/2018-19/B-164, Mumbai, dated 19/12/2018 (the number i… Dated **19.12.2018**

Q Questions Before the Authority

- Whether the freight charges recovered by the Applicant under the aforesaid contract from the customer, without issuance of a consignment note, will be eligible for exemption from CGST as prescribed in Serial no. 18 of Notification no. 12/2017 - Central Tax (Rate) F. No. 334/1/2017, dated 28 June 2017.
- Whether the freight charges recovered by the Applicant under the aforesaid contract from the customer, without issuance of a consignment note, will be eligible for exemption from SGST as prescribed in Serial no. 18 in Notification no. 12/2017 - State Tax (Rate) no. MGST 1017/C.R.103(11)/Taxation-1 dated 29 June 2017.

F Facts

The Applicant, a JV associate of Siemens AG and Sumitomo, executes the on-shore part of an HVDC terminal project under a Power Grid Corporation award split into six contracts. Under the on-shore supply contract the goods are sold ex-works, and under the on-shore services contract the Applicant handles local transportation, insurance, installation and training. The Applicant engages local transporters who issue consignment notes to it, pays them freight with GST, and then charges the customer for local transportation without issuing any consignment note of its own.

H Ruling

CGST exemption under Sr. 18 of Notification 12/2017-Central Tax (Rate), dated 28.06.2017, for freight recovered without a consignment note	**No. Answered in the negative**	The answer appears in the operative ORDER at p.25 as 'Question:-1 ... Answered is in negative'. The scan has no separate RULING section in the Q1) Ans- format.
SGST exemption under Sr. 18 of Notification 12/2017-State Tax (Rate), MGST 1017/C.R.103(11)/Taxation-1, dated 29.06.2017, for freight recovered without a consignment note	**No. Answered in the negative**	Same operative ORDER at p.25 ('Question:- 2'). The Authority did not separately deal with the SGST notification beyond this answer.

The Authority answered both questions in the negative, so the freight recovered without a consignment note does not get the Sr. 18 transportation exemption under either the CGST or the SGST notification. It held that the six contracts are interdependent, linked by a cross-fall breach clause and a single-source responsibility clause, and form one indivisible composite works contract supply. The transportation element is therefore a component of that composite supply and is not a separate supply of transportation.

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

R Reasoning

The Authority held that the contracts, though separately awarded, are linked by the cross-fall breach clause and single-source responsibility clause, so the supply of goods, its transportation to site and the related services form a single composite works contract under s.2(119) of the CGST Act. It relied on the Supreme Court decision in Indure Ltd. v. Commercial Tax Officer (2010) and on its own earlier ruling in Shri Dinesh Kumar Agarwal (GST-ARA-36/2017-18/B-43, dated 04.06.2018). Since the transportation is part of a composite supply, the exemption for transport services under Sr. 18 is not available to it. The Authority also noted that the place of supply for goods moved to site falls under s.10(1)(a) and (d) of the IGST Act, 2017.

P Provisions Relied On

- Section 97 and Section 98 of the CGST Act, 2017 and the MGST Act, 2017 (advance ruling procedure)
- Section 103 of the CGST Act, 2017 (binding nature of advance ruling)
- Section 2(30) of the CGST Act, 2017 (composite supply)
- Section 2(119) of the CGST Act, 2017 (works contract)
- Section 10(1)(a) and (d) of the IGST Act, 2017 (place of supply of goods moved to site)
- Notification 12/2017-Central Tax (Rate), F. No. 334/1/2017, dated 28.06.2017, Serial no. 18 (exemption for transport of goods)
- Notification 12/2017-State Tax (Rate), MGST 1017/C.R.103(11)/Taxation-1, dated 29.06.2017, Serial no. 18
- Notification 11/2017-Central Tax (Rate), dated 28.06.2017 (rate for works contract; applied via the Dinesh Kumar Agarwal ruli…

! For the Practitioner

This ruling is useful for EPC and JV contractors who split a single award into separate supply and service contracts but keep cross-fall breach clauses. It shows that such contracts can be treated as one composite works contract, so freight recovered from the customer can lose the transport exemption even when the freight is charged to the customer without a consignment note. The ruling binds only the Applicant and the jurisdictional officer under s.103, and the Applicant has the statutory appeal route. It does not decide the general question of whether a non-GTA transporter is covered by Sr. 18, because the Authority rested its answer on the composite-supply analysis.

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 -> ara_order_69_2018_maharashtra_siemens_limited.pdf

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