M/s. Tata Projects Limited

Authority for Advance Ruling — Tamil Nadu

Order No.17 / AAR / 2019 Dated **16.04.2019**

Q Questions Before the Authority

- Whether supply of Engineering, Procurement and Construction (EPC) contract for establishment of Fluids Servicing System, where both goods and services are supplied, can be construed to be a composite supply in terms of Section 2(30) of the CGST Act, 2017.
- If yes, whether the principal supply, 'Establishment of Fluids Servicing System (FSS)', can be taxable at 5% GST under Notification No.45/2017-Central Tax (Rate) dated 14/11/2017.
- If the principal supply is taxable at 5%, whether the entire transaction in the contract is taxed at the rate applicable to the principal supply.

F Facts

ISRO Propulsion Complex, Mahendragiri awarded Tata Projects Limited a contract for establishment of the Fluids Servicing System of the Semi Cryo Integrated Engine Test Facility, with a duration of 27 months. The scope covers review of ISRO's process design, detailed engineering, procurement and supply of equipment, pipes and instruments, shop fabrication, site erection, minor civil works, and commissioning. The applicant states that material supply makes up about 86 per cent of the contract value, and that major civil works are done by ISRO.

H Ruling

Whether the EPC contract for establishment of FSS, supplying both goods and services, is a composite supply under s.2(30) CGST Act	**Yes. The EPC contract is a composite supply in terms of Section 2(30) of the CGST and TNGST Acts, 2017.**	The authority goes on to hold that the same contract is also a works contract, so the composite-supply finding is not the final classification.
Whether the principal supply can be taxed at 5% under Notification No.45/2017-CT(Rate) dated 14.11.2017	**No. The supply is a works contract under Section 2(119), so Notification 45/2017-CT(Rate) and G.O.(Ms) No.161 dated 14.11.2017 are not applicable.**	The authority reasons that the works contract is treated as a supply of services under Schedule II, so the concessional goods rate is not available.
Whether the entire transaction is taxed at the rate applicable to the principal supply	**No. The complete transaction is taxable at the rate applicable to works contract supply. The percentage is not stated in the order.**	The rate applicable to works contract supply is not legible or stated in the order text.

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

The authority held that the EPC contract is a composite supply under Section 2(30) of the CGST and TNGST Acts. It then held that the same contract is a works contract under Section 2(119), so Notification No.45/2017-Central Tax (Rate) and the corresponding Tamil Nadu notification do not apply. The complete transaction is taxable at the rate applicable to works contract supply, and the order does not state that rate.

R Reasoning

The authority accepted that the goods and services were naturally bundled and supplied in conjunction, so the contract met the composite supply test in Section 2(30). It then found that erection and commissioning fix the FSS to the test-bed facility, which is embedded in earth, and so the system becomes immovable property. Relying on the Supreme Court decision in Commissioner of C.Ex. Ahmedabad v. Solid & Correct Engineering Works, it treated the contract as a works contract under Section 2(119). Under paragraph 6(a) of Schedule II, works contracts are treated as a supply of services, so the goods-rate notification could not apply. The order does not reconcile the composite-supply finding with the works-contract classification beyond this.

P Provisions Relied On

- Section 2(30) of the CGST Act, 2017 (composite supply)
- Section 2(119) of the CGST Act, 2017 (works contract)
- Schedule II, paragraph 6(a) of the CGST Act, 2017
- Notification No.45/2017-Central Tax (Rate) dated 14.11.2017, Sl. No.1
- G.O.(Ms) No.161 dated 14.11.2017 (Tamil Nadu SGST notification)
- Commissioner of C.Ex. Ahmedabad v. Solid & Correct Engineering Works, 2010 (252) E.L.T. 481 (S.C.)

! For the Practitioner

This ruling is useful for EPC contractors supplying and erecting plant at government research facilities, because it confirms that erection and commissioning that make equipment immovable push the contract into works contract treatment. It also shows that the 5% goods-rate exemption for public-funded research institutions will not carry over to a works contract. The ruling binds only the applicant and does not set the works contract rate, which the order does not state. It also does not resolve the composite-supply point in a way that a practitioner can rely on without reading the reasoning in full.

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 -> tn-17-aar-2019-tata_projects_ltd.pdf

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