M/s Tata Projects Limited

Authority for Advance Ruling — Bihar

AR(B)-01/2018-19 Dated **24.08.2018**

Q Questions Before the Authority

- What is the rate of GST applicable on the works contract service supplied by the applicant for the construction of factory, roads, and other structures for M/s Madhepura Electric Locomotive Pvt. Ltd.?
- Whether the works contract supplied by the applicant is covered under Entry 3(v) of Notification No. 11/2017-Central Tax (Rate) as amended by Notification No. 20/2017-Central Tax (Rate) pertaining to railways, attracting concessional rate of 12% GST?

F Facts

The applicant, M/s Tata Projects Limited, was awarded a civil construction works contract by M/s Madhepura Electric Locomotive Pvt. Ltd. (a joint venture SPV between Alstom and Indian Railways) for constructing a locomotive factory, roads, warehouses, and infrastructure in Madhepura, Bihar. The SPV manufactures electric locomotives to supply them to Indian Railways for valuable consideration. The applicant sought an advance ruling to determine whether its civil construction service to the SPV qualifies for the concessional GST rate of 12% applicable to works contract pertaining to 'railways'.

H Ruling

Applicable GST rate on civil construction works contract supplied to locomotive manufacturing SPV	**9% CGST and 9% SGST (Total 18%)**	Concessional rate of 12% for railways under Notification No. 20/2017-Central Tax (Rate) is not applicable

The Authority held that the civil construction services provided to M/s Madhepura Electric Locomotive Pvt. Ltd. do not qualify as works contract pertaining to 'railways'. M/s Madhepura Electric Locomotive Pvt. Ltd. is an independent commercial entity manufacturing locomotives to sell to Indian Railways. Therefore, entry 3(v) of Notification No. 20/2017-Central Tax (Rate) does not apply, and the service transaction is subject to **18% GST (9% CGST + 9% SGST)** .

R Reasoning

The Authority evaluated whether civil works for an SPV manufacturing locomotives for Indian Railways constitute a works contract pertaining to 'railways' under Entry 3(v) of Notification No. 20/2017-Central Tax (Rate). It noted that the contract is between the applicant and M/s Madhepura Electric Locomotive Pvt. Ltd., a separate legal entity. The factory built by the applicant belongs to the SPV, which produces and sells locomotives to Indian Railways for consideration. Construction of a private SPV's factory does not constitute original works pertaining to railways. Consequently, the benefit of entry 3(v) cannot be extended to the applicant.

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

P Provisions Relied On

Section 2(119) of the Bihar Goods and Services Tax Act, 2017

Entry 3(v) of Notification No. 11/2017-Central Tax (Rate)

Notification No. 20/2017-Central Tax (Rate)

Notification No. 01/2018-Central Tax (Rate)

Section 2(31) of the Indian Railways Act, 1989

! For the Practitioner

Works contract services executed for a joint venture SPV or private equipment supplier to Indian Railways do not qualify for the concessional GST rate applicable to railway infrastructure projects. Taxpayers providing civil construction for locomotive factories or vendor facilities must levy the standard **18% GST** .

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 -> ar_b_01_18-19_dt_24.08.18.pdf

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