# M/s TATA Projects Limited, 88, Competition Colony, Mahaveer Nagar IIIrd, Kota, District-Kota, Rajasthan 324009 (GSTIN 08AAACT4119L1Z8)

Authority for Advance Ruling — Rajasthan

**ADVANCE RULING NO. RAJ/AAR/2018-19/42, Date of Ruling: 29.03.2019** Dated **29.03.2019**

## Q Questions Before the Authority

- What is the GST rate applicable for this project?

## F Facts

Nuclear Fuel Complex (NFC), a Department of Atomic Energy undertaking, awarded the applicant contract T.N.No. C-NFC/1113/2015 dated 10/05/2017 for civil, structural and PH works for plant and non-plant buildings (RCC and pre-engineered) and allied structures for PFFF and ZFF facilities at NFC, Kota. The scope covers architectural, structural, general civil, electrical and ITS works. NFC will reimburse taxes and duties applicable on the contract value.

## H Ruling

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|---|---|---|
| **GST rate applicable to the civil, structural and PH works project for PFFF and ZFF facilities at NFC, Kota** | **18% (CGST 9% + SGST 9%)** | The order places the supply under Sl. No. 3(xii) of Notification 11/2017-CT(Rate) at 9% CGST and 9% SGST. The 12% concession under Sl. No. 3(vi)(a) was held unavailable because the predominant-use condition (other than commerce, industry or business) was not met. |

The authority ruled that the GST rate applicable to the project is **18% (CGST 9% + SGST 9%)** . It held that the supply is a works contract service, but that the concessional 12% rate for works contracts supplied to a government entity under Sl. No. 3(vi)(a) of Notification 11/2017-CT(Rate) is not available. The reason is that the fuel NFC produces ultimately feeds commercial electricity generation, so the works are not predominantly for use other than commerce, industry or business.

## R Reasoning

The authority accepted that the contract is a works contract under Section 2(119) of the CGST Act, since it concerns construction of immovable property involving transfer of goods, and that Para 6(a) of Schedule II treats it as a supply of services. It examined the four conditions of Sl. No. 3(vi)(a) of Notification 11/2017-CT(Rate): it accepted that NFC is a Central Government entity and that the work is a works contract involving original works. It found the predominant-use condition failed, because NFC's fuel manufacture leads to electricity production, which is a commercial activity under Section 2(17). The supply therefore fell under the residual construction-services entry at Sl. No. 3(xii), at 9% CGST and 9% SGST. The authority did not adopt the jurisdictional officer's view that the 18% rate arises from electricity sales, but reached the same 18% result on the rate-entry analysis.


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

## P Provisions Relied On

- Section 97(2)(e), CGST/SGST Act 2017 (scope of advance ruling: liability to pay tax)
- Section 99 and Section 100, CGST/SGST Act 2017 (Appellate Authority and appeal within 30 days)
- Section 2(119), CGST Act 2017 (definition of works contract)
- Section 2(17), CGST Act 2017 (definition of business)
- Para 6(a) of Schedule II, CGST Act 2017 (works contract treated as supply of services)
- Notification 11/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 3(vi)(a) (as amended by Notifications 24/2017 dated 21.09.…
- Notification 12/2017 (explanation to Section 2(zs) defining 'original works'), as cited in the order
- Section 3(26), General Clauses Act 1987 (definition of immovable property)
- Section 2(6), Registration Act 1908 (definition of immovable property)

## ! For the Practitioner

This ruling is useful for contractors executing civil works for government-owned industrial units such as NFC, showing that the 12% works-contract concession for government entities can be denied where the end use of the facility is commercial. It settles that the project attracts 18% in the present facts. It does not decide whether the 12% rate applies to other government works, and the reasoning on predominant use may be contested on appeal. Practitioners should check the end use of the facility before relying on the 12% rate for government-entity contracts.

### 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 -> raj.42.2018-19_tata_projects_pl.pdf

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