M/s Triveni Turbines Limited, 12A, Peenya Industrial Area, Bengaluru - 560058 (GSTIN 29AAACT4550H1ZA)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 28 / 2018, Dated: 17th November 2018 Dated **17.11.2018**

Q Questions Before the Authority

- Whether the turbine generator set to be supplied by the applicant to the buyer for use in waste-to-energy project is covered under Sl.No.234 of Schedule I of Notification 1/2017 - IGST (Rate) dated 28.06.2017 as 'Renewable energy devices and parts for the manufacture of waste to energy plants/devices', attracting 5% levy?

F Facts

The applicant manufactures and supplies steam turbines up to 100 MW for industrial captive and renewable power, including waste-to-energy plants. Under the Andhra Pradesh Government's Municipal Solid Waste waste-to-energy projects in Guntur, Vishakhapatnam and Tirupati, the turbine generator sets are to be supplied to three Jindal Urban Waste Management SPVs promoted by JITF Urban Infrastructure Ltd. In some contracts the applicant only supplies and supervises the turbine generator sets, while in others it is also awarded erection and commissioning, which it feared could be treated as a works contract attracting 18% GST.

H Ruling

Turbine generator set supplied for use in a waste-to-energy project, under Sl.No.234 of Schedule I (5% IGST entry)	**Not covered under Sl.No.234 of Schedule I; the 5% rate claimed is not available**	The ruling does not state any alternative rate. It addresses only the Sl.No.234 question and does not expressly decide the erection and commissioning works-contract issue.

The Authority ruled that the turbine generator set to be supplied for use in the waste-to-energy project is **not covered under Sl.No.234 of Schedule I** of Notification No.1/2017 dated 28.06.2017. The Authority held that a turbine is not a renewable energy device because it does not convert waste into energy at any stage; waste is converted to heat by combustion, and the turbine merely converts steam into mechanical and electrical energy.

R Reasoning

The Authority read Sl.No.234 in light of its purpose: the concessional rate covers devices that convert waste into energy, and the turbine does not do so. It found that the waste is converted into heat through combustion, which produces steam, and the turbine runs on steam irrespective of its source, since the same turbine can run on steam from coal. The Authority therefore held that the turbine is not a renewable energy device and does not qualify under Sl.No.234. The applicant's reliance on Explanations (iii) and (iv) to the notification and on the CESTAT decision in Triveni Engineering and Industries Ltd. under the Central Excise exemption was recorded, but the findings rest on the functional analysis of the turbine.

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

P Provisions Relied On

- Section 97(1) and 97(2)(b) of the CGST Act, 2017 and the KGST Act, 2017
- Section 98(4) of the CGST Act, 2017 and the KGST Act, 2017
- Rule 104 of the CGST Rules, 2017 and the KGST Rules, 2017
- Notification No.1/2017-Integrated Tax (Rate) dated 28.06.2017, Schedule I, Sl.No.234, and its Explanations (iii) and (iv)
- Chapter headings 84, 85 and 94 of the Customs Tariff Act, 1975 (as referred to by the applicant)
- Central Excise Notifications 6/2000-CE (Sl.No.251) and 6/2002-CE (Sl.No.237), referred to as background

! For the Practitioner

Turbine manufacturers supplying steam turbine generator sets to waste-to-energy projects cannot rely on the 5% IGST entry for the turbine itself, and this ruling is the Authority's position for the applicant. It does not decide whether other waste-to-energy equipment, such as boilers, feeding systems or parts, falls under Sl.No.234, nor the GST rate on erection and commissioning services. As an advance ruling it binds only the applicant and the jurisdictional authorities for this transaction.

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 -> krntk_28_2018_ttl.pdf

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