

GIB/GJ/RB CONSTRUCTION/AAR-59

Advance Ruling Category : Work Contract

State : Gujarat

Order No.: GIB/GJ/RB CONSTRUCTION/AAR-59

Name of Entry :

M/s. R.B. Construction Company

Date : 17-01-2018

Product/ Service Involve :

Laying of underground pipeline network

Breif Issue :

Facts & Issue of the Ruling

The applicant” M/s. R.B. Construction Company” ,was holding registration under Gujarat Value Added Tax Act and was holding a permission to pay tax on a lump sum basis under the erstwhile provisions of the Gujarat Value Added Tax Act. The applicant submitted that they had bid in a tender issued by the Rajkot Municipal Corporation (RMC) to supply pipes, lay the pipes in desired formation as planned by the Government and to test the pipes against the leakages and then commission the project. The work to be executed as per the tender was to construct a pipeline network as per the specifications and design of the RMC and the payment was fixed by RMC on the basis of Event/ Milestone achieved. Out of each milestone, a certain portion of the payment is withheld by RMC as retention. Upon final completion and testing of the network of the pipeline, the balance dues of the applicant are released marking the completion of the project. The nature of the work of the tender being a works contract, the applicant used to discharge its liability as per the rates specified in the Gujarat Value Added Tax Act without claiming any benefit of the input tax credit on any items purchased (big or small) and used in the work as specified in the tender.

In view of the foregoing facts, the applicant wants to know if the work executed and invoice to be raised for the pending event of testing and commissioning by the applicant after the implementation of the Goods and Services Tax Act amount to supply, and specifically supply of works contract or not, and if the applicant is entitled to enjoy proportionate credit worth 10% duty of excise and VAT paid on materials bought vide invoices showing Excise and VAT separately, under the transition provisions , so that there is no double taxation i.e. levy of tax on tax is avoided.

The applicant referred to the definition of ‘works contract’ as provided under Section 2(119) of the CGST Act, 2017 and the GGST Act, 2017 and submitted that the nature of the work executed by them safely leads one to the conclusion that an immovable property is constructed. Applicant, also with reference to Section 140(6) of the CGST Act, 2017 and GGST Act, 2017, submitted that they are in possession of the duty paid document and the element of Central Excise and VAT can be identified

clearly and submitted that the semi-finished stage of the project being a crucial fact enables the applicant to avail the credit in proportion of 10% of the unfinished work of the project

Decision of Advance Ruling Authority :

Decision

After considering the submissions made by the applicant and Central Excise & GST, Ahmedabad South Commissionerate, it was held that, **the work of laying of underground pipeline network falls under the definition of “works contract” provided under Section 2(119) under the CGST Act, 2017 and the GGST Act, 2017. In respect of that part of supply wherein time of supply is on or after the appointed date, Goods and Services Tax is required to be paid.**

For the second question of the applicant it was held that, the applicant is not entitled under Section 140(6) of the CGST Act, 2017 and the GGST Act, 2017 to avail input tax credit, as Testing and Commissioning of network of pipeline being part of the contract, Goods and Service Tax is leviable, however, since no input / material is required for such Testing and Commissioning of network of pipeline, transitional Input Tax Credit is not allowable.

The applicant, aggrieved of the Advance Ruling reaches to file an appeal before Appellate Authority for Advance Ruling Gujarat. The ruling can be found on the following link - [GIB/GJ/RB CONSTRUCTION/AAR-59](#)