

GIB/WB/Siemens Ltd/19.08.2019/AAR-245

Advance Ruling Category : Time of Supply

State : West Bengal

Order No.: GIB/WB/Siemens Ltd/19.08.2019/AAR-245

Name of Entry :
Siemens Ltd

Date : 19-08-2019

Breif Issue :

Fact & Issue of the Case:

Whether and to what extent the lump-sum advance as on 01/07/2017 is taxable and when?

Applicant also wants to know that whether GST shall be charged on the gross amount of the invoice or the net amount after adjusting the lump-sum amount outstanding as on 30/06/2017?

The applicant entered into a contract with Kolkata Metro Rail Corporation for 'design, supply, installation, testing and commissioning' of the power supply and distribution system. The contract is treated as work contract as defined u/s 2(119) of the CGST Act, 2017. The applicant contented that the lump-sum amount is paid for the requirement of fund and it cannot be utilized for any purpose and is recoverable from the applicant towards payment due for the tax invoices after achieving contract milestones.

According to section 13(2) of the GST Act, it has been clarified that the date of receipt of payment shall be time of supply if it precedes the date of issuance of the invoice and the date of provision of service. The advance received by the applicant as 'mobilisation advance' shall be recovered as adjustment towards payments due for the tax invoices that shall be issued by the applicant after successive contract milestones. It is a service contract and the entire unadjusted mobilisation advance as on 01/07/2017, according to the Contract, applies towards payment of consideration for the works contract service. No service tax is leviable on the mobilisation advance except the portion adjusted in the service bills. The Contract makes it amply clear that the entire amount is applied as consideration for provisioning works contract service.

Decision of Advance Ruling Authority :

Decision:

The applicant is deemed to have supplied work contracts service to KMRCL on 01/07/2017 to the extent covered by the lump-sum that stood credited to its account on the date as mobilisation advance and GST is leviable thereon accordingly.

The value of supply should therefore be reduced to the extent of advances adjusted in such invoices, as and when raised.

Therefore the GST should be charged on the net amount that remains after such adjustment.

The appeal against this Advance Ruling was filed in Appellate Authority for Advance Ruling, which can be found on following link

[GIB/WB/SIEMENS LTD./16.12.2019/AAAR-250](#)