

**GIB/TN/Shapoorji Pallonji/31.01.2020/AAR-248**

**Advance Ruling Category :** Work Contract

**State :** Tamil Nadu

**Order No.:** GIB/TN/Shapoorji Pallonji/31.01.2020/AAR-248

**Name of Entry :**

Shapoorji Pallonji and Company Private Limited.

**Date :** 31-01-2020

**Breif Issue :**

**Facts & Issue of the Ruling**

The applicant “Shapoorji Pallonji and Company Private Limited.” is engaged in the construction business dealing with various clients under composite Works Contracts involving supply of both materials (goods) and service. They had entered into an agreement, dated November 21, 2016 with the Christian Medical College, Tamil Nadu, India (CMC) for construction of Service and Teaching Facility at CMC. As per the Agreement CMC was required to pay 'Mobilization Advance' to the applicant, which would be equivalent to 5 percent of the contract price in two tranches of 2.5 percent each totally amounting to Rs.75,83,72,000/- and the same is to be recovered on a time basis in fifteen equal instalments on monthly basis against the Running Bill (RA Bill). The Applicant have also stated that both tranches of 'Mobilization Advance' were paid to them by CMC during the Pre-GST regime and on receipt of 'Mobilization Advance' they had paid Service tax payable under Sec.66B read with Sec.67 of the Finance Act, 1994. However, no Value Added Tax was paid on Mobilization Advance as VAT would be payable subsequently only at the time of charging Running Bill (RA Bill).

The Applicant has sought Advance Ruling to know, (1) Whether the Transitional Provisions under Section 142(11)(c), (Chapter XX) of TNGST Act, 2017 /CGST Act, 2017 is correctly applicable for the remaining installments of 'Mobilization Advance', which transitioned into the GST regime and to be adjusted/deducted by the applicant post the implementation of GST. (2) Whether, the applicant would be liable to pay GST, under the provisions of the TNGST Act, 2017/CGST Act, 2017 and allied laws, on the installments of the 'Mobilization Advance', which has transitioned into the GST regime and adjusted deducted by the applicant post the implementation of GST. (3) Whether, the applicant would be eligible to avail Input tax Credit (ITC) on Service Tax paid which was transferred from Pre-GST period through TRAN-I Return filed in terms of the section 142(11)(c), under Transitional Provisions (Chapter XX) of both TNGST Act, 2017 /CGST Act, 2017.

**Decision of Advance Ruling Authority :**

**Decision**

The Transitional Provisions under Section 142 (11) (c) is not applicable to the case at hand as the same is applicable in cases with respect to transactions in which both VAT and Service Tax are paid in the Pre- GST regime and on which GST would be leviable to the extent 'supply' is made after the appointed date for the recipient who has actually paid the tax.

The Mobilisation advance to the extent received prior to the implementation of GST towards supply of Works Contract Service is not to be subjected to GST as per the provisions of Section 142(11) (b) of the GST Act 2017, wherein it is stated that no tax is payable on services under the GST Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act.

Further, the eligibility of ITC based on the transitional provisions is not answered as the admissibility of transitional credit is not in the ambit of Advance Ruling and therefore not considered.