

GIB/MH/Hitachi/11.03.2020/AAR-353

Advance Ruling Category : Taxability

State : Maharashtra

Order No.: GIB/MH/Hitachi/11.03.2020/AAR-353

Name of Entry :

Hitachi Power Europe Gmbh

Date : 27-07-2020

Breif Issue :

Facts & Issue Of The Case :

The applicant is a company incorporated under the Laws of Germany has been awarded contracts for supply of goods and supervisory services by M/s. BGR Boilers Private Limited (BGRB) in relation to Projects of M/s. NTPC Limited, M/s. Meja Urja Nigam Private Limited and M/s. Damodar Valley Corporation (hereinafter referred as 'DVC') being Mega power projects, located in Maharashtra, Uttar Pradesh and West Bengal respectively. The advance ruling has been sought on the following issue-

Whether the Goods and Services tax (herein referred as 'GST') is applicable on the accounting entry made for the purpose of Indian accounting requirements in the books of accounts of Project Office for salary cost of Expat employees.

The applicant has made various submissions supporting their contention that accounting of salary of the Expat Employees in their Books of Accounts even though the salary is paid by the HO, is not taxable under GST. They have also cited various case laws in support of their contention. As per the provisions of the Companies Act, 2013, applicant is required to maintain its financial books of accounts in a manner which would reflect a true and fair view of the business of the Company in India. Thus, in order to keep record of the expenses of salary cost of Expat employees working from India, the Project Office makes an accounting entry in its financial books of accounts in India for the salary cost of the Expat employees even though the salary is paid by the Head Office.

Decision of Advance Ruling Authority :

Decision :

As per the findings there is a relation of employer and employee between the Project Office and the expat employees, the provisions of Schedule III of the CGST Act comes

into play in this case as per which services by an employee to the employer in the course of or in relation to his employment will not be considered as a supply and therefore will not attract GST.