

**GIB/GUJ/Sem Construction/27.09.2020/OTHERS-15**

**Others Category :** CESTAT

**State :** Gujarat

**Order No.:** GIB/GUJ/Sem Construction/27.09.2020/OTHERS-15

**Name of Entry :**

SEM CONSTRUCTION vs CCE & ST- Rajkot

**Date :** 27-08-2020

**Breif Issue :**

**Facts & Issue of Case:**

The appellant had been awarded a contract under agreement dated 01.04.2011 by M/s. Archelean Chemical Private Limited at Rann of Kutch for job of “metal spreading for supply un-course black Trap Rubble stone” and its spreading/dressing along the outer edge of bund for formation of toe wall land filling the trenched with stones above ground level, constructing the pitching above toe line, using stones or filling at various cuts in bunds and dressing of entire bund slope, before metal spreading.

The service provided by the appellant is the supply of various materials and construction of bunds. With the said material bunds were created by the appellant for the Service recipient viz. M/s. Archelean Chemical Private Limited. The said bunds are used for production of Salt from the sea water.

In the present case since the appellant have admittedly supplied the material there is a transfer of property of the said material. The overall construction job subjected to payment of VAT which was paid by their service recipient under Reverse Charge mechanism.

The appellant in this regard submitted various documents which shows that the job undertaken by the appellant has suffered VAT liability. The overall work is of construction of bunds which falls under Industrial & Commercial Construction Service. The said construction is undisputedly of an immovable property.

With this fulfilment of the criteria, the service is squarely covered under the category of Works Contract Service.

**Decision of Advance Ruling Authority :**

**Decision:**

In these facts we are of the clear view that there is no suppression of facts on the part of the appellant. Hence, the demand for the longer period is not only liable to be set aside on merit but also on time bar.

As per our above discussion and finding, we hold that the services provided by the appellant merits classification under „Works Contract Service? and the claim of the revenue in classifying such service under “Site Formation Clearance, Excavation and Earth Moving, demolition Service” is rejected.

Accordingly, the impugned order is set aside. Appeal is allowed.