

GIB/UP/GE DIESEL LOCOMOTIVE/16.05.2018/AAR-462

Advance Ruling Category : Classification of Supply

State : Uttar Pradesh

Order No.: GIB/UP/GE DIESEL LOCOMOTIVE/16.05.2018/AAR-462

Name of Entry :

M/S.GE DIESEL LOCOMOTIVE PVT. LTD.

Date : 16-05-2018

Breif Issue :

FACTS OF THE CASE:

The applicant is engaged in the business of import and manufacture of rail locomotive engines for supply to Indian Railways. The applicant had made a bid for a tender floated by the Indian Railways for supply of locomotive engines and their comprehensive maintenance.

Decision of Advance Ruling Authority :

ISSUE OF THE CASE AND DECISION:

(a) Whether supply of comprehensive annual maintenance service which may also involve incidental supply of spare parts/goods should be classified as a composite supply or mixed supply?-

Answer - Since the supply of maintenance service is for a one and fixed price with or without supply of spare parts/goods and supply of service and goods is made in conjunction with each other in the ordinary course as per maintenance contracts, this maintenance service to the extent of presence of all the necessary ingredients cited in the legal provisions quoted supra, is naturally bundled with the incidental supply of goods., it is case of composite supply of service

(b) In case the said contract is considered as composite supply, what is the principal supply between goods or services?

Answer - The said contract merits to be considered to be a composite supply of service, and principal supply is service inasmuch as the supply of goods is merely incidental to the maintenance contract in the given facts and circumstances.

(c) In case goods are considered as principal supply, how the taxability should be determined considering the following:

- 1. The contract would entail supply of various goods falling under different tax brackets.**
- 2. These goods would be supplied on a need basis as and when required at different point(s) of time.**
- 3. There is no fixed value ascribed for goods in the contract considering these goods would be supplied depending up condition of the locomotive at the time of maintenance.**

Answer – Not applicable because it is a supply of service

(d) In case services are considered as principal supply, what tax rate should be applicable?

Answer - The Service Code for the maintenance and repair service of transport machinery and equipment is 998714 and the prescribed rate of GST is :- CGST @ 9% of the taxable value, SGST @ 9% of the taxable value or IGST @ 18% of the taxable value.

(e) In case of the said contract, what is the relevant place of supply and type of tax which needs to be discharged (i.e. CGST & SGST or IGST)?

Answer - Where the service provider and service recipient of a service are located in India, the provisions of Section 12 of the IGST Act, 2017 determine the place of supply of services. Sub-section (10) of Sec. 12 ibid reads as under -

The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.