

GIB/TN/PSK ENGINEERING/25.03.2021/AAR-451

Advance Ruling Category : Classification of Services

State : Tamil Nadu

Order No.: GIB/TN/PSK ENGINEERING/25.03.2021/AAR-451

Name of Entry :

PSK ENGINEERING CONSTRUCTION & CO.

Date : 25-03-2021

Breif Issue :

FACTS OF THE CASE:

In this case the applicant has stated that they provide works contract services to TANGEDCO for carrying out retrofitting works and strengthening the NPKRR Maaligai against seismic and wind effect and modification of elevation of NPKRR Maaligai in TNEB Headquarters complex, Chennai-02 as per the Tender Specification No.SE/C/Distn./16/2016-17 for a sum of ? 21,88,90,835/-(excluding Service Tax) vide the contract letter dated 28.02.2017. Consequent to the implementation of GST by the Government of India w.e.f 01.07.2017 the accepted rates of the subject contract have been reduced to the extent of WCT @2% and the total value of the contract was amended to ? 25,06,44,733/- vide the contract letter dated 24.06.2019 , further the Board of TANGEDCO vide contract letter dated 10.10.2019 accorded approval for enhancement of face value of the subject contract from ? 25,06,44,733/- to ? 45,25,19,525/- including GST at 18% by extending the period of contract to 18 months for carrying out the excess quantity at the already accepted rates without prejudice to the rights of TANGEDCO for the levy of liquidated damages.

ISSUE OF THE CASE:

What is the rate of GST to be charged on providing works contract services to TANGEDCO for carrying out retrofitting work for strengthening the NPKRR Maaligai against seismic and wind effect and modification of elevation in TNEB headquarters building at Chennai?

Whether the entry in Sl.No.3 item (vi) of the Notification no. 11/2017-Central Tax (Rate) dated 28.06.2017 as amended is applicable to the applicant in instant case?

Decision of Advance Ruling Authority :

DECISION:

As per the scope of the contract it is seen that the work covered in the contract envisages detailed engineering, soil investigation and testing, preparation of design, drawing &

submission to TANGEDCO for the approval and carrying out execution of foundation, structure, superstructure works for retrofitting strengthening of structural members of NPKRR Maaligai against seismic, wind effect and modification of elevation of NPKRR Maaligai in TNEB Headquarters Complex including provision of glass cladding and aluminium composite panel works including all civil works viz. pile foundation, pile cap, columns, walls, beams, slab, shear wall etc. by supplying the goods involved and the related services, thereby is a composite supply of works contract. Further the works entrusted involves construction, fitting out, improvement etc of NPKRR Maaligai, the immovable property and there exists transfer of property in goods in the execution of the work. Therefore, it is observed that the works undertaken by the applicant are “Works contract” service as per Section 2 (119) of CGST Act 2017 and the supply is a composite supply.

TANGEDCO is a Public Limited Company established by Government of Tamilnadu with more than 90 percent control for the purposes of generation and distribution of electricity. Hence, TANGEDCO Ltd is a Government Entity. It is further pertinent to note that the Authority for Advance Ruling in the case of **Tamil Nadu Generation and Distribution Corporation Limited vide TN/ 14/AAR/2020 dt. 20.04.2020** has viewed that TANGEDCO is a Government Entity.

TANGEDCO is involved in the business of selling electricity to the consumers and collecting charges from them which is their predominant activity - the supply of works contract services as per the applicant's contract cannot be considered as that meant predominantly for use other than for commerce, industry, or any other business or professional purposes.

The SAC for the Construction Service is SAC 9954 and the applicable rates to the various types of construction service are given under S1.No.3 of Notification No. 11/2017-C.T.(Rate) as amended - The rate of GST to be charged on the services provided by the applicant to TANGEDCO for carrying out retrofitting work for strengthening the NPKRR Maaligai against seismic and wind effect and modification of elevation in TNEB headquarters building at Chennai is 18% as per SL.No.3(xii) of Notification 11/2017 CT(Rate) dated 28.06.2017 as amended .