

GIB/RJ/SANDVIK ASIA/12.10.2018/AAR-463

Advance Ruling Category : Classification of Supply

State : Rajasthan

Order No.: GIB/RJ/SANDVIK ASIA/12.10.2018/AAR-463

Name of Entry :

M/S. SANDVIK ASIA PVT. LTD

Date : 12-10-2018

Breif Issue :

FACTS OF THE CASE:

The Applicant is a multi-product, multi-division entity, engaged in manufacturing, distribution and sales agency activities of various industrial products which include metal cutting tools, mining/construction equipment, spares for mining equipment, seamless stainless steel tubes and pipes and wires and heating systems. Further, the Applicant is also engaged into the business of after sales support for the mining equipment manufactured by its overseas group entities which are imported by the customers into India.

Decision of Advance Ruling Authority :

ISSUE OF THE CASE AND DECISION:

(a) Whether on facts and circumstances of the case, the maintenance services rendered on customers' equipment under the two agreements i.e. comprehensive maintenance services agreement and supply of parts and services agreement which also includes supply and replacement of spare parts should be classified as 'composite supply' under Section 2(30) of Central Goods and Service tax Act, 2017 (CGST Act) and Rajasthan State Goods and Service Tax Act, 2017 (RJ SGST Act) [collectively referred to as the 'GST Act'] or as mixed supply under Section 2(74) of GST Act?

Answer - The applicant can supply the parts or services individually or any combination thereof on a single price which is appropriately covered under mixed supply - the contention of the applicant regarding "Comprehensive Maintenance Contract", that the services would be classifiable under the Composite Services, we are of the view that Services supplied under the said contract are to be treated as composite services and the tax rate applicable on the principle supply would also be applicable on the other services.

The activities performed under the 'Comprehensive Maintenance Contract' are to be treated

as a composite supply of services and the activities performed under 'Equipment Parts Supply and Services Agreement' are to be treated as Mixed Supply.

(b) In case the said agreements are considered as composite supply, what is the principal supply between goods and services?

Answer - In respect of the activities performed under 'Comprehensive Maintenance Contract', the supply of Operation & Maintenance services is the principal supply and the supply of other services are ancillary to such principal supply.

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

Answer - The service code for Maintenance and repair services of commercial and industrial machinery is 9987171 and the prescribed rate of GST is 18% (CGST @ 9% of the taxable value, SGST @ 9% of the taxable value) or IGST @ 18% of the taxable value. For the supply of mixed services, the applicant is liable to pay the highest rate of tax as per Section 8(b) of the CGST Act, 2017.

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

Answer - As the query raised by the applicant does not fall in the categories mentioned under Section 97 (2) of CGST/SGST Act, 2017, hence the same is accordingly disposed off.