

GIB/TN/M/S.TAMILNADU GENERATION/30.03.2021/AAAR-53

Appellate Advance Ruling Category : APPLICABILITY OF GST

State : Tamil Nadu

Order No.: GIB/TN/M/S.TAMILNADU GENERATION/30.03.2021/AAAR-53

Name of Entry :

M/S.TAMILNADU GENERATION AND DISTRIBUTION CORPORATION LIMITED

Date : 30-03-2021

Breif Issue :

FACTS OF THE CASE:

The appellant M/s Tamil Nadu Generation and Distribution Corporation Limited has stated that they are engaged in the generation and distribution of electricity.

TANGEDCO LTD. & TANTRANSCO LTD. are two subsidiary companies of TNEB Ltd. (Holding company), and both are registered utilities for distribution and Transmission of Electricity respectively under the Electricity Act, 2003. TANGEDCO and TANTRANSCO enter into transactions between them in the course of generation, transmission, and distribution of electricity in Tamil Nadu.

ISSUE OF THE CASE:

GST applicability on the transactions between TANGEDCO Ltd. & TANTRANSCO Ltd, on Deposit Contribution Works and on Transmission Charges for Natural Gas.

Whether TANGEDCO Ltd can be considered a "Government Entity"

Decision of Advance Ruling Authority :

DECISION:

Electricity duty is a tax on consumption or sale of electricity and is levied under entry 53 of Part-II State list of Schedule 7 of the Constitution. Therefore, clearly the constitution leaves out only tax on consumption for sale of electricity from the purview of GST. The contention of the appellant is therefore rejected.

TANGEDCO is indisputably a generation company and a distribution utility. TANTRANSCO on the other hand is a transmission utility. It is not the case of the appellant that the appellant company is providing transmission services to TANTRANSCO. The appellant contends that the various services extended to TANTRANSCO constitute distribution services. However, as

already been stated above, distribution service can be supplied only to consumers in the area of supply of the licensee. Therefore, the services extended by TANGEDCO to TANTRANSCO cannot constitute distribution service.

As a matter of fact it has been averred by the appellant that there are two modes, one in which the employees deputed from the appellant to TANTRANSCO are paid by TANTRANSCO and the expenses are debited in that company's books of accounts only. The second mode involves where salary payments are made by the appellant and the same is accounted as receivable from TANTRANSCO. This distinction was not made during the time of hearing before the AAR. In our view, the second mode where the salary payments etc., are paid by the appellant company to the employees deputed to TANTRANSCO (as they are still under the rolls of the appellant) and is booked as receivables from TANTRANSCO, there is no reason to interfere with the AAR's order - However, where the employees are paid by TANTRANSCO themselves, there is no service involved in our considered opinion as they are fully under the control of TANTRANSCO only and deemed to be employees of TANTRANSCO for all purposes.

The AAR's ruling is modified depending upon the factual matrix involved with respect to the particular employee, which will have to be determined by the assessing officer concerned - With respect to Deposit Contributory Works which include activities like shifting of service line, etc., we do not find any compelling reasons to differ with the ruling pronounced by the AAR.

Appeal disposed off.

The appeal is filed against the Order No. 14/AAR/2020 dated 20.04.2020.