

GIB/KN/HEWLETT/30.09.2019/AAR-217

Advance Ruling Category : Category

State : Karnataka

Order No.: GIB/KN/HEWLETT/30.09.2019/AAR-217

Name of Entry :

Hewlett Packard Enterprise India Pvt Ltd

Date : 30-09-2019

Breif Issue :

Issue & Fact of the Case:

Whether the proposed activity of setting-up of the data center facilities as explained proposed to be undertaken by the applicant would qualify as 'works contract' as per section 2(119) of the CGST Act, 2017 and section 2(119) of KGST Act, 2017.

Rate of GST applicable on the proposed activities.

The applicant is a private limited company, registered under the Goods and Services Act, 2017 engaged in the state of IT products and services.

The applicant proposes to undertake projects for setting up of data center facilities for its clients.

Section 2(119) of the CGST Act, 2017 "Works Contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;"

The nature and scope of the contract is fall under works contract and it was held that works contract is basically a composite supply of services and goods relating to immovable property.

Notification 11/ 2017 – Central Tax (Rate) dated June 28, 2017 further as per SI.No.3 of the Notification, composite supply of works contract as defined in **clause 119 of section 2 of Central Goods and Services Tax Act, 2017** is liable to GST @ 18%.

Both supply of goods and services involved in the proposed activity of setting up the data center, a consolidated fee is agreed upon as consideration.

Decision of Advance Ruling Authority :

Decision:-

In respect of the first question it is Ruled that the proposed activity of setting-up of the data centre facilities as explained would qualify as 'works contract' as per Section 2(119) of the Central Goods and Service Tax Act, 2017 and Section 2 (119) of the Karnataka Goods and Service Tax Act, 2017.

The rate of tax applicable is 9% CGST and 9% SGST as per Entry No. 3(ii) of Notification 11/ 2017 – Central Tax (Rate) dated June 28, 2017.