

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH

Goods and Service Tax()

O/o THE COMMISSIONER, COMMERCIAL TAX,

MOTI BUNGALOW,

MAHATMA GANDHI MARG, INDORE (M.P.) - 452007

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PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S,28 OF THE GOODS AND SERVICES TAX ACT ,2017

Members Present

1. **Rajiv Agrawal**
Additional Commissioner,
Office of the Commissioner, CGST and Central Excise, Indore
2. **Manoj Kumar Choubey**
Joint Commissioner,
Office of the ^{Jr.} Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AADC7397N1ZU
Name and address of the applicant	Madhya Pradesh Pashchim Kshetra Vidyut Vitaran Company Limited
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) Applicability of a notification issued under the provisions of this act;
Present on behalf of applicant	Shree Anirudh Tiwari, Accounts Officer
Order dated	22.11.18
Order Number	20/2018 15/2018

case number

PROCEEDINGS

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and MP Goods & Services Tax Act, 2017 (hereinafter also referred to CGST Act and MP GST Act respectively) by M/S Madhya Pradesh Pashchim Kshetra Vidyut Vitaran Company Limited (hereinafter also referred to as applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and MP GST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MP GST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE –

3.1 The Applicant is a Public Sector Undertaking fully owned by Government of Madhya Pradesh and engaged in distribution and supply of electricity in western Madhya Pradesh. The applicant is a wholly owned subsidiary of M.P. Power Management Company Ltd., which in turn is wholly owned by the Government of Madhya Pradesh. The Government of Madhya Pradesh is having full control over the applicant company and the Applicant is thus covered under the definition of ‘Government Entity’.



MP

3.2 Further, the Government of Madhya Pradesh has entrusted the Applicant to carry out function of distribution of electricity in the area of Indore and Ujjain Commissionerate. Besides, the Applicant company is also performing function of Rural Electrification including distribution of electricity.

3.3 The term 'Government Entity' has been defined vide Notification no.32/2017-Central Tax (Rate) dtd.13.10.2017, as '..... an authority or a board or any other body including a society, trust, corporation (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Governemtn, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority'.

3.4. Further, vide Notification No.02/2018-CT (Rate) dtd.25.01.2018 following amendments have been made in the Notification no.12/2017-CT (Rate) dtd.28.06.2017 –

(a) Against Serial number 3, in the Entry in Column (3), after the words 'a Governmental Authority' the words 'or a Government Entity' shall be inserted;

(b) Also by inserting entry number (3A), NIL rate of GST has been notified for composite supply of goods and servies in which the value of supply of goods constitutes not more than 25% of the value of said composite supply provided to the Central Government, State Government or Union Territory or a local authority or a Governmental Authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution.

3.5. It is further submitted that the functions entrusted to a Panchayat under the Eleventh Schedule to the Article 243G of the Constitution includes Rural Electrification including distribution of electricity.

3.6. The Applicant have submitted that as per their interpretation of law, the exemption provided in Sr.No.3 & 3A under Notification No.12/2017-CT (Rate) dtd.28.06.2017 would be applicable to the applicant company.

4. QUESTION RAISED BEFORE THE AUTHORITY –

4.1 *Applicability of provisions of S.No.3 & 3A of Table of Notification No.12/2017 dtd.28.06.2017 as amended from time to time on services supplied to the company (As mentioned in Sr. No.14 of the Application).*

5. **RECORD OF PERSONAL HEARING-** Shree Anirudh Tiwari, Accounts Officer Appeared for personal hearing on 06.07.18 and they reiterated the submission already made in the application.

6. DISCUSSION AND FINDINGS -

6.1. At the outset, we are inclined to observe that the Applicant has failed to articulate a specific question before us. What has been mentioned in Sr.No.14 of the Application, wherein the Applicant is required to mention the question(s) on which Advance Ruling is sought, is merely '*Applicability of provisions of S.No.3 & 3A of Table of Notification no.12/2017 dtd.28.06.2017and corresponding notification issued under MPGST Act,2017 as amended from time to time on services supplied to the company.*'

6.2. Thus, there is no specific question posed, and if at all it is a question the same is very generic and no Ruling is practically possible. However, as we could broadly make out from the Application, we presume that the Applicant desires to seek clarification on applicability of



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Sr.No.3 and 3A to the Notification No.12/2017-CT (Rate) dtd.28.06.2017 corresponding notification issued under MPGST Act,2017 to the services provided by them to Panchayats for Rural Electrification.

6.3. From the documents and evidences placed before us, we do not find any doubt that the Applicant is a Government Entity and is definitely covered by the definition of Government Entity in terms of Notification No.32/2017. We further observe that Article 223G of the Constitution definitely entrusts Rurla Electrification including distribution of electricity. However, nothing is forthcoming from the Application as to what particular services are being provided by the Applicant to the Panchayats. We further observe that vide Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 and corresponding notification issued under MPGST Act,2017 and Notification No. 2/2017- Central Tax (Rate) dated 28th June, 2017 and corresponding notification issued under MPGST Act,2017, both the activities of distribution & Transmission and retail supply of Electricity by the applicant are exempted. Hence there is no ambiguity about these activities.

6.4. We find from the application that the Applicant has made a specific mention of Sr. No.3A to notification no.12/2017, which provides NIL rate of GST for composite supply of goods and services where the value of supply of goods constitute not more than 25% of the value of composite supply provided to the Central government or state government etc. by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution. However, we do not find any specific mention of services in this context in the application. It is pertinent to mention here that applicability of Sr.No.3A will be supply specific and not supplier or recipient specific. Thus it is not possible to give nay ruling about applicability of Sr.No.3A to Applicant, particularly in absence of any specific mention of supply of goods or service or both.

6.5. In view of the above, we conclude that applicability of provisions of Sr.no.3 and 3A shall depend upon the nature of supply and no *carte blanche* ruling can be given to the Applicant without mention of specific service.

7. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

7.1 In view of insufficient information provided in the Application, and the nature of query being broadly generic, no ruling can be given on the Application.

7.2 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

-sd-
RAJIV AGRAWAL
(MEMBER)

-sd-
MANOJ KUMAR CHOUBEY
(MEMBER)

Copy to:- No. 16/2018/A.A.R/R-28/50

INDORE dt. 22/11/2018

1. Applicant
2. The Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal;
3. The Commissioner(SGST), Indore;
4. The Commissionerate, CGST & Central Excise, Jabalpur;
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central



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