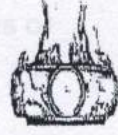




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**AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D NO 5-56, Block-B, R.K. Spring Valley Apartments,
Edupugallu, Vijayawada-521151

Present:

Sri. D. Ramesh, Additional Commissioner of State Tax.....Member (State Tax)

Sri. S. Narasimha Reddy, Joint Commissioner of Central Tax.....Member (Central tax)

AAR NO.29 /AP/GST/2018 Dated:19.12.2018

1.	Name and address of the applicant	M/s VIJAI ELECTRICALS LIMITED D.NO 4-70-13/3, Lawsons Bay Colony, Visakhapatnam, AP 530017
2.	GSTIN	37AAACV7259B1ZB
3.	Date of filing of Form GST ARA-01	18.09.2018
4.	Date of Personal Hearing	07.12.2018
5.	Represented by	B. Venkateswarlu
6.	Jurisdictional Authority - State	Assistant Commissioner(ST) Chinawaltair Circle, Visakhapatnam
7.	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; and e) determination of the liability to pay tax on any goods or services or both;

Order

(under sub-section (4) of section 98 of Central Goods And Service Tax Act, 2017 and under sub-section (4) of Section 98 of Andhra 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 AP Goods & Services Tax Act, 2017 (hereinafter referred to as CGST Act and APGST Act respectively) by M/S VIJAI ELECTRICALS LIMITED (hereinafter referred to as applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and APGST 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 APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

3. Brief Facts of the case:

M/S VIJAI ELECTRICALS LIMITED (hereinafter referred to as the Applicant) is engaged in electrification work to the Andhra Pradesh Eastern Power Distribution Company Limited for procurement of plant, design, supply, install and commission certain facilities viz Providing Underground cable works in Visakhapatnam city, package -1 and Package - 3 (Replacement of existing 33/11 KV substation of zone I division Visakhapatnam with underground Power cable network on turnkey basis). The applicant agreed to such engagement upon subject to terms and conditions and entered into an agreement vide no. IN/APEPDCL/2789/CW/AGMT dated 22nd September 2017 and agreement no IN/APEPDCL/211/CW/AGMT. dated 31st October 2017 respectively.

4. QUESTION RAISED BEFORE THE AUTHORITY:

The applicant seeks advance ruling on "Whether the tax rate of 12% [CGST-6% + SGST-6%] is applicable to the above contract, in pursuance of Notification No.20/2017 Central Tax (Rate) Dated.22-08-2017 and No.24/2017-Central Tax (Rate) dated 21.09.2017?"



whether the works contract services provided to Eastern Power Distribution Company of Andhra Pradesh Limited falls under the category of services provided to government or a government authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, with respect to certain specified works contract services as notified in the notification no. 20/2017-Central Tax (Rate) dated 22nd August 2017. Further the applicant provided to the authority GO MS no. 58 dated 8th May 2018, of Government of Andhra Pradesh, in which at Para no. 5 stated that as per APGST/CGST Act 2017, all the government works contracts executed from 01-07-2017 to 21-08-2017 attract 18% GST and from 22-8-2017 the applicable GST Rate is 12 % with input tax credit.

On Verification of basic information of the applicant, it is observed that the applicant falls under state jurisdiction, i.e. Chinna Waltair Circle, of Visakhapatnam. Accordingly, the application has been forwarded to the jurisdictional officers and a copy marked to the central tax authorities to offer their remarks as per the Sec. 98(1) of CGST /APGST Act 2017.

In response the concerned jurisdictional officer stated that there are no pending proceedings relating to the applicant and no proceedings were passed on the issue, for which the advance ruling sought by the applicant.

5. RECORD OF PERSONAL HEARING:

Sri B. Venkateswarlu, Authorized Representative Appeared for personal hearing on 07.12.2018 and they reiterated the submission already made in the application.

6. DISCUSSIONS AND FINDINGS:

We have examined the issues raised in the application. The taxability, classification of the services, applicable rate of tax, eligibility of exemption etc., for the goods and services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined.

The Government of India, vide notification No. 11/2017 - Central Tax (Rate), dated – 28th June 2017 notified the rate of GST applicable on supply of services. Under this notification for heading 9954 the applicable rate of GST is 9%.

The said notification has been amended from time to time and till date Five notifications are issued by the Government of India and the said amendment Notifications are as follows –



- 1) Notification No- 20/2017 - Central Tax (Rate), Dated - 22/08/2017.
- 2) Notification No- 24/2017 - Central Tax (Rate), Dated - 21/09/2017.
- 3) Notification No- 31/2017 - Central Tax (Rate), Dated - 13/10/2017.
- 4) Notification No- 46/2017 - Central Tax (Rate), Dated - 14/11/2017.
- 5) Notification No- 01/2018 - Central Tax (Rate), Dated - 25/01/2018.

Vide notification No. 24/2017 - Central Tax (Rate), Dated - 21/09/2017, Government of India by inserting entry No. (vi) notified concessional GST rate of 6% for the construction services provided to Central Government, State Government, Union Territory, a local authority or a Governmental Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -

- a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
- b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or
- c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

Further, vide Notification No. 31/2017 - Central Tax (Rate), Dated - 13/10/2017, Government of India substitute the word "Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity" in place of "Central Government, State Government, Union Territory, a local authority or a Governmental Authority"

Now, we examine the question that the Applicant Contractee i.e. M/s APEPDCL is a Government entity or not. As per Notification No. 31/2017 - Central Tax (Rate), Dated - 13/10/2017 issued under CGST Act, 2017 and corresponding notification under APGST Act, 2017 Government Entity is defined as under.

"Government Entity" means 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 Government, with 90 percent 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.

The Applicant Contractee i.e. APEPDCL is a Government Company i.e. wholly owned by the Government of Andhra Pradesh. The applicant had submitted the copy of Audited Annual Accounts of M/s APEPDCL for the FY 2016-17. It is evident from the schedule of Equity Share Capital of the Annual Statement that 100% share capital is held by the Government of Andhra Pradesh in the name of Honourable Governor of Andhra Pradesh.

Thus, based on the above facts, it is concluded that the Government of Andhra Pradesh is having full control over the APEPDCL and covered under the definition of Government Entity.

Now we discuss the nature of work undertaken by the applicant.

The applicant is engaged in execution of works awarded by M/s Eastern Power Distribution Company of Andhra Pradesh Limited for Procurement of plant, design, supply, install and commission certain facilities viz, providing underground cable works in Visakhapatnam city package-1 (replacement of existing 33/11KV Substation of Zone 1 division Visakhapatnam with underground power cable network on turnkey basis). M/s. Vijai Electricals Limited Agreed to such engagement upon subject to terms and conditions and entered into an agreement Wide No.IN /APEPDCL/2789 /CW/AGMT Dated 22nd September 2017 and another agreement No.IN/APEPDCL/211/CW/AGMT dated 31st October 2017 providing UG cable works in Visakhapatnam City (Package – 3) (replacement of existing 33KV/11KV/LT overhead power distribution network of 7 Nos. 33/11KV Substations of Zone 1 division, Visakhapatnam with underground power cable network on turnkey basis The contract with APEPDCL is a single composite contract, but with two connected agreements with 6 schedules for preliminary, design, Supply, erection and testing, commissioning, civil and road works, dismantling works respectively. All the two agreements were awarded to the applicant in response to a single tender notification & the general terms and conditions are commonly applicable to all the two agreements.



As per the Memorandum of Association of the APEPDCL Company, Main objects to be pursued by the Company on its incorporation is to engage in the business of procurement, supply and distribution of electricity; to take over the distribution and supply of electricity business from the Transmission Corporation of Andhra Pradesh Limited; to acquire business/companies; to acquire know-how etc.,

Now the works under discussion have been undertaken to execute/Implement various schemes for constructing sub stations, erection of distribution transformers, implementation of World Bank Projects etc.. Moreover, the above works undertaken by APEPDCL are for business purpose and the benefit of Concessional Rate of 12% (6% under Central tax and 6% State tax) as per notification is not available to the applicant.

As per Section 2 of CGST Act, 2017 and APGST Act, 2017 defines "works contract" as 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 composite supply of works contract as defined at Section 2 of CGST Act '2017 and APGST Act, 2017 is treated as supply of service in terms of serial no.6, Schedule II of CGST Act '2017 and APGST Act, 2017.

In the instant case, the contract entered by the applicant squarely falls under the works contract and falls under entry no. (ii) of S.No.3 of the table of notification no. 11/2017 - Central Tax (Rate), Dated - 28th June 2017 as amended from time to time and corresponding notifications under APGST Act, 2017, and the applicable rate of tax is 18% (9% under Central tax and 9% State tax).

RULING

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



The Applicant is not entitled for the benefit of concessional rate of GST @12 % (6% under Central tax and 6% State tax) in terms of Notification No.24/2017-Central Tax (Rate) dated 21.09.2017 read with Notification No.31/2017-Central Tax (Rate) dated 13.10.2017.

The applicable rate of tax is 18% (9% under Central tax and 9% State tax) for the services referred by the Applicant.

Sd/-D. RAMESH
Member (State Tax)

Sd/-S.NARASIMHA REDDY
Member (Central Tax)

//t.c.f.b.o//


Assistant Commissioner(ST)
Assistant Commissioner (State Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.

To

1. M/s Vijai Electricals Limited, D.NO 4-70-13/3, Lawsons Bay Colony, Visakhapatnam-530017, A.P. **(By Registered Post)**

Copy to

2. The Officer Concerned,
3. The Jurisdictional Officer – State / Central:
Assistant Commissioner(State Tax), Chinawaltair, Visakhapatnam**(By Registered Post)**
Assistant Commissioner (ST), Muvvalavanipalem, Visakhapatnam **(By Registered Post)**

Copy submitted to

- 3.The Chief Commissioner (SGST), O/o CCST, Eedupugallu, Vijayawada
- 4.The Commissionerate (CGST), GST Bhavan, Port area, Visakhapatnam-530035,A.P.
(By Registered Post)

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

