

Activities of Supply, Installation, Operation, Maintenance of Greenfield Public Street Lighting System not classifiable as Works Contract Services, rules AAR

Fact of the Case

- The applicant, M/s Pinnacles Lighting Project Private Limited is engaged in the business of executing street lighting projects.
- The Government of Odisha, through the Housing and Urban Development Department, the Urban Infrastructure Development Fund and the Directorate of Municipal Administration has decided to develop an energy efficient street lighting system covering new and upcoming road stretches in Greenfield areas across 113 Urban Local Bodies (ULBs), including in the cities of Cuttack, Berhampur, Rourkela, Sambalpur and Bhubaneswar, on a Public Private Partnership basis.
- It has been submitted that for such installation, the Applicant is entitled to receive a consideration, in the form of Capital Subsidy, being 90% of the total capital expenditure incurred by the Applicant in supplying, installing and commissioning of the equipment. The balance 10% of the total capital expenditure along-with Operating & Management fees is receivable as 'Annuity fees', and is recovered by the Applicant by raising quarterly invoices on the ULBs. After the Greenfield Public Street Lighting System has been commissioned, the Applicant is required to undertake the Operation and Maintenance of the system till the end of the term of the Agreement.

The applicant sought advanced ruling on the issue whether the activities of supply installation, operation and maintenance of Greenfield Public Street Lighting System (GPSLS) carried out by the Applicant is classifiable as a supply of Works Contract Services.

Decision of the Case

- The Coram ruled that the primary activity of the applicant is 'supply of goods' and not 'supply of services'. Further, the said activity performed by the applicant is not related to the immovable property at any point of the time and hence the said activity does not qualify to be a works contract.

The Orissa Authority of Advance Ruling (AAR) ruled that the activities of supply, installation, operation, maintenance of Greenfield Public Street Lighting System not classifiable as Works Contract Services.