

18% GST on Contract relating to Electrical Works from Sub-Contractor for Work of Government Company: AAR

Fact of the Case

The applicant, M/S Hadi Power Systems is a proprietary concern registered under the Goods and Services Tax Acts and is engaged in the business of execution of works contracts relating to electrical works and electrical infrastructure.

The applicant states that M/S. Ocean Constructions (India) Pvt. Ltd., has been awarded a contract by M/S Karnataka Neeravari Nigam Ltd. for civil, electrical and mechanical works. The applicant also states that the nature of works delegated to the main contractor, M/S. Ocean Construction (India) Pvt. Ltd. is for the construction of Channa basaveshwara Lift Irrigation Scheme which includes preparation of plans and drawings, construction of intake canal, jack well cum pump house, Rising main, Electrical sub-station, erection of vehicle turbine pumps, including commissioning of entire project, including maintenance for 5 years period on turnkey basis.

The applicant has also stated that the main contractor has subcontracted the certain electrical works to M/S Shaaz Electricals. Further, the first subcontractor has in turn entered into a sub-contract agreement with the applicant for providing electrical works. M/S Karnataka Neeravari Nigam Ltd is being registered as a company which is wholly owned Government of Karnataka, as per the provisions of the Companies Act, 1956 with effect from 9th December 1998 for civil, electrical and mechanical works.

The applicant sought the advanced ruling on the issue whether concessional rate of GST shall apply to the sub-contractor who is sub-contracted from a sub-contractor of the main contractor, the main contractor being provider of works contract to a Government entity.

Decision of the Case

The Coram observed that the privity of contract is between the applicant and the M/S Shaaz Electricals, however M/S Shaaz Electricals is not covered under Central Government, State Government, Union Territory, a local authority or a Governmental Authority or a Government Entity and hence the supply made by the applicant is not covered entry no.3 (iii) of Notification No. 11/2017- Central Tax (Rate) dated June 28, 2017. For the same reason, the activity of the applicant is also not covered under entry no. 3(vi) of the Notification No. 11/2017- Central Tax (Rate) dated June 28, 2017 (as amended).

The AAR ruled that that the activity under consideration undertaken by the applicant is not covered under entry no.3 (ix) or under entry 3 (iii) or under entry 3 (vi) of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 (as amended) and hence applicant is not liable to charge concessional rate of 12% GST on the said supply, and the applicant has to discharge tax rate 18% GST.

The Karnataka Authority of Advance Ruling (AAR) ruled that the 18% GST is applicable on contract relating to electrical works from sub-contractor for work of Government Company.