



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2018-19/47
(In Application No.: 47/2018-19, dated 27.12.2018)

Name & Address of the Applicant	:	M/s Pansut Udyog Pvt. Ltd., Plot No.18, Sector-18, Near Maruti Material Gate, Gurugram.
GSTIN of the Applicant	:	06AAGCP8246C1ZH
Date of Application	:	27.12.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	Clause(e)- determination of liability to pay tax on any goods of services or both
Date of Personal Hearing	:	15.03.2019
Present for the Applicant	:	Sh. Prince Mahendera and Sh. Chander Shekhar (C.A.)

Memo No.: 808/AETC (AAR)

Dated: 12/9/19

1. Submissions made by the applicant:

The applicant has submitted that it is rendering facility management services to an IT/ITES building in Gurugram. It has installed diesel generators at its tower. To run these generators, it has to incur cost on HSD, lubricants and other maintenance services. Separate meters are installed for each tenant for measuring electrical energy supplied by diesel generators. On the basis of individual separate meter readings on diesel generators, the billing is done for units consumed by each tenant. The rate charged per unit is on cost basis. It is not making any profit out of this. It is purely on running cost basis. "A Diesel generator is a device that converts mechanical energy obtained from HSD into Electrical energy as output." The said supply of Electrical energy units through diesel generators is covered under Tariff code-27160000-Electrical Energy- attracting NIL rate of Tax. The applicant wants to confirm as to whether the NIL rate of tax selected by it is correct.

2. Submission of Jurisdictional Officer:

The Authority has also sought comments of the Jurisdictional Officer on the issue and the jurisdictional officer is of the view that PUPL is not engaged in the provision of electrical energy rather it is engaged in facility management services in relation to the electricity supplied through



generators and therefore, the exemption pertaining to electrical energy should not be available to the applicant.

3. Discussion:

The Authority has heard the applicant at length and has gone through the submissions made by it along with the comments of the jurisdictional officer. It is true that the supply of electrical energy is covered under Entry No. 104 Tariff code 27160000- Electrical energy- attracting Nil rate of tax as per the Notification No. 2/2017-Central Tax (rate), dated 28th June, 2017. It is equally true that the applicant is neither an electricity generating nor an electricity distributing agency. It is merely engaged in providing power back-up services at the IT/ITES building in Gurugram and in pursuant to this activity, it is involved in the ancillary activities such as purchasing HSD, lubricants and maintenance services. The record relating to consumption of units is maintained by the applicant and the charges per unit are also fixed by it. Considering all these factors, this Authority has no hesitation in concluding that the provision of power back-up services is not covered under the definition of '**goods**' and hence the above said notification is not applicable to the instant case.


4. Finding:

The facilities provided by the applicant are not classified as goods rather as services. The provision of power back-up in a commercial or residential building is in the form of a service, whatever name it may be assigned- be it utility services, maintenance services or any other service. These services are covered under the Chapter 99, Heading 9972, Group 99722 and HSN Code 997221 (Property management services on a fee or commission basis or on contract basis). As such, the service is liable to CGST @ 9% and SGST @9%.



Ordered accordingly.
To be communicated.

19.03.2019
Panchkula.


(Sangeeta Karmakar)
Member CGST


(Madhubala)
Member SGST

Regd. AD/Speed Post

o/c M/s Pansut Udyog Pvt. Ltd., Plot No.18, Sector-18,
Near Maruti Material Gate, Gurugram.



Copy to:

1. The Principal Commissioner of Central Goods & Services Tax, GST Bhavan, Plot No. 36-37, Sector-32, Gurugram, Haryana-122001.
2. Deputy Excise and Taxation Commissioner (ST), Gurugram (North).