



**RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX**

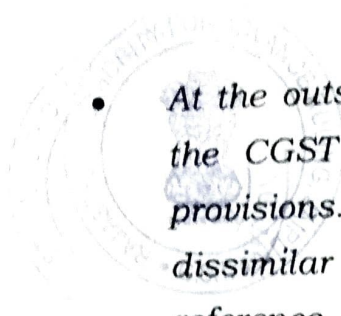
**KAR BHAWAN, AMBEDKAR CIRCLE, NEAR
RAJASTHAN HIGH COURT
JAIPUR - 302005 (RAJASTHAN)**



ADVANCE RULING NO. RAJ/AAR/2020-21/04

J.P.Meena Additional Commissioner	: Member (Central Tax)
HemantJain Additional commissioner	: Member (State Tax)
Name and address of the applicant	: M/s ARG Electricals Pvt. Ltd. 125 Partap Nagar, Dungarpur, Rajasthan, 314001
GSTIN of the applicant	: 08AAKCA4364N1Z6
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	: e. determination of the liability to pay tax on any goods or services or both
Date of Personal Hearing	: 19-03-2020
Present for the applicant	: Shri Manish Bansal, Director
Date of Ruling	: 14.05.2020

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


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- *At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".*
 - The issue raised by M/s ARG Electricals Pvt. Ltd. 125 Partap Nagar, Dungarpur, Rajasthan, 314001 (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (e) given as under :

e. determination of the liability to pay tax on any goods or services or both;

- Further, the applicant being a registered person (GSTIN is 08AAKCA4364N1Z6) as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

A. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

1. The Applicant has received work orders from Ajmer Vidyut Vitran Nigam Limited (hereinafter called as AVVNL) through tender process. AVVNL is a company incorporated by Govt. of Rajasthan for distribution of electricity in various parts of Ajmer district. The work orders are awarded to them through a tender and scope of work is described in respective work orders as submitted with application. The two work orders as awarded through the tenders are (a) *"Supply of material/equipment for providing of Rural Electricity Infrastructure for Household electrification in selected blocks under Rajiv Gandhi Grameen Vidhyutikaran Yojana scheme on turnkey basis".* (b) *Erection, testing*



and commissioning supplied material/equipment for “providing of Rural Electricity Infrastructure for Household electrification in selected blocks under Rajiv Gandhi Grameen Vidhyutikaran Yojana scheme on turnkey basis”. The two work orders separately describes each activity to be carried out to complete the work and also rate for each activity is separately mentioned, by adding amount of each activity total cost is derived. The two work orders have been originated from the same tender and more over we have to accept whole tender and do not have option to choose one. The essential features of the tender and work orders thus are as following--

- The two work orders are related to each other in such manner that if the supplied material are not erected, tested and commissioned as per the requirement the payment to us would not be made by the AVVNL.
- Single tender is floated for all the components.
- Different components are integral to one main supply i.e. providing electricity. If one or more components are removed the nature of main supply would get affected.
- Many components are clearly incidental and ancillary to an identifiable main supply;

2. that as per Section 2(119) of the Central Goods and Services Tax (CGST) Act, 2017, unless the context otherwise requires, the term “works contract” means *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*”;

3. that as can be seen from definition of works contract only construction, fabrication, completion.....of immovable property will be considered as works contract and as per our interpretation of work orders combine as attached to the tender of the work can only be classified as work contract as after the installation of the material supplied the whole system combine become an immovable property. The definition provides that the contract for supply, erection, commissioning of an immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract and hence the contract is a work contract;
4. that the first work order is for the 'supply of materials/equipments' and the second work order is for erection, testing and commissioning of the supplied goods. We are convinced that both the agreements are for the single works contract of providing electricity. The contracts would have different consideration but that should not change the way look at such work orders. The bifurcation into such agreement which themselves reveal the real intent would not impede the interpretation and applicability of the provisions. The contention as made by us is to treat the both work orders as one being a composite supply for which the principal supply is providing electricity;
5. that as per Sr. no 3(vi) of the Notification no. 11/2017- C.T. (Rate) as amended w. e. f. 25.01.2018

“(vi) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided]12 to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity 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;”

6. **"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 90per cent 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.";
7. that it is already clear that the AVVNL is a Government Entity as it is 100% owned and controlled by the Government of Rajasthan incorporated to carry out a function entrusted by the State Government of providing electricity in the district of Ajmer. It is also mentioned in the circular published by AVVNL on 17.05.2019;
8. that applicant is of the view that the contract is an original work and it is predominantly for use not for commerce but to provide electricity at an affordable price to the rural areas and Government is expending approx Rs. 30,000 per connection to provide the electricity to Below Poverty Line households and also providing armored cable, earthing rod, GI Wire, Energy Meter, Plastic Board with all fitting/accessories holder, MCB and 7 walls LED Lamp on free of cost basis. The object of this project is to electrify the BPL households it cannot be regarded as commerce, industry or any other business.

Therefore, according to our interpretation of the notification from the above submissions is that the contract is with Government Entity for original work used predominantly other than commerce, industry, or any other business and above notification is applicable on us.

B. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

- I. Whether the contract entered into with AVVNL as per the work orders combine of supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure

qualifies as a supply for work contract under Section 2(119) of the CGST Act?

II. If Yes, whether such supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure made to AVVNL would be taxable at the rate of 12% in terms of Sr. No. 3(vi)(a) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 as amended w. e. f. 25.01.2018?


C. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 19.03.2020 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Shri Manish Bansal, Director of the M/s ARG Electricals Pvt. Ltd. appeared for PH. During the PH, he reiterated the submissions already made in the application. He further requested for one-week time for additional submissions which was acceded to. Further applicant vide email dated 29-4-2020 requested to give more time for final submission up to 10.5.2020 due to lock down. Till date no additional documents have been received by this office.

D. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdictional officer i.e. The Assistant Commissioner, CGST Division-C, 142B, Hiran Magri, Udaipur-313001 submitted his comments vide email dated 12.3.2020. The comments are summarized as under:-

M/s ARG Electrical Pvt. Ltd (GSTIN 08AAKCA4364N1Z6) are engaged in providing services of supply of material and services of erection, testing & commissioning of supplied material to AVVNL under RGGVY schemes on turnkey basis in Dungarpur District and was discharging GST @ 18%. Later on Ajmer Vidhyut Vitran Nigam Ltd., Ajmer vide letter No. AVVNL:- CAO(ATP):AAO(Taxation)D: 854 dated 17.05.2019 circulated the



copy of GST Circular No. 03/2019 to the tax payer and informed that being a Govt. entity they are entitled for exemption and payable GST is NIL. Therefore, M/s ARG Electrical Pvt Ltd. have stopped the filing of GSTR-3B returns from the month of March, 2019 to Oct., 2019. Thereafter the tax payer reconciled turnover & Tax payable claiming benefitted rate @ 12% and set off their tax liability by making adjustment of previous paid excess tax and filed GSTR-3B for the month of March, 2019 and onwards 13.11.2019 to 20.11.2019 and also filed GSTR-1 for the period from Feb., 2019 to Oct., 2019 on 13.11.2019 to 20.11.2019 after reconciliation of turnover & Tax liability claiming benefitted rate @ 12%.

In view of above to confirming their above claim they filed this application for advance ruling.

Point No. 14 (1) Whether the contract entered into with AVVNL as per the work orders combine of supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure qualifies as a supply for work contract under Section 2(119) of the CGST Act?

For point no. 14(1), it is submitted that the applicant, upon participating in the tender, has been awarded the following contracts by AVVNL, Ajmer (a) Contract for supply of material/equipment for *“Providing of Rural Electricity infra structure for House hold electrification (6.35/0.24 KV Single Phase Distribution Transformer Sub-station, 11 KV Single Phase line, LT single Phase line & BPL Connections)”* and (b) Contract for erection, testing & commissioning of supplied material/equipment for *“Providing of Rural Electricity infra structure for House hold electrification (6.35/0.24 KV Single Phase Distribution Transformer Sub-station, 11 KV Single Phase line, LT single Phase line & BPL Connections) in selected blocks under RGGVY scheme on turnkey basis”*. Both

works are to be done in Dungarpur District (Lot-I) as per governing specification of Ajmer Discom's tender enquiry RGGVY/TN-13.

The RGGVY is a scheme for Rural Electricity Infrastructure and Household Electrification Scheme, launched in 2005 and is dedicated to provide electricity to all rural households. The Scheme is funded 90% by Central government and 10% by Rural Electrification Corporation (REC). This scheme is applicable for all rural households living below poverty line. The RGGVY schemes was implemented by Ministry of Power, Government of India and therefore, projects undertaken by AVVNL, Ajmer under (RGGVY) schemes are entrusted by Government of India.

Further, the works contract has been defined in clause (119) of section 2 of the CGST Act, 2017 and the same reads as under:

(119) "works contract" means 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 said contracts are covered under the definition of works contract for the reasons as under:

- (a) They are in relation to the completion, erection, installation and commissioning of an immovable property as all projects are turnkey projects and the property in goods cannot be removed without dismantling the same.
- (b) There is transfer of property in goods involved in the execution of such contract.

Hence the contract entered into with AVVNL as per the work orders of supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure

appears to be qualified as a supply for work contract under Section 2(119) of the CGST Act.

Point No. 14(2) If Yes whether such supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure made to AVVNL would be taxable at the rate of 12% in terms of Sr. No. 3(vi)(a) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 as amended w. e. f. 25.01.2018.

It is submitted that the entry no. 3(vi)(a) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 (as amended) reads as under:

SL. No	Heading	Description of Services	Rate	Condition
(1)	(2)	(3)	(4)	(5)
	Heading 9954	<p>(vi) Composite supply of works contract as defined in clause (119) if section 2 of the Central Goods and Services Tax Act, 2017, provided to the Central Government, State Government, Union Territory, a local authority or a Government Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of-</p> <p>(a) A civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p> <p>(b) A structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or</p> <p>(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.</p>	12%	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.

Therefore, the conditions to be satisfied for taking benefit of entry no. 3(vi)(a) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 are as under:

- (1) It must be a composite supply of works contract as defined in section 2(119) of the CGST Act, 2017.
- (2) It must be provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity
- (3) The contract should be by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a civil structure or any other original works.
- (4) The civil structure or original works must be meant predominantly for use other than for commerce, industry, or any other business or profession
- (5) Where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union Territory or a local authority, as the case may be.

As all the above said conditions are satisfied by the applicant, therefore, the contracts executed by M/s ARG Electrical Pvt. Ltd. to AVVNL, Ajmer by way of supply of material/equipment and erection, testing & commissioning of supplied material/equipment are covered the entry no. 3(vi)(a) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 as amended from time to time and consequentially are appears to be eligible for lower rate of 12% GST.

E. FINDINGS, ANALYSIS & CONCLUSION:

1. While going through the submissions of the applicant and relevant documents, we find that the applicant has been awarded a contract

vide Tender No. floated by AVVNL. The tender is regarding supply of material and services of erection, testing & commissioning of supplied material to AVVNL under RGGVY scheme on turnkey basis in Dungarpur District of Rajasthan. The said tender has two work orders which are interdependent and whosoever is getting the contract has to accept both work orders without any choice. The two work orders are as following-

- Contract for supply of material/ equipment for "Providing of Rural Electricity infra structure for House hold electrification (6.35/0.24 KV Single Phase Distribution Transformer Sub-station, 11 KV Single Phase line, LT single Phase line & BPL Connections) in selected blocks under RGGVY scheme on turnkey basis" in Dungarpur District (Lot-I) as per governing specification of Ajmer Discom's tender enquiry RGGVY/TN-13. services of erection, testing & commissioning of supplied material to AVVNL under RGGVY scheme on turnkey basis in Dungarpur District.
 - Contract for erection, testing & commissioning of supplied material/equipment for "Providing of Rural Electricity infra structure for House hold electrification (6.35/0.24 KV Single Phase Distribution Transformer Sub-station, 11 KV Single Phase line, LT single Phase line & BPL Connections) in selected blocks under RGGVY scheme on turnkey basis" in Dungarpur District (Lot-I) as per governing specification of Ajmer Discom's tender enquiry RGGVY/TN-13.
2. We further find that Rajiv Gandhi Grameen Vidyutikaran Yojana (hereinafter RGGVY) for Rural Electricity Infrastructure and Household Electrification Scheme was launched in 2005 and is dedicated to provide electricity to all rural households. The Scheme is funded 90% by Central government and 10% by Rural Electrification Corporation (REC). This scheme is applicable for all

rural households living below poverty line. The RGGVY schemes was implemented by Ministry of Power, Government of India and therefore, projects undertaken by AVVNL, Ajmer under (RGGVY) schemes are entrusted by Government of India.

3. The project is still ongoing; therefore, the advance ruling is applicable on the said project. To determine applicable rate of GST in the instant case and nature of supply, we have to examine various provisions of CGST Act, 2017 like Composite Supply, Works Contract, Notification No. 11/ 2017-CT(R) dated 28.06.2017 etc.
4. Firstly, the two work orders as explained as above arise out of single tender. The two work orders are very intricately linked to each other and without performing the one, the other part can't be done. First order is for the supply of materials that is supply of goods in which material required to develop infrastructure of electricity is created. Whereas, the second element is design, construction of the said infrastructure. In another words, the applicant will be doing both, providing necessary materials and using that material to build the required infrastructure. The final structure will be transferred to AVVNL.
5. As the project encompasses more than one supply viz. goods as well as services, it may be classified a Composite Supply.

The Composite Supply is defined under Section 2(30) of CGST Act, 2017, The relevant portion is as under—

*"composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are **naturally bundled and supplied in conjunction with each other** in the ordinary course of business, **one of which is a principal supply;***

On examining of the above definition in context to work orders undertaken by the applicant, we find that both work orders are naturally bundled and supplies of material as well as erection and commission of the structure is in conjunction with each other.

6. Further, the works contract has been defined in clause (119) of Section 2 of the CGST Act, 2017 and the same reads as under:

(119) "*works contract*" means 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;'

We find that, the work undertaken by the applicant explicitly falls under the scope of works contract on following grounds--

- They are in relation to the completion, erection, installation and commissioning of an immovable property as all projects are turnkey projects and the property in goods cannot be removed without dismantling the same.
- There is transfer of property in goods involved in the execution of such contract.

Hence, the contract entered into with AVVNL as per the work orders of supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure qualifies as a supply for work contract under Section 2(119) of the CGST Act.

7. Whereas, vide above Point 5 and Point 6, it has been gathered that Work undertaken by the applicant is a Works Contract as well as Composite Supply. Further, we observe that **Composite Supply of Works Contract is treated as Supply of Services as provided under Para 6(a) of Schedule-II of CGST Act, 2017.** The relevant extract of the said Schedule is as under—

SCHEDULE II

[See section 7]

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

(a) works contract as defined in clause (119) of section 2; and

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

8. Whereas, reading Point-7, we find that Composite Supply of Works Contract is a Supply of Service, therefore, to determine the rate, we have to refer to Services rate Notification viz. Notification No.11/2017- Central Tax (Rate) dated 28.06.2017.

9. Composite Supply of Works Contract provided to Central Government, State Government or a Government Entity is covered under Entry 3(vi)(a) of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017. The relevant portion of the said notification is as under—

SL. No	Heading	Description of Services	Rate	Condition
(1)	(2)	(3)	(4)	(5)
	Heading 9954	(vi) Composite supply of works contract as defined in clause (119) if section 2 of the Central Goods and Services Tax Act, 2017, provided to the Central Government, State Government, Union	12%	Provided that where the services are supplied to a Government Entity, they should have

	<p>Territory, a local authority or a Government Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of-</p> <p>(a) A civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p> <p>(b) A structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or</p> <p>(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.</p>	<p>been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.</p>
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The aforementioned stipulates some conditions to make eligible any work under to fall under this entry, which are as following:

- a. It must be a composite supply of works contract as defined in section 2(119) of the CGST Act, 2017
- b. It must be provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity
- c. The contract should be by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a civil structure or any other original works.
- d. The civil structure or original works must be meant predominantly for use other than for commerce, industry, or any other business or profession
- e. Where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union Territory or a local authority, as the case may be.

Examination of above condition in respect to instant case

- a. The condition one, that the work undertaken by the applicant is a composite supply of works contract has already been discussed in the Point No. 6
- b. The 'Governmental Authority' and 'Government Entity' have been defined in paragraph 4 of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 which is as under--

[(ix) "Governmental Authority" means an authority or a board or any other body, - (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

(x) "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 90per cent. 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.]⁷⁸

AVVNL has been established under the Companies Act,1956 by Govt. of Rajasthan with the principal objective of engaging in the business of distribution and supply of electricity in 11 districts of Rajasthan, namely Ajmer, Bhilwara, Nagaur, Sikar, Jhunjhunu, Udaipur, Banswara, Chittorgarh, Rajsamand, Dungarpur and Pratapgarh. Further, (a) they are established by the Government with 90 per cent. or more participation by way of equity or control (b) they carry out a function entrusted by the Government. Thus AVVNL is a government entity.

Further, the applicant in the instant case is executing works Contract for supply of material/ equipment and erection, testing & commissioning of supplied material/equipment for *"Providing of Rural Electricity infrastructure for House hold*

electrification (6.35/0.24 KV Single Phase Distribution Transformer Sub-station, 11 KV Single Phase line, LT single Phase line & BPL Connections) in selected blocks under RGGVY scheme on turnkey basis" in Dungarpur District to AVVNL, Ajmer which is a Government Entity.

- c. The term "original works" has not been defined under the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 as amended, but it is defined in the context of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 which also can be used in the context of this Notification as both deals with taxation of services and the same reads as under:

(zs) 'original works' means all new constructions:

- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
- (ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre fabricated or otherwise;'

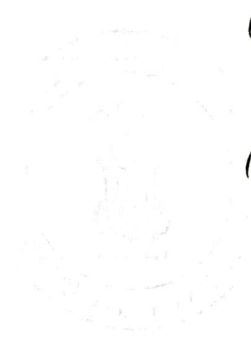
The Contract is for erection, testing & commissioning of supplied material/equipment for "Providing of Rural Electricity infrastructure for House hold electrification (6.35/0.24 KV Single Phase Distribution Transformer Sub-station, 11 KV Single Phase line, LT single Phase line & BPL Connections)". Thus it is an original works as defined above.

- d. The issue under detailed discussion is whether the works are meant predominantly for use other than for commerce, industry, or any other business or profession.

The term "business" is defined in clause (17) of section 2 of the CGST Act and it reads as under:

"(17) 'business' includes—

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

- 
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
 - (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
 - (e)
 - (f)
 - (g)
 - (h); and
 - (i)


M/s AVVNL is involved in supply of electricity to the consumers and are collecting consideration in lieu of the said supply. The 'Electricity' as per GST is classified under the category of 'goods' and thus M/s AVVNL is supplying goods to consumers and is receiving consideration against the same.

Further, the Explanation Clause inserted vide Notification No. 17/2018-CT dated 26.07.2018 reads as under:

"For the purposes of this item, the term 'business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities."

The above said explanation clause is not applicable in the instant case as activities discussed above are not undertaken by the Central government or State Government or any local authority as public authorities.

We find that from definition of business, it is clear that any activity of trade, commerce or manufacture etc. or any other similar activity is included in the definition of business and it is immaterial whether it is done for a pecuniary benefit, and any activity done in connection with or incidental or ancillary to such activity is also included in the scope of business.



M/s AVVNL is involved in the supply of goods as already explained and hence they are involved in the business of supplying goods. They also receive consideration for the supply of electricity. The predominant activity of M/s AVVNL is to supply electricity and work undertaken by the applicant in the instant case is to help M/s AVVNL predominantly in this work. Hence, the work undertaken by the applicant in the instant case is an original meant predominantly for use for commerce, industry, or any other business or profession.

- e. AVVNL has made contract with the applicant for supply of material/ equipment and erection, testing & commissioning of supplied material/equipment for *"Providing of Rural Electricity infrastructure for House hold electrification (6.35/0.24 KV Single Phase Distribution Transformer Sub-station, 11 KV Single Phase line, LT single Phase line & BPL Connections) in selected blocks under RGGVY scheme on turnkey basis"* in Dungarpur District.


The Government of India launched RGGVY Scheme for creation of Rural Electricity Infrastructure & Household Electrification, in April 2005 for providing access to electricity to rural households.

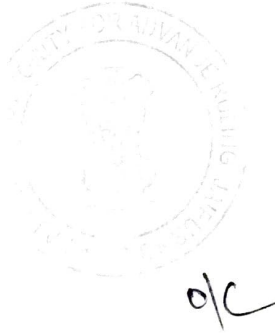
10. In view of the above facts and discussions, we observe that all the five conditions prescribed implicitly by Entry No. 3(vi)(a) of the Notification No.11/ 2017 - Central Tax (Rate) dated 28.06.2017 are satisfied by the applicant except one, viz. that the activity is meant predominantly to be used other than commerce, industry, or any other business or profession. Thus, work undertaken by the applicant as per Contract RGGVY/TN-13 for AVVNL, Ajmer by way of supply of material/ equipment and erection, testing & commissioning of supplied material/equipment is though a Composite Supply of Works Contract but the same is not covered under the Entry No. 3(vi)(a) of the Notification No.11/ 2017 - Central Tax (Rate) dated 28.06.2017 (as amended).


F. In view of the foregoing we rule as follows:-

RULING

- ❖ The work undertaken by the applicant as per Contract RGGVY/TN-13 entered between the applicant and AVVNL along with two Work Orders viz. (a) Supply of Materials/Equipments and (b) Erection, Testing and Commissioning of Materials/Equipments (supplied in first work order) in building of rural electricity infrastructure is a Composite supply of Works Contract.
- ❖ The work undertaken by the applicant as per Contract RGGVY/TN-13 (encompassing both work orders) is a Composite supply of Works Contract and is not covered under Entry No. 3(vi)(a) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 (as amended) as consequentially are not eligible to be taxed at lower rate of 12% (SGST 6% + CGST 6%) and hence are liable to be taxed @18% (CGST 9% + SGST 9%).


J.P. MEENA
Member
(Central Tax)
14/05/2020




HEMANT JAIN
Member
(State Tax)
14/5/2020

SPEED POST

M/s ARG Electricals Pvt. Ltd.
125 Partap Nagar, Dungarpur,
Rajasthan, 314001

F.No. AAR/ARG Electricals/2019-20/12-16

Dated: 18/05/20 .

Copy to: -

1. Chief Commissioner CGST and Central Excise Jaipur Zone, NCRB,
Statue Circle, Jaipur, Rajasthan 302005.

2. Commissioner, SGST & Commercial Taxes, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. Commissioner, CGST and Central Excise Commissionerate, Udaipur, 142-B, Hiran Magri, Udaipur-313002
4. The Assistant Commissioner, CGST Division -C, 142-B, Hiran Magri, Udaipur-313002

o/c