

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd & 4th Floor, VanijyikKar GST Bhawan, North Block Sector-19,
Atal Nagar, District-Raipur (C.G.) 492002

Email ID – gst.aar-cg@gov.in

PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Shravan Kumar Bansal
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur (C.G)

Subject :- Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 sought vide ARA-01 Application from **M/s Hitachi Energy India Limited**, 1st Floor, No. OP-05, C246/6, Vallabh Nagar, Near Sant Gyaneshwar School, Raipur, Chhattisgarh, 492001, a registered unit having GSTIN- 22AARCA9513E1ZR (here in after referred to as the applicant), seeking advance ruling as to

(i) Whether the supply of services made by the Applicant under Fifth Contract is composite supply with principal supply of goods under the Third Contract?

(ii) Whether the supply of services of transportation, freight and insurance under the 'Fifth Contract' provided for the goods supplied by the Applicant is in the nature of Business Support Services and shall be chargeable to tax at specified rates?

Read :- Application from **M/s Hitachi Energy India Limited**, 1st Floor, No. OP-05, C246/6, Vallabh Nagar, Near Sant Gyaneshwar School, Raipur, Chhattisgarh, 492001, a registered unit having GSTIN- 22AARCA9513E1ZR.

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/03/2023

Raipur Dated **25**/09/2023

M/s Hitachi Energy India Limited, 1st Floor, No. OP-05, C246/6, Vallabh Nagar, Near Sant Gyaneshwar School, Raipur, Chhattisgarh, 492001, a registered unit having GSTIN- 22AARCA9513E1ZR. has furnished an application in form ARA-01 under section 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling as to (i) Whether the supply of services made by the Applicant under Fifth Contract is composite supply with principal supply of goods under the Third Contract? (ii) Whether the supply of services of transportation, freight and insurance under the 'Fifth Contract' provided for the goods supplied by the Applicant is in the nature of Business Support Services and shall be chargeable to tax at specified rates?. The above said ARA-01 application dated 08.06.2023 complete in all respect along with the relevant challans was received on 28.6.2023



2. Facts of the case: -

2.1. As informed by the applicant in the instant ARA-01 application, they are a company *inter alia* engaged in manufacture and supply of electrical equipment of various capacities depending on end use and application to specific industry. This Application for Advance Ruling (AAR) has been filed by Hitachi Energy India Limited (formerly part of ABB India Limited), a company registered under the Companies Act, 2013, having their registered office, at 8th floor, Brigade Opus, 70/401, Kodigehalli Main Road, Bengaluru – 560 092 bearing Karnataka GSTIN 29AARCA9513E1ZD. The applicant is also registered in the State of Chhattisgarh with GSTIN 22AARCA9513E1Z and is *inter alia* engaged in manufacture and supply of electrical equipment and have accordingly filed the Advance Ruling application from the GSTIN of Chhattisgarh.

2.2 The applicant is seeking a ruling on determination of tax liability on the supplies made vide one of the contracts entered into with Power Grid Corporation of India Ltd. ('PGCIL') for the supply of goods and services for setting up 800 KV, 6000 MW HVDC terminals at Raigarh and Pugalur.

2.3 The applicant seeks a ruling as to the applicability of Sl. No. 18 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 on the services of transportation, freight and insurance provided by the Applicant in terms of the Fifth Contract namely On Shore Services Contract Agreement (Reference No. CC-CS/651-SR2/HVDC-3063/7/G10/CA-V/5821) to PGCIL.

2.4 Alternatively, if the exemption under Notification is not applicable, the question as to whether the services are taxable for being in the nature of composite supply, with the principal supply being supply of goods is also to be examined.

2.5. The applicant vide the instant ARA-01 has intimated that, a Joint Venture ('JV') of M/s. ABB AB, Sweden ('ABBAB') and M/s. Bharat Heavy Electricals Limited (BHEL) had entered into a contract dated 25.01.2017 with Power Grid Corporation of India Ltd. ('PGCIL') for setting up and delivering 800 KV, 6000 MW HVDC terminals for establishing the transmission link for transmitting electricity from Raigarh, Chhattisgarh to Pugalur, Tamil Nadu, covering 1800 Km link. Further, that the entire scope of work was split into five Contracts for supply of equipment and material offshore and onshore, and for supply of services. The JV has appointed the Applicant as their associate for executing the Third Contract, (on-shore supply of goods) and the Fifth Contract (providing services *inter alia* including local transportation, insurance and other incidental services in respect of the goods supplied under First Contract and Third Contract).

2.6. As per the Fifth Contract, the applicant has been entrusted with the responsibility of delivery of goods at the site of installation. For this, the applicant engaged transporters who issued consignment notes and raised invoices to the applicant for such transportation of goods. The applicant discharged the GST liability under reverse charge mechanism on the amounts paid by them to the transporters.



2.7. As per the terms of the Contract, the Applicant raised invoices on PGCIL for 'F&I' or 'Freight and Insurance' along with the taxes under SAC 996793.

2.9. However, the GST component of the said invoices was not reimbursed by PGCIL as they are of the view that the same is exempt in terms of Sl. No. 18 of the Notification 12/2017-CT (Rate). That, the applicant bore the cost of the differential GST on their own account and duly deposited the same to the Government in a timely manner.

2.10 PGCIL responded to the correspondences of the applicant vide letter dated 22.03.2018 wherein it was stated that PGCIL did not share the understanding of the applicant that supply of goods and Freight & Insurance are composite supply. It was however stated that the applicant may opt for Advance ruling in the matter to get clarity.

2.11 Further, that the applicant responded to the above letter vide their letter dated 18.05.2018 wherein the rulings of the West Bengal AAR in the matters of **EMC Limited** and **Giriraj Renewables Private Limited** were cited, wherein in similar circumstances GST was held to be payable on the freight and insurance component of the contract. It was informed that considering the rulings, the applicant shall raise the freight and insurance invoices with applicable GST. Thus, it was requested that the contract be amended suitably to allow for the reimbursement of GST paid on freight and insurance. It has further been informed that the Applicant did not receive any response from PGCIL agreeing to the interpretation as adopted by the applicant.

2.12 Thus under the circumstances, the applicant has sought ruling in the matter raising the following questions.

- (i) Whether the supply of services made by the Applicant under Fifth Contract is composite supply with principal supply of goods under the Third Contract?
- (ii) Whether the supply of services of transportation, freight and insurance under the 'Fifth Contract' provided for the goods supplied by the Applicant is in the nature of Business Support Services and shall be chargeable to tax at specified rates?

3. Contentions of the applicant: -

The applicant has in the instant application furnished the technical specification of the said product to be as under: -

A. SUPPLY OF SERVICES OF TRANSPORTATION, FREIGHT AND INSURANCE PROVIDED FOR THE GOODS SUPPLIED BY THE APPLICANT UNDER THE 'FIFTH CONTRACT' IS IN THE NATURE OF COMPOSITE SUPPLY UNDER SECTION 8 OF THE CGST ACT, 2017 WITH THE SUPPLY OF GOODS BEING THE PRINCIPAL SUPPLY

- i. That, the applicant is providing the services of local transportation and allied services under the Fifth Contract, which is linked to the overall execution of the Project, which comprises of the other four contracts. The services of transportation are not being provided in isolation and are inextricably linked and in consonance with the ex-works supply of goods under the First and Third Contract.



- ii. That, Section 2(30) of CGST Act provides that a supply shall be composite supply when two or more taxable supplies are provided, which are naturally bundled together in the ordinary course of business, one of which is a principal supply. In the present case, it is clear that it is normal industry practice that the goods to be supplied are to be delivered at site and freight and insurance are to be paid as natural consequence. Thus, the supplies are bundled together and the services so performed are ancillary and necessary for the supply of goods, making the same the principal supply.
- iii. That, since the applicant fulfils the conditions laid down by virtue of Section 2(30) of the CGST Act, 2017, the services of local transportation, insurance and freight for supplying goods, should be considered as a composite supply, with the principal supply being supply of goods.
- iv. That, the rulings cited below are also squarely applicable wherein in similar circumstances, it has been held that incidental supplies of transportation, freight and insurance made by the applicant should be treated as being provided in conjunction with the principal supply of supply of goods, which was the intention of the parties of the Contract as well:

- *In Re: Aditya Birla Nuvo Limited* reported at 2019 (29) G.S.T.L. 247 (A.A.R. – GST)
- *In Re: Skipper Limited* reported at 2019 (20) G.S.T.L. 110 (A.A.R. – GST)

- v. The applicant has also invited reference has also been drawn to the C.B.E. & C. Flyer No. 4, dated 05.08.2019 wherein it has been clarified that whether the services are bundled in the ordinary course of business would depend upon *inter alia* the industry practice followed in the area of business to which the services relate and the perception of the consumers.
- vi. That, the services of transportation, freight and insurance are reasonably expected to be provided by the Applicant by PGCIL. The said services are necessary for the goods to be supplied at the site, as required under the First and Third Contracts. Further, the rulings cited above, make it evident that the industry practice mandates that these services be naturally bundled with supply of goods.

THE CONTRACTS WITH CROSS FALL BREACH CLAUSE ARE INTERCONNECTED AND THE SUPPLIES MADE THEREUNDER ARE IN THE NATURE OF COMPOSITE SUPPLY

- vii. That, as per Article 5 of the Contract, irrespective of the five contracts, the JV is responsible for the overall completion of the Project. Any breach by the JV or the Applicant under the First, Second, Third or Fourth Contract will be considered as a breach of the Fifth Contract as well and will give PGCIL the right to terminate.
- viii. That, the five contracts entered into by the JV and the Applicant with PGCIL are clearly indivisible and interlinked to each other. When breach of one of the contract will result in breach of the Fifth Contract, then it can be clearly said that the intention of the parties is to treat all contracts as part of one transaction and cannot be executed independently.
- ix. That, therefore the services of transportation, insurance and freight should be treated as being composite supply with the supply of works contract being the principal supply in the said scenario.



x. The applicant has placed reliance in this regard on the following rulings:

- *In Re: Siemens Limited reported at 2020 (36) G.S.T.L. 467 (App. A.A.R. – GST – Mah.)*
- *In Re: IAC Electricals Private Limited reported at 2018 (13) G.S.T.L. 339 (A.A.R. – GST)*

B. SUPPLY OF SERVICES OF TRANSPORTATION, FREIGHT AND INSURANCE PROVIDED FOR THE GOODS SUPPLIED BY THE APPLICANT UNDER THE 'FIFTH CONTRACT' IS IN THE NATURE OF BUSINESS SUPPORT SERVICES AND SHALL BE CHARGEABLE TO TAX

- Notwithstanding the aforesaid submissions, the applicant has also expressed their view that the services of transportation, freight and insurance being provided under the Fifth Contract are in the nature of Business Support Services and hence, do not warrant exemption under Sl. No. 18 of the Notification No. 12/2017-CT (Rate) dated 28.06.2017, which only covers services by way of transportation of goods.
- That, to undertake the transportation of goods, the applicant has engaged third party vendors who are performing the said service. Since the applicant is not performing the services but only arranging for the same, the applicant is providing business support services.
- That, the said activity is akin to managing logistics of the goods and hence, would be considered as a business support service herein and shall be covered under SAC 998599 as 'business support services not elsewhere specified'. Reliance has been placed on ***Emerald System Engineering Limited v. Commissioner of Service Tax reported at 2016 (43) S.T.R. 545 (Tri.-Mumbai)***.

4. Personal Hearing: -

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant in person, as requested by them and accordingly, Ms. Neethu James, Advocate and authorized representative of the applicant, attended the personal hearing in the matter on 20.07.2023. It was her submission that M/s Hitachi Energy India Ltd (formerly part of ABB India Ltd) is a company registered under the Companies Act, 2013 having registered office at Bangalore and that they are inter-alia engaged in manufacture and supply of electrical equipment and are filing the advance ruling application accordingly from the GSTIN of Chhattisgarh. Further that they are seeking a ruling on determination of tax liability on the supplies made vide one of the contracts entered into with Power Grid Corporation of India Ltd (PGCIL) for supply of goods and services for setting up 800KV, 6000MW HVDC terminals at Raigarh and Pugalur. That, it is in this context they are requesting advance ruling as to Whether the supply of services made by the applicant under Fifth Contract is composite supply with principal supply of goods under the Third Contract? Whether the supply of services of transportation, freight and insurance under the Fifth contract provided for the goods supplied by the Applicant is in the nature of Business support services and shall be chargeable to tax at specified rates? The authorized representative of the Applicant was of the opinion that the services of transportation, insurance and freight should be treated as being composite supply with the supply for works contract being the principal supply and accordingly the value of the same should be included in the service and GST



should be levied. Further notwithstanding the above view, it was also opined that services of transportation freight and insurance provided for the goods supplied by the Applicant under the Fifth Contract is in the nature of Business support services and shall be chargeable to tax. She also submitted an additional written submission in the matter, which has been taken on record.

The authorized representative of the applicant reiterated the point of view in the matter as made in their ARA01 and thus requested for a ruling in the matter.

5. The legal position, analysis, and discussion: -

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

6. Section 96 of CGST Act, 2017, Authority for advance ruling, stipulates as under: -

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Section 97(2) of CGST Act, 2017 stipulates that: -

The question, on which the advance ruling is sought under this Act, shall be in respect of—

- (a) classification of any goods or services or both;*
- (b) applicability of a notification issued under the provisions of this Act;*
- (c) determination of time and value of supply of goods or services or both;*
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

Further, section 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: -*The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only -*

- a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;*
- b. On the concerned officer or the jurisdictional officer in respect of the applicant.*



Thus, in view of the above section 103 of CGST Act, 2017, the ruling so sought by the applicant would be binding only on the applicant and on the concerned officer or the jurisdictional officer as stipulated above.

7. We have gone through the submissions made by the applicant and have examined the contentions raised by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) (b), 97(2)(e) and Section 97(2)(g) of the CGST Act 2017 being a matter relating to applicability of a notification, determination of tax liability and being related to supply of goods / services. We, therefore, admit the application for consideration on merits.

8. Now we proceed to decide the issues raised by the applicant on merits. The applicant has sought ruling as to *Whether the supply of services made by the applicant under Fifth Contract is composite supply with principal supply of goods under the Third Contract? Whether the supply of services of transportation, freight and insurance under the 'Fifth Contract' provided for the goods supplied by the Applicant is in the nature of Business Support Services and shall be chargeable to tax at specified rates under rates under GST Law.*

The jurisdictional Assistant Commissioner, State Tax, Circle-6 Raipur (C.G) under his letter क्रमांक /रा.क/ स .आ /जीएसटी/मु.लि/1075 dated 17.8.2023 in the subject matter has opined that the instant transaction attracts 18% GST under composite supply in terms of Notification no. 11/2017-CT(Rate).

On a careful reading of the contract dated 25.1.2017 between the JV (of M/s ABB AB Sweden and M/s BHEL) with Power Grid Corporation of India Ltd. (PGCIL) it is seen that, in the present context, the contractual obligation between the aforesaid JV and PGCIL is for setting up and delivering 800 KV, 6000 MW HVDC terminals for establishing the transmission link for transmitting electricity from Raigarh, Chattisgarh to Pugalur, Tamil Nadu.

Before getting in to the issues raised by the applicant in the instant application, we would like to mention here in no uncertain terms that the rulings made here in the instant case in hand is applicable only to the impugned activity of the applicant of "setting up and 800KV, 6000 MW HVDC terminals for establishing the transmission link for transmitting electricity from Raigarh", falling within the Geographical jurisdiction of the State of Chhattisgarh. From the details furnished by the applicant in the instant ARA-01 and details as available in the public domain it could be gathered that the instant project is regarding the construction of the \pm 800 kV HVDC bipole lines passing through five States viz. Chhattisgarh, Maharashtra, Andhra Pradesh, Telangana & Tamil Nadu covering nearly 1800 Kms. The aforesaid work involves construction of above bipole line wherein Lattice towers are erected on designated places using normal excavation and foundations, thereafter conductors are strung across these using manual/stringing machines, besides construction of substations.



[Handwritten signature]

In this context it is of much relevance to have an insight in to the stipulations as contained in the provisions of section 96 of the CGST Act, 2017 above, which in very unambiguous terms specifies that the Authority of advance rulings constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority of advance ruling in respect of that State or Union Territory. Thus, the rulings given here are applicable only for the impugned activities which the applicant is undertaking within the State of Chhattisgarh and it is precisely for this very reason that the questions relating to the impugned activity undertaken by the applicant at places which falls outside the territorial jurisdiction of the State of Chhattisgarh cannot be given by the Chhattisgarh Advance Ruling Authority.

9. Now we move on to discuss the issue of "supply" involved in the instant transaction. On going through the application filed by the applicant and the contract agreement for ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh and Pugalur, Tamil Nadu associated with HVDC Bipole link between Western region (Raigarh, Chhattisgarh) and Southern region (Pugalure, Tamil Nadu)- North Trichur. The applicant through their instant application have informed that a Joint Venture of M/s. ABB AB, incorporated under the laws of Sweden and M/s. Bharat Heavy Electricals Limited (BHEL) had entered into a contract dated 25.01.2017 with Power Grid Corporation of India Ltd. (PGCIL), with ABBAB being the Lead Partner and BHEL being the Partner. The Contract was for delivering a transmission link for transmitting electricity from Raigarh, Chhattisgarh to Pugalur, Tamil Nadu. The Applicant was to deliver a High Voltage Direct Current System (HVDC) from Raigarh to Pugalur covering 1800 km link. The capacity of the HVDC system is 6,000 megawatts. The JV has appointed the applicant as their associate for the purpose of executing the Third Contract, i.e., on-shore supply of goods and the Fifth Contract, i.e. providing services including local transportation, insurance and other incidental services in respect of the goods supplied under First Contract and Third Contract and installing, commissioning of equipment, civil works, etc. for the goods supplied under First Contract, Second Contract and the Third Contract.

9.1 It has been informed by the applicant that at the time of the execution of the Contracts, they were functioning under the name of M/s. ABB India Limited and that with effect from 01.12.2019, the Power Grids business of ABB India Limited stands transferred to M/s. ABB Power Products and Systems Limited as a going concern. The Bengaluru bench of the Hon'ble National Company Law Tribunal ("NCLT") has sanctioned the said Scheme vide its order dated November 27, 2019. Accordingly, all the contract(s)/ statements of work/ purchase orders/ arrangements in relation to ABB India Limited's Power Grids business stands transferred to ABB Power Products and Systems Limited. The change had no effect on the contract or its scope thereof. A copy of the change order issued by PGCIL dated 25.02.2020 noting the change of the applicant from M/s. ABB India Limited to M/s. ABB Power Products and Systems Limited for the purpose of the contract was also furnished. The name of the applicant Company was changed, which was noted for the purpose of the contract vide the change order dated 21.12.2021. The said order captured that the name of the applicant Company shall stand amended from M/s. ABB Power Products and Systems Limited to M/s. Hitachi



Energy India Limited, as it stands today. As per the terms of the Contract, PGCIL, desirous of setting up 800KV, 6000MW HVDC Multi-Terminal System Package and had invited bids for complete project management, system design, engineering, type testing, manufacture, testing, supply, port handling and customs clearance for the imported goods, further handling, inland transportation and delivery at destination site, unloading, storage, handling at site, erection / installation including associated civil works, employer staff training, testing and commissioning including performance testing of equipment / materials and any other services as required for complete execution of the package.

The entire scope of work was split into five Contracts covering specific and detailed nature of supply of various goods and services for supply of equipment and material offshore and onshore and for supply of services:

- (i) **'First Contract'** – Off-shore Contract (with ABBAB) – for CIF supply of equipment and material including mandatory / availability spares, type testing & training to be conducted outside India.
- (ii) **'Second Contract'** – On-shore Supply Contract (with BHEL) – ex-works supply of equipment and materials including mandatory / availability spares from within India, type testing under the scope of BHEL as per the division of work indicated in the JV agreement, required for the complete execution of the Project.
- (iii) **'Third Contract'** – On-shore Supply Contract (with Applicant) – ex-works supply of equipment and materials including mandatory / availability spares from within India, type testing under the scope of Applicant as per the division of work indicated in the JV agreement, required for the complete execution of the Project.
- (iv) **'Fourth Contract'** – On-shore Services Contract (with BHEL) – performance of all services *inter alia* local transportation, insurance and other incidental services (including post clearance, etc.) taking delivery of equipment / materials including supervision of the erection of the supplies made under Second Contract, under the scope of BHEL as per the division of work indicated in the JV Agreement.
- (v) **'Fifth Contract'** – On-shore Services Contract (with Applicant) – performance of all services *inter alia* local transportation, insurance and other incidental services, taking delivery of equipment / materials to be supplied under the 'First Contract' and 'Third Contract' under the scope of ABBAB and Applicant, respectively, and unloading, handling, storage, erection including civil works, testing and commissioning of various equipment / materials to be supplied under the 'First Contract', 'Second Contract' and 'Third Contract', under the scope of ABBAB, BHEL and Applicant as per the division of work under the JV agreement.

It has further been informed by the applicant that the Contract stipulated a separate Contract price for each of the five Contracts along with break-up of the costs relating to each of the five Contracts. The provisions of the contracts require the successful execution of all five contracts for the implementation of the Project, meaning



that the contracts are interlinked. As per the provisions of each of the contracts, the applicant was liable to furnish Contract Performance Security for 10% of the value of the 'First Contract', 'Second Contract', 'Third Contract', 'Fourth Contract' and 'Fifth Contract' and the Applicant was to furnish Contract Performance Security for 10% of the Contract Value of the 'Third Contract' and 'Fifth Contract' to ensure due performance of the Contract.

9.2 The Fifth Contract viz. On Shore Services Contract Agreement (Reference No. CC-CS/651-SR2/HVDC-3063/7/G10/CA-V/5821) dated 25.01.2017 has been entered into by the applicant and PGCIL. The scope of work under this contract has been referred in the narration to the contract and includes local transportation, insurance, and other incidental services applicable for supply of Plant & Equipment from within India and from abroad. Thus, the present application seeking ruling relates to the above service activities involved in their Fifth Contract. The applicant has been entrusted with the responsibility of delivery of goods at the site of installation and for this the applicant engaged local transporters who issue consignment notes to the applicant for such transportation of goods and issue their freight invoices on the applicant. It has been informed by the applicant that they have discharged the GST liability under reverse charge mechanism on such freight amount being paid by it to these transporters. Further that as per the terms of the Contract, the applicant is to raise invoices on PGCIL, who in turn is to reimburse the same. It has also been informed by the applicant that the GST component of the said invoice has not been reimbursed by PGCIL. The applicant has further informed that they have borne the cost of the differential GST on their own account and duly deposited the same to the Government in a timely manner and that they have also duly declared the details of the tax paid in their Form GSTR-3B as regularly filed during the relevant period. The applicant has further informed that the invoice raised by the applicant in terms of the Fifth Contract requesting PGCIL to make the payment of *inter alia* the Contract Value of transportation, freight and insurance along with GST and GST component has not been acknowledged and the payments have not been released.

9.3 We find that the applicant has in support of their understanding on the nature of transaction and applicable rate of GST expressed their opinion that the services of transportation, insurance and freight supplied under the Fifth Contract are not exempted by virtue of the Notification No. 12/2017-CT (Rate) dated 28.06.2017 and the supply of the said services should be considered to be in the nature of composite supply, with the principal supply being supply of goods under the First and Third Contract. The applicant has also pleaded that the services of transportation are not being provided in isolation and that the applicant is providing the services of local transportation and allied services under the fifth Contract, which is linked to the overall execution of the Project, which comprises of four other contracts. It was thus their view that the services of transportation, freight and insurance are reasonably expected to be provided by the Applicant to PGCIL and that the said services are necessary for the goods to be supplied at the site, as required under the First and Third Contracts. Further, that the industry practice mandates that these services be naturally bundled with supply of goods. Accordingly, they expressed their opinion that the services of local transportation are



being provided in consonance with the ex-works supply of goods and are therefore, in the nature of composite services. Citing reference to Article 5 of the Contract, it has been the contention of the applicant that irrespective of the five contracts, the JV is responsible for the overall completion of the Project and any breach by the JV or the applicant under the First, Second, Third or Fourth Contract will be considered as a breach of the Fifth Contract as well and will give PGCIL the right to terminate and that therefore, the services of transportation, insurance and freight should be treated as being composite supply with the supply of works contract being the principal supply in the said scenario.

10. Section 9 of the CGST Act, 2017 stipulates that there shall be levied a tax called the central goods and service tax (hereinafter referred to as "CGST") on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under Section 15 and at such rates, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person. Similarly, in terms of Section 5(1) of the IGST Act, IGST shall be levied on all inter-State supplies of goods or services or both at the stipulated rate and value. Section 7(1) of the CGST Act provides that supply includes all forms of supply of goods and/or services or both made or agreed to be made for a consideration by a person in the course or furtherance of business, import of services for a consideration and activities specified in Schedule I made or agreed to be made without a consideration and activities specified in Schedule II. The definition of "supply" under GST as provided under Section 7 of the CGST Act is an inclusive definition in terms of which, supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It includes import of services, activities treated as supply under Schedule II and activities specified in Schedule I even if made without consideration.

10.1 From the copy of on shore services contract agreement dated 25.1.2017 and other documents furnished by the applicant as also from the details available in public domain it is pretty clear that the work being undertaken by the applicant is a tower package involving construction, erection and commissioning of the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh and Pugalur, Tamil Nadu associated with HVDC Bipole link between Western region (Raigarh, Chhattisgarh) and Southern region (Pugalure, Tamil Nadu)- North Trichur. The scope of the work allotted to the applicant for the aforesaid tower package being **on-shore Supply Contract** [ex-works supply of equipment and materials including mandatory / availability spares from within India, type testing under the scope of Applicant as per the division of work indicated in the JV agreement, required for the complete execution of the Project] and **on-shore Services Contract** [performance of all services inter alia local transportation, insurance and other incidental services, taking delivery of equipment / materials to be supplied under the 'First Contract' and 'Third Contract' under the scope of ABBAB and applicant, respectively, and unloading, handling, storage, erection including civil works, testing and



Handwritten signature

commissioning of various equipment / materials to be supplied under the 'First Contract', 'Second Contract' and 'Third Contract', under the scope of ABBAB, BHEL and applicant as per the division of work under the JV agreement].

10.2 In the instant case under consideration, from the documents furnished by the applicant as already discussed, the work being undertaken by the applicant is a tower package involving construction, erection and commissioning of the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh and Pugalur, Tamil Nadu.

Under the scheme of things as envisaged under GST law, the definition of "Works Contract" has been restricted to any work undertaken for an "Immovable Property" unlike the erst while VAT and Service Tax provisions where works contracts for movable properties were also considered. The Works Contracts has been defined in Section 2(119) of the CGST Act, 2017 as "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." Thus, from the above it can be seen that the term works contract has been restricted to contract for construction, fabrication, erection, installation, commissioning etc. of only an immovable property. Any such composite supply undertaken on goods say for example a fabrication or paint job done in automotive body shop will not fall within the definition of term works contract per se under GST. Such contracts would continue to remain composite supplies but will not be treated as a Works Contract for the purposes of GST.

As per Para 6 (a) of Schedule II to the CGST Act, 2017, works contracts as defined in section 2(119) of the CGST Act, 2017 shall be treated as a supply of services. Thus, there exist a clear demarcation of a works contract as a supply of service under GST. Besides this, it is also worth notable that as per section 17(5) (c) of the CGST Act, 2017, input tax credit shall not be available in respect of the works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Thus, ITC for works contract also stands restricted and can be availed only by one who is in the same line of business and is using such services received for further supply of works contract service.

From the definition, a work shall be treated as Works Contract if that work is done for land or earth or for immovable property and there is transfer of property in goods involved in the execution of such contract. Immovable property by its very definition means that it cannot be moved and cannot be detached or dismantled from the land or earth and further that dismantling of the same would render it defunct / redundant. Immovable property would include in its ambit land and the things which are attached to or embedded in the land such as buildings, bridges etc. Whether the particular property is an immovable property or not is subject to the peculiar facts of each case. Hon'ble courts have pronounced various judicial pronouncements laying down certain criteria for determining whether a property is immovable or not. From these decisions, it can be derived that an immovable property would consist of the following characteristic:



[Handwritten signature]

- It should be permanently attached to or affixed to the earth.
- It should come into existence as an immovable property.
- It cannot be shifted from one location to other location without dismantling it. In other words, only individual parts can be shifted and property as such cannot be shifted.
- The dismantling of the property would cause substantial damage to the said property.
- The said property is not attached to earth merely for operational efficiency of the said property such as to prevent it from wobbling during the operations.
- There is an intention of permanently attaching the said property to the ground.

As regards the crucial aspect of "immovable property" it can be observed from the documents put forth by the applicant and from the details regarding the same as is available in the public domain that the instant Tower Package constructed by the applicant includes the construction of a series of transmission towers linked together by the power line for transmitting electricity. The towers are erected on foundations built on the land, and benefits of the towers cannot be enjoyed unless they are so attached. Once commissioned, the transmission line and the transmission towers are not to be shifted under ordinary circumstances. In fact, the transmission line is being constructed after a detailed survey of route alignment, profiling, tower spotting, optimization of tower location, soil testing, geotechnical investigations etc. and after acquiring the land for the construction and erection of the towers. All these points to the fact that the Tower Package is being constructed for its enjoyment in perpetuity with no plan for removal or shifting in the foreseeable future. Thus, it follows from the aforesaid discussion that the said construction, erection and commissioning of the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh is not intended to be moved after the construction of the same from the said premises where it has been constructed. In this context we would also like to cite reference to para 23 & 24 of the Hon'ble Supreme Court judgement in the matter of Solid and Correct Engineering Works [2010(252)ELT 481(S.C)]. The relevant extract of the said judgement at para 22 & 23 is reproduced hereunder for ready reference.

Paras – 22 & 23 (relevant extract):

22. The English law attaches greatest importance to the object of annexation which is determined by the circumstances of each case. One of the important considerations is founded on the interest in the land wherein the person who caused the annexation possesses articles that may be removed without structural damage and even articles merely resting on their own weight are fixture only if they are attached with the intention of permanently improving the premises. The Indian law has developed on similar lines and the mode of annexation and object of annexation have been applied as relevant tests in this country also.....

Para -23 (relevant extract):

23. The courts in this country have applied the test whether the annexation is with the object of permanent beneficial enjoyment of the land or building.....



Handwritten signature

Hon'ble Court in the aforesaid case was thus of the opinion that the "attachment in order to qualify the expression attached to earth, must be for the beneficial enjoyment of that to which it is attached. Doors, windows and shutters of a house are attached to the house, which is imbedded in the earth. They are attached to the house which is imbedded in the earth for the beneficial enjoyment of the house. They have no separate existence from the house." Thus, the Hon'ble Supreme Court considered even a temporary shelter such as a hut as an immovable property as long as it is for the beneficial enjoyment of the land to which it is attached. Applying this cardinal principle, the Hon'ble Supreme Court of India held that the doors, shutters which are generally fixed to the door frame in the wall with screws & nails to be immovable property. In view of the law declared by the Hon'ble Supreme Court of India, the impugned tower package constructed by the applicant constitutes immovable property.

Thus, a Tower Package as above, includes the erection of a series of transmission towers linked together by the power line for transmitting electricity. The towers are erected on foundations built on the land, and benefits of the towers cannot be enjoyed unless they are so attached. Once commissioned, the transmission line and the transmission towers are not to be shifted under ordinary circumstances. In fact, the transmission line is being constructed after a detailed survey of route alignment, profiling, tower spotting, optimization of tower location, soil testing, geotechnical investigations etc. and after acquiring the land for the erection of the towers. All these points to the fact that the Tower Package is being constructed i.e., construction, erection and commissioning of the said ± 800 KV, 6000 MW HVDC terminals for its enjoyment in perpetuity with no plan for removal or shifting in the foreseeable future.

From the above discussion, it also follows that the intention is very much pertinent to ascertain and to conclude the aspect of permanent beneficial enjoyment. It has also been observed by the Hon'ble Court that the circumstances of each case are also the determining factor. This goes on to establish that the construction of the said tower package by the applicant from Raigarh (C.G)/ at Raigarh (C.G) was intended to be permanent at the given place with no intention to shift or dismantle the same. Thus, the said contracts stand testament to the permanent beneficial enjoyment of the impugned tower package which in turn establishes that the same is not to be moved / shifted, thereby certifying its immovability. We thus come to the considered conclusion that the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh from Raigarh (C.G) constructed, erected and commissioned by the applicant is therefore, an immovable property.

10.3 Coming to the aspect of "Composite supply", we would first like to get in to the definition of Composite supply which stands defined under Section 2 (30) of the CGST Act, 2017 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;

Illustration. - Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

As already discussed in the preceding para, the work being undertaken by the applicant is a tower package involving construction, erection and commissioning of the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh and Pugalur, Tamil Nadu, the scope of the work allotted to the applicant for the aforesaid tower package being **on-shore Supply Contract** [ex-works supply of equipment and materials including mandatory / availability spares from within India, type testing under the scope of Applicant as per the division of work indicated in the JV agreement, required for the complete execution of the Project] and **on-shore Services Contract** [**performance of all services inter alia local transportation, insurance and other incidental services**, taking delivery of equipment / materials to be supplied under the 'First Contract' and 'Third Contract' under the scope of ABBAB and applicant, respectively, and unloading, handling, storage, erection including civil works, testing and commissioning of various equipment / materials to be supplied under the 'First Contract', 'Second Contract' and 'Third Contract', under the scope of ABBAB, BHEL and applicant as per the division of work under the JV agreement]. Thus, from the terms and conditions as is forthcoming from the fifth contract as mentioned and discussed above, it can be conclusively held that the instant supply is "composite supply" as stipulated under the provisions supra.

10.4 In view of the aforesaid discussions, it gets conclusively established that the instant work undertaken by the applicant apart from being a "composite supply", squarely falls under "works contract" as envisaged under Section 2(119) of the CGST Act, 2017. Further as per Para 6 (a) of Schedule II to the CGST Act, 2017, composite supply of works contracts as defined in section 2(119) of the CGST Act, 2017 shall be treated as a supply of services.

Besides this, the contracts in the instant case with cross fall breach clause are interconnected in as much as per Article 5 of the Contract, irrespective of the five contracts, the JV is responsible for the overall completion of the Project and further that any breach by the JV or the Applicant under the First, Second, Third or Fourth Contract will be considered as a breach of the Fifth Contract as well and will give PGCIL the right to terminate. Thus, the five contracts entered by the JV and the applicant with PGCIL are clearly indivisible and interlinked to each other. Any breach in any one of the contracts will result in breach of the Fifth Contract, leading to the conclusion that the intention of the parties is to treat all contracts as part of one transaction and cannot be executed independently. Thus, there hardly remains any doubt that the services of transportation, insurance and freight merits treatment as being the part of such composite supply of works contract service.

Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended, from time to time, lastly amended vide Notification no. 3/2022-Central Tax (Rate) dated



(Signature)

13.7.2022 at Sr. no. 3 prescribes the applicable rate of tax on construction services. For the sake of brevity, the relevant text of the same is reproduced hereunder.

11.1 Rate of GST on intra-State supply of specific services with Service Code Tariff (SAC)

Government of India
Ministry of Finance
(Department of Revenue)
Notification No. 11/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1), [sub-section (3) and subsection (4)] 1 of section 9, sub-section (1) of section 11, sub-section (5) of section 15[,2 sub-section (1) of section 16 [and section 148] 3 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:-

TABLE

| Sl. No. | Chapter, Section or Heading | Description of Service | Rate (per cent.) | Condition |
|---------|--|--|------------------|-----------|
| (1) | (2) | (3) | (4) | (5) |
| 1 | Chapter 99 | All Services | | |
| 2 | Section 5 | Construction Services | | |
| 3 | Heading 9954 (Construction services) | (i) Construction of affordable residential apartments by a promoter in a Residential Real Estate Project..... (ia) Construction of residential apartments other than affordable residential apartments..... (ib) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter..... ()..... ()..... (if) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter..... | ..... | ..... |



(Handwritten signature)

| | | | | |
|--|--|--|-------|-------|
| | | (ii) [omitted] | - | - |
| | | (iii) deleted | - | - |
| | | (iv) deleted | - | - |
| | | (v) deleted | -- | -- |
| | | (va) deleted | -- | -- |
| | | (vi) deleted | | |
| | | (vii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority. | ..... | ..... |
| | | (viii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area..... | ..... | ..... |
| | | (ix) deleted | | |
| | | (x) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory, a local authority. | ..... | ..... |
| | | (xi) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator..... | ..... | ..... |
| | | (xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (vii), (viii), (x) and | 9 | -]]]] |



A

| | | | | |
|--|--|--|--|--|
| | | (xi) above. | | |
| | | Explanation. -For the removal of doubt, it is hereby clarified that, supply by way of services specified at items(i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry | | |

11.2 The Scheme of Classification of Services as provided in the Annexure to Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 supra, the SAC relating to the works of railways reads as under:

ANNEXURE : SCHEME OF CLASSIFICATION OF SERVICES

| S. No. | Chapter, Section, Heading or Group | Service Code (Tariff) | Service Description |
|--------|------------------------------------|-----------------------|---|
| (1) | (2) | (3) | (4) |
| 1 | Chapter 99 | | All Services |
| 2 | Section 5 | | Construction Services |
| 3 | Heading 9954 | | Construction services |
| 4 | Group 99541 | | Construction services of buildings |
| 5 | | 995411 | Construction services of single dwelling or multi dwelling or multi-storied residential buildings |
| 6 | | 995412 | Construction services of other residential buildings such as old age homes, homeless shelters, hostels and the like |
| 7 | | 995413 | Construction services of industrial buildings such as buildings used for production activities (used for assembly line activities), workshops, storage buildings and other similar industrial buildings |
| 8 | | 995414 | Construction services of commercial buildings such as office buildings, exhibition and marriage halls, malls, hotels, restaurants, airports, rail or road terminals, parking garages, petrol and service stations, theatres and other similar buildings |
| 9 | | 995415 | Construction services of other non-residential buildings such as educational institutions, hospitals, clinics including veterinary clinics, |



[Handwritten signature]

| | | | |
|------|-------------|--------|--|
| | | | religious establishments, courts, prisons, museums and other similar buildings |
| 10 | | 995416 | Construction services of other buildings nowhere else classified |
| 11 | | 995419 | Services involving repair, alterations, additions, replacements, renovation, maintenance or remodeling of the buildings covered above |
| 12 | Group 99542 | | General construction services of civil engineering works |
| 13 | | 995421 | General construction services of highways, streets, roads, railways and airfield runways, bridges and tunnels |
| 14 | | 995422 | General construction services of harbours, waterways, dams, water mains and lines, irrigation and other waterworks |
| 15 | | 995423 | General construction services of long-distance underground/ overland/ submarine pipelines, communication and electric power lines (cables); pumping stations and related works; transformer stations and related works |
| 16 | | | |
| 17 | | | |
| | | | |
| | | | |
| | | | |

Further, the 'Explanatory Notes to the Scheme of Classification of Service', indicates the scope and coverage of the Scheme of classification of service and is a guiding tool for classification of services, the Explanatory notes to SAC 995421 are as follows:

EXPLANATORY NOTES TO SCHEME OF CLASSIFICATION OF SERVICES UNDER GST

Preface

The Scheme of Classification of Services adopted for the purposes of GST is a modified version of the United Nations Central Product Classification.

2. The Explanatory notes for the said Scheme of Classification of Services is based on the explanatory notes to the UNCPC, and as recommended by the committee constituted for the purpose, is annexed.

3. The explanatory notes indicate the scope and coverage of the heading, groups and service codes of the Scheme of Classification of Services. These may be used by the assessee and the tax administration as a guiding tool for classification of services. However, it may be noted that where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

EXPLANATORY NOTES FOR SUPPLY OF SERVICES UNDER GST

[Chapter 99]

9954 Construction services :



(Handwritten signature)

This heading includes :

- i. General construction services for all complete constructions.
- ii. Specialized construction services i.e., services related to parts of buildings or civil engineering works, rather than the complete construction object.

.....
.....
.....

995423 General construction services of long-distance underground/overland/submarine pipelines, communication and electric power lines (cables); pumping stations and related works; transformer stations and related works

This service code includes construction of

- i. long-distance overland, underground and submarine pipelines for the conveyance of petroleum products, gas, water or other products;
- ii. pumping stations and similar related structures;
- iii. long-distance overland, underground or submarine telecommunication cables & transmission lines;
- iv. long-distance high tension electric power transmission lines (cables);
- v. long-distance electricity power lines for railways;
- vi. transformer stations, pylons etc

11.3 From the above scheme of classification of services it is observed that SAC 9954 supra covers construction services and accordingly the activity of the applicant supra merits classification as construction services falling under SAC 9954.

11.4 Further on perusal of the relevant Notification no. 11/2017 ibid, for arriving at the applicable rate of tax on the aforesaid composite work contract services rendered by the applicant, we find that the same is leviable to tax under the residual entry mentioned at Sr. no.3 (xii) of Notification no.11/2017 Central Tax (Rate) dated 28.06.2017 as amended leviable to GST at the applicable rate of 18% (CGST @9% + CGGST @9%), being services other than the one specified at Sl. No. 3 therein at column 3 (under "Description of service") at (i), (ia), (ib), (ic), (id), (ie), (if), (vii), (viii), (x) and (xi).

11.5 In the aforesaid context, we would also like to cite reference to CBIC circular no. Circular No. 177/09/2022-TRU from Fno. CBIC-190354/176/2022-TRU dated 3/8/2022 on the subject "Clarifications regarding applicable GST rates & exemptions on certain services". The said circular issued consequent upon examination of various issues by the GST Council in the 47th meeting held on 28th and 29th June, 2022, has inter-alia clarified at Sr. no. 17 "regarding supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis", that the same constitutes a composite supply of works contract service and that with effect from 18.07.2022, such works contract services would attract GST at the rate of 18% in view of amendment carried out in notification No. 11/2017- Central Tax (Rate) vide notification No. 03/2022- Central Tax (Rate). Although the said circular is regarding the construction, supply, installation and commissioning of dairy plant on turnkey basis, the ratio of the same regarding leviability of GST @18% is squarely applicable in the instant case of composite work contract service.



[Handwritten signature]

12. Thus, having arrived at the considered conclusion that the instant activity of the applicant of construction, erection and commissioning of the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh from Raigarh which includes the services of transportation, insurance and freight, is a composite works contract service classifiable under construction services falling under SAC 9954, attracting GST @18%, we do not find any reason to discuss the alternate opinion expressed by the applicant of the said service being in the nature of business support services. We also hold that there exist no grounds whatsoever, in the case in hand warranting exemption as specified under Sl. No. 18 of the Notification No. 12/2017-CT (Rate) dated 28.06.2017, which exclusively covers services by way of transportation of goods.

As regards the second part of the first question raised by the applicant regarding the supply of goods under the Third Contract being the principal supply, it has already been discussed in the preceding paras that Section 7(1A) of the CGST Act, 2017 read with para 6 (a) of Schedule II to the CGST Act, 2017 stipulates that composite works contracts as defined in section 2(119) of the CGST Act, 2017 shall be treated as supply of services. Thus, when the CGST Act, 2017 itself classifies the instant supply of composite supply of works contract as "supply of service", there exist no reason to identify the "principal supply" in the instant transaction, more so when Notification no.11/2017 Central Tax (Rate) dated 28.06.2017 as amended prescribes the applicable tax rate in such work contract services.

In this context, we also find that in the e-version-gst-filers titled "composite supply and mixed supply" issued by CBIC, it has been mentioned that "A works contract and restaurant services are classic examples of composite supplies, however the GST Act identifies both as supply of services and chargeable to specific rate of tax mentioned against such services (works contract and restaurants). In respect of composite supplies (other than the two categories mentioned above), the need to determine the supply as a composite one, will arise, so as to determine the appropriate classification. It will be necessary to determine as to whether a particular supply is naturally bundled in the ordinary course of business and what constitutes principal supply in such composite supplies".

Having regard to the facts and circumstances of the case and discussions as above, we pass the following order: -

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/03/2023

Raipur Dated 25/09/2023

The ruling so sought by the Applicant is accordingly answered as under:

RULING

- (i) The supply of services made by the applicant under the Fifth Contract relating to construction, erection, civil works, testing, commissioning etc. of the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh which includes the services of transportation, freight and insurance, is a composite supply of Works contract. As discussed, the instant activity of the applicant being



[Handwritten signature]

composite works contract classifiable under construction services falling under SAC 9954, attracts GST @18%[CGST @9% + CGGST @9%] as provided under residual entry mentioned at Sr. no.3 (xii) of Notification no.11/2017 Central Tax (Rate) dated 28.06.2017 as amended.

Since CGST Act, 2017 itself classifies the instant supply of composite supply of works contract as "supply of service", which has been found exigible to tax @ 18% [CGST @9% + CGGST @9%] as above, there exist no reason to identify the "principal supply" in the instant transaction.

- (ii) As the supply of services made by the applicant under Fifth Contract relating to construction, erection, civil works, testing, commissioning etc. of the said ± 800 KV, 6000 MW HVDC terminals at Raigarh, Chhattisgarh which includes the services of transportation, freight, and insurance, has been held to be a composite supply of Works contract, the alternate suggestion put forth by the applicant of the same being Business Support Service is not taken up for decision.

The rulings given here are applicable only for the impugned activities which the applicant is undertaking within the State of Chhattisgarh.



Sd-
Sonal K. Mishra
(Member)

TRUE COPY

Sd-
25/9/23

**MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR**

Sd -
Shrawan Kumar Bansal
(Member)

TRUE COPY

Sd
25/9/23

**MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR**