

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY,
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.**

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

Members present are:

1. Ms. Manasa Gangotri Kata, IRS,
Joint Commissioner / Member, Office of the Commissioner of
GST & Central Excise, Chennai- 600 034.
2. Thiru. KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A.,
Joint Commissioner (ST) / Member, Office of the Authority for
Advance Ruling, Tamil Nadu, Chennai-600 006.

ORDER No.17 / AAR / 2019 DATED: 16.04.2019

GSTIN Number, if any / User id		33AAACT4119L1ZF
Legal Name of Applicant		M/s. Tata Projects Limited
Registered Address/Address provided while obtaining user id		House No.9, First Floor, AF Block, 8 th Street, 11 th Main Road, Anna Nagar, Chennai-600040.
Details of Application		GST ARA-01 Application Sl. No.46 dated : 18.09.2018
Concerned Officer		State: The Assistant Commissioner (ST) Amaidakarai Assessment Circle Centre: Chennai North - Annanagar Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Composite supply of Goods and Services.
B	Description (in Brief)	The Applicant is involved in the process, design, detailed engineering, procurement, shop fabrication & inspection, supply, storage, site fabrication, erection, inspection & commissioning of Fluid Servicing System of Semi Cryo Integrated Engine Test Facility.
Issue/s on which advance ruling required		Classification of goods/services and the eligibility of Notification
Question(s) on which advance ruling is required		1. Whether supply of Engineering, Procurement and Construction(EPC) contract for establishment of Fluids Servicing System where in both goods and services are supplied can be

	<p>construed to be a composite supply in terms of Section 2(30) of CGST Act, 2017.</p> <p>2. If Yes, Whether the Principal Supply in such case can be said to be “ Establishment of Fluids Servicing System(FSS)” can be taxable at 5% GST vide notification No.45/2017- Central Tax(Rate) dated 14/11/2017.</p> <p>3. If Principal Supply taxable at 5%, whether the entire transaction in the contract is taxed as per the rate applicable to Principal Supply?</p>
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Note : Any Appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Tata Projects Limited , No.9, First Floor, AF Block, 8th Street, 11th Main Road, Anna Nagar, Chennai-600040 (hereinafter called the Applicant or TPL) are engaged in the process, design, detailed engineering, procurement, shop fabrication & inspection, supply, storage, site fabrication, erection, inspection & commissioning of fluid servicing system of Semi Cryo Integrated Engine Test Facility. They are registered under GST with GSTIN 33AAACT4119L1ZF. They have preferred an application seeking Advance Ruling on :

- 1. “Whether supply of Engineering, Procurement and Construction (EPC) contract for establishment of Fluids Servicing System where in both goods and services are supplied can be construed to be a composite supply in terms of Section 2(30) of CGST Act, 2017”.***

2. "If Yes, Whether the Principal Supply in such case can be said to be " Establishment of Fluids Servicing System (FSS)" can be taxable at 5% GST vide Notification No.45/2017- Central Tax (Rate) dated 14/11/2017".

3. If Principal Supply taxable at 5%, whether the entire transaction in the contract is taxed as per the rate applicable to Principal Supply?

The Applicant has submitted the copy of application in Form GST ARA – 01 and also submitted the copy of Challan evidencing payment of application fees of Rs.5,000/-each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The Applicant in the Statement of Facts has stated that, the Indian Space Research Organization (ISRO) has planned for a launch vehicle with heavy payload capability powered by Semi Cryogenic Engine which uses rocket grade refined kerosene(ISROSENE) as fuel and Liquid Oxygen as Oxidizer. ISRO Propulsion Complex(IPRC), Mahendragiri has been entrusted with the task of ground testing of Semi Cryogenic Engine for which a dedicated test facility called Fluid Servicing System of Semi Cryo Integrated Engine Test Facility (SIET) is being realized. For the above cited work a contract for Establishment of Fluids Servicing System(FSS) of SIET has been awarded to the applicant.

2.2 The Applicant, has further informed that the contract awarded is only for Establishment of Fluid Servicing System of SIET which comprises ISROSENE system, Liquid Oxygen System, Liquid Nitrogen system, Gaseous Nitrogen System, Gaseous Helium System, Water System and Filled Instrumentation system. ISRO has carried out Process Design and Basic Engineering work of FSS. The duration of project is for 27 months.

2.3 Brief scope of Engineering, Procurement and Construction (EPC) works to be carried out by the applicant comprises the following.

- Review of Process Design work done by ISRO
- Detailed Engineering

- Procurement and supply of materials such as equipments, flow components, instruments, pipes, pipe fittings etc. pertaining to scope including shop fabrication, testing and inspection at manufacturer's site.
- Transportation of items to Chennai Seaport/Trivandrum Airport
- Supervision during Erection
- Supervision of Commissioning.
- **Supply of Materials:** All the materials such as equipments, flow components, instruments, pipes and fittings are to be purchased and supplied by the applicant.
- **Spare parts and consumables for erection and commissioning:** For the materials used in the FSS, the applicant is responsible to provide spare parts and consumables to be replaced /used during erection & commission.
- **Civil Works:**
Major Civil Works: Major Civil works are not in their Scope. The following major Civil works will be provided by ISRO- Test-bays with foundation; Pavement and approach roads; Buildings and Sheds; Blast wall & spillage protection walls; Foundation for equipment.

Minor Civil Works: The minor civil works are in the scope of the applicant which covers providing Plain cement concrete, Reinforced cement concrete, brick masonry, grouting, anchor bolts.

- **Erection & Commissioning** Includes:
 - Mounting of Equipments
 - Structural Works
 - Electrical works
 - Commissioning

The composition of the price breakup of contract price is as below:

Sl. No	Particulars	Payment in INR	Payment in INR equivalent to the extent of USD		Total in INR	Percentage of contract price
1	Engineering Cost	31,811,000	287,857	19,507,590	51,318,590	1.89%
2	Material Cost (Supply of equipment, flow components, instruments, pipes and pipe fittings etc.)	1,600,030,050	10,969,915	742,802,977	2,342,833,027	86.48%

3	Erection cost	266,625,950	150,000	10,165,250	276,791,200	10.22%
4	Commissioning Cost	33,136,000	75,000	5,082,625	38,218,625	1.41%
	Total Basic for items and services	1,931,603,000	11,473,772	777,558,443	2,709,161,443	100.00%

The supply of materials from M/s CGM, foreign supplier , to ISRO shall be on High Seas Sales basis through TPL and paid in USD.

2.4 The Applicant has stated that

- ISRO is managed by Department of Space, Government of India. The funding will be allocated through Union Budget of Government of India. For the purpose of Notification No. 45/2017-C.T.(Rate) dt. 14th November 2017, “Public funded research institution” means a research institution in the case of which not less than 50% of the recurring expenditure is met by the Central Government or the Government of any State or the administration of any Union territory. The total funding to ISRO will be allocated through Union Budget of Government of India; therefore, it is covered under Public funded research Institution.
- As per the definition of “Composite Supply” the essential conditions for a supply to qualify as composite supply can be – (a). Two or more supplies of goods or services or both; (b) Taxable supplies should be naturally bundled; (c) The taxable supplies should be supplied in conjunction with each other; and (d) One taxable supply should be principal supply
- It is evident from the above that the contract involves supply of various equipment and services. As per the contract, TPL will supply goods and also carryout services related to the erection, installation and commissioning of the goods. As per Clause 15 of the Contract Agreement, the applicant is the prime contractor and is responsible for performance of all systems involved. Hence, entire contract(both goods and services) is bundled and linked where the main intent is provision of the goods which constitute establishment of Fluids Servicing System.; As mentioned in the scope of the Contract, TPL shall supply all the materials and complete erection and commissioning for the supplied goods with the specifications of contract.; It is evident from Clause 18.1 and Annexure7 of the contract agreement and the price breakup

given , procurement and supply of materials pertaining to scope including shop fabrication, testing and inspection at manufacturers' site constitutes 86% of the Total contract Value.

- Works Contract is also defined as Composite Supply and includes a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, Renovation, alteration or commission of immovable property wherein transfer of property in goods is involved in the execution of such Contract. The intent of the contract executed by them is not in the nature of erection, commissioning. The main intention of Contract is to supply the Whole FSS in totality consisting of various goods and services are incidental to provision of such goods.

- ISRO wants functional FSS and services such as erection, commissioning, etc are only a means to provide the main supply of goods and are only incidental. The principal supply will be provision of FSS and not provision of works contract Service. And the principal supply or dominant intent is provision of goods which constitutes 86% in the contract, therefore entire contract shall be taxable @ 5% GST. In view of the both the above conditions are met by the Contract, Supplies undertaken in the contract covered under Sl.No. 1 of Notification No. 45/2017-C.T.(Rate) and the definition of Composite supply, Rate of GST applicable is @ 5% for the entire value of the contract.

In light of the above, the Applicant has sought ruling on whether their supply to the ISRO under contract for establishment of FSS can be construed to be a Composite supply; on the applicability of Notification No. 45/2017 Central Tax (Rate) dated 14/11/2017 to the supply provided to ISRO; and the rate of GST applicable to the entire transaction.

3.1 The Authorized Representative of the Applicant was heard in the matter on 19.11.2018. The applicant stated that they are providing scientific equipments which are to be erected and commissioned. The materials supplied constitute the major cost involved in the supply and major civil works is done by ISRO itself. It would be composite supply involving erection and commission of the same. They further stated that they will provide a write-up of the Supply of the Goods and

Services and Commissioning, Annexures of the Contracts, any invoices issued, and Payment terms in 2 weeks and requested for one more hearing after submission of the documents.

3.2 The Applicant furnished the Technical Write-up, Annexures of the Contract and Payment terms of the contract vide their letter dated 07.12.2018. In the Technical Write-up, the applicant stated:

- ISRO is developing Semi Cryogenic Engine of thrust 2000kN working on Isosene/ Liquid Oxygen propellant combination for propelling launch vehicles capable of placing satellites of mass 6t to 10t in Geo-Stationary Transfer Orbit. ISRO Propulsion complex (IPRC), Mahendragiri is entrusted with the task of integrating and testing of Semi Cryogenic propulsion systems.
- TPLs Scope of work:- This is an item rated contract and unit price for all items remain valid as long as price of actual quality installed is within +/- 10% of contract value.
- The FSS is intended to supply propellants and service fluids to the test articles and the associated facility systems. The process design of entire fluid system is done by ISRO. The equipment layout and P & IDs is also produced by ISRO. TPLs responsibility is to carry out the detailed engineering and calculating the quantities based on the layouts and P&IDs provided by the client.
- TPL's scope of supply include low pressure Run Tank, LN2 storage tank, Bath type heat exchanger, mixer, liquid oxygen tank, liquid nitrogen tank, isosene tank, spiral heat exchanger, atmospheric vaporizer, isosene pumps, vacuum system, chiller system, supply of instruments, EP valves, Control Valves, pressure switch and isolation valve, cable glands.
- The major equipment and other free issue material will be erected on the foundations provided by ISRO, with bolts which are grouted on the foundations. These equipments therefore can be removed as such by untightening of bolts and can be used elsewhere.

- The structural works to be done by TPL include design, supply of material, fabrication, assembly and erection of all types of structures like pipe supports, templates, spreader beams, structural bridges, structural staircases, access platform at the top of pressure vessels etc.,
- The minor civil works will be done with plain cement concrete, reinforced cement concrete, brick masonry, grouting, anchor bolts, breaking and disposal of PCC/RCC, brick masonry. This is required for grouting of equipments, pipe supports, structural works etc and also for RCC foundation/pedestal for pipelines and valves of sizes greater than or equal to DN100 and PCC foundation for sizes less than DN100
- The electrical works comprise of supply, installation, testing and commissioning of complete power system supply and control system for the satisfactory operation of the chilling water plant and providing Earthing works.
- The equipments supplied by TPL and free issue material supplied by ISRO will be linked through each other through pipes for transmission of fluids. The liquids from the respective segment will flow through the same at desired temperatures and pressure to the test bay. The pipelines will be fitted to flanges. The pipes can be removed as such by removing the flanges at both ends and can be reused without any damage. The valves and instruments can also be detached from the pipelines as such and reused
- Erection includes Mounting of equipments which include loading of equipments on the trailer/lorry by using crane, forklift, anchoring of equipment on the trailer/lorry, transportation of equipment to SIET, unloading of equipments on the foundation pedestal, tightening of the foundation bolts to the required torque.
- The commissioning of non-cry tanks is carried out by conducting hydrostatic test using DM water provided by ISRO. All Cryo tanks are commissioned by conducting performance test and pressure test up to the 80% MWAP with the actual working fluid and GN2.

- After erection, all the fluid circuits for cryogenic and non-cryogenic systems will first undergo functional testing involving functional check, analysis, verification of instruments and validation. These are standalone tests and no integrated commissioning is carried out.
- The FSS which they are supplying is only ancillary to the entire engine test facility and is not integrated to the test facility. It is a standalone system comprising of equipments, piping and electrical and instrumentation items which can be removed as such and therefore it is not immovable.
- The same FSS can be created elsewhere with the above equipments. Therefore, the project undertaken is primarily supply of equipments, pipes, valves and instrumentation items with minor services like structural works equipment erection commissioning and performance tests which would qualify as composite supply of goods and services and do not qualify as works contract.

3.3 The Applicant was again heard on 22.02.2019 and stated that they are constructing various fuel tanks along with heat exchange pipelines, valves, switches connecting to the test bed of the Cryogenic Engine. The test bed is built by ISRO. The Civil work involved is minor civil work of RCC foundation for pipeline. The applicant has to do commissioning of tanks and fluid pipelines and testing in standalone for the structure and not for the whole system. They stated that it is a composite supply where Principal Supply is supply of goods which is Scientific/equipments and hence it is eligible under Notification No.45/2017 Central tax (Rate) Sl.No.1.

4. The State authority appeared in Person and submitted a written submission along with a copy of advance Ruling by A.P. The State Tax Authority regarding the question raised by the applicant has furnished the following Comments:

- In the instant case, the supply of Engineering, Procurement & Construction (EPC) contract involves carryout of services related to installation, commissioning and testing of the goods supplied. To create the test facility for testing of integrated cry engine, supply, installation and testing and commissioning of systems are involved. This creates view that the contract is work contract rather than composite supply. But the “work contract”

definition specifically mention its applicability only on 'any immovable property'. So under the GST regime, work contract is restricted only to immovable property, not on movable property. In the instant case, the establishment of Fluids Servicing System (FSS) for integrated cryogenic engine and stage test facility is an immovable property mounted on the earth bed made up of civil structure. Hence, this is purely a works contract and the concept of composite supply will not be applicable in this case.

- On the other side, Section 2(30) of CGST act defines 'Composite Supply' means a supply made by "a taxable person" to a recipient consisting of two or more supplies'. Here, a taxable person can be interpreted as single supplier supplies two or more taxable supplies then only provision of composite supply is eligible. In the instant case, the applicant in turn involves many sub contracts to supply for this single contract with ISRO propulsion complex, Mahendragiri. From these it is crystal clear that the multiple contractors supply to a single contract agreement which violates the composite supply provision- " a taxable person". Hence, it is not a composite supply.
- The Notification no.45/2017- Central tax(Rate) dated 14/11/2017 exempts the supply of Scientific and technical instruments, apparatus, equipment(including computers) to public funded research institution other than a hospital or an university or an Indian Institute of Technology or Indian Institute of Science, Bengaluru or National Institute of technology/ Regional Engineering College subject to condition that such institution produces a certificate to the supplier at the time of supply of specified goods.
- Being so, the establishment of FSS may include supply of Scientific and technical instruments, apparatus, equipment. ISRP propulsion Complex (abbreviated as IPRC) is responsible for the supply of storage liquid propellants for ISRO's launch vehicle and satellite programme. ISRO is funded through union budget from Government of India. Hence, the exemption under Notification no.45/2017- Central Tax(Rate) dated 14th November 2017, may apply in the instant case for the applicant subject to condition that such institution produces a certificate to supplier at the time of supply of the specified goods.

- At the same time, intention of the notification 45/2017 CT (Rate) specifically mentioned that exemption is only to supply of scientific and technical instruments, apparatus, equipment etc. and the same is not applicable for the supply other than that. In the present contract, the supply of the applicant extends to other than scientific and technical instruments, apparatus, equipment i.e. namely supply of tools, tackles and other materials clean up of work site, first aid services, electrical safety regulation services etc., Specifically the supply of tools and other materials involves the supply of expendable devices like anchor, grinding and abrasive wheels, plugs, hacksaw blades, taps, dies, drills, reamers, chisels, files, carborundum stones, oil stones, wire brushes, necessary scaffolding, ladders, wood planks, timbers sleepers etc. and consumable material like oxygen, acetylene, argon, lubrication oils, greases, cleaning fluids, cylinder oil, graphite powder and so on. Hence, the Notification no.45/2017, CT(rate) is not applicable to the above mentioned supply of goods which are not related to supply of Scientific and technical instruments, apparatus, equipment though those are supplied to public funded research institution ISRO propulsion complex, Mahendragiri, Tamil Nadu.
- The supply is not a composite supply; the entire transaction in the contract will not be taxed as per the rate applicable to Principal Supply.

5. We have carefully examined the statement of facts, supporting documents filed by the Applicant. It is seen from the contract submitted that

- ISRO Propulsion Complex has entered in to a contract with Tata Projects Limited, Mumbai (Prime Contractor) and PJSC Cryogenmash, Russia for 'Establishment of Fluid Servicing System (FSS) of Semi-Cryo Integrated Engine Test (SIET) Facility' at ISRO Propulsion Complex (IPRC), Mahendragiri.
- SIET will be used for ground testing of Semi Cryogenic Engine, turbo – pumps and other test articles which are within the scope of ISRO.
- The work is to be executed at the site at IPRC , Mahendragiri.

- As per the contract the Fluid Servicing System is intended to supply propellants (ISROSENE, Liquid Oxygen) and service fluids (Liquid Nitrogen , Gaseous Nitrogen, Gaseous Helium, Water) to test articles and associated facility systems.
- The brief scope of work is Process design Review, Detailed Engineering, Procurement , Shop Fabrication & Inspection, Supply, Storage, Site Fabrication, Erection, Inspection and Commissioning of Fluids Servicing System of Semi-Cryo Integrated Engine Test Facility.
- As per the Responsibility and Obligation Matrix between IPRC, TPL & CGM (Annexure 10) it is seen that TPL is responsible for
 - Project Management - Plan, Coordination with ISRO, Documentation from/to ISRO, Schedule Control, Quality Control in respect of Project management;
 - Basic Design Review – Design review for comprises ISROSENE system, Liquid Oxygen System, Liquid Nitrogen system, Gaseous Nitrogen System, Gaseous Helium System, Water System process facility, pipe line layout, legal regulations
 - Detail Engineering – Engineering, design, drawing, manufacturing /procurement of equipment for the various fluid systems, pump, machinery
 - Piping- Design, plot plan, equipment layout, procurement, erection, test analysis
 - Instrument & Control-Design, procurement,
 - Electrical, Insulation – Design , procurement,
 - Chemical consumables- Procurement
 - Inspection & Transportation – Third party inspection and inland & offshore transportation of all material supply
 - Construction – Planning, supervision , installation work, piping, civil, structural, building , electrical installation, insulation works of equipment, machinery & instruments
 - Pre-commissioning & Commissioning- Planning, cleaning of equipment/piping, purge and drying- out of Cryogenic equipment/piping, conducting mechanical running, functional ,

sequence test, commissioning & performance test, equipment required for this

- The Semi-cryogenic Integrated Engine will be tested in a bay of 20 m X 20m X 31m (provided by IPRC) inside which the Isrosene , liquid oxygen, Liquid Nitrogen system, Gaseous Nitrogen System, Gaseous Helium System are mounted. Several of the piping circuits, vacuum pumps provided by TPL will be kept in the vacuum pump room and centrifugal pumps in the isrosene pump room. Water Systems are to be mounted in the chilling water pump room.
- The payment schedule indicates timelines of completing process design review, detailed engineering, and supply of items pro-rata, site mobilization, erection and commissioning.
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The issues to be decided are

1. Whether supply of Engineering, Procurement and Construction(EPC) contract for establishment of Fluids Servicing System where in both goods and services are supplied can be construed to be a composite supply in terms of Section 2(30) of CGST Act, 2017.
2. If Yes, Whether the Principal Supply in such case can be said to be “Establishment of Fluids Servicing System (FSS)” can be taxable at 5% GST vide notification No.45/2017- Central Tax(Rate) dated 14/11/2017.
3. If Principal Supply taxable at 5%, whether the entire transaction in the contract is taxed as per the rate applicable to Principal Supply?

6.1 From the various submissions before us, we find that TPL is contracted with IPRC to provide Fluid Servicing systems to supply propellants (ISROSENE, Liquid Oxygen) and service fluids (Liquid Nitrogen , Gaseous Nitrogen, Gaseous Helium, Water) to the test bed facility for semi –cryogenic engine at IPRC , Mahendragiri. Each of these systems (for each fluid) involves various tanks, pressure , and venting, cooling/heating, circulation, collection & drain circuit. TPL should erect these fluid systems at the site along with their piping circuits and instrumentations by means of minor civil works done with concrete, brick masonry, grouting , bolts etc. TPL should fabricate and procure the relevant materials, instruments and equipment as defined in the contract. Along with

these, TPL should also manage the complete project, plan, review the design, and give detailed engineering drawing for all these systems. They should also ensure inspection, transportation, construction and commissioning of the FSS, though various activities are to be done with assistance of IPRC.

From the listed summary, it is seen that TPL supplies Goods and Services as required in the contract. It is to determine if the supply of goods and services by the applicant under contract to ISRO can be considered as a composite supply.

6.2 **Section 2(30) of CGST Act, 2017** defines Composite Supply as:

“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;

In the case at hand, TPL supplies Non Cryogenic Tanks, Heat exchanger and Pumps for cooling ISROSENE, Ejector System, LN₂ Bath Type Heat Exchanger For Cooling GN₂ and GHe, Vaporizers, Chilling Water Plant, Steel Pipes, Pipe Fittings including Flanges, Super-Insulated Pipelines, Flexible Hoses, Electro-Pneumatic Valves, Control Valves, Non-return Valves, Safety Relief valves, Rupture Disc Devices, Filters, Pressure Regulators, Pressure Gauges. All the above materials are to be designed, engineered, tested and then erected at the site. Erection or Construction involves planning, installation of the civil, structural, electrical, insulation, piping circuits, equipment, instruments and the fluid systems using grouting, masonry, concrete work for installing the same at test bed facility often semi-cryogenic engine. Mere supply of the equipment, instruments, pipes and fluid tanks is not enough, the same has to be integrated and erected and finally commissioned at the test – bed facility. The Contract itself shows that the supply of these equipment and instruments are necessarily to be given with a host of services such as designing, engineering, inspection, construction, commissioning. Further, the payment schedule in the contract also shows that the billing / invoicing is indivisible. Thus, the whole contract for ‘Establishment of Fluid Servicing System(FSS) of Semi-Cryo Integrated Engine Test (SIET) Facility’ at ISRO Propulsion Complex (IPRC), Mahendragiri is a composite contract as various supplies of goods and services are naturally bundled together.

6.3 Works Contract is a “**composite supply**”.

Section 2(119) of CGST Act defines works contract as:

(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;

In the case at hand, the applicant has a contractual obligation to supply the materials and also to Erect the entire FSS including the various tanks, piping systems, instruments, electrical circuits etc. Such erection and installation is to be done to the test bed facility for testing the semi cryogenic engine system by means of minor civil works done with concrete, brick masonry, grouting, bolts etc. It involves the transfer of ownership of these goods involved in the erection, construction and installation of the fluid systems .The test –bed facility itself is an immovable structure erected at the site in Mahendragiri. The fluid systems and piping circuits provided by TPL are to erected, fixing them to the test –bed facility which is embedded in earth.

Hon’ble Supreme Court in the case of Commissioner of C.Ex. Ahmedabad Vs. Solid & Correct engineering works [2010 (252) E.L.T. 481 (S.C.)], has stated

“33.It is noteworthy that in none of the cases relied upon by the assessee referred to above was there any element of installation of the machine for a given period of time as is the position in the instant case. The machines in question were by their very nature intended to be fixed permanently to the structures which were embedded in the earth. The structures were also custom made for the fixing of such machines without which the same could not become functional. The machines thus becoming a part and parcel of the structures in which they were fitted were no longer moveable goods. It was in those peculiar circumstances that the installation and erection of machines at site were held to be by this Court, to be immovable property that ceased to remain moveable or marketable as they were at the time of their purchase. Once such a machine is fixed, embedded or assimilated in a permanent structure, the movable character of the machine becomes extinct. The same cannot thereafter be treated as moveable so as to be dutiable under the Excise Act. But cases in which there is no assimilation of the machine with the structure permanently, would stand on a different footing. In the instant case all that has been said by the assessee is that the machine is fixed by nuts and bolts to a foundation not because the intention was to permanently attach it to the earth but because a foundation was necessary to provide a wobble free operation to the machine. An attachment of this kind without the necessary intent of making the same permanent cannot, in our opinion, constitute permanent fixing, embedding or attachment in the sense that would make the machine a part and parcel of the earth permanently.”

Applying the above to the case at hand, the erection of the System at site makes the system a permanent fixture, i.e. immovable property. Thus it is clear that in the case at hand, the applicant supplies materials and in conjunction provides the service of erection of the System into at the test-bed facility making all the FSS together as an immovable property. Therefore, the whole contract for 'Establishment of Fluid Servicing System (FSS) of Semi-Cryo Integrated Engine Test (SIET) Facility' at ISRO Propulsion Complex (IPRC), Mahendragiri is also a 'Works Contract'.

6.4 **Schedule II to CGST Act** states

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;

Therefore, the present supply is a composite supply to be treated as a supply of services. As it is a supply of service, Notification No.45/2017- Central Tax (Rate) dated 14/11/2017 and corresponding SGST notification G.O. (Ms) No.161, dated 14.11.2017 which provides for concessional rate of tax for a supply of goods is not applicable. The applicable rate of tax for the supply will be the rate of tax of applicable for this supply of works contract.

7. In view of the above, we rule as under:


RULING

1. The Supply of Engineering, Procurement and Construction (EPC) contract for establishment of Fluids Servicing System between the applicant and IPRC is a composite supply in terms of Section 2(30) of CGST and TNGST Act, 2017.

2. This supply is a works contract in terms of Section 2(119) of CGST and TNGST Act, 2017 and hence Notification No.45/2017- Central Tax(Rate) dated 14/11/2017 and corresponding SGST Notification vide G.O. (Ms) No.161, dated 14.11.2017 is not applicable

3.The complete transaction is taxable at the rate applicable to this supply of works contract.


Ms. Manasa Gangotri Kata, IRS
Member, CGST


Shri. Kurinji Selvan V.S., M.Sc., (Agri), M.B.A.,
Member, TNGST

To

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// By Speed Post with Ack. Due //

Copy Submitted to:

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2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
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Copy to:

3. The Commissioner of GST & C.Ex., Chennai (North) Commissionerate,
4. The Assistant commissioner (ST),
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5. Master File/ Spare.