

THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009

Advance Ruling No. KAR ADRG 93/2019

Dated: 27th September, 2019

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

1.	Name and address of the applicant	M/s QUATRO RAIL TECH SOLUTIONS LIMITED No.6, Royal Arcade, 1 st Floor, 80 feet Road, Koramangala Industrial Area, Bengaluru 560095
2.	GSTIN or User ID	29AAACQ2842F1Z11
3.	Date of filing of Form GST ARA-01	27.05.2019
4.	Represented by	Sri Muralidhara, Chartered Accountant
5.	Jurisdictional Authority - Centre	Commissioner of Central Tax, Bangalore South
6.	Jurisdictional Authority - State	LGSTO-015A, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of 1. Rs. 5,000-00 under CGST Act vide CIN IBKL19032900354506 dated 26.03.2019 2. Rs. 5,000-00 under KGST Act vide CIN IBKL19012900416723 dated 24.01.2019

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s Quatro Rail Tech Solutions Limited, (called as the 'Applicant' hereinafter), having GSTIN number 29AAACQ2842F1ZI, has filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 and Section 97 of the KGST Act, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.



2. The Applicant is a Limited Company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

- a) What is the rate of tax for the sub-contractors who executes the works contract work like supply of goods or services or both pertaining to Railways based on the order received from the main contractor who got the work order directly from Railways.
- b) Does the rate of tax of 6% as per serial no.3(v) of Notification No.11/2017- Central Tax dated 28.06.2017 as amended, applicable to sub-contractors or not?
- c) If the answer to the question no.2 is yes, then from which date it is applicable?

3. The applicant furnishes some facts relevant to the stated activity:

- a. The applicant states that he is a Limited Company and undertakes works of supply and installation, testing and commissioning of automatic signaling equipment of Indoor and Outdoor, LV Gates for Alstom Systems Pvt Ltd.
- b. Basically the main contractors participate in the tender and get the work order from Railways for execution of work design, construction, supply, installation, testing and commission of 2 X 25 kV AC 50 Hz electrification, signaling, and telecommunication and associated work of double track railway lines under construction for Bhaupur-Khurja section of eastern dedicated freight corridor.
- c. In turn the main contractor, places the orders on the applicant under bill to ship to model i.e. to execute the work of supply of goods or services or both for railways in the premises of Railways only. And prepares the running and final bills depending upon the completion of works and prepares the bill in the name of Main Contractors by charging GST at the rate of 9% as per Sl.No.21(ii) of Notification No.11/2017 – Central Tax (rate) dated 28.06.2017 as amended with SAC 998336 and submits for the payment.
- d. The main contractor releases the payments towards applicant's bills after getting the certification from the Railways as per their standard procedures. The main contractor may take the input tax credit based on the applicant's bills and prepares his bills and charges GST as per the Sl.No.3(v) of Notificaiton No.11/2017- Central Tax (Rate) dated 28.06.2017 as amended and submits to Railways for payment.



- e. The applicant states that as there is no clear wording about the applicability of reduced rate of tax to sub-contractors. Hence, clarification is sought for the same.

FINDINGS & DISCUSSION:

4. We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri. Muralidhara, CA, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

4.1 The transaction of the applicant is verified and found that the applicant has obtained the sub-contract from the main contractor, M/s Alstom System India (Private) Limited. The agreement states the contract for Eastern Dedicated Freight corridor Project-I has been awarded to the main contractor by the Dedicated Freight Corridor Corporation of India Limited (hereinafter named "DFCCIL") for performance of the works relating to the design, construction, supply, installation, testing and commissioning of 2X25 KV AC 50 Hz electrification, signaling, and telecommunication and associated works of double track railway lines under construction for Bhaupur-Khurja section of eastern dedicated freight corridor (hereinafter referred to as the "Project").

4.2 The main contractor has sub-contracted the performance of certain works and services of the main contract to the applicant consisting "supply and installation, testing and commissioning of automatic signaling equipment of indoor and outdoor, LC gates (as per attached BOQ of the supply and services) required as per the requirement of DFCCIL under the main contract for linc 101 from Chainages as specified. The contract is both the supply of goods and also installation part and the scope of work shows that the amounts for the two parts are separately shown as under:

(a) Supply portion: Rs.1,00,34,256-00

(b) Installation Portion: Rs.2,31,66,078-00

Both the values are part of the same contract. The contract is an EPC contract and the parts cannot be executed separately and hence is a single contract involving both supply of goods and supply of services and



is a composite supply in the nature of works contract supply.

4.3 Entry No. 3(v) of the Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 20/2017 – Central Tax (Rate) dated 22.08.2017 reads as under:

“Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning or installation of original works pertaining to,-

(a) Railways, excluding monorail and metro;”

4.4 The contract of the applicant with the main contractor should satisfy the following conditions to get covered under the above entry:

- (a) The contract must be a composite supply of works contract
- (b) The works must be a construction, erection, commissioning or installation of original works
- (c) It must pertain to Railways.

4.5 The contract is verified and found that the contract is for “supply and installation, Testing and commissioning of automatic signaling equipment of indoor and outdoor, LC gates” and involves excavation of pits, casting and plastering and other parts which are involves construction, erection, commissioning and installation of original works and hence the second condition is satisfied. As it is related to an immovable property, the entire contract is covered under the definition of works contract under section 2(119) of the CGST Act and hence the first condition is also satisfied.

4.6 The main issue is whether this is a contract pertaining to Railways. The main contractor has obtained the contract from M/s Dedicated Freight Corridor Corporation of India Limited (“DFCCIL”) and then sub-contracted to the applicant. The work is related to “supply and installation, testing and commissioning of automatic signaling equipment of Indoor and Outdoor, LC Gates” as per the requirement of DFCCIL. Whether this contract is a contract pertaining to Railways needs to be examined.

4.7 Regarding the DFCCIL, the following information is available:

“Ministry of Railways initiated action to establish a Special Purpose Vehicle for construction, operation and maintenance of the dedicated freight corridors. This led to the establishment of



"Dedicated Freight Corridor Corporation of India Limited (DFCC)", to undertake planning & development, mobilization of financial resources and construction, maintenance and operation of the dedicated freight corridors. DFCC was incorporated as a company under the Companies Act 1956 on 30th October 2006.

Mission

As the dedicated agency to make the vision into reality, DFCCIL's mission is:

- To build a corridor with appropriate technology that enables Indian railways to regain its market share of freight transport by creating additional capacity and guaranteeing efficient, reliable, safe and cheaper options for mobility to its customers.
- To set up Multimodal logistic parks along the DFC to provide complete transport solution to customers.
- To support the government's initiatives toward ecological sustainability by encouraging users to adopt railways as the most environment friendly mode for their transport requirements."

4.8 Since this involves the works related to railway network, the contract can be said to be pertaining to Railways. The term "pertaining to Railways" is more expansive and includes other establishments other than Indian Railways. Hence the contract is pertaining to Indian Railways.

4.9 There is no stipulation in the said entry that this contract must be executed to the Railways but it is sufficient that it must be pertaining to Railways and the supplier and the recipient in each of the contract is immaterial.

4.10 Hence the sub-contract work is covered under the entry 3(v) of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No.20/2017- Central Tax (Rate) dated 22.08.2017 and is liable to tax at 12% (6% CGST + 6% SGST or 12% IGST) w.e.f 22.08.2017. Prior to 22.08.2017 it was taxable at 18% under entry 3(ii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017.



5. In view of the foregoing, we rule as follows

RULING

1. The contract work of the applicant to the main contractor, who is executing the works contract to M/s DRCCIL, is liable to tax at 6% under CGST Act and at 6% under KGST Act or 12% under IGST Act, 2017. The relevant entry is entry no. 3(v) of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 as amended by Notification No.20/2017 - Central Tax (Rate) dated 22.08.2017.
2. The date of application of the above rate of tax of 12% is from 22.08.2017.




27.09.2019

(Harish Dharnia)
Member

Place, Bengaluru,
Date, 27.09.2019


(Dr. Ravi Prasad M.P.)
Member

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Commissioner of Central Tax, Bangalore-South
4. The Asst. Commissioner, LGSTO-015A, Bengaluru
5. Office Folder

