



ODISHA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX (GST)

RAJASWAVIHAR, BHUBANESWAR-751007(ODISHA)

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING

U/S.98 OF THE GOODS AND SERVICE TAX ACT, 2017

Members Present:

1. Sri Gopal Krishna Pati, IRS, Additional Commissioner, Office of the Chief Commissioner, GST, Central Excise & Customs, Bhubaneswar
2. Sri P.K Mohanty, OFS(SS), Special Commissioner of CT&GST, Commissionerate of CT&GST, Odisha, Banijyakar Bhawan, Cantonment Road, Cuttack-753001-Odisha.

Name and Address of the Applicant	Dhamra LNG Terminal Private Limited, Dhamra Port Company Limited, Dhamra, Bhadrak, Odisha 756171
GSTIN or User ID	21AAFCD2856B1ZD
Date of Filing of Form GST ARA-01	25.04.2023
Present for the Applicant in the Personal hearing.	Anil Chauhan, AS
Date of Personal Hearing	19.06.2023

ORDER NO.02/ODISHA-AAR/2023-24/DATED 05.09.2023

Subject: M/s. Dhamra LNG Terminal Private Limited (herein after referred to as the 'Applicant') having principal place of business at Dhamra Port Company Limited, Dhamra, Bhadrak, Odisha, 756171 a registered Company bearing GSTIN 21AAFCD2856B1ZD has filed an application for advance ruling under Section 97 of CGST Act, 2017 and Section 97 of the OGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

1.0 The Applicant has sought for an advance ruling in respect of the following questions.

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- (i) Whether the Applicant's activity of providing service of re-gasification of Liquefied Natural Gas ("LNG") owned by its customers (who are registered under GST regulations) to convert to Re-gasified Liquefied Natural Gas ("RLNG"), from its Plant at Dhamra, Odisha, would amount to rendering of service by way of job work as defined under Section 2(68) of the Central Goods and Service Tax Act, 2017 ("CGST Act") and Odisha Goods and Service Tax Act, 2017 ("OGST Act").
- (ii) If, yes, then the said re-gasification service by way of job work classifiable under Entry (id) of Heading No. 9988 of Sl. No. 26 of Notification No. 11/2017-CT (Rate) dated 28.06.2017 as amended vide Notification No. 20/2019-CT (Rate) dated 30.09.2019 and eligible for GST at the rate of 12%?

1.1 At the outset, we would like to make it clear that the provisions of both the CGST Act and the OGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the OGST Act.

2.0 Submission of the Applicant

2.1 The Applicant owns and operates a Liquefied Natural Gas (LNG) re-gasification terminal (hereinafter referred to as 'Terminal') at Dhamra in Bhadrak district of Odisha. Applicant provides re-gasification services to its Customers including Gail India Limited Odisha (GSTN 21AAACG1209J2Z7), GAIL India Limited, Uttar Pradesh (GSTN 09AAACG1209J3ZS), GAIL India Limited, Madhya Pradesh (GSTN 23AAACG1209J4Z1 / 23AAACG1209J3Z2), Indian oil Corporation Limited, Odisha (GSTN 21AAACI1681G1Z1) under 'Tolling Model'.

2.2 As per the terms of the Tolling Agreement, Applicant receives the Liquefied Natural Gas ("LNG") [Chapter heading 2711], owned by and belonging to its Customers (who are registered under GST regulations) at its terminal, stores and re-gasifies it into Re-gasified Liquefied Natural Gas ("RLNG") and delivers back to the said customers. The Customer imports LNG and files Bill of Entry for home consumption with the Customs Authorities. Customer/s have entered into Tolling Agreement with the Applicant for re-gasification of LNG and the scope of the re-gasification services as per said agreement encompasses the following activities:



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- i. The Applicant receives LNG (owned and imported by Customer), un-loaded from LNG ship at the Custody transfer point. Special types of pipes are used to transfer LNG from the ships to the storage tanks on the terminal. The LNG gas is received at an extremely low temperature (-160 C) while transferring to the tanks.
 - ii. The LNG passes through the pipelines that joins the arms to the special cryogenic tanks and is stored inside the tanks at a temperature of -160 C.
 - iii. Re-gasification is the process of converting LNG gas from liquid state to gaseous state. For re-gasification, LNG stored in the tanks is passed through Shell and Tube Vaporisers (STV) in tubes. STV contains heated glycol water which is at higher temperature than LNG and thus increases the temperature of the LNG in the tubes and converts LNG into RLNG. During extreme winters, Submerged Combustion Vaporisers (SCV) are also used for converting LNG into RLNG. The SCV is composed of warm water tank where a stainless-steel tube bundle is submerged. The water of tank is directly heated from a submerged combustion burner. The LNG is re-gasified by passing through the tubes bundle where heated water acts as the heat exchanger.
- 2.3 On completion of process of conversion of LNG into RLNG, processed RLNG undergoes metering, odorizing, analysis etc. before its delivery to the Customer. RLNG is delivered by Applicant to the Customer at the delivery point through pipeline connected to Applicant's re-gasification terminal,
- 2.4 As contended by the Applicant, CBIC, vide Circular No. 126/45/2019-GST [F. No. 354/150/2019-TRU] dated 22.11.2019 has clarified the scope of entry No. (id) of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended by Notification No. 20/2019-Central Tax (Rate) dated 30.09.2019). In terms of the said clarification, entry at item (id) covers 'job work' services as defined in Section 2(68) of CGST Act, 2017, that is services by way of treatment or processing undertaken by a person on goods belonging to another registered person and the same is exigible to GST@12% (SGST 6% + CGST 6%) . Relevant extract of the said Circular No. 126/45/2019-GST [F. No. 354/150/2019-TRU] dated 22.11.2019 has been quoted by the Applicant in its statement submitted along with application for advance ruling.

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- 2.5 Referring to the aforesaid classification of the CBIC, the Applicant has also stated that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No. 11/2017- Central Tax (Rate) dated 28-6-2017. Entry at item (id) covers only job work services as defined in section 2(68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id) and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.
- 2.6 The Applicant has further contended that services of conversion of LNG under Chapter heading 2711 into RLNG is a process undertaken (by Applicant) on LNG belonging to other GST Registered persons such as Gail India Limited Odisha (GSTN 21AAACG1209J2Z7), GAIL India Limited, Uttar Pradesh (GSTN 09AAACG1209J3ZS), GAIL India Limited, Madhya Pradesh (GSTN 23AAACG1209J4Z1 / 23AAACG1209J3Z2), Indian oil Corporation Limited, Odisha (GSTN 21AAACI1681G1Z1). In view of the clarification issued by CBIC vide Circular No. 126/45/2019-GST dated 22.11.2019, Applicant understands that the subject activity of re-gasification of LNG (of chapter heading 2711) owned by its GST registered customer/s, is covered under entry (id) of Heading 9988 at Sr. No. 26 of Notification No. 11/2017-CT (rate) dated 28.06.2017 (as amended) and is liable to CGST at 6%.
- 3.0 The personal hearing was fixed on 19.06.2023 under due intimation to the Applicant, the jurisdictional officer of State GST & jurisdictional officer of Central GST (intimated through their respective Commissionerates along with a copy of application and the written submission of the Applicant). The Applicant, through its representative Shri Anil Chauhan, Authorized Signatory appeared for personal hearing. Shri Chauhan re-iterated the submissions already furnished along with application for advance ruling. The Revenue has neither submitted its comments nor appeared for personal hearing.
- 3.1 During personal hearing, the Applicant was asked to submit sample copies of invoice format of job work services. Tolling agreement with different customers &

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sample copies of Bill of Entry filed with Customs authorities etc which were furnished by the Applicant on 22.06.2023.

Discussion & findings

4.0 We have gone through the advance ruling application, questions on which advance ruling have been sought and the Applicant's interpretation of law and/or facts, as the case may be, in respect of the questions asked. We find that the questions before us essentially pertain to Classification of services & applicability of a Notification issued under the provisions of the GST Act, 2017. We, therefore, observe that the issue before us is squarely covered under Section 97(2) of the CGST Act, 2017 and therefore we admit the application for consideration.

4.1 The main issue involved in this case is whether the applicant's activity of providing service of re-gasification of Liquefied Natural Gas (LNG, under Chapter Heading – 27111100) owned by its customers (Who are registered under GST Act) to convert to Re-gasified LNG by raising the temperature of the received LNG in its plant at Dhamara and sending/delivering the RLNG back to its customers through pipelines (as per Job Work Service agreement), would amount to rendering of service of "Job Work" within the meaning of Section 2(68) of the CGST Act, 2017 and the OGST Act, 2017. If yes, then whether the said service of re-gasification by way of job work is classifiable under entry (id) of Heading No 9988 at Sl. No. 26 of Notification No. 11/2017- CT (Rate) dated 28.06.2017, as amended vide Notification No. 20/2019- CT (Rate) dtd. 30.09.2019 and chargeable to GST @ 12% (SGST 6% and CGST 6%).

4.2 In this regard, we need to discuss the definition of 'Job Work' under Section 2 (68) of CGST Act, 2017. "Job Work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression job work shall be constructed accordingly.

From the said definition, following pre-requisites need to be satisfied for an activity to be 'Job work'.

- (a) There must be treatment or process
- (b) Treatment or process is undertaken on goods
- (c) Goods must be owned by a principal, who is registered under GST Act.



(d) Goods must be brought back within one year in case of input

(e) The goods sent by the principal to the job worker qualifies as 'inputs'.

4.3 We find the subject activity of conversion of LNG into RLNG is a process undertaken by the Applicant on LNG belonging to other GST Registered persons, namely Gail India Limited Odisha (GSTN 21AAACG1209J2Z7), GAIL India Limited, Uttar Pradesh (GSTN 09AAACG1209J3ZS), GAIL India Limited, Madhya Pradesh (GSTN 23AAACG1209J4Z1 / 23AAACG1209J3Z2), Indian oil Corporation Limited, Odisha (GSTN 21AAACI1681G1Z1). We note that LNG is goods classified at HSN 2711. Further, we find that the processed goods (RLNG) is to be supplied back to the customers of the Applicant within one year (as declared by the Applicant). So, all the pre-requisites are apparently satisfied for an activity to be 'Job work'.

4.4 Heading 9988 at Sr. No. 26 of Notification No. 11/2017-CT (Rate) dated 28.06.2017 (as amended), provides rate applicable to description of services mentioned against the said heading. Relevant extract of the said Notification is reproduced herein

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (Percentage)	Condition
26	Heading 9988 (Manufacturing services on physical inputs (goods) owned	(i) Services by way of job work in relation to— (a) printing of newspapers; (b) textiles and textile products falling under Chapters 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); (c) all products other than diamonds, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); (d) printing of books (including Braille books), journals and periodicals; (da) printing of all goods falling under Chapter	2.5	-

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by others)	<p>48 or 49, which attract CGST @ 2.5 percent or Nil;</p> <p>(f) all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p> <p>(g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), except dog and cat food put up for retail sale falling under tariff item 2309 1000 of the said Chapter;</p> <p>(i) manufacture of handicraft goods. Explanation.—The expression "handicraft goods" shall have the same meaning as assigned to it in the notification No. 32/2017 -Central Tax, dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) , vide number G.S.R. 1158(E), dated the 15th September, 2017 as amended from time to time.]</p>		
	<p>(ia) Services by way of job work in relation to—</p> <p>(a) manufacture of umbrella;</p> <p>(b) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent]</p>	6	-
	<p>(ib) Services by way of job work in relation to diamonds falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);</p>	0.75	-
	<p>(ic) Services by way of job work in relation to bus body building. [Explanation.— For the purposes of this entry, the term "bus body building" shall include building of body on chassis of any vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975.]</p>	9	-

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	(ica) Services by way of job work in relation to manufacture of alcoholic liquor for human consumption	9	-
	(id) Services by way of job work other than (i), (ia), (ib), (ic) and (ica) above;	6	-
	(ii) Services by way of any treatment or process on goods belonging to another person, in relation to — (a) printing of newspapers; (b) printing of books (including Braille books), journals and periodicals. 74[(c) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent or Nil.]	2.5	-
	(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6 per cent.	6	-
	(iii) Tailoring services	2.5	-
	(iv) Manufacturing services on physical inputs (goods) owned by others, other than [(i), (ia), (ib), (ic), (ica), (id), (ii), (iia) and (iii)] above.	9	-

4.5 Towards the Applicant's claim that CBIC, vide Circular No. 126/45/2019-GST [F. No. 354/150/2019-TRU] dated 22.11.2019 has clarified the scope of entry no. (id) of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended vide Notification No. 20/2019-Central Tax (Rate) dated 30.09.2019), It would be pertinent to go through the relevant portion of the said Circular, as below;

“ Subject– Clarification on scope of the notification entry at item (id), related to job work, under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017-reg.

I am directed to say that doubts have been raised with regard to scope of the notification entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 inserted with effect from 01-10-2019 to implement the recommendation of the GST Council to reduce rate of GST on all job work services, which earlier attracted 18 %

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rate, to 12%. It has been stated that the entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 inserted with effect from 01-10-2019, prescribes 12% GST rate for all services by way of job work. This makes the entry at item (iv) which covers “manufacturing services on physical inputs owned by others” with GST rate of 18%, redundant.

2. The matter has been examined. The entries at items (id) and (iv) under heading 9988 read as under:

(3)	(4)	(5)
(id) Services by way of job work other than (i), (ia), (ib) and (ic) above;	6	-
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above.	9	-

3. Job work has been defined in CGST Act as under.

“Job work means any treatment or processing undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”

4. In view of the above, it may be seen that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017. Entry at item (id) covers only job work services as defined in section 2 (68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to **another registered person**. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons **other than those registered** under the CGST Act”.
- 4.6 We find that the aforesaid Government Circular No.126/45/2019-GST dated 22-11-19 has clarified this issue beyond any doubt. Hence, we hold that subject activity of conversion of LNG to RLNG merits to be covered at entry ‘id’ of Heading 9988 at Sl. No. 26 of Notification No. 11/2017-CT (rate) dated 28.06.2017, as amended.

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5.0 We, therefore, issue the Ruling:

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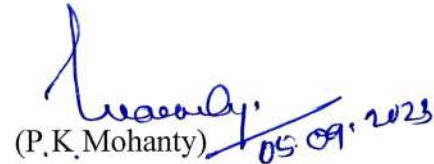
6.0 The Applicant's activity of re-gasification of LNG owned by its GST registered customers amounts to rendering of service by way of Job Work and merits to be covered at entry 'id' of Heading 9988 at Sl. No. 26 of Notification No. 11/2017-CT (rate) dated 28.06.2017, as amended and as such is liable to GST at 12% .

7.0 The Applicant or jurisdictional officer, if aggrieved by the ruling, may appeal to the Odisha State Appellate Authority for advance ruling under Section 100 of the CGST/OGST Act, 2017 within 30 days from the date of receipt of the advance ruling.


(G K Pati)

Member, CGST




(P.K. Mohanty)

Member SGST

C. No. V (30)14/ ARA/ODISHA/BBSR/2023/14 / 16975-77A Dated: 06/9/23

To

M/s. Dhamra LNG Terminal Private Limited, Dhamra Port Company Limited, Dhamra, Bhadrak, Odisha 756171

Copy forwarded to:

1. The Commissioner, CGST & Central Excise, Bhubaneswar Commissionerate, Bhubaneswar.
2. The Commissioner, SGST Odisha, Banijyakar Bhawan, Old Secretariat Compound, Cuttack-753001, Odisha.
3. Office copy.

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