



**AUTHORITY FOR ADVANCE RULING
ANDHRA PRADESH GOODS AND SERVICES TAX**

D No. 5-56, Block-B, R.K. Spring Valley Apartments,
Edupugallu, Vijayawada-521151

Present:

D. Ramesh, Additional Commissioner of State Taxes...Member (State Tax)

S. Narasimha Reddy, Additional Commissioner of Central Tax...Member(Central tax)

AAR No.02 /AP/GST/2019 dated:30.01.2019

1	Name and address of the applicant	M/s. Shirdi Sai Electricals Limited ., 53-55 & 58-60 Industrial Development Park, Kadapa, YSR District(AP)-516002
2	GSTIN	37AAOCS9992C1ZM
3	Date of filing of Form GST ARA-01	16-08-2018
4	Date of Personal Hearing	10.12.2018
5	Represented by	N. Visweswara Reddy, Managing Director
6	Jurisdictional Authority - Centre	Assistant Commissioner, CGST, Kadapa, A.P.
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) applicability of a notification issued under the provisions of this Act; and e) determination of the liability to pay tax on any goods or services or both;

ORDER

**(Under sub-section (4) of Section 98 of Central Goods and
Services Tax Act, 2017 and sub-section (4) of Section 98 of
Andhra Pradesh Goods and Services Tax Act, 2017)**

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APSGT Act respectively) by M/s Shirdi Sai Electricals Limited., (hereinafter referred to as applicant), registered under the Goods & Services Tax.
2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.



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3. Brief Facts of the case:

M/s. Shirdi Sai Electricals Limited (herein referred as applicant), holding GSTIN 37AAOCS9992C1ZM, having registered address 53-55 & 58-60 Industrial Development Park, Kadapa, YSR District(AP), are registered taxable person. The applicant is engaged in manufacture and supply of transformers etc., in its manufacturing unit located at Kadapa. The applicants submitted that they, at present, executed the following works:

Agreement No.	Date	Nature of Work
05/2017-18	24.06.2016	Design, manufacture, test, deliver, install, complete and commission facilities for conversion of existing LT Net Work into High Voltage Distribution System in Hindupur and Kadiri Divisions of Anantapur District under the World Bank Funding on turnkey basis
02/2017-18	24.06.2017	Design, manufacture, test, deliver, install, complete and commission facilities for conversion of existing LT Net Work into High Voltage Distribution System in Adoni Division of Kurnool District under the World Bank Funding on turnkey basis
03/2017-18	24.06.2017	Design, manufacture, test, deliver, install, complete and commission facilities for conversion of existing LT Net Work into High Voltage Distribution System in Anantapur Division of Anantapur District under the World Bank Funding on turnkey basis
04/2017-18	24.06.2017	Design, manufacture, test, deliver, install, complete and commission facilities for conversion of existing LT Net Work into High Voltage Distribution System in Gooty Division of Anantapur District under the World Bank Funding on turnkey basis
08/2017-18	24.06.2017	Design, manufacture, test, deliver, install, complete and commission facilities for conversion of existing LT Net Work into High Voltage Distribution System in Nandyal Division of Kurnool District under the World Bank Funding on turnkey basis
16/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Gudur II & Naidupet II Divisions of Nellore District under REC scheme on turnkey basis (REC Means Rural Electrification Corporation)
12/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Guntur town 2, Rural, Tenali & Bapatla Divisions of Guntur District under REC scheme on turnkey basis
13/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Ongole and Kandukur Divisions of Prakasam District under REC scheme on turnkey basis
14/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Addanki, Chitrala and Kanigiri III Divisions of Prakasam District under REC scheme on turnkey basis
15/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Markapuram-IV Divisions of Prakasam District under REC scheme on turnkey basis



17/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Ananthapur Divisions of Anantapur District under REC scheme on turnkey basis
18/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Hindupur & Kadiri Divisions of Anantapur District under REC scheme on turnkey basis
19/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Gooty & Kalyandurg Divisions of Anantapur District under REC scheme on turnkey basis
20/2016-17	29.08.16	System improvement Project works for conversion of LT net work into HVDS in Nandyal & Dhone divisions of Kurnool District under REC scheme on turnkey basis
21/2016-17	03.06.16	System improvement Project works for conversion of LT net work into HVDS in Nandyal & Adhoni divisions of Kurnool District under JICA scheme on turnkey basis (JICA Means Japan International Corporation Agency)

The applicant stated that the propose of these works are to provide supply to agricultural services up to Bore well / well / water source by installing smaller transformers of 16KVA/25KVA/40KVA, Poles, erecting conductor, Cable and other related material to give supply at motor point. All the said works involves composite supply of material, labour and services roughly with the ratio of 80% and 20% respectively. No separate agreements were entered for supply of material, labour and services but, separate price schedule were issued by the APSPDCL, for supply of material and labour and other services. the applicant is paying tax at 18% (9% CGST + 9% SGST) on the amounts received from APSPDCL, on composite supply of material, labour and other services, treating the activity falling under service code of 995423. However, the applicant is claiming Input Tax Credit on inward supplies of material, and services for use in the execution of works awarded by APSPDCL.

4. QUESTION RAISED BEFORE THE AUTHORITY:

The applicant seeks advance ruling on the following by referring the Notification No.12/2017-Central Tax (Rate), dated 28.06.2017 as amended by Notification No. 14/2018-Central Tax (Rate), dated 26.07.2018 inserting a new entry 10A;

- 1) As APSPDCL, being a registered dealer under GST alone is eligible for exemption, as per the description in the G.O. that "Services supplied by Electricity Distribution Utilities.
- 2) Whether the benefit of exemption is also applicable to the Applicant being the contractor executing works to APSPDCL.



- 3) GST now paying is on composite supply of material and service under Service code of 995423. Whether the G.O. extends the exemption both for supply of material as well as service or limited only to service.
- 4) Whether the applicant is entitled to claim ITC on inward supplies of material and services for use in the execution of works to APSPDCL, if the applicant is entitled for exemption from payment of GST on execution of works to APSPDCL, in view of the above notification.
- 5) If the ITC is Eligible, what is the process to get the refund of particular ITC.

On Verification of basic information of the applicant, it is observed that the applicant falls under Central jurisdiction, i.e. Assistant Commissioner, CGST, Kadapa, A.P. Accordingly, the application has been forwarded to the jurisdictional officers and a copy marked to the central tax authorities to offer their remarks as per the Section 98(1) of CGST /APGST Act 2017.

In response, the concerned jurisdictional officer stated that there are no pending proceedings relating to the applicant and no proceedings were passed on the issue, for which the advance ruling sought by the applicant.

4. RECORD OF PERSONAL HEARING:

Sri N. Rajeswara Reddy of the applicant company authorized to represent the applicant appeared for personal hearing on 10.12.2018 and they reiterated the submission already made in the application.

5. DISCUSSIONS AND FINDINGS:

We have examined the issues raised in the application. The taxability, classification of the services, applicable rate of tax, eligibility of exemption etc., for the goods and services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined.

5.1 Works Contract - Classification of the services (SAC)

As per clause (119) of Section 2 of CGST Act, 2017 and APGST Act, 2017 defines "works contract" as a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.



The composite supply of works contract as defined at clause (119) of Section 2 of CGST Act '2017 and APGST Act, 2017 is treated as supply of service in terms of Serial No.6, Schedule II of CGST Act '2017 and APGST Act, 2017.

The works executed by the applicant in this case included design, manufacture, test, deliver, install, complete and commission facilities for conversion of existing LT Net Work into High Voltage Distribution System in various districts of Andhra Pradesh the World Bank Funding on turnkey basis.

As seen from the nature of the work stated by the applicant, the works are industrial in nature as it involves conversion of existing LT network into High Voltage Distribution System.

In the instant case, the contract entered by the applicant squarely falls under the works contract and falls under entry no. (ii) of S. No. 3 of the table of notification No. 11/2017 - Central Tax (Rate), Dated - 28th June 2017 as amended from time to time and corresponding notifications under APGST Act, 2017, and the applicable rate of tax is 18% (9% under Central tax and 9% State tax). However, funding by the World Bank to either Government of Andhra Pradesh or to the Contractee i.e. APSPDCL has no bearing on the rate of tax.

5.2 Applicability of exemption

In this case the Contractee i.e. M/s APSPDCL is engaged in electricity distribution system. The applicant seeks clarification whether exemption under Sl.No. 10A of Notification no. 12/2017-Central Tax (Rate), dated 28.06.2017, amended by notification no. 14/2018-Central Tax (Rate), dated 26.07.2018 is applicable to their works. The said entry is as follows:-

Sl.No.	Chapter, Section, Heading, Group of Service code (Tariff)	Description of Service	Rate (percent)	Condition
(1)	(2)	(3)	(4)	(5)
10A	Heading 9954	Services supplied by Electricity Distribution Utilities by way of construction, erection and commissioning or Installation of infrastructure for extending electricity distribution net work upto the tube well of the farmer or agriculture for agricultural use	NIL	NIL



The said entry clearly states that the services supplied by Electricity Distribution Utilities attract nil rate of tax. Whereas, the said entry do not prescribe any nil rate for the services supplied to the Electricity Distribution Utilities. Therefore, the said exemption is not applicable to the services rendered by the applicant to the Contractee.

5.3 Further, the applicant seeks clarification whether the said exemption is applicable to both supply of material as well as services or limited to the service. Since the works undertaken are classifiable under works contract service, segregation or vivisection will not arise. However, as the said exemption is not applicable to the said works contract, this query and also the queries on entitlement of ITC on the inward supplies, and refund of ITC in the event of the applicant is entitled for exemption from payment of GST, have lost their relevance.

Accordingly, we pass the following order.

RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

The Applicant is not entitled for the benefit of NIL rate of GST under Sl. No. 10A of Notification no. 12/2017-Central Tax (Rate), dated 28.06.2017, amended by notification no. 14/2018-Central Tax (Rate), dated 26.07.2018 for the stated works executed. The applicable rate of tax is 18% (9% under Central tax and 9% State tax) for the services referred by the Applicant. The remaining supplementary queries are also answered as discussed above.

Sd/-D. RAMESH
Member (State Tax)

Sd/-S.NARASIMHA REDDY
Member (Central Tax)

//t.c.f.b.o//


Assistant Commissioner (ST Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.



To

1. M/s. Shirdi Sai Electricals Limited., 53-55 & 58-60,
Industrial Development Park, Kadapa, YSR District (AP)-516002. **(By Registered Post)**

Copy to

2. The Assistant Commissioner (ST), Kadapa-I Circle, Kadapa Division.
(By Registered Post).
3. The Assistant Commissioner of Central Tax, Kadapa Division, Dr.No.1/341-2,
Second Floor, City Plaza Commercial, Opp. District Court, Kadapa-516001.
(By Registered Post).

Copy submitted to

4. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax,
Eedupugallu, Vijayawada
5. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax
& Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-
530035
(By Registered Post)

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

