BEFORE THE HON’BLE APPELLATE AUTHORITY FOR ADVANCE  
RULING,  
GOODS AND SERVICE TAX, UTTAR PRADESH  
4, VIBHUTI KHAND GOMTI NAGAR LUCKNOW-006010  
(Constituted under Section 99 of the Uttar Pradesh Goods and  
  
Service Tax Act, 2017)  
  
Appeal Order No. 29/AAAR//é-/e8/2023 Dated: .../§.<..08-2023  
Before the Bench of:-  
  
ShriUma Shanker  
  
Member, Central Tax  
  
Smt. Ministhy S,  
  
Member, State Tax  
  
Legal Name of the | M/s PurvanchalVidyutVitran Nigam  
Appellant Limited  
  
Trade Name of the | M/s PurvanchalVidyutVitran Nigam  
Appellant Limited  
  
GSTIN Number of | O9AADCP4092M5ZT  
the Appellant  
Registered M.D. Office, P.VVNL, Bhikharipur  
address/Address\_ | Varanasi, Uttar Pradesh |  
provided while  
obtaining user ID  
  
(  
of the Appellant)  
Order of Advance | UP ADRG - 23/2023 dated 21.04.2023  
Ruling Against :  
which the appeal  
is filed  
  
[ Proceedings under Section 101 of the Central Goods and  
Service Tax Act, 2017 and Uttar Pradesh State Goods and  
Service Tax Act, 2017]  
  
The present appeal has been filed under Section 100 of the Central  
Goods and Service Tax Act, 2017 and Uttar Pradesh Goods and  
Service Tax Act, 2017 ( here-in-after referred to as “ the CGST Act  
and UPSGST Act”) by M/s Purvanchal VidyutVitran Nigam Limited  
  
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Bhikharipur Varanasi, Uttar Pradesh (here-in-after referred to as  
the “ Appellant”) against the Advance Ruling Order No. UP ADRG —  
23/2023 dated 21.04.2023 issued by the Authority for Advance  
Ruling, Uttar Pradesh.  
  
At the outset, we would like to make it clear that the provisions of  
both the CGST Act and the UPSGST 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, 2017  
would also mean a reference to the same provisions under UPSGST  
Act, 2017 and the vice versa.  
  
BRIEF FACTS OF THE CASE  
  
1.M/s PurvanchalVidyutVitran Nigam Limtied (Appellant),  
situated at Vidyut Nagar, Ground Floor, DLW Road,  
Bhikharipur, Varanasi Uttar Pradesh-22 1004 (the Appellant)  
is a registered assessee under GST having GSTN:  
O9AADCP4092M5ZT.  
  
2. The Appellant is an Electricity Distribution Company having  
expertise in the field of ‘electricity distribution and  
transmission. Being expertise in the field, the electricity lines  
are installed in the supervision of the appellant where  
electricity lines needs to be installed to supply the electricity at  
the designated location as per requirement of the customers.  
  
3. As per appeliant’s submission the installation of lines is done  
at the cost of the customers and thus the entire cost is borne  
by the service recipients. But for safe and proper installation of  
line it is done in the supervision of the appellant.  
  
4. The appellant submits that there are two methods of  
installation of electric lines for transmission to designated  
locations. One is where entire material and installation work is  
arranged by the appellant on behalf of the customers in the  
supervision of the appellant. The appellant claims for  
reimbursement of material cost and installation expenses  
incurred on behalf of the customer which is later reimbursed to  
  
the them by the customer on cost to cost basis and the net  
  
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income charged by the appellant is supervision fee only. In the  
  
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second mode the entire work with material are arranged by  
customers and installation work is done by the contractors  
hired by the customers. In this case the role of the appellant is  
limited to supervision only for which the appellant charges  
  
supervision fee.  
5. In the aforesaid backdrop the appellant filed an application  
  
before the Authority for Advance Ruling seeking clarification on  
  
following questions-  
  
(a)Whether in the given facts and circumstances the value of  
  
material and cost of execution of work for installation of lines  
will be included in the value of supply for determination of  
taxable value under GST where all such cost are taken as  
  
reimbursement while our supply is supervision only?  
  
(b) Whether in the given facts and circumstances the value of  
  
material and cost of execution of work for installation of lines  
  
will be included in the value of supply for determination of  
taxable value under GST where all such cost are borne by the  
recipient of service and we charge supervision fee only?  
  
6. The Authority for Advance Ruling vide impugned ruling ruled  
  
that value of material and cost of execution of work for  
  
installation of lines will be included in the value of supply for  
  
determination of taxable value under GST where all such cost  
  
are taken as reimbursement and answered the first question in  
affirmative. Whereas, 0n the second question the Authority for  
  
advance ruling held that the appellant shall be liable to pay  
  
GST on supervision charge only where the entire cost is borne  
  
by the service recipient subject to the condition that the  
  
customer/recipient of service should have GST invoice of  
  
material and same is to be submitted to the appellant after  
  
completion of project. The Authority further held that to avoid  
double taxation, appellant should not charge GST on the cost  
  
of materials, as there is no provision in CGST Act, 2017 and  
  
Rules made there under for double taxation.  
7. The Appellant is agreed with the ruling given by the Authority  
  
for Advance Ruling on point no.(a) but aggrieved by the ruling  
  
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given on point no.(b) with the specified condition of  
submission of GST invoice by the customer /service recipient.  
1 8. Grounds of Appeal  
8.1 The appellant being aggrieved by the impugned ruling have  
preferred an appeal on the following grounds-  
8.2 The Authority for Advance Ruling has failed to appreciate  
| the fact that as per Electricity Act, it is the duty of the  
distribution licensee to provide the electric plant or electric  
line for electric supply and the ownership of the  
infrastructural facility developed for the customer remains  
with the appellant.  
  
8.3 The Authority for Advance ruling has held that the value of  
material etc. directly borne by the customer is not liable to  
be included in the value of taxable supply made by the  
appellant but in fact, in both methods, there is no difference  
as the ownership of the, infrastructural facility, developed  
for the customer, is always with the appellant.  
  
8.4 The Authority for Advance Ruling has held that the to avoid  
double taxation, the appellant should not charge GST on the  
cost of material with the observation that the  
consumer/recipient/contractor should have GST invoice of  
material and the same shouldbe submitted to the appellant  
after completion of project. Thus the Authority for Advance  
Ruling has made the order conditional which is completely  
unwarranted and not supported by any legal provision of  
law.  
  
8.5 The Authority for Advance Ruling has failed to appreciate  
the fact that the liability for payment of GST by the  
Appellant cannot be dependent upon the nature of invoice  
obtained by the customer from the vendor.  
  
8.6 In appellant’s understanding in the 2nd mode of execution  
of deposit work, price is not the sole consideration, as the  
handover of infrastructural facility so created under deposit  
  
work by the consumer/customer, to the appellant is the  
  
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non-monetary consideration to the appellant since its  
benefit will accrue to the appellant.  
  
8.7 The appellant submits that in the present case the value of  
supply of goods or service cannot be determined under  
Section 15(1) of CGST Act, 2017 as the price is not the sole  
consideration.  
  
8.8 The appellant submits that in the present case the non-  
monetary consideration received by the appellant in the form  
of infrastructural work/ facility carried out by the contractor  
is relevant, The amount paid to the contractor by the  
customer shall be deemed to be the value of non-monetary  
consideration provided by the customer to the appellant.  
The Appellant has requested that in case the Authority takes  
the view that the value of taxable supply in second mode  
would be supervision charge only,the 2nd Para of point no.  
19 of the order specifying the provision of GST invoice by the  
customer may be stuck down.  
  
8.9. The appellant was granted the opportunity of Personal  
Hearing on 26.07.2023. ShriKapilVaish Chartered  
Accountant along with ShriChetanGarg, Accounts Officer,  
Uttar Pradesh Power Corporation Ltd. and Ms. Vidhi Jain,  
Account Officer M/s PurvanchalViddyutVitran Nigam  
Limited appeared before the Authority. They reiterated the  
submissions already made by them vide their AAAR  
application and requested to modify the Ruling given by the  
Authority for Advance Ruling on the basis of grounds  
submitted by them.  
  
9. Discussion and Findings  
  
9.1 We have gone through the submission made by the  
Appellant and examined the detailed reply submitted by  
them. We find that as per the scope of work submitted by  
the Appellant theyare an Electricity Distribution Company  
and ‘being expertise in the field of electricity distribution  
  
and transmission work, the electric lines are installed in  
  
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the supervision of the appellant to the designated  
locations as per requirement of the customers.  
  
9.2 We find that the Appellant has adopted two types of modes  
for installation of electric lines (also called deposit work)  
to the designated locations as per requirement of the  
customers. One is where the entire material and  
installation work is arranged by the appellant on behalf of  
the customers and work is done in the supervision of the  
appellant. The appellant claims for reimbursement of  
material cost and installation expenses incurred on behalf  
of the customer on actual basis which is later reimbursed  
to the appellant by the customer and the net income  
charged by the appellant is supervision fee only. In the  
second mode the entire work with materials are arranged  
by customers and installation work is done by the  
contractors hired by the customers. In this case the role of  
the appellant is limited to supervision only and the  
appellant charge supervision fee from the customers.  
  
9.3 The Authority for Advance Ruling vide impugned ruling  
held that in second mode where entire work with materials  
are arran,  
  
by the contractors hired by the customers,  
taxable supply shall not include the material costand the  
  
ged by customers and installation work is done  
the value of  
  
appellant shall be liable to pay GST on supervision charge  
  
only to avoid double taxation subject to the condition that  
  
the contractor/recipient of service should have GST  
  
invoice which should be submitted after completion of  
  
project.  
  
9.4 We find that the appellant is aggrieve  
given by the Authority for Advance Ruling on point (b)  
regarding insertion of specified condition of GST invoice by  
  
that there is no such  
  
d with the ruling  
  
the service recipient. We find  
provision is GST Act , which in the view of the appellant,  
  
is unwarranted and without provision of law.  
  
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9.5 We have examined the submission made by the appellant  
and arguments given by them to support their claim. We  
find that term supply has been defined under Section 7 of  
CGST Act, 2017 which 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”. Further as per  
definition provided under Section 2(31) of GST Act, 2017,  
Consideration, means any payment made or to be made,  
whether in money or otherwise in respect of, in response  
to or for the inducement of the supply of goods or services  
or both, whether by the recipient or by any other person  
but shall not include any subsidy given the Central  
Government or a State Government.  
  
9.6 We find that value of taxable supply has been provided  
under Section 15 of CGST Act, 2017 which reads as  
under-  
  
Section-15 Value of Taxable Supply-(1) The value of supply will  
  
be the transaction value for supply of goods or services or both  
  
where the supplier and the recipient of the supply are not  
related and the price the sole consideration of the supply.  
  
Further Section 15(2)(b) provides that ‘ any amount that the  
  
supplier is liable to pay in relation to such supply but which has  
  
been incurred by the recipient of the supply and not included in  
the price actually paid or payable for the goods or services or  
both; shall form the part of taxable value of supply.  
  
9.7 Accordingly we find that the Authority for Advance Ruling  
is correct in holding that value of material and cost of  
execution of work for installation of lines will be included  
in the value of supply for determination of taxable value  
  
under GST where all such cost are taken as  
reimbursement.  
  
9.8 In shifting and dislocation services there may be following  
  
two types of supply-  
| |  
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rs  
  
Case 1: Where dislocation/ shifting services and supervision  
services both are supplied by DISCOM -  
  
In cases where both types of services i.e. dislocation/shifting and  
Supervision services are supplied by DISCOM though there are two  
distinct supplies but the supplier is one so it is justifiable to charge  
  
GST on Total sum paid to the single supplier by the recipient.  
  
Case 2: Where dislocation/shifting services are supplied by third  
  
party contractor and supervision services are supplied by DISCOM-  
In this case there are following important points-  
  
a) In this case the works contract services supplied in course of  
dislocation /shifting are neither supplied by nor the  
consideration for the same has been received by DISCOM  
hence there is no supply of works contract services by  
DISCOM,  
  
b) In this case the ownership of the property being dislocated  
/shifted is vested with DISCOM, the DISCOM receives money  
in form of dislocation/shutting charges. The services supplied  
in such cases is related to an act of tolerance with respect to  
immovable property and hence covered under “agreeing to  
the obligation to refrain from an act, or to tolerate an act or a  
situation, or to do an act” and are classified under SAC  
999794,  
  
c) The works contract services in this case is being supplied by  
an independent contractor and is covered under SAC 9954, it  
is distinct service which is being supplied by a registered  
person other than DISCOM,  
  
d) Though the property subjected to works contract services  
belongs to DISCOM but the supply of works contract services  
are not made on behest of DISCOM. The contract for works  
contract services is executed between the concerned party and  
a third party works contractor hence the DISCOM is a  
  
stranger to this contract,  
  
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e) In a case where the third party works contractor remains  
unpaid for the services supplied by him he can sue only the  
concerned party and not the DISCOM, so the there is no  
liability to pay on the part of DISCOM,  
  
f) As the dislocation works are not made on behest of DISCOM  
and there is only a consent or tolerance for such shifting  
hence the DISCOM is not liable to pay for the expenses  
incurred in such shifting,  
  
g) Since there is no obligation to pay on part of DISCOM hence  
the case does not lie under section 15(2)(b) of CGST Act,  
  
h) In this case the consideration for works contract services is  
fully paid by concerned party and there is no shared /part  
payment by the same. In such cases it is not feasible for  
having two considerations for a single supply.  
  
9.9 We also find that the Authority for Advance Ruling has held  
"that in case (2) where the entire cost is borne by the recipient  
  
of service, the value of taxable supply shall not include the  
material cost and the appellant shall be liable to pay GST on  
supervision charge only to avoid double taxation subject to the  
condition that the contractor/recipient of service should have  
  
GST invoice which should be submitted after completion of  
project. We find that that there is no such provision stipulated  
  
’ under GST Act and this condition is unwarranted and having  
  
no legal backing as argued by the appellant.  
  
10. Accordingly, we rule that in the facts and circumstances,  
  
where the value of materials and cost of execution of work for  
  
installation of electric lines are borne by the recipient of service  
  
and the appellant c  
materials and cost of installation shall not be included in the  
  
value of supply for determination of taxable value under GST  
and the appellant shall be liable to pay GST only on the  
  
supervision charges.  
  
harges supervision fee only, the value of  
  
Ruling:  
We confirm the impugned Ruling UP ADRG - 23/2023 dated  
  
21.04.2023 passed by the Authority for Advance Ruling against the  
  
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Appellant except the provision of GST invoice as held in Para 19 of  
  
the ah?  
  
(Uma Shanker)  
Member, AAAR Member Anan  
CGST SGST  
To,  
  
M/s Purvanchal Vidyut Vitran Nigam Limited.  
M.D. Office, P.VVNL, Bhikharipur Varanasi,  
Uttar Pradesh  
  
The Appellate Authority For Advance Ruling  
Goods & Service Tax Uttar Pradesh  
  
Copy to-  
  
1. The Pr. Chief Commissioner, CGST & Central Excise,  
Lucknow, Member, Appellate Authority of Advance Ruling.  
  
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member,  
Appellate Authority of Advance Ruling.  
  
3. The Commissioner, CGST & C. Ex, 9, Maqbool Alam Road,  
Near Zila Kutchery, Varanasi-221002.  
  
4. The Deputy/Asst. Commissioner, CGST & Central Excise,  
Division-Varanasi, 9, Maqbool Alam Road, Near Zila Kutchery,  
Varanasi-221002.  
  
5. Through the Additional Commissioner. Gr-I, Varanasi Zone-I,  
  
Uttar Pradesh to jurisdictional tax assessing officers.  
  
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