

Welding of railway tracks along with labour services is a 'Composite Supply' taxable at 18%

GST

The AAR, West Bengal in the matter of *M/s Purple Distributors Pvt. Ltd. [Advance Ruling No. WBAAR 18 of 2022 dated December 22, 2022]* has ruled that welding process on the railway tracks along with supply of labour services shall be treated as 'Composite Supply' of services falling under Tariff 995429 and shall be taxable at the rate of 18% vide serial number 3(xii) of *Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017* ("the Services Rate Notification").

Facts:

M/s Purple Distributors Pvt. Ltd. ("the Applicant") was awarded a sub-contract from M/s Patil Rail Infrastructure Pvt. Ltd. ("the Principal Contractor") wherein the work was to convert Short Welded Rails ("SWR") to Long Welded Rails ("LWR") by Flash Butt Welding process on the tracks. The work also included supply of all assistance of labour for welding of rail joints.

The Applicant contended that their work was only of welding services using Flash Butt Welding Machine on railway tracks which can be easily detachable from the earth without any damage and no goods are transferred in the services involved. Therefore, the services provided by the Applicant should not be treated as works contract as defined under Section 2(119) of the Central Goods and Services Act, 2017 ("the CGST Act") and hence not classifiable under any of the entries under Heading 9954 of the Services Rate Notification.

The Applicant further submitted that, the services provided by them would qualify as 'Job Work' as defined in Section 2(68) of the CGST Act as both the Principal Contractor and the Indian Railways are registered under the CGST Act. The Applicant further submitted that the supply of labour services provided by them along with the job work services should be considered as a 'Composite Supply' as these supplies are naturally bundled in this industry.

Hence, the rate of Goods and Services Tax (“**GST**”) would be the same as that of job work i.e 12% vide Sl. No. 26(i)(id) of the Services Rate Notification.

Issues:

1. Whether the services provided by the Applicant is that of a works contractor or a Job Worker, falling under any of the entries under Heading 9954 and Heading 9988 respectively?
2. If the services do not fall under any of the above categories, what should be the HSN code and GST rate?

Held:

The AAR, West Bengal in the matter of **Advance Ruling No. WBAAR 18 of 2022** held as under:

- Noted that, the supply being undertaken by the Applicant doesn’t satisfy the conditions of ‘Work Contract’ as per Section 2(119) of the CGST Act as the supply doesn’t involve transfer of property in goods.
- Observed that, that the definition of ‘Job Work’ is restricted to any treatment or process only i.e., the activities of a job worker is to undertake any treatment or process on goods which belongs to another registered person.
- Stated that, the railway tracks for its permanent characteristics and absence of mobility like other goods, would be regarded as immovable property and therefore, fail to qualify to be goods. Hence, the welding process cannot be treated as ‘Job Work’, since to qualify any treatment or process to be job work, the same has to be undertaken on goods only.
- Further observed that, the scope of work covers the entire job for conversion of SWR to LWR and requires pulling back of rail, unfastening of fittings, lifting of rail with wooden block, opening out PSC sleepers either side of joints, removing of ballast, squaring, re-

spacing and reinsertion of sleepers, putting back ballast, checking of joint sleeper, re-fixing of fittings etc.

- Further stated that, the services of welding of railway track along with labour services are naturally bundled and supplied in conjunction in each other and therefore would fall under the ambit of “Composite Supply” as defined in Section 2(30) of the CGST Act.
- Opined that, the services are supplied by the Applicant for construction of railways and therefore, would be treated as “General construction services of civil engineering works” under Heading 99542.
- Held that, welding process on the railway tracks along with supply of labour services shall be treated as composite supply of services falling under Tariff 995429 and shall be taxable at the rate of 18% vide serial number 3(xii) of the Services Rate Notification.

Relevant Provisions:

Sl. No. 3(xii) of the Services Rate Notification:

“Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
3	Heading 9954 (Construction services)	(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (vii), (viii), (x) and (xi) above. <i>Explanation. - For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5)</i>	9	-“

		<i>and shall not be levied at the rate as specified under this entry</i>		
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Section 2(30) of the CGST Act:

“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”

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