

PUNJAB AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX, BHUPINDRA ROAD PATIALA 147001,
PUNJAB

(Constituted under Section 96 of the Punjab Goods and Service Tax Rules, 2017)

ORDER NO. AAR/GST/PB/33

DATED: 30.05.2023

BEFORE THE BENCH OF

- 1. Ms. Varinder Kaur, Additional Commissioner of Central Tax (Central Tax)**
- 2. Mr. Viraj Shyamkarn Tidke, Additional Commissioner of State Tax-1 (State Tax).**

GSTIN	03AAFCP4714J1ZK (Administered with Centre)	
Legal Name	Punjab State Transmission Corporation Limited	
Trade Name	Punjab State Transmission Corporation Limited, Shakti Sadan, The Mall, Patiala	
Registered Address	Shakti Sadan, The Mall, Patiala.	
Jurisdictional Office Address	CGST Patiala -I, Range IV, Phase III, Urban Estate Patiala, Punjab 147002	
Details of Application	GST ARA-01 dated 02.01.2019	
Nature of activity (present/proposed) in respect of which advance ruling sought.		
A	Category	Service Provision
B	Description in brief	The Applicant is engaged in the business of Transmission of electricity which is exempt under GST Act, vide Notification No. 12/2017 dated 28th June, 2017 (Tariff heading 9969). Apart from above activity, PSTCL executes Deposit and Contribution works on behalf of third parties.
Issue(s) on which advance ruling is sought.		i) admissibility of input tax credit of tax paid or deemed to have been paid. ii) determination of the liability to pay tax on any goods or services or both.
Whether the issue is covered under Section 97(2) of the CGST & PGST Act 2017?		Yes, it is covered under Section 97(2)(d) of the CGST & PGST Act, 2017.
Questions(s) on which advance ruling is sought.		As reproduced in Para 01 of the Proceedings below

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(An Appeal against this order lies with the Appellate Authority in terms of Section 99 and Section 100 of the CGST Act, 2017 and Section 99 and Section 100 of the PGST Act, 2017 within a period of thirty days from the date of communication of this order.)

PROCEEDINGS

The present application has been filed under Section 97 of the Central Goods and Service Tax, 2017 and the Punjab Goods and Service Tax Act, 2017 [hereinafter referred to as "the CGST Act and PGST Act"] by M/s Punjab State Transmission Corporation Limited, Shakti Sadan, The Mall, Patiala (PSTCL), the applicant, seeking an advance ruling in respect of the following questions.

- i) PSTCL executes shifting of transmission lines on request of NHAI (Contribution work) for widening of road by NHAI. In this case, total cost of work i.e; material cost, labour charges and supervision charges / departmental charges are recovered from NHAI but the property remains under the ownership of PSTCL.

Under which provision / section GST is to be charged on above work, at what rate and on which amount i.e; material, labour and supervision charges or only on supervision charges?

- ii) PSTCL construct and install sub-station / transmission lines on behalf of big industries/ other third parties for power supply (contribution works). In this case also total cost of work i.e; material cost, labour charges and supervision charges / departmental charges are recovered from NHAI but the property remains under the ownership of PSTCL

Under which provision / section GST is to be charged on above work, at what rate and on which amount i.e; material, labour and supervision charges or only on supervision charges?

- iii) **Whether the PSTCL can claim Input Tax Credit on material and services used in above works (either the work done by PSTCL itself or on turnkey basis) as the property remains under the ownership of PSTCL?**

At the outset, we would like to make it clear that the provisions of both the CGST Act and the PGST 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 PGST Act.

2. **STATEMENT OF RELEVANT FACTS – AS PER THE APPLICANT**
The submissions, as reproduced verbatim, could be seen thus-

M/s Punjab State Transmission Corporation Limited, Shakti Sadan, The Mall, Patiala (PSTCL) is engaged in the business of transmission of electricity (GST Registration No. 03AAFCP4714J1ZK) which is exempt under GST Act, vide Notification No. 12/2017 dated 28th June, 2017 (Tariff heading 9969). Apart from above activity, PSTCL executes deposit and contribution works on behalf of third parties.

- i) Deposit Work: In case of deposit work, total cost of material, labour and supervision charges are to be paid by the third party to PSTCL and the property in goods (i.e; asset) will be transferred to the said party, which requested PSTCL to execute the work on behalf of them.
- ii) Contribution Work: In case of contribution work, total cost of material, labour and supervision charges are to paid by the third party to PSTCL. However, goods (i.e. asset) is not transferred to third party and asset shall remain the property of the PSTCL.

In both the above cases, the amount is recovered fully from the third party.

2A. STATEMENT CONTAINING APPLICANTS INTERPRETATION

As already GST has been paid on material at the time of procurement so GST should not be charged on the value of material included in the transaction value as no ITC is claimed.

3. CONTENTION – AS PER THE CONCERNED OFFICER

The Assistant Commissioner of State Taxes, Patiala has furnished his written comments on behalf of the department vide letter no. 523 dated 2-2-2022 as below:

M/s Punjab State Transmission Corporation Limited has submitted an application for advance ruling on following questions.

- i) Under which provision/sections GST is to be charged on shifting of Transmission lines on the request of NHAI (contribution work) for widening of road, at what rate and on which amount i.e. material, labour and supervision charges or only supervision charges?.
- ii) Under which provision/sections GST is to be charged on construction and installation of sub-stations/transmission lines on behalf of big industries/ other third parties for power supply (Contribution work), at what rate and on which amount i.e. material, labour and supervision charges or only supervision charges?
- iii) Whether PSTCL can claim Input Tax Credit on material and services used in above works (either the work done by PSTCL itself or on turnkey basis) as the property remains under the ownership of PSTCL?

M/s Punjab State Transmission Corporation Limited, GSTIN: 03AAFCP4714J1ZK is engaged in the business of Transmission of electricity which is exempt supply under

GST Act. Apart from transmission of electricity, PSTCL executes deposit and contribution work on behalf of the third parties.

- i) Deposit Work: In case of deposit work, total cost of material, labour and supervision charges are to be paid by the third party to PSTCL and the property in goods (i.e; asset) will be transferred to the said party, which requested PSTCL to execute the work on behalf of them.
- ii) Contribution Work: In case of contribution work, total cost of material, labour and supervision charges are to be paid by the third party to PSTCL. However, goods (i.e. asset) is not transferred to third party and asset shall remain the property of the PSTCL.

In both the above cases, the amount is recovered fully from the third party.

With regard to first and second question asked by the applicant, it is submitted that transmission or distribution of electricity by an electricity transmission or distribution utility is nil rated vide Notification No. 12/2017-CT(R) dated 28.06.2017, SI No.25. But other ancillary services such as meter rent, application fee for releasing connection of electricity, Testing fee for meters/transformers, capacitors etc, labour charges from customers for shifting of meters or shifting of service Lines, charges for duplicate bill; provided by DISCOMS to consumers are taxable under GST.

The supply of electricity and supply of transmission and distribution of electricity service can be said to be naturally bundled as the supply of electricity is given physical effect by way of transmission or distribution of electricity. As per Section 2(30) "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 conjunction with each other in the ordinary course of business, one of which is a principal supply;

A composite supply which consists of two or more taxable supplies of goods or service or both or any combination thereof, which are naturally bundled and are supplied in conjunction with each other in ordinary course of business, one of which is the principal supply, is a composite supply. The primary elements of a composite supply include that,

- (i) there should be two or more supplies;
- (ii) supplies should be naturally bundled;
- (iii) supplied in conjunction with each other in ordinary course of business.

Transmission of electricity is a continuous supply while the ancillary services of contribution work or deposit work are not continuous supplies, hence these ancillary services are not provided in conjunction with the supply of electricity transmission services. These ancillary services of contribution work or deposit work are provided by the PSTCL at the specific request of the consumer and are not being provided by the PSTCL in its normal course of business to all consumers. Even though the ancillary supplies bear a close nexus with the supply of electricity. But these ancillary supplies are chargeable on use basis and the consideration paid for these services has no bearing with respect to the transmission of electricity. Therefore, the supplies although made to supplement the supply of electricity are neither naturally bundled nor

provided in conjunction with each other. Hence it cannot be considered an exempted supply. These are taxable services falling under service accounting codes (SAC Codes) 995442 (Installation, assembly and erection services of other prefabricated structures and constructions) under Goods and Service Tax classification which are taxable at 18% of IGST Act (9% CGST and 9% PGST).

With respect to third question regarding availability of TTC, as per sub-section (2) of section 17 of the PGST Act, 2017 read with rule 42 of the PGST Rules, 2017, ITC is available only to the extent of use in furtherance of taxable supplied. It implies that where the goods or services are used by the registered tax payer partly for utilisation in taxable supplies and partly for exempt supplies, then the ITC will be restricted to an amount which attributable for taxable supplies (including zero rated supplies).

4. PERSONAL HEARING:

Personal hearing in the matter was held on 03.02.2022. Sh. Harminder Singh, Accounts Officer of the applicant appeared on behalf of the applicant and on being enquired whether any proceedings on the issue are pending before any authority, he stated that no such proceedings are pending before any authority. Further he was asked by the Members for some documents/information which he promised to supply on next date of hearing which was granted on 11.02.2022.

Sh. Harminder Singh, Accounts officer again appeared on 11.02.2022 and submitted a reply as under:-

Brief Procedure for execution of Contribution work by PSTCL:

The PSTCL executes contribution work as per the following stages:

- i) Concerned party (NHAI in this case) submits the request letter. Copy was submitted as Annexure A.
- ii) As per request letter, technical feasibility, the concerned party is asked to deposit the survey charges plus processing fees.
- iii) After clearance of Technical feasibility, the concerned party is asked to deposit the survey charges plus processing fees. Copy was submitted as Annexure B.
- iv) After deposit of survey charges by the party, survey work is carried out and route plan is finalized after vetting by the concerned party.
- v) After finalization of route plan detailed estimate for composite work (containing detail of material, labour cost and supervision charges) is prepared and the party is told to deposit the amount of estimate alongwith applicable GST @18%. The GST is deposited with the GST department after raising a tax invoice of advance. Copy submitted as Annexure D & E.
Material (i.e. conductor, tower material, cement, steel, nut bolts etc.) is used from the stores of PSTCL, already purchased by PSTCL in bulk through tendering process. Suppliers of material issue tax invoice for the material purchased alongwith applicable GST on material. For labour part, sub contract is issued through tendering process.
- vi) After receipt of consent of the party to the estimate/deposit of amount of estimate PSTCL starts execution of the work.

After completion of work, completed asset becomes the property of PSTCL and

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is maintained by the PSTCL. and no final tax invoice is issued to the concerned party because the ownership of concerned asset is not transferred to the concerned party.

- In addition to above, the following documents were also attached:
- Copy of contract/agreement with the private firm for which project is executed as Annexure F.
 - Copy of advance receipt voucher attached as Annexure G.
 - Copies of invoice raised by the contractor is attached as Annexure H.
 - Copy of tender document along with work cum allotment order attached as Annexure I,J,K,L& M.

5. DISCUSSIONS AND FINDINGS:

We have carefully gone through to the facts of the case, submissions made by the applicant in his application for advance ruling as well as the submissions made by authorised representative at the time of personal hearing. We have also gone through the questions raised by the applicant on which advance ruling is sought, the applicant's interpretation of law and the detailed comments submitted by the Assistant Commissioner, State Tax, Patiala. We observe that the following issues merit careful consideration for arriving at the final decision:

- Under which provision section GST is to be charged on shifting of Transmission Lines on request of NHAI (Contribution work) for widening of road, at what rate and on which amount i.e; material, labour and supervision charges or only on supervision charges?**
- Under which provision section GST is to be charged on construction and installation of sub-station / transmission lines on behalf of big industries / other third parties for power supply (contribution works), at what rate and on which amount i.e; material, labour and supervision charges or only on supervision charges?**
- Whether the PSTCL can claim Input Tax Credit on material and services used in above works (either the work done by PSTCL itself or on turnkey basis) as the property remains under the ownership of PSTCL?**

5.2 We find that the Government of Punjab unbundled Punjab State Electricity Board (PSEB), a statutory body formed on 01.02.1959 responsible for generation, transmission and distribution of electricity in the state of Punjab, vide Notification No 1/9/08-EB(PR)196, dated- 16.04.2010 into two corporations namely Punjab State Power Corporation Limited (PSPCL) and Punjab State Transmission Corporation Limited (PSTCL). Thereafter, PSTCL (the Applicant) is a State Transmission Utility (STU), entrusted with the transmission business of the erstwhile PSEB.

5.3 The said business of transmission of electricity, by an electricity transmission or distribution utility is exempt under GST Act, vide Notification No. 12/2017 dated 28th June, 2017 (Tariff heading 9969). Further "Electricity transmission or distribution utility" has also been defined in the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 (as amended) and the same is reproduced below:

"2(z) "electricity transmission or distribution utility" means the Central Electricity Authority, a State Electricity Board, the Central Transmission Utility or a Transmission Utility notified under the Electricity Act, 2003 (36 of 2003), or a distribution or transmission licensee under the said Act, or any other entity entrusted with such function by the Central Government or, as the case may be, the State Government"

5.4 We also find that the GOI had enacted the Electricity Act 2003, for liberalizing the power sector in the country wherein Section 40 of the Electricity Act 2003 determines the duties of the transmission licence. The relevant part of Section 40 is reproduced below :-

*"Section 40. (Duties of transmission licensees): It shall be the duty of a transmission licensee –
(a) to build, maintain and operate an efficient, co-ordinated and economical inter-State transmission system or intra-State transmission system, as the case may be; "*

Also as per Section 34 of Electricity Act 2003, the grid standards have been specified which are reproduced as under :-

"Section 34. (Grid Standards): Every transmission licensee shall comply with such technical standards, of operation and maintenance of transmission lines, in accordance with the Grid Standards, as may be specified by the Authority."

5.5 Therefore, we find that as the applicant is a state transmission licensee under the Electricity Act 2003, and it owns the transmission system/infrastructure with exclusive right and responsibility of its transmission lines. Apart from the above activity, the applicant also executes deposit and contribution works as detailed below in relation to transmission on behalf of third parties.

I). Deposit Work: In case of deposit work, total cost of material, labour and supervision charges are to be paid by the third party to applicant and the property in goods (i.e; asset) **is transferred to the said party**, which requested the applicant to execute the work on behalf of them.

II). Contribution Work: In case of contribution work, total cost of material, labour and supervision charges are to be paid by the third party to the applicant. However, goods (i.e; asset) is not transferred to third party and **asset shall remain the property of the applicant.**

We observe that although the applicant is said to be executing both deposit and contribution works on behalf of third parties, the questions sought are only in relation to contribution work and hence only the same are being discussed.

5.6 With regard to the first query, i.e the shifting of Transmission Lines on request of NHAI for widening of road, we find that the work to be executed by the applicant includes construction of new towers, erection, sagging and dismantling of existing towers. Since these transmission lines are the property of PSTCL and require the modification on the need of NHAI, the overall cost of Highway diversification along with cost of shifting, dismantling and raising of transmission lines are borne by NHAI. We further observe that services like supervision are also charged by PSTCL for shifting/raising of power transmission lines.

5.7 While going through the copy of contract/ agreement with NHAI, we find that after finalization of route plan a detailed estimate for composite work (containing detail of material, labour cost and supervision charges) is prepared and the party is told to deposit the amount of estimate alongwith applicable GST @18%. The GST is deposited with the GST department after raising a tax invoice of advance. The material (i.e. conductor, tower material, cement, steel, nut bolts etc.) is used from the stores of PSTCL, already purchased by PSTCL in bulk through tendering process on which the applicable GST has already been paid. For labour part also a sub contract is done through tendering process.

5.8 We find that a supply of goods and services is made by the applicant, on the specific request of the NHAI, however the ownership of the asset created is retained by the applicant. A contract is executed between the applicant and NHAI for completion of the desired work and the supply appears to be classified under a "work contract". It now becomes imperative to go through the definition of Works Contracts which is defined in Section 2(119) of the CGST Act, 2017 and is reproduced below:-

"works contract" means 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."

Thus, from the above it can be seen that the term works contract has been restricted to contract for building construction, fabrication etc of any immovable property but there should be a transfer of property in goods involved in the execution of such contract. Since in the case of contributory work undertaken by the applicant the ownership of the transmission lines/ towers still lies with the applicant, the supply of goods and services cannot be said to be classified under "works contract". Therefore such supplies made shall be treated as a composite or a mixed supply as the case may but can not be treated as a "Works Contract" for the purpose of GST.

5.9 Further, Section 8 of the CGST Act makes provision for tax liability on composite and mixed supplies which is reproduced below:-

"SECTION 8. Tax liability on composite and mixed supplies. — The tax liability on a composite or a mixed supply shall be determined in the following manner, namely :—

(a) a composite supply comprising two or more supplies, one of which is a

principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax”

On perusal of the said section we find that Clause (a) specifies the tax applicability for a composite supply whereas clause (b) specifies the tax applicability for a mixed supply

5.10 In order to determine, the nature of supply provided by the applicant, (whether composite or mixed), it becomes imperative to go through the respective definitions as mentioned in the Act. Composite supply has been defined under Section 2(30) of the CGST Act which reads as under:-

“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;

Mixed supply has been defined under Section 2(74) of the CGST Act which reads as under:-

“mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

5.11 We find that the primary business of the applicant is transmission of electricity which is the principal supply, however the applicant indulging into contribution work or deposit work are to be considered as ancillary services to the main work or activities of the applicant. This ancillary supply by way of contribution work or deposit work are provided by the applicant on a specific request, and are not required/provided in the normal course of business by the applicant. Further, we also observe that although these ancillary supplies work in close tandem with the transmission of electricity, but these are chargeable on use basis and the consideration paid for these have no bearing with transmission of electricity. In fact, the services provided are never made for a single price, they are always charged separately. Therefore, the supplies made are neither naturally bundled nor provided in conjunction with each other and hence shall be counted as a Mixed Supply.

5.12 Since the service made by the applicant is ancillary to the primary business of electricity transmission and distribution, therefore, for the proper classification of contribution work done by the applicant, the CODEWISE LIST OF SERVICES (service codes (Tariff) (SAC) & Scheme of classification of services) has been gone through and relevant service code is as under:-

HSN Code	HSN Code Description
998631	Support services to electricity transmission and distribution

From the above, we observe that services provided by the applicant to the third parties as 'Contribution Work' falls under HSN/SAC 998631 which will attract GST @ 18% (CGST 9% + SGST 9%), as per Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28th June, 2017 (as amended).

5.13 We would also like to refer to Circular No. 34/8/2018-GST dated 01.03.2018, issued vide F. No. 354/17/2018, which has categorically clarified that the other services such as application fee for releasing connection of electricity, rental Charges against metering equipment, testing fee for meters/transformers, capacitors etc., labour charges from customers for shifting of meters for shifting of service lines and charges for duplicate bill provided by DISCOMS to consumers are taxable. The relevant part of the said circular is reproduced below:-

S.No	Issue	Clarification
4	<p>(1) Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST?</p> <p>(2) Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?</p>	<p>(1) Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification No. 12/2017-C.T. (R), Sl. No. 25. The other services such as, -</p> <ul style="list-style-type: none"> i. Application fee for releasing connection of electricity; ii. Rental Charges against metering equipment; iii. Testing fee for meters/transformers, capacitors etc.; iv. Labour charges from customers for shifting of meters or shifting of service lines; v. charges for duplicate bill; <p>provided by DISCOMS to consumer are taxable</p>

Hence in view of above, we observe that the "Contribution Work" undertaken by appellant is not an integral part of supply of services of transmission or distribution of electricity as a separate consideration is received for the same. Therefore, the exemption given under Entry No. 25 of the exemption notification for services by way of transmission or distribution of electricity by an electricity transmission or distribution utility will not be applicable on applicant.

5.14 Since the taxability of the services provided by the applicant has already been discussed above, we now decide on the amount on which the GST is to be charged i.e; is to be charged on material, labour and supervision charges or only on supervision charges. We find that Section 15 of the GST Act, 2017 deals with valuation of supply of goods and services. The relevant provisions of Section 15 are as under:-

“(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods

or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include---

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) 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;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.”

From above we observe the value of a supply of goods or services shall be the transaction value, that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. The value of supply shall include amount that the applicant is liable to pay but which has been incurred by the recipient, by reason of, or in connection with the new infrastructure created.

5.15 In the present case, since the whole cost i.e. total cost of material, labour and supervision charges incurred by the applicant are recovered from the NHAI, the same shall be the transaction value. This is irrespective of the fact that being a transmission licensee, the ownership of the transmission system requiring modification/augmentation/shifting/additions remains with the applicant even though the cost/charges are borne by NHAI. Thus according to Section 15(2)(b) of CGST Act, 2017, the cost of such asset/infrastructure incurred by the third party is to be included in the value of supply for the purpose of levy of GST. When the applicant incurred such cost, then GST would automatically be leviable on total transaction value without any recourse to Section 15(2)(b) of CGST Act, 2017. Therefore, value shall be the transaction value, i.e. the price actually paid or payable in terms of Section 15 of the CGST Act, 2017.

5.16 With regard to the second query i.e the GST to be charged on construction and installation of sub-station / transmission lines on behalf of big industries / other third parties for power supply, we have gone through a copy of estimates report for

construction of LILO 400 KV Talwandi Sabo – Moga Ckt. at proposed 400 KV S/S at Village Behman Jass Singh (Contributory Work of HMEL Project) submitted by the applicant. We find that work includes fabrication and supply of all types of transmission line towers and accessories, supply of earth wire, hardware fittings and conductors, earth wire accessories and OPGW and associated fittings and accessories and Tower Earthing required for complete execution of the Package, transportation, insurance, detailed survey of route alignment, profiling, tower spotting, optimization of tower location, soil testing, geotechnical investigations, piling, casting of foundation for tower footings, installation of Tower Earthing, erection of towers, tack welding of bolts and nuts, painting. fixing of insulator strings, stringing of conductors and earth wires/OPGW along with necessary line accessories, stringing of power lines, supply and erection of span markers, testing and commissioning of the erected transmission lines and other activities as may be required for completion of the project.

5.17 We find that here also the total cost of material, labour and supervision charges are to be paid by the third party to PSTCL and the goods i.e. asset is not transferred to third party and remains the property of PSTCL. Therefore the taxability of the supply made in this case also shall be similar as discussed supra.

5.18. With regard to the third query whether ITC is available to the applicant on the material and services used in above works (either the work done by PSTCL itself or on turnkey basis) as the property remains under the ownership of PSTCL. We find that the applicant is undertaking Contribution Work i.e. creating infrastructure for electricity transmission on the request of NHAI/ Third party and recovering the same from the NHAI/ Third party.

5.19 We find that Section 16 of the CGST Act, 2017 deals with the eligibility and conditions for taking the input tax credit which is reproduced hereunder:

"16. Eligibility and conditions for taking the input tax credit.—

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person."

In terms of section 16(1) of the CGST Act, 2017 every registered person would be eligible to take the input tax credit on the receipt of goods or services which are intended to be used in the course or for the furtherance of business.

5.20 We find that in the present case, the transmission lines have been laid by which the electricity would be transferred. In terms of the aforesaid provision, the goods/services used in shifting, laying and setting up wires/towers for transmission of electricity for the furtherance of business and the input tax credit is admissible on the same in the purview of Section 16(1) cited supra.

5.21 We would also like to refer to Section 17 of the CGST Act 2017 which deals with Apportionment of credit and blocked credit. On bare reading of the said Section we

find that none of the clauses is applicable to the instant case. Since GST is being charged on the shifting of transmission lines/ towers done on a specific request which has been discussed in detail in the preceding paras, Input tax credit would be available to the applicant on all the material and services used in above works (either the work done by PSTCL itself or on turnkey basis) even if the property remains under the ownership of PSTCL

In view of the above, both the members unanimously rule as under;

RULING

i) Under which provision / section GST is to be charged on shifting of Transmission Lines on request of NHAI (Contribution work) for widening of road, at what rate. and on which amount i.e; material, labour and supervision charges or only on supervision charges?

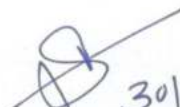
The services of shifting of Transmission Lines on the request of NHAI would be classified under Service Head 998631 and would attract GST @ 18 % (CGST 9% + SGST 9%). The value for purpose of levy of GST shall be the transaction value, i.e. the price actually paid or payable in terms of Section 15 of the CGST Act, 2017.

ii) Under which provision section GST is to be charged on construction and installation of sub-station transmission lines on behalf of big industries/other third parties for power supply (contribution works), at what rate and on which amount i.e; material, labour and supervision charges or only on supervision charges?

The services of construction and installation of sub-station transmission lines on behalf of big industries/other third parties for power supply would be classified under Service Head 998631 and would attract GST @ 18 % (CGST 9% + SGST 9%). The value for purpose of levy of GST shall be the transaction value, i.e. the price actually paid or payable in terms of Section 15 of the CGST Act, 2017.

iii) Whether the PSTCL can claim Input Tax Credit on material and services used in above works (either the work done by PSTCL itself or on turnkey basis) as the property remains under the ownership of PSTCL

The applicant is eligible for claiming Input Tax Credit on the above works executed by it.


30/5/23
Viraj Shayamkarn Tidke
SIGNATURE (MEMBER SGST)


30/5/23
Varinder Kaur
SIGNATURE (MEMBER CGST)

Through Registered Post

To

M/s Punjab State Transmission Corporation Limited (PSTCL).
Shakti Sadan,
The Mall, Patiala.

No. PB/AAR/2023/80-85

Dated: 12-06-2023

Copy to:

1. The Special Secretary. Goods and Service Tax Council, 5 floor. Tower-II, Jeevan Bharti Bldg., Connaught Place, New Delhi w.r.t. F. No. 193/Advance Ruling GSTC/2017 dated 01.05.2018.
2. The Commissioner of State Taxes, Punjab.
3. The Commissioner, CGST, Ludhiana, GST Bhawan, Rishi Nagar. Ludhiana.
4. The Assistant Commissioner of State Tax, Patiala.
5. The Assistant Commissioner CGST Division, Patiala

