

 <p>सत्यमेव जयते</p>	<b>RAJASTHAN APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX</b>  <b>NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN)</b> Email : aaarjpr@gmail.com	
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Proceedings under Section 101 of the Central GST Act, 2017 read with Rajasthan GST Act, 2017

Before the Bench of

1. Sh. Pramod Kumar Singh, Member (Central Tax)
2. Sh. Abhishek Bhagotia, Member(State Tax)

**ORDER NO. RAJ/AAAR/02/2020-21 DATED 03.09.2020**

Name and address of the Appellant	:	M/s ARG Electricals Pvt. Ltd. 125 Pratap Nagar, Dungarpur, Rajasthan, 314001
GSTIN of the appellant	:	08AAKCA4364N1Z6
Issues under Appeal	:	Whether the contract entered into with AVVNL for supply, erection, testing and commissioning of materials/ equipments for providing rural electricity infrastructure made to AVVNL would be taxable at the rate of 12% in terms of Sr. No. 3(vi) of Notification No. 11/2017-C.T. (Rate) as amended w.e.f. 25.01.2018 ?
Date of Personal Hearing	:	18.08.2020
Present for the appellant	:	CA Sanjay Kumar Rathi, authorized representative
Details of Appeal	:	Appeal No. RAJ/AAAR/APP/02/2020-21 against Advance Ruling No. RAJ/AAR/2020-21/04 dated 14.05.2020 issued on 18.05.2020

**(Proceedings under section 101 of the Central GST Act, 2017 read with section 101 of the Rajasthan GST Act, 2017)**

At the outset, we would like to make it clear that the provisions of both the Central GST Act, 2017 and the Rajasthan GST Act, 2017 are same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central GST Act, 2017 would also mean a reference to the same provisions under Rajasthan GST Act, 2017.

2. The present appeal has been filed under Section 100 of the Central GST Act, 2017 (**hereinafter also referred to as 'the CGST Act'**) read with Section 100 of the Rajasthan GST Act, 2017 (**hereinafter also referred to as 'the RGST Act'**) by M/s ARG Electricals Pvt. Ltd. 125 Pratap Nagar, Dungarpur, Rajasthan-314001 (**hereinafter also referred to as 'the Appellant'**) against the Advance Ruling No. RAJ/AAR/2020-21/04, dated 18.05.2020.





### **Brief Facts of the case**

**3.1** The appellant is engaged in business of supply of material and services of erection, testing & commissioning of supplied material in relation to electric infrastructure. The appellant is having business place at 125, Pratap Nagar, Dungarpur, Rajasthan-314001 and registered with GSTIN 08AAKCA4364N1Z6.

**3.2** The Ajmer Vidyut Vitran Nigam Limited (hereinafter called as AVVNL) had invited bids for providing of Rural Electricity Infrastructure for Household electrification in selected blocks of Dungarpur District of Ajmer DISCOM under Rajiv Gandhi Grameen Vidhyutikaran Yojana scheme on turnkey basis for erection of 11KV & LT Single Phase lines, erection of single phase 11KV Sub-station and release of BPL domestic connections under RGGVY/TN-13&TN-14. The appellant being the lowest bidder had been awarded the above work. After accepting the work, the AVVNL had distributed the above work in two work orders, one for the "Supply of material/equipment for providing of Rural Electricity Infrastructure" and other for the "Erection, testing and commissioning of the supplied material/equipment". Further the terms and conditions of the work orders are such that if the supply of material are not erected, tested and commissioned as per the requirement the payment would not be made by the AVVNL. Hence, both the work orders are interrelated and are composite supply of work contract. The same were submitted before advance ruling authority.

**3.3** The appellant filed an application for Advance Ruling before the Rajasthan Authority for Advance Ruling vide Application reference number AD080120002058T dated 14.01.2020 seeking clarification for the following two question:

- (I) Whether the contract entered into with AVVNL as per two work orders combine of supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure qualifies as a supply for work contract under Section 2(119) of the CGST Act?
- (II) If yes, whether such supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure made to AVVNL would be taxable at the rate of 12% in terms of Sr. no 3(vi) of Notification No. 11/2017- C.T.(Rate) as amended w.e.f. 25.01.2018?

**3.4** The Rajasthan Authority for Advance Ruling, (hereinafter also referred as 'the AAR') vide Advance Ruling No. RAJ/AAR/2020-21/04 dated 14.05.2020 passed the following order:

- (i) The work undertaken by the applicant as per contract RGGVY/TN-13 entered between the applicant and AVVNL along with two work order viz. (a) Supply of Materials/Equipments and (b) Erection, Testing and Commissioning of Materials/Equipments (Supplied in first order) in building of rural electricity infrastructure is a composite supply of Works Contract.
- (ii) The work undertaken by the applicant as per contract RGGVY/TN-13 (encompassing both work orders) is composite supply of Works Contract and is not covered under Entry No. 3(vi)(a) of Notification No.





11/2017-Central Tax(Rate) dated 28.06.2017(as amended); as consequentially are not eligible to be taxed at lower rate of 12%(SGST 6% + CGST 6%) and hence are liable to be taxed @ 18%(CGST 9% + SGST 9%).

**3.5** The appellant is in agreement with observation made by AAR in respect of question no. 1 that the supply rendered by them to AVVNL are in nature of Composite Supply. However, they are aggrieved with Ruling given in respect of question no. 2 that their instant supply is not covered under Entry No. 3(vi)(a) of Notification No. 11/2017-Central Tax(Rate) dated 28.06.2017(as amended) as consequentially are not eligible to be taxed at lower rate of 12%(SGST 6% + CGST 6%) and hence are liable to be taxed @ 18%(CGST 9% + SGST 9%). Hence, the present appeal has been filed before this forum.

#### **GROUND OFS OF APPEAL**

**4.** The appellant in its Appeal has, *inter-alia*, mentioned the following grounds of Appeal:

**4.1** That the Order passed by the learned AA being arbitrary, capricious, against the law and facts of the case, as such per se illegal, hence deserves to be set aside.

**4.2** That the Impugned order passed by the AA is based merely on his presumptions, surmises and conjectures hence, deserves to be set aside.

**4.3 Not Adhering the Natural Justice:**

That the impugned order is passed without providing reasonable opportunity of being heard. In the lockdown period all over the Country due to pandemic COVID -19, the appellant could not submit the reply as asked by him in Personal hearing on 19-03-2020 due to situation beyond his control. The appellant was also not in situation to ask authorised representative to attend/ submit the reply to Authority. The order per se is passed in haste without affording reasonable opportunity and hence deserves to be set aside.

While addressing the principle of natural Justice, it is observed by the apex court in *Sahar India (Firm) vs. CIT(2008) 300 ITR 403 (SC)*,

*"The expression natural justice is also not capable of a precise definition. The underlying principle of natural justice, evolved under the common law is to check arbitrary exercise of power by the state or its functionaries. Therefore, the principle implies a duty to act fairly, i.e., fair play in action. The aim of rules of natural justice is to secure justice or, to put it negatively, to prevent miscarriage of justice".*

Where in the Law u/s 107 (9) it is provided the authority may provide for three adjournments for the case, if sufficient cause is given. The same is incorporated in law in view to mandate the proper opportunity of being heard. Applying the analogy from there, it can be seen from the facts of the case that the order passed was in haste without affording opportunity as asked by appellant.





**4.4** Further it is pertinent to mention that Hon'ble Apex Court taken up Suo Moto Writ Petition (Civil) No 3/2020 dated 23.03.2020 in view of COVID -19 virus exercising power under Article 142 read with Article 141 of Constitution of India extent the limitation prescribed under general law or Special Law, whether condonable or not shall stand extended w.e.f. 15.03.2020 till further order passed by this court in present proceedings. In the view of same there is no application of limitation and accordingly appellant should be provide proper right to produce the explanation for his case.

**4.5** In *Shree Hari Chemicals Exports Ltd. vs. Union of India* (2012) 275 ELT 30; (2011) 24 STR 653 (Bombay), it was held that special drive to clear back log cannot be justification for violation of natural justice. Efficiency in disposal of quasi-judicial matters is important, but this cannot be at the cost of fundamental principles of law.

**4.6** In spite of appellant request to provide additional time to submit reply in view of lockdown, the authority arbitrarily decided the issues without considering appellant submission to submit clarification in respect to points asked during personal hearing on 19.03.2020. Nobody was aware about the facts that when lockdown will over and movement will start. The authority taking premise of appellant mail to seek time and altogether ignoring the situation and the principle of natural justice decided the ruling.

#### **4.7 ON MERITS:**

The appellant is in agreement with observation made by AAR in respect of Query raised at S.No.1 that the Services rendered by him to AVVNL are in nature of Composite supply of works contract. The appellant is in disagreement with ruling made by the AAR for query No.2 that the concessional rate of 12% is not applicable to the appellant supply.

The AAR relied on the Explanation clause inserted vide Notification No. 17/2018-CT dated 26.07.2018, which reads as under-

*"For the purpose of this item, the term 'business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities."*

The AAR finds that above said explanation clause is not applicable in the instant case as activities discussed above are not undertaken by the Central Government or State Government or any local authority.

AAR further observed that all the five conditions prescribed implicitly by Entry No. 3(vi)(a) of the Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 are satisfied by the applicant except one, viz. that the activity is meant predominantly to be used other than commerce, industry, or any other business or profession. Thus, work undertaken by the applicant as per contract RGGVY/TN-13 for AVVNL, Ajmer by way of supply of material/ equipment and erection, testing & commissioning of supplied material/ equipment is though a Composite Supply of works contract but the same is not covered under the Entry No. 3(vi)(a) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and accordingly not eligible for beneficial rate notification.





**4.7.1** The appellant want to submit the following submission in respect observation of AAR:

AVVNL is a company owned and controlled by Government of Rajasthan, created for the distribution of electricity in various parts of Ajmer district formed under the Statue pronounced by State Legislature. AAVNL is incorporated by Government of Rajasthan. It is discussed and clear that the AVVNL is a Government Entity as it is 100% owned and controlled by the Government of Rajasthan incorporated to carry out a function entrusted by the State Government of providing electricity in the district of Ajmer.

The work order under the ruling is for providing rural electricity infrastructure under Rajiv Gandhi Grameen Vidhyutikaran Yojana. Here it is imperative to understand the 'Rajiv Gandhi Grameen Vidhyutikaran Yojana (RGGVY)'. The Government of India launched RGGVY- Programme for creation of Rural Electricity Infrastructure & Household Electrification, in April 2005 for providing access to electricity to rural households. As on 30.04.2012, against the targeted coverage of 1.10 lakh un/de-electrified village and release of free electricity connections to 2.30 crore BPL households, electrification works in 1.05 lakh un/de-electrified villages have been completed and 1.95 crore free electricity connections to BPL households have been released under RGGVY.

Rajiv Gandhi Grameen Vidhyutikaran Yojana (RGGVY) is a Centrally Sponsored Scheme of Govt. of India to provide rural electricity Infrastructure and household electrification for attaining the goal of providing access to electricity to all households in the country. Under this scheme 90% of fund is provided as grant by Govt. of India and 10% as loan by Rural Electrification Corporation (REC) to the state government. The RGGVY was launched during 10th five year plan vide Ministry of Power order of 18th March 2005 and continued in 11th plan vide MoP order of Feb 2008.

The RGGVY aims at:

1. Electrifying all villages and habitation as per revised definition.
2. Providing access to electricity to all rural households.
3. Providing electricity connection to Below Poverty Line (BPL) households free of cost of service connection with single light point.

Article 243G of the Constitution of India 1949 Powers, authority and responsibilities of Panchayats Subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to-

- (a) The preparation of plans for economic development and social justice;
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule





In Eleventh Schedule at serial number 14 the item listed is

14. Rural electrification, including distribution of electricity

Further u/s 2 (69) of the CGST Act defines Local Authority as under

(69) "Local authority" means--

- (a) A "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- (b) A "Municipality" as defined in clause (e) of article 243P of the Constitution;
- (c) A Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
- (d) A Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
- (e) A Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
- (f) A Development Board constituted under article 371 of the Constitution; or
- (g) A Regional Council constituted under article 371A of the Constitution;

**4.7.2** From the above discussion, it can be analysed that the work order is:

- a. Sponsored Programme of central government
- b. The work order is related to rural electrification
- c. Rural electrification is listed item in eleventh schedule which is prescribed under Constitution of India as responsibility of Local authority.
- d. AVVNL is government entity wherein state government is having complete stake. The same were incorporated to render the duties conferred on State through Constitution.
- e. AVVNL formed under legislative power of State Act.
- f. The work is entrusted to AVVNL by the Government.

**4.8** In the view of above facts it is inferred that civil structure in the work order is predominantly relative to duties and function of the government and Local Authorities. The same cannot be called as for the purpose of business. In the view of above discussion, the explanation is entry is clarifying the position that Activity or transaction that are undertaken by the Central Government, a State government and any local authority in which they are engaged as Public Authorities. Here the meaning of the word Undertaken may be directly (by the Central Government, State Government or Local Authority) or Indirect (through Governmental Authority or Governmental Entity).

**4.9** Further from above discussion it is amply clear the dominant purpose of the project is public welfare at large and provides Rural Infrastructure for electric distribution. Further the same is also clarified by the explanation that being a duty entrusted through Constitution on Local authority therefore work undertaken cannot be regarded as business. Furthermore there is specific condition in the notification for Governmental entity that the work must be entrusted by Central Government, State Government or Local Authority, which is also met the appellant case. In the view of above discussion, the appellant is of strong view that the rate of 12% is applicable to the Supply.

**4.10** That impugned order being a pre-determined and prejudicial order as such being arbitrary and illegal hence deserves to be quashed.





**4.11** In view of the above submissions, the appellant requested to quash impugned order dated 14/05/2020 passed by the Authority of Advance Ruling.

**4.12** Besides appealing on merit, the appellant has also objected on non-adherence of the principle of natural justice. It has been submitted that inspite of appellant request to provide additional time to submit reply in view of lockdown, the authority arbitrarily decided the issues without considering appellant submission to submit clarification in respect to points asked during personal hearing on 19.03.2020. Nobody was aware about the facts that when lockdown will over and movement will start. The authority taking premise of appellant mail to seek time and altogether ignoring the situation and the principle of natural justice decided the ruling. In order to address the grievance of the appellant w.r.t. non-adherence of the principle of natural justice by RAJAAR, we find it proper to grant an opportunity to the appellant to enable him to submit his submissions which could not be submitted before the RAJAAR. Accordingly, personal hearing was granted on 18.08.2020.

### **Personal Hearing**

**5.** A personal hearing in the matter was held on 19.08.2020. Shri Sanjay Kumar Rathi, C.A., appeared for personal hearing on behalf of the Appellant. During the PH he reiterated the grounds of appeal and also made written submission. He submitted following documents at the time of personal hearing-

- (i) Copies of the two Work Orders received from AVVNL, Ajmer to the appellant.
- (ii) Copy of Order dated 14.05.2019 of AAAR, West Bengal in the case of ITD Cementation Limited.
- (iii) Copy of guidelines for preparation of DPRs under XII Plan of RGGVY.

### **Discussion & Findings**

**6.1** We have carefully gone through the Appeal papers filed by the Appellant, the ruling of the AAR, oral as well as written submissions made at the time of the personal hearing held on 18.08.2020. The appellant had requested for Ruling on whether the contracts entered into with AVVNL under two work orders combining of supply, erection, testing and commissioning of materials/ equipments for providing rural electricity infrastructure qualifies as a supply for work contract under Section 2(119) of the CGST Act and if yes, whether such supply, erection, testing and commissioning of materials/ equipments for providing rural electricity infrastructure made to AVVNL would be taxable at the rate of 12% in terms of Sr. no 3(vi) of Notification no. 11/2017- C.T.(Rate) as amended w.e.f. 25.01.2018.

**6.2** For the sake of brevity, Entry No. 3(vi)(a) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended is reproduced below:

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
3	<b>Heading 9954</b> (Construction Service)	"(vi) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, other than that covered by	6	<b>Provided</b> that where the services are supplied to a Government Entity, they should have been procured by



	<p>items (i), (ia), (ib), (ic), (id), (ie) and (if) above, provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p> <p>(b).....</p> <p>...</p> <p>(c).....</p> <p>...</p> <p><b>Explanation</b> - For the purposes of this item, the term 'business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.</p>		<p>the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be</p>
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The aforementioned Entry stipulates some conditions to make eligible any work to fall under this entry, which are as following:

- It must be a composite supply of works contract as defined in section 2(119) of the CGST Act, 2017;
- It must be provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity;
- The contract should be by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a civil structure or any other original works;





- d. The civil structure or original works must be meant **predominantly for use other than for commerce, industry, or any other business or profession; and**
- e. Where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union Territory or a local authority, as the case may be.

**6.3** We find that there is no dispute regarding the ruling of RAJAAR in respect of question no. 1 that the supplies rendered by them to AVVNL are in nature of Composite Supply of Works Contract. The only dispute to be decided is whether the said composite supply of works contract is covered under Entry No. 3(vi)(a) of Notification No. 11/2017-Central Tax(Rate) dated 28.06.2017(as amended) or not. The RAJAAR has concluded that all the conditions prescribed implicitly by Entry No. 3(vi)(a) of the Notification No.11/ 2017- Central Tax (Rate) dated 28.06.2017, as amended, are satisfied by the applicant except one, viz. that the activity is meant predominantly to be used other than commerce, industry, or any other business or profession. The RAJAAR held as under:

***"M/s AVVNL is involved in supply of electricity to the consumers and are collecting consideration in lieu of the said supply. The 'Electricity' as per GST is classified under the category of 'goods' and thus M/s AVVNL is supplying goods to consumers and is receiving consideration against the same.***

***Further, the Explanation Clause inserted vide Notification No. 17/2018-CT dated 26.07.2018 reads as under:***

***"For the purposes of this item, the term 'business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities."***

***The above said explanation clause is not applicable in the instant case as activities discussed above are not undertaken by the Central government or State Government or any local authority as public authorities.***

***We find that from definition of business, it is clear that any activity of trade, commerce or manufacture etc. or any other similar activity is included in the definition of business and it is immaterial whether it is done for a pecuniary benefit, and any activity done in connection with or incidental or ancillary to such activity is also included in the scope of business.***

***M/s AVVNL is involved in the supply of goods as already explained and hence they are involved in the business of supplying goods. They also receive consideration for the supply of electricity. The predominant activity of M/s AVVNL is to supply electricity and work undertaken by the applicant in the instant case is to help M/s AVVNL predominantly in this work. Hence, the work undertaken by the applicant in the instant case is an original***



*[Handwritten signature]*





***meant predominantly for use for commerce, industry, or any other business or profession."***

**6.4** From the above we find that the RAJAAR has disallowed the benefit of concessional rate of GST under Entry No. 3(vi)(a) of Notification No. 11/2017-Central Tax(Rate) dated 28.06.2017(as amended) on the premise that M/s AVVNL is involved in the business of supplying goods hence the work undertaken by the appellant cannot be said to have been used predominantly for use other than for commerce, industry, or any other business or profession. Hence the only dispute remains to be decided before us is whether the work undertaken by the appellant have been used predominantly for use other than for commerce, industry, or any other business or profession.

**6.5** The work order under the discussion is for providing rural electricity infrastructure under Rajiv Gandhi Grameen Vidhyutikaran Yojana, hence before reaching any conclusion, it would be better to have a look at the objective and scope of RGGVY. From the perusal of 'Guidelines for Preparation of DPRs under XII Plan of RGGVY' submitted by the appellant along with written submission during PH and 'Evaluation Report on RGGVY(PEO Report No. 224 published in May, 2014)'prepared by Planning Commission (now Niti Aayog), both available in public domain, we find that RGGVY was launched with the principal objective of 100% rural village electrification and eventually providing electricity to all households in next five years. Broadly the scheme, at introduction, intended to accelerate rural development, generate employment and eliminate poverty through development in areas of irrigation, small scale industries, KVI industries, cold chains, health care, education and IT and other services. Rural Electrification Corporation Ltd (REC), was the Nodal agency for implementing Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY). Under this Yojana, 90% grant is provided by Government of India and 10% as loan by Rural Electrification Corporation (REC) to the State Governments. The RGGVY was launched during 10th five year plan vide Ministry of Power order of 18th March 2005 and continued in 11th plan vide Ministry of Power order of Feb 2008. Under XII plan, only those villages & habitations having population 100 and above are eligible to be covered.

**6.6** From the above, we find that the scheme is aimed at electrifying all villages and habitation as per revised definition; providing access to electricity to all rural households; providing electricity connection to Below Poverty Line (BPL) households free of cost of service connection with single light point. However, from the Evaluation Report on RGGVY of Planning Commission, we note that only the connection was free and the consumption of the electricity by the beneficiaries of the Yojna was chargeable.

**6.7** From the above it emerges that though the beneficiaries of RGGVY are getting free electricity connection but they will have to pay for the consumption of electricity to AVVNL. In other terms, the work being undertaken by the Appellant will ultimately increase the consumer base of AVVNL resulting in more revenue to AVVNL. We find force in the contention of the RAJAAR that M/s AVVNL is involved in supply of electricity to the consumers and are collecting consideration in lieu of the said supply. The 'Electricity' as per GST is classified under the category of 'goods' and thus M/s AVVNL is supplying goods to consumers and is receiving consideration against the same, hence they are involved in the business of supplying goods. They also receive consideration for the supply of electricity. The predominant activity of M/s AVVNL is to supply electricity and the cell structure or original work being





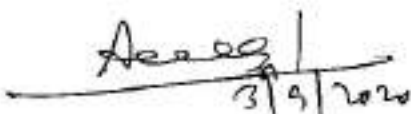
under taken by the Appellant shall be used for transmission of electricity which is predominant activity of AVVNL and is chargeable. Hence, we hold that the work undertaken by the applicant in the instant case is an original work which is incidental or meant predominantly for use for commerce, industry, or any other business or profession.


**6.8** During the personal hearing, the appellant pleaded that Order of AAAR, West Bengal in the case of M/s ITD Cementation Limited is squarely applicable in their case. We find that in this case the composite supply of works contract was to Inland Waterways Authority of India for construction of a multi model IWT terminal at Haldia on EPC (Engineering, Procurement, Construction). It was held that creation of IWT terminal is not for propagating any business or commercial interest of IWAI. It was further held that remittance by IWAI to the Ministry of Shipping are part of government revenue and not part of business proceeds. Accordingly, the supplies by M/s ITD Cementation Limited to IWAI were held eligible for concessional rate at Sr. No. 3(vi) of the Notification 11/2017.

**6.9** We find that the above order is not applicable in the present case and can be distinguished on the ground that the nature of work executed by IWAI cannot be compared with that of AVVNL. In the case of M/s ITD Cementation Limited, supply of Works Contract services to IWAI, a Government entity, was for an original work meant for infrastructural development of waterways of India and not meant for commerce and business. Further, remittances from IWAI are remitted as revenue receipt to Ministry of Shipping, Govt. of India and credited to Consolidated Fund of India; not used by IWAI as part of business. Whereas, the AVVNL, though a Government Entity, is engaged in the business activity i.e. purchase and sale of electricity. As per the Memorandum of Association of the AVVNL, one of the main objective of formation of AVVNL is to carry on the business of purchasing, selling, importing, exporting, wheeling, system operation, trading of power, including formulation of tariff, billing and collection thereof. Hence we hold that the work being undertaken by the Appellant is predominantly used for or incidental to the main activity of AVVNL i.e. transmission (sale) of electricity.

### **ORDER**

**7.** In view of the above discussions and findings, we find that the appeal filed by the appellant has no merits and rejected accordingly.

  
(Pramod Kumar Singh)  
Member (Central Tax)

  
(Abhishek Bhagotia)  
Member (State Tax)



### **SPEED POST**

M/s ARG Electricals Pvt. Ltd.,  
125 Pratap Nagar, Dungarpur,  
**Rajasthan-314001**

F. No. IV(16)AAAR/RAJ./02/2020-21/57461-5751

Dated: 02.09.2020



## Copy to:

1. The Chief Commissioner of CGST & Central Excise, Jaipur Zone, Jaipur.
2. The Chief Commissioner, State Tax, Kar Bhawan, Ambedkar Circle, C-Scheme, Jaipur-302005.
3. The Commissioner, CGST & Central Excise Commissionerate, Udaipur.
4. The Member, Rajasthan Authority for Advance Ruling, Goods & Service Tax, Kar Bhawan, Ambedkar Circle, C-Scheme, Jaipur-302005.
5. Guard File.

20/08/2020

/ (Umesh Kumar Agarwal)  
Superintendent

