

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**  
**INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,**  
**5<sup>TH</sup> FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,**  
**CHENNAI - 600 003.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE**  
**GOODS AND SERVICES TAX ACT 2017.**

**Members present :**

1. Shri B.Senthilvelavan, IRS, Additional Commissioner/Member,  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai.
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/Member,  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

**ORDER No. 32/AAR/2020 DATE :28.09.2020**

GSTIN Number, if any / User id		33AAQCS9207A1ZG
Legal Name of Applicant		M/s. ST ENGINEERING ELECTRONICS LTD
Registered Address/Address provided while obtaining user id		Third floor No.28/4 (Old No.54/4), Montieth Road, Egmore, Chennai-600008
Details of Application		GST ARA-01 Application Sl. No. 54/2018 dated 19.11.2018
Concerned Officer		Centre: Chennai North -Division: Egmore  State: The Assistant Commissioner(ST), Mylapore Assessment Circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Works Contract.
B	Description (in Brief)	The Applicant is providing works contract services as a sub-contractor in relation to metro rail project.
Issue/s on which advance ruling required		Applicability of notification
Question(s) on which advance ruling is required		Whether rate of tax at 6% CGST, available to Composite supply of works contract as defined in clause(119) of Section 2 of the CGST Act, 2017 provided by way of construction, erection, commissioning, or installation of original works pertaining to Metro, vide Notification No. 11/2017 amended vide Notification No.1/2018-Central Tax(rate) dated 25 <sup>th</sup> January 2018 is applicable to Applicant rendering the said services?

**Note :** Any Appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

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

M/s. ST Engineering Electronics Limited is a wholly owned subsidiary of Singapore Technologies Engineering Limited. Their Project office is located at Third floor No.28/4 (Old No.54/4), Montieth Road, Egmore, Chennai-600008 ( hereinafter called the Applicant or the Company). They are registered under GST with GSTIN 33AAQCS9207A1ZG. They have preferred an application seeking Advance Ruling on Whether rate of tax at 6% CGST, available to Composite supply of works contract as defined in clause(119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by way of construction, erection, commissioning, or installation of original works pertaining to Metro, vide- Notification No. 11/2017 amended vide Notification No.1/2018- Central Tax(rate) dated 25<sup>th</sup> January 2018 is applicable to a sub-contractor(Applicant) rendering the above mentioned services?

The Applicant has submitted the copy of application in Form GST ARA – 01 and also submitted the copy of Challan evidencing payment of application fees of Rs.5,000/-each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant is a global technology, defense and engineering group specialising in the aerospace, electronics; land systems and marine sectors. The Company, incorporated in Singapore in 1969 is an electronic system provider that serves customers in the areas of transportation, intelligent building and defense. The Company is a wholly owned subsidiary of Singapore Technologies Engineering Limited. The applicant has stated that they have entered into a Sub-contract

agreement with SIEMENS Ltd., India (agreement reference no: ASA-01-Tel-IN Dated 1st September 2011) for providing services in the nature of Design, manufacture, supply installation, testing and commission (including integrated testing and commissioning and operational maintenance) of the Telecommunications Works as part of main Contract of SIEMENS Ltd pertaining to metro rail project in Chennai. SIEMENS Ltd is the main contractor to Chennai Metro Rail Limited (CMRL) for executing metro rail project in Chennai. A segment of the work awarded to SIEMENS under their contract with CMRL is back-to-back sub-contracted to the applicant in the aforesaid agreement. The applicant has stated that their Scope of work as per the Sub-contract agreement is in the nature of overall telecommunications works and consists of the following

- Integrated Control and Management System
- Public Address and Voice Alarm System
- Driver Only Operation (DOO) CCTV System
- Closed circuit Television (CCT V) System
- Access Control and Intruder Detection System
- Passenger Information Display (PID) System
- Office Telephone System
- Operational Telephone System
- Master Clock System

2.2 The Applicant has stated that they have been rendering works contract to SIEMENS Ltd., for the works undertaken by them as provided for in the contract pertaining to metro rail project. The supplies are in the nature of "Works contract" as defined under sub-section 119 to section 2 of the Central Goods and Services Tax Act, 2017. The supply has been made under invoices with CGST of 9% as supply of services as per para 6 (a) of Schedule II to the CGST Act, 2017 till 24<sup>th</sup> January 2018. With the amendment of Notification no.11/2017 effective from 25<sup>th</sup> January 2018, the rate of tax to be adopted to the supplies made in the nature of a Composite supply of works contract pertaining to Railways, including monorail and metro has been revised from 9% to 6% CGST. Further to the above amendment customer has been demanding the Applicant to charge CGST on above project at the rate of 6%.

2.3 The applicant, on their interpretation to the statutory provisions, has made reference to the Metro railways Act, 1978 which defines Metro Railway as

(i) 'metro railway' means a metro railway or any portion thereof for the public carriage of passengers, animals or goods and includes,—

- (a) all land within the boundary marks indicating the limits of the land appurtenant to a metro railway,
- (b) all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, a metro railway,
- (c) all stations, offices, ventilation shafts and ducts, warehouses, workshops, manufactories, fixed plants and machineries, sheds, depots and other works constructed for the purpose of, or in connection with, a metro railway;

They have stated that as per item No. (v) to Sl.No. 3 to the Notification No. 11/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017, as amended on 25<sup>th</sup> January 2018 the composite supply of works contract as defined in clause 119 of Section 2 of CGST Act, 2017 supplied by way of construction, erection, commissioning, or installation of original works pertaining to railways, including monorail and metro is charged at 6% CGST.

2.4 In the applicants view, this entry (v) to Sl.No. 3 is based on project and not based on the nature of the Contractee/recipient of service; They have drawn attention to the entries at S.No. (iii), (vi) and (vii) to S.No.3, wherein the description of service mentions as "Provided to" or "supplied to", the benefit of reduced rate is applicable only in case of services provided to or supplied to specified contractee and have stated that at entry (v), the coverage is not based on the nature of contractee but the project itself. In the Notification 11/2017 the entries ix & x to Sl.no.3 have been inserted to extend the benefit to sub contractors, when the works are that covered under Sl.No. 3 (iii), (vi) and (vii). However, in respect of entry covering the relevant work or project [entry v to Sl.No.3] the requirement for the separate entry for Sub-Contractors does not arise.

2.5 Further, the applicant has stated that under the erstwhile Service Tax Law as well, the appellant as a Sub-Contractor was getting the same exemption which was available to SIEMENS Ltd for the similar metro rail project. They have also referred to the circular No.147/16/2011-ST dated 21.10.2011, whereby it was clarified that in case of infrastructure projects of execution of works contract, in case if the Sub-

Contractors are providing works contract service to the main contract for completion of the main contract, then service tax is obviously not leviable on the works contract service provided by such Sub-Contractor when the main project is exempted. In view of the above, the applicant has interpreted that the reduced rate of 6% CGST pertaining to metro rail project would equally be applicable to sub-contractor to the project as well. The Applicant has thus preferred this ruling for confirming this understanding.

3.1 The Authorized Representative of the Applicant was heard in the matter on 12.03.2019. They stated that they are providing Works Contract Service of Telecommunication Systems to Siemens who is the main contractor to Chennai Metro Rail Corporation. They stated that notification 11/2017 as amended Sl.No.3(v) provides the applicable rate for services pertaining to Metro even if the work is carried out by the Sub-Contractor. They stated that they will submit full set of agreement between Siemens & themselves and Siemens and CMRL including certification provided by CMRL for stage-wise completion, billing to show it is a back to back agreement.

3.2 The applicant vide their letter dated 26<sup>th</sup> March 2019 stated to furnish Copy of complete sub-contract agreement between them and Siemens including relevant Appendices and Annexures; Sample copy of bills raised by the applicant along with relevant certification for completion of job(Certified by Siemens and CMRL); Sample copy of Service Tax and VAT returns filed during Pre-GST regime.

4.1 The applicant was extended another hearing and heard on 10.04.2019. The authorized representative appeared before the authority and stated that the work done by them involves, design, setting up, installing of signaling system which gives the timings, keeps track of trains passing across each section. The contract is dated 2011 for which all works are being implemented on a single purchase order. Once work is completed in each stage, CMRL issues interim payment certificate based on which invoice is raised by the applicant. They stated that they will submit the PO, all relevant extensions of the contract, invoices, linked interim payment certificate and reference in the PO and contract. They also stated that they are listed as sub contractors in agreement between SIEMENS & CMRL but do not have access to it. However, all works, quality certificate are endorsed by CMRL, copies of which they have submitted.

4.2 Further, to the hearing the applicant submitted the following documents on 07.05.2019 - i. Copy of Purchase Order (PO) No. 4503898418 dated 11<sup>th</sup> May 2012; ii. Copy of extension letter/agreement entered in to between applicant & SIEMENS; iii. Note on invoice processing followed by applicant and applicability of Time of supply from GST law perspective.

5.1 On perusal of the documents furnished, it was seen that the applicant has not furnished the complete sub-contract Agreement between them and Siemens as stated in their letter dated 26<sup>th</sup> March 2019. The Sub-Contract Agreement consists of 4 Volumes of which the applicant had only furnished - Sub-Contract Agreement, Appendix1- Terms and Procedure of Payment, Appendix 3- Insurance Requirements, Appendix 4 – Time Schedule, Appendix 5- List of Approved Sub-contractors, Appendix 6- Scope of Works and Supply by the Contractor, Appendix 7- List of Documents for Notice of No Objection (As applicable to Telecommunication Scope Only), Appendix 8- Functional Guarantees(As applicable to Telecommunication scope only), Appendix 10- Additional Scope of Work by the Sub-Contractor; Annexure- 4,5,6,7 which are Format of Forms for Bank Guaranty, Completion Certificate, Operational Acceptance Certificate; Annexure 8- Change Order Procedures; Annexure 13- Sub-Contractors' Warranty all part of Volume-1. It was seen from the index page furnished that the agreement in Volume 1 also contained Erratum to Addendum 1,3;, Addendum 1,3,2, General Conditions of Sub-contract; Special Conditions of Sub-contract, Particular Specifications Volume 4a which were not furnished; Also from the index it was seen that Volume 2 – Particular Specifications Volume 4b; General Specifications Volume 3; Volume 3- Employers' Drawing Volume 6, Pricing Documents Volume 7, Reference Documents Volume 8; Volume 4- Sub-Contractors' Technical Bid Documents comprises the complete set of agreement. As the Complete set of agreement was not furnished and also in the given extracts of the sub-contract agreement, the Scope of Works to be undertaken by the applicant was not provided, the applicant was asked to furnish the complete set of the agreement. The same was followed up with a letter No. 54/2018/ARA dated 10.02.2020 wherein the applicant was asked to furnish the complete set of the agreement within 15 days of receipt of the said intimation.

5.2 The applicant vide their letter dated 20<sup>th</sup> February 2020 received on 26<sup>th</sup> February 2020 stated inter-alia that

- They have entered into a Sub-Contract agreement with SIEMENS Ltd., India for providing services in the nature of Design, Manufacture, supply, installation, testing and commissioning (including integrated testing and commissioning and operational maintenance) of the Telecommunication Works as part of main Contract of SIEMENS Ltd pertaining to metro rail project in Chennai
- During the submission of additional documents, they had provided the copy of contract entered with SIEMENS, Purchase Order, invoice copies along with other documents
- Scope of work with SIEMENS Ltd is in the nature of overall telecommunications works and consists of the following:
  - Integrated Control and Management System
  - Public Address and Voice Alarm System
  - Driver Only Operation (DOO) CCTV System
  - Closed circuit Television (CCT V) System
  - Access Control and Intruder Detection System
  - Passenger Information Display (PID) System
  - Office Telephone System
  - Operational Telephone System
  - Master Clock System
- They have attached the relevant part of the contract describing the above scope of work
- The complete contract consists of multiple parts and is a voluminous one, which runs into more than 7000 pages and includes Appendices and Annexures. It provides amongst others, general terms and conditions, scope of work, major portion of contract are pertaining to technical aspect of the contract. All these elaborate documentation, which is part of the signed contract are privy to the contracting parties and would require enormous efforts to obtain the copyright from CMRL to share with external parties. Nevertheless, they are of the opinion that these complicated documentation do not constitute the documentation required for passing the requested GST advance ruling order.
- To give an idea of the complication, they furnish the index of complete contract

The applicant stated that they reckon, they have submitted all required documents for the assessment of the GST Advance Ruling application and requested for order at the earliest.

6.1 The applicant's case was posted for a final hearing on 27.03.2020. But due to the pandemic situation, the hearing scheduled on 27.03.2020 was cancelled. Effective 19.05.2020, there was change in the authority and Shri B.Senthilvelavan, Additional Commissioner was appointed as CGST Member of the Authority. The applicant vide e-mail dated 1<sup>st</sup> June requested for a hearing and pronouncement of the ruling at the earliest. In order not to delay the proceedings, the appellant was addressed through the Email Address mentioned in the application to seek his willingness to participate in a virtual Personal Hearing in Digital media and upon the applicant consenting, virtual hearing was conducted on 23.07.2020.

6.2 Shri Pandian, Authorised representative participated in the hearing. The representative shared the written submission, which was taken on record. The applicant was asked to furnish the portion of the contract stipulating the milestones for issuance of invoice. The authorized representative stated that due to the confidentiality of the contract and being voluminous they could not submit the entire agreement document. The applicant also relied on the decision of AAR Maharashtra in the case of SHREE CONSTRUCTION, who is a sub-contractor and undertakes Works Contract to Railways. In the note shared by the authorized representative, they stated to have submitted the following:

1. Application for advance ruling – dated 16.11.2018
  - 1.1 Complete copy of sub-contract agreement
  - 1.2 Invoice under TNVAT as a proof of Works contract (on 70%)
  - 1.3 Invoice under GST with 18% rate of tax
  - 1.4 Invoice under GST with 12% rate of tax (Post amendment)
  - 1.5 Payment receipt, GST RC and Incorporation certificate
2. Letter for additional submission dated 26.03.2019
  - 2.1 Complete copy of sub-contract agreement including relevant Appendices and Annexures
  - 2.2 Sample copy of bills raised by STEE (Certified by SIEMENS and CMRL)
  - 2.3 Sample copy of Service tax and VAT returns filed pre-GST regime (Disclosed as Works Contract)



3. Letter for additional submission dated 29.04.2019
  - 3.1 Copy of Purchase order No. 4503898418 dt 11 May 2012
  - 3.2 Copy of the extension letter and agreement entered between STEE and SIEMENS
  - 3.3 Note on invoice processing followed by STEE along with list of invoices
  - 3.4 Details of Time of supply falling on or after 25 January 2018
4. Letter for submission of additional requirements dated 20.02.2020
  - 4.1 Copy of earlier letters
  - 4.2 Relevant part of the contract describing the STEE scope of the work
  - 4.3 Index of the complete volume of contracts – Status of submission of each volume in the attached index is as follows:
    - o Volume 1
      - Agreement including relevant Appendices and Annexures - Vide letter dated 26.03.2019
    - o Volume 2
      - Particular specifications Volume 4b – Vide letter dated 29.04.2020
    - o Volume 3 – Not submitted considering the volume of pages and as the details are in the nature of technical information
      - Employers Drawings Volume 6
      - Pricing Document Volume 7
      - Reference Documents Volume 7
    - o Volume 4 Not submitted considering the volume of pages and as the details are in the nature of technical information
      - Sub-contractors' Technical documents – Not submitted

6.3 The applicant vide their letter dated 30<sup>th</sup> July 2020 furnished a note on the billing milestone agreed with the main contractor, SIEMENS which is as follows:

- Clause 1.1 of their agreement specifies about the details of documents which shall constitute as sub-contract documents. As per the agreement, the Appendix 1 to the said contract named as 'Terms and Procedures of Payment' prescribes the procedures to be followed for billing and Payment as per time schedule provided in Appendix 4 to the above agreement
- As per S.No. 2 to the Appendix 1, the billing shall be made by them to SIEMENS by way of a statement(specifying the value of works executed up

to the end of the reporting month) which shall be calculated from the prices inserted in the respective cost centers

- On submission of such statement, SIEMENS would incorporate it in its statement to the employer(CMRL)
- CMRL, on approval of the Statements, shall issue Interim Payment Certificates (IPC) to SIEMENS
- SIEMENS shall upon approval and issue of IPC by CMRL for the works performed, shall in-turn issue IPC to them based on which they issue an Invoice

7. The applicant is under the administrative jurisdiction of Center-Chennai North Commissionerate. Both the Center and State authorities were addressed to seek information as to whether any proceedings are pending against the applicant on the issue raised by them. Both the authorities have not furnished any such information. Therefore, it is taken that no proceedings are initiated/pending in the case of this applicant on the issue raised before us.

8. We have carefully examined the statement of facts, supporting documents filed by the Applicant, all the additional submissions made during the hearing and thereafter. The applicant has stated that they have been engaged by SIEMENS to carry out certain portion of the "Design, manufacture, supply, install, test and commission (including integrated testing and commissioning and operational acceptance) of the telecommunications works in the main contract of SIEMENS entered into with CMRL. The applicant before us seeks the applicability of entry No. 3(v) of Notification No. 11/2017-C.T.(Rate) as amended by Notification No. 1/2018- C.T.(Rate) dated 25<sup>th</sup> January 2018 to the applicant i.e.,

Whether rate of tax at 6% CGST, available to Composite supply of works contract as defined in clause(119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by way of construction, erection, commissioning, or installation of original works pertaining to Metro, vide-Notification No. 11/2017 amended vide Notification No.1/2018- Central Tax(rate) dated 25<sup>th</sup> January 2018 is applicable to a sub-contractor(Applicant) rendering the above mentioned services.

9. The facts of the case before us are that the applicant had entered into a Sub-Contract agreement with Siemens Ltd for providing a segment of work

awarded to Siemens by Chennai Metro Rail Limited(CMRL)in the execution of Chennai Metro Rail Project Phase-1(hereinafter referred to as 'Project'). The applicant claims that the supplies made by them are in the nature of 'Works Contract' and the applicable rate of GST on their supplies to Siemens under the said contract is 12% effective from 25.01.2018 as per Sl.No. 3(v) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended. The applicant has not furnished the entire set of agreement entered into with Siemens stating that the complete contract consists of multiple parts and is a voluminous one consisting of elaborate documents which is part of the signed contract, privy to the contracting parties and would require enormous efforts but have furnished only those documents listed under Para 5.1 above. They have further expressed their inability to furnish the agreement between Siemens and CMRL. It is their contention that they have submitted all required documents for the assessment of the GST Advance Ruling application and the entire set of agreement which are complicated documentation do not constitute the documentation required for passing the requested GST Advance Ruling Order. From the various submissions made by the applicant, we observe that

- The applicant has entered into a sub-contract agreement No. ASA-01-TEL-IN- "Package 10-Contract ASA-01-TEL- Design, Manufacture, Supply, Install, Test and Commission(Including Integrated Testing and Commissioning and Operational Acceptance) Certain Facilities, Viz., The Telecommunications for the Chennai Metro Rail Project- Phase I" dated 01 September 2011 with Siemens.
- Siemens has secured the contract – the SIGNALING, PLATFORM SCREEN DOORS AND TELECOMMUNICATION works for the CMRL Project Phase-1 and had sub-contracted certain portion of the works to the applicant vide the mentioned agreement. Appendix 6 of the agreement lists the Scope of Works and Supply by the Contractor, Appendix 7 gives the List of Deliverables for the Contract ASA-01(As applicable to Telecommunication Scope Only) and Appendix 10 gives the Additional Scope of Works and supply by the Applicant. These Appendix speaks of the obligations of both the applicant and Siemens and refers GCC Clauses, various paragraphs & Appendix of Volume 3, Volume 2, Volume 4A, Volume 4B, Volume 7, Technical requirements of Chennai Metro Rail Project Phase 1 Tender ASA-01, which have not been furnished before us, thus the actual work undertaken is not furnished.

- In the Purchase Order No. 4503898418 dated 11<sup>th</sup> May 2012 furnished along with their letter dated 29.04.2019, the description of Goods/Service is mentioned as '100677558-Tel Sys for ASA-01-A1', '100677558-Tel Sys for ASA-01-S1C2', '100677558-Tel sys for ASA-01-S1aC1', '100673261-Tel Sys for ASA-01-S2C2', '100673261-Tel-Sys for ASA-01-S2C1', '100673261-Tel Sys for ASA-01-T & M' etc.. along with required Quantity, price and delivery date which in most of the items mentioned as 23.03.2017. The applicant has furnished letter from Siemens dated 30.10.2018, which encloses a letter from CMRL on the subject 'Extension of Time Stage 2 (C ) of Phase-1-enabling letter based on Settlement Agreement executed on 27.10.2018-Telecom Part'. This letter of CMRL, based on the Settlement Agreement between ASA-01 & CMRL, executed on 27.10.2018, stipulates the enabling extensions to the relevant Key Dates of Stage 2C. The detailed description of the items mentioned in Purchase Order, the details of various stages of work to be executed by them has not been elaborated by the applicant.
- From the list of invoices raised in the GST regime, it is seen that they have adopted GST of 18% till 30.11.2017 (IPC 035,036,037) and 12% from 31/1/2018 to 31/03/2019 (IPC 038,040,041,042,044,045,046,047). On the issue of IPC(Interim Payment Certificates), the applicant has stated that as per Clause 1.1 of the agreement they raise the billings on Siemens by way of a statement on completion of events as per Appendix 4 of the Annexure to the Sub-contract agreement; Siemens in turn incorporate it in its statement to CMRL; CMRL on approval of the Statements, issue IPC to Siemens, who issues IPC to the applicant based on which Invoice is issued.

10. Now, coming to the entry at S.No. 3(v) of Notification No. 11/2017 Central Tax(Rate) dated 28.06.2017 as amended, vide Notification 01/2018 Central Tax(Rate) dated 25.01.2018, the eligibility of which is the subject matter of this proceedings, the same is given below for ease of reference.

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (Percent)	Condition

3	Heading 9954 (Construction Service)	(v) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-  (a) railways, including monorail and metro;	6	
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The entry is applicable, only if the following are satisfied:

- (1) the service should be under the Heading 9954 (Construction Service)
- (2) the supply should be a 'Composite Supply'
- (3) the work should be 'works contract' as defined in Clause (119) of Section 2 of CGST Act and
- (4) The work should be 'by way of construction, erection, commissioning, or installation of original works' pertaining to railways, including monorail and metro.

The compliance of which is examined as under in the case at hand.

11.1 The Scheme of Classification of Services is provided in the Annexure to Notification No. 11/2017-C.T.(Rate) dated 28.06.2017. The SAC relating to the works of railways are as under:

12	Group 99542		General construction services of civil engineering works
13		995421	General construction services of highways, streets, roads, railways and airfield runways, bridges and tunnels

.....

45	Group 99546		Installation services
46		995461	Electrical installation services including Electrical wiring and fitting services, fire alarm installation services, burglar alarm system installation services

'Explanatory Notes to the Scheme of Classification of Service', indicates the scope and coverage of the Scheme of classification of service and is a guiding tool for classification of services, the Explanatory notes to SAC 995421 and 995461 are as follows:

**995421 General construction services of highways, streets, roads, railways, airfield runways, bridges and tunnels**

This service code includes construction services

- i. for formations of highways, including elevated highways, roads, streets, other vehicular and pedestrian ways and open car parks;
- ii. footpaths, traffic-calming structures, cycle tracks, etc;
- iii. vehicular and pedestrian underpasses and overpasses;
- iv. construction or restoration of road surface and parking lots with asphalt, concrete, etc;
- v. installation services of crash barriers, low separating walls, traffic signs, etc.;
- vi. creation, maintenance and signposting of tracks and paths;
- vii. painting services of markings on roads, parking lots and similar surfaces;
- viii. railway roadbeds for long-line and commuter rails, street tramways and underground or elevated urban rapid transit systems;
- ix. railway electrification structures including laying services of ballast and rails;
- x. installation services of switch gear, points and crossings;
- xi. construction services of control and safety systems for railway tracks;
- xii. construction services of funicular railways and cable car systems;
- xiii. construction services for airfield runways, including taxiways, aprons and related airport structures other than buildings;
- xiv. construction of bridges, highway, road and railway tunnels and tunnels for underground railway traffic

**995461 Electrical installation services including electrical wiring & fitting services, fire alarm installation services, burglar alarm installation services**

This service code includes

- i. special trade installation services involving the installation of basic electrical wiring circuits or fittings in buildings and other construction projects;
- ii. electrical wiring and fitting services for emergency power supply systems;
- iii. electrical services arising from the installation of appliances;
- iv. installation services of meters; installation services of fire alarm systems;
- v. installation services of burglar alarm systems at the construction site;
- vi. installation services of all types of residential antenna including satellite antenna;
- vii. installation services of cable television lines within a building; installation services of lightning conductors;
- viii. electrical installation services of telecommunications equipment;
- ix. electrical installation services of illumination and signalling systems for roads, railways, airports, harbours and similar premises;
- x. installation services of heavy electrical equipment;
- xi. installation services of telecommunications wiring, including of fibre optic cables;
- xii. other electrical installation services n.e.c.

In the case at hand, from the submissions, it is seen that Siemens has secured the contract- the Signalling, Platform Screen Doors and Telecommunications works for Chennai Metro Rail Project Phase I from CMRL and has sub-contracted certain portion to the applicant. SAC 995421 covers 'General Construction services of highways, streets, roads, railways, airfield runways, bridges and tunnels' which are Civil engineering related works which is not the work awarded to Siemens and therefore not undertaken by the applicant in the case at hand. SAC 995461 covers installation services of telecommunication wiring, telecommunication equipment, electrical installation services of illumination and signaling system for railways. From the descriptions available before us, it is seen that the applicant undertakes Design, manufacture, supply, installation, testing and commission of

Integrated Control and Management System, Public Address and Voice Alarm System, Driver Only Operation (DOO) CCTV System, Closed Circuit Television (CCTV) System, Access Control and Intruder Detection System, Passenger Information Display(PID) System, Office Telephone System, Operational Telephone System and Master Clock System. The works are supply and Installation of lines and equipments meant for telecommunication, signaling in the CMRL project and not related to any civil engineering work. Therefore, the supply of the applicant to Siemens is covered under SAC 9954, more specifically under 995461 and the first requirement of the entry stands satisfied.

11.2 The second criteria to be satisfied is that the supply should be a 'Composite Supply'. Composite supply is defined under Section 2 (30) of the GST Act as follows:

*(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 in conjunction with each other in the ordinary course of business, one of which is a principal supply;*

In the case at hand from the Purchase Order furnished by the applicant it is seen that there is supply of goods (equipments, goods, etc)) and services (installation, testing, etc) for a particular cost center/Line and the work is considered to be done on that basis. Thus, there is a natural bundle of goods and services per cost center/Line and the supply is construed to be made when the entire supply of the line/cost center is made. Hence, the supply of the applicant is a composite supply and this criterion is satisfied

11.3 The next criteria to be examined is whether the said composite supply is a 'Works Contract' as defined under Section 2 (119) of CGST Act, 2017. For ease of reference the same is extracted as under

*(119) "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;*

From the definition, a work shall be treated as Works Contract if that work is done for land or earth or for immovable property and there is transfer of property in

goods involved in the execution of such contract. Immovable property cannot be moved. It cannot be separated from the land or earth. If it is detached it shall have to destroy. In the case at hand, the 'Employer's Requirements, Particular Specifications-4B Telecommunication General Specification'- Volume 4B Section 3 and 4 (furnished on 26.02.2020), gives the outline summary of the various systems and sub-systems which are applicable to the Telecommunication scope and Para 3.1.2 to 3.1.10 gives the outline description of the works said to be the works of the applicant. On going through these sections it is observed that the work involves installation of the individual systems at platforms, stations, other select locations along the corridor and is integrated at the Operation Control Corridor(OCC) at Koyambedu and the Telecommunications Infrastructure implementation is to be synchronized with the civil construction phases. Further the scope of works of the applicant like Public Address and Voice Alarm System, CCTV System, Passenger Information Display System, Office Telephone System, etc requires installation on specific locations, namely ceiling and the like and these goods once installed, may not necessarily be damaged while removing. The applicant has not established with documents that the works contracted to them are to be executed on immovable property as required under definition of 'Works Contract' given above. The applicant has stated that in the Pre-GST regime, under Service Tax, the applicant being a supplier of Works Contract Service relating to infrastructure project of railways, in the capacity of Sub-contractor was exempted from service tax and had claimed the benefit of entry 3(v) of Notification 11/2017-C.T.(Rate) dated 28.06.2017 as above. The definition of 'Works Contract' as it existed in the 'Service Tax' law is different from that defined under Section 2(119) of GST Act. Under GST, only those defined works carried out on any immovable property is covered under 'Works Contract'. Thus without documentary proof of the works contracted/undertaken like related diagrams /plans /schedules/ Pictures/detailed write-up on the works, etc in the absence of submission of the entire sub-contract agreement, it is not possible for this authority to conclude that the works are done on the immovable property and once installed, the goods/equipments cannot be dismantled without damage so as to hold that the work undertaken is 'Works Contract' as per Section 2 (119) of the Act. As the applicant has stated that it will not be possible for them to furnish the entire sub-contract agreement which contains the requisite details, we record that in the absence of the documentation we are not in a position to hold the works as 'Works Contract' as per Section 2 (119) of the Act.



11.4 The other criteria to be satisfied are the supply should be by way of 'construction, erection, commissioning, or installation of original works' pertaining to railways, including monorail and metro. Original work is defined in Para 2(zs) of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as follows:

*"original works" means- all new constructions;*

*(i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;*

*(ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;*

From the submissions, it is seen that the work of the applicant includes Installation of the various systems on designing, manufacture and supply and therefore is 'Original work' as defined in the notification. Further Metro railways Act,1978, defines Metro Railway as

*(i) 'metro railway' means a metro railway or any portion thereof for the public carriage of passengers, animals or goods and includes,—*

*a. all land within the boundary marks indicating the limits of the land appurtenant to a metro railway,*

*b. all lines of rails, sidings, yards or branches worked over for the purposes of, or in connection with, a metro railway*

The work of the applicant is on the lines, stations and locations of land appurtenant and therefore this criterion is satisfied.

11.5 The applicant has referred to the Ruling of Advance Ruling Authority, Maharashtra in the case of Shree Construction. The Advance Ruling is applicable only to the applicant and the ratio of Advance Rulings cannot be generalized. However, on perusal of the said Ruling, we see that Shree Construction is contracted with Civil works which are undertaken on immovable property and hence is 'Works Contract' as per Section 2(119) of the ACT which is not the case at hand.

11.6 To summarize, we find that the entry at 3(v) do not specify the class of service provider to whom it applies. The entry is specific to the composite supply of works contract pertaining to railways including monorail and metro. This view is fortified by the justification of the recommendation of the Fitment Committee to the 25<sup>th</sup> GST Council meeting (available in Volume -2 of the Agenda) after which the downward revision of the rate was effected. The relevant point is given under:

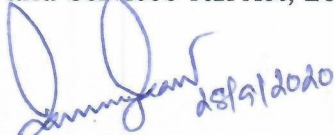
Sl. No.	Represented By	Proposal	Justification	Comments of Fitment Committee
4	Hon'ble CM Maharashtra and Secretary, Ministry of Housing and Urban Affairs	Request to reduce the GST rate from 18% to 12% for composite supply of works contract supplied by way of construction, erection, commissioning or installation of original works pertaining to Metro rail.	Levy of high rate of GST adversely affects the financial position of metro companies. The metro companies facilitate easy and quick movement of people and has positive impact on economic growth, apart from reduction in traffic congestion, pollution, road and parking cost. Reduces both cost and time of travel and improves competitiveness of the city.	Services provided by way of construction, erection, commissioning, or installation of original works pertaining to monorail or metro were exempt till 1-3-2016. Thereafter, the said services provided under a contract entered into prior to 1-3-2016 were exempt. Exemption to the said services was withdrawn in Budget, 2016 with a view to minimize exemptions in the run up to GST as exemptions break ITC chain, increase cost and result in distorted tax structure. However, GST rate on most of the services provided to the Govt. which were exempted under service tax has been reduced from 18% to 12% so as to reduce cost of Govt. projects.  Service of transportation of passengers by a monorail or metro rail has been exempted under GST so as to reduce the cost of supply of the said public transportation service to the public.  Reduced rate of GST of 12% has been extended to services provided for construction of railways, road, bridge, tunnel or terminal for road transportation for use by general public vide notification No. 20/2017-CT(R) dated 22 <sup>nd</sup> August, 2017.  The same reduction in GST rate from 18% to 12% can be considered for construction of metro and monorail projects (construction, erection, commissioning or installation of original works). <b>Fitment Decision Agreed</b>

In the case at hand, the applicant is entrusted with certain works of design, manufacture, installation and commissioning of the Telecommunication systems including signaling system by Siemens who has been awarded the entire work relating to signaling and Telecommunication under CMRL project Phase-1 and from the preceding paragraphs it is seen that the works are composite supply of original work pertaining to railways and the only leg of the entry No. 3(v) of the Notification which has not been established is whether the works satisfies the definition of 'Works Contract' under Section 2(119) of the GST Act for which sufficient documentary proof is not furnished before us. The applicant has expressed his inability to furnish the necessary documentation and have opined that the documents furnished is sufficient for pronouncing the ruling. Therefore, considering all the submissions and that the application is pending before this authority for long, we find it appropriate to hold that the benefit of the entry at Sl.No. 3(v) will be applicable to the applicant subject to the works undertaken by them being 'Works Contract' as per Section 2 (119) of the Act and the applicable GST is @ 12% effective from 25.01.2018.

12. In view of the above discussions, we rule as under:

**RULING**

The rate of tax of 6% CGST as per entry No.3 (v) of Notification No. 11/2017 amended vide Notification No.1/2018- Central Tax(rate) dated 25<sup>th</sup> January 2018, effective from 25.01.2018 may be applicable to the applicant provided the works contracted and undertaken by them satisfies the definition of 'Works Contract' as defined in clause(119) of section 2 of the Central Goods and Services Tax Act, 2017.

  
(KurinjiSelvaan.V.S.)  
Member, TNGST

  
(B.Senthilvelavan)  
Member, CGST

<p><b>TO</b> <b>AUTHORITY FOR ADVANCE RULING</b> M/s. ST ENGINEERING ELECTRONICS LTD Third floor No.28 (Old No.54/4), Montieth Road, Egmore, Chennai-600 008 Chennai-6, Tamilnadu</p> <p><b>28 SEP 2020</b></p> <p><b>GOODS AND SERVICES TAX</b> // By Speed Post with Ack due//</p>
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Copy submitted to :-

1. The Principal Chief Commissioner of CGST & Central Excise,  
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam, Ch - 600 034.
2. The Principal Secretary / Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & Central Excise,  
Chennai (North) Commissionerate, 26/1, Mahathma Gandhi Road,  
Nungambakkam, Chennai 600 034.
4. The Assistant commissioner (ST),  
Mylapore Assessment Circle,  
46, Pasumpon Muthuramalingam Salai,  
Taluk Office Building,  
RA Puram,  
Chennai 600 028.
5. Master File/ Spare.

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SECRETARY