

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Mr Brajesh Kumar Singh, Joint Commissioner, CGST & CX

Mr Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	TRIVENI ENGICONS PRIVATE LIMITED
Address	FLAT NO.2B, 2 nd floor, RISHIKESH APARTMENT, ASHUTOSH CHOWDHURY AVENUE, KOLKATA-700019
GSTIN	19AABCT4589R1ZA
Case Number	WBAAR 3 of 2022
ARN	AD1901220058963
Date of application	February 28, 2022
Jurisdictional Authority (State)	Purulia Charge
Jurisdictional Authority (Central)	Purulia Division, Bolpur Commissionerate
Order number and date	14/WBAAR/2022-23 dated 22.12.2022
Applicant's representative heard	Mr. Sumit Ghosh, Authorized Advocate Mr. Soumyadeep Majumder, Authorized Advocate

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant submits that M/s Rites Limited, a Public Sector Undertaking owned by the Ministry of Railways, Government of India for and on behalf of the Eastern Coalfields Limited, Jhanjra Area, P.O. Loudoha, Dist-Paschim Bardhaman, PIN-713363 has awarded the applicant the following work vide Letter of Acceptance issued on 02.03.2021:

“Construction of earthwork in formation, Major & Minor Bridge, ROB, Drain, P.Way Linking work including supply of Track Ballast, P. Way Fittings, Points & Crossings, Derailing Switches etc., Construction of Service Building including Internal Electrification, Installation, Testing & Commissioning of 140MT In-Motion Weigh Bridge and other allied works etc., (Pkg-III) in connection with construction of New Railway siding at Jhanjra Area, ECL, Dist. Paschim Bardhaman, West Bengal.”

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking advance ruling as to:

- (1) What is the rate of tax for the works being undertaken by the applicant for construction of new railway siding at Jhanjra Area, ECL Dist. Paschim Bardhaman, West Bengal against order received from M/s. RITES Ltd.
- (2) Whether the work awarded can be covered under the definition of Works Contract as defined u/s 2(119) of the CGST Act, 2017.
- (3) Whether the rate of tax for the construction of rail infrastructure facilities will be under Sl. No. 3(v)(a) or Sl. No.3(xii) of Notification No 11/2017-Central Tax (Rate) dated 28/06/2017, as amended from time to time.
- (4) Whether the said work can be considered as works contract pertaining to railways.

1.4 The aforesaid questions on which the advance ruling is sought for is found to be covered under clause (a) and (b) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the question raised in the application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the Revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

2. Submission of the Applicant

2.1 The applicant is a private incorporation and is stated to be engaged in execution of works contract services. In the instant case, the applicant has been awarded a contract by M/s Rites Limited, a Public Sector Undertaking owned by the Ministry of Railways, Government of India. It is submitted that M/s Rites Limited has appointed the applicant for the said work on behalf of the Eastern Coalfields Limited (ECL), Jhanjra Area, P.O. Loudoha, Dist-Paschim Bardhaman, PIN-713363.

2.2 The work awarded to the applicant comprises of construction of earthwork in formation, Major & Minor Bridge, ROB, Drain, P.Way Linking work including supply of Track Ballast, P. Way Fittings, Points & Crossings, Derailing Switches etc., Construction of Service Building including Internal Electrification, Installation, Testing & Commissioning of 140MT In-Motion Weigh Bridge and other allied works etc., (Pkg-III) in connection with the construction of New Railway siding at Jhanjra Area, ECL, Dist. Paschim Bardhaman, West Bengal.

2.3 The scope of work, according to the Letter of Acceptance dated 02.03.2021 issued by M/s RITES Limited includes:

- (a) Schedule 1-Formation Work;
- (b) Schedule 2-Minor & Major Bridge, Retaining Wall, Wharf Wall, Drain and allied works etc.;
- (c) Schedule 3-Supply of P.Way fittings & Channel Sleeper;
- (d) Schedule 4-Supply of Point & Crossing;
- (e) Schedule 5-P.Way Work;
- (f) Schedule 6-Road Work;
- (g) Schedule 7-Civil Works for Building Construction;
- (h) Schedule 8-Supply & Installation of Weigh-bridge;
- (i) Schedule 9-Any other Unforeseen Items;

- (j) Schedule 10- Electrical works for Weigh Bridge, TMS Building, FOIS Building, Sub Station, Building, DG Room, Pump Room, Panel Building, Augmentation of TRD Depot, Switching Post, Switch panel room etc.

2.4 The applicant contends that the aforesaid work may be considered as composite supply of works contract as defined in clause (119) of section 2 of the GST Act which is supplied by way of construction of original works pertaining to railways and therefore would be taxable @ 12% vide serial number 3(v) (a) of Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017, as amended from time to time [corresponding West Bengal State Notification No. 1135 F.T. dated 28.06.2017].

2.5 According to the applicant, tax would be levied at the above-referred rate subject to fulfilment of following conditions:

- (a) the work should be a works contract;
- (b) it should be an original work;
- (c) the work should be pertaining to railways.

2.6 The applicant submits that a work would be treated as a works contract if that work is done on land or earth or for immovable property and there is a transfer of property in goods involved in the execution of such contract. Immovable property by its very definition means that it could neither be moved nor detached or dismantled from the land or earth and further that dismantling of the same would render it defunct/redundant. The immovable property would include in its ambit land and the things which are attached to or embedded in the land such as buildings and bridges etc. The applicant further states that in the instant case, the work is undertaken on the site of the Jhanjra area of ECL over which railway infrastructure facilities by way of a new railway siding is to be constructed. The applicant, thus, contends that the work executed by him would be treated as 'works contract' as defined in clause (119) of section 2 of the GST Act which reads as under:

'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.

2.7 The applicant further submits that the term 'original works' has been defined in clause 2 (zs) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 which reads as under:

“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;

The applicant is of the view that the work being executed by him is in the nature of new works and, thus, would be covered under the aforesaid definition of original works.

2.8 Further, the applicant, in support of his contention that the instant work is pertaining to railways, has referred to sub-section (31) of section 2 of the Railways Act, 1989 which is reproduced herein under:

“railway” means a railway, or any portion of a railway, for the public carriage of passengers or goods, and includes—

(a) all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway;

(c) all electric traction equipment, power supply and distribution installations used for the purposes of, or in connection with, a railway;

(d) all rolling stock, stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery, roads and streets, running rooms, rest houses, institutes, hospitals, water works and water supply installations staff dwellings and any other works constructed for the purpose of, or in connection with, railway;

(e) all vehicles which are used on any road for the purposes of traffic of a railway and owned, hired or worked by a railway; and

(f) all ferries, ships, boats and rafts which are used on any canal, river, lake or other navigable inland waters for the purposes of the traffic of a railway and owned, hired or worked by a railway administration, but does not include—

(i) a tramway wholly within a municipal area; and

(ii) lines of rails built in any exhibition ground, fair, park or any other place solely for the purpose of recreation;

2.9 Furthermore, the applicant refers to sub-section (20) and (25) of section 2 of the Railways Act, 1989 which defines the expressions “Government railway” and ‘non-Government railway’ respectively and argues that the term “railways” under the Railways Act includes both Government and private administrations.

2.10 Reference is drawn by the applicant to Article 366(20) of the Constitution of India which states that “railway” does not include-

- (a) a tramway wholly within a municipal area, or
- (b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway;

The applicant contends that apart from the tramway, Parliament excludes by law, the lines of rails built in any exhibition ground, fair, park or any other place mentioned under Section 2(31)(ii) of the Railways Act, 1989, being rails built solely for the purpose of recreation. According to the applicant, construction of rail infrastructure facilities for the proposed construction of New Railway siding at Jhanjra Area, ECL, Dist. Paschim Bardhaman, West Bengal does not fall under the exemption category as stated under Article 366(20) of the Constitution of India and therefore the work should be considered as ‘pertaining to railway’.

2.11 Finally, the applicant, in support of his argument, has referred following advance rulings:-

- (i) West Bengal Authority for Advance Ruling (GST) - RITES Ltd vide (Case No.28 of 2018) Order No. 27/WBAAR/2018-19 dated 21.12.2018;
- (ii) The Authority for Advance Rulings, Karnataka - M/s Quatro Rail Tech Solutions Limited vide Advance Ruling No. KAR ADRG 93/2019 dated 27.09.2019;
- (iii) The Authority of Advance Ruling, Chhattisgarh- Triveni Engicons Pvt. Ltd. vide Advance Ruling No.STC/AAR/01/2022 dated 02.05.2022.

3. Submission of the Revenue

The submission of the officer concerned from the revenue is reproduced *in verbatim*:

3.1 It appears from the Work order of M/s RITES Limited received a Works Contract from M/s Eastern Coalfields Limited a Private Limited Company owned by M/s Coal India Limited, Ministry of Coal, Government of India for constructing a new Railway siding at their Jhanjra

Area of ECL, Dist – Paschim Bardhaman, West Bengal and M/s RITES Limited a Public Undertaking Company owned by Indian Railway sub-contracted the same work to the applicant i.e., M/s Triveni Engicons Private Limited holder of GSTIN 19AABCT4589R1ZA. M/s Eastern Coalfields Limited constructing a private railway siding for carriage of coal from their site at Jhanjra Area, Dist – Paschim Burdwan, West Bengal to all over India and the said work is “commercial” in nature.

However, meaning of “railway” defines in Section 2(31) of The Railways Act, 1989 – the said definition states that ‘*Railways*’ means a railway, or any portion of a railway, for the public carriage of passengers or goods. Thus, the exclusion is available only for railway sidings which are constructed for public carriage of passengers or goods. In the present case railway sidings constructed by the applicant are used for carriage of goods for private parties for private use of ECL (Eastern Coalfield Limited) a Public Undertaking Company owned by M/s Coal India Limited.

From the above discussion, it appears that the Works Contract received from M/s RITES Limited is not pertaining to ‘railways’. So, not covered the definition of entry Serial no 3(v)(a) of Notification no 11/2017-Central Tax (rate) dated 28.06.2017 as amended by Notification no 20/2017 – Central Tax (rate) dated 22.08.2017.

So, the Rate of Tax in respect of sub-contract work received from M/s RITES Limited for construction of new railway siding at Jhanjra Area, ECL, Dist. Paschim Bardhaman, West Bengal is covered under entry Serial no 3(vi) of Notification no 11/2017- Central Tax (Rate) dated 28.06.2017 as amended by Notification no 20/2017-Central Tax (Rate) dated 22.08.2017 and liable to tax at 18% (9% CGST + 9% SGST or 18% IGST)

3.2 Simply put, a works contract is essentially a contract of service which may also involve supply of goods in the execution of the contract. It is basically a composite supply of both services and goods, with the service element being dominant in the contract between parties. In a general sense, a contract of works, may relate to both immovable and immovable property. E.g., if a sub-contractor, undertakes a sub-contract for the building work, it would be a works contract in relation to immovable property. Similarly, if a composite supply in relation to movable property such as fabrication/painting/annual maintenance contracts etc. is undertaken, the same would come within the ambit of the broad definition of a works contract.

Position under GST: Under GST laws, the definition of “Works Contract” has been restricted to any work undertaken for an “Immovable Property” unlike the existing VAT and Service Tax provisions where works contracts for movable properties were also considered.

The Works Contracts has been defined in Section 2(119) of the CGST Act, 2017 as “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.”

After scrutiny of Letter of Acceptance of M/s RITES Limited issued to M/s Triveni Engicons Private Limited holder of GSTIN- 19AABCT4589R1ZA, registered address at Flat No-2B, 2nd Floor, Rishikesh Apartment, Ashutosh Chowdhury Avenue, Kolkata- 700019 that the Work Order is composite in nature. Value of Supply of Goods or Service cannot be divided from the Work order / letter of acceptance. It appears from the schedule from 1 to 10 with description of schedule of work of the Letter of Acceptance wherein value of Goods and service not mentioned separately.

So, in the above discussion it appears that the Work awarded by M/s RITES Limited to M/s Triveni Engicons Private Limited can covered under the definition of Works Contract as defined under Section 2(119) of the CGST Act, 2017.

3.3 The rate of GST for the construction of rail infrastructure facilities to other than railways falls under the definition of Sl. No. 3(xii) vide Notification No 11/2017-Central Tax (Rate) dated 28/06/2017 as amended by Notification No.20/2017- Central Tax (Rate) dated 22/08/2017, Notification No.24/2017-Central Tax (Rate) dated 21/09/2017, Notification No.31/2017-Central Tax (Rate) dated 13/10/2017 and Notification No.01/2018-Central Tax (Rate) dated 25/01/2018 as applicable.The rate of tax to be calculated @ 18% (9% of CGST + 9% of SGST) on Taxable Value.

3.4 The above said Work can be considered as Works Contract but not pertaining to railways including monorail or metro.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorised representative of the applicant during the course of personal hearing. We have also considered the submission made by the officer concerned from the revenue.

4.2 The issue involved in the instant case, as we find, is to determine whether the supply made by the applicant would attract tax @ 12% vide serial number 3(v) (a) of Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017, as amended. However, before we proceed to analyze the issue, we find it relevant to mention that the aforesaid entry has been omitted w.e.f. 18.07.2022 vide Notification No. 03/2022- Central Tax (Rate) dated 13.07.2022. Therefore, if the supply provided by the applicant is found to be covered under the aforesaid entry, even then the same is liable to be taxed @ 18% from 18.07.2022 onwards. The relevant portion of the entry is reproduced below for ease of reference:

Sl. No.	Chapter, Section or Heading	Description of Services	Rate (per cent.)	Condition
3	Heading 9954 (Construction services)	<i>(v) Composite supply of Works Contract as defined in clause (119) of Section 2 of CGST Act, 2017 other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above supplied by way of construction, erection, commissioning or installation of original works pertaining to</i> <i>(a) railways, including monorail and metro;</i>	6	

4.3 We agree with the submission of the applicant that in order to get covered under the above entry, the supply provided by the applicant to RITES LIMITED pursuant to the agreement made on 29.03.2021 must satisfy the following conditions:

- The supply must be a composite supply of works contract;
- The supply is to made by way of construction, erection, commissioning or installation of original works; and
- It must be pertaining to railways.

Whether the work being executed by the applicant can be treated as ‘works contract’ as defined u/s 2(119) of the GST Act:

4.4 The definition of works contract under the GST Act is strictly in relation to contract of any immovable property i.e., any work shall be treated as works contract if the same is done for

any immovable property and involves transfer of property in goods in the execution of such contract. The term 'immovable property' has not been defined under the GST Act. Therefore, reference may be drawn to other law which inter alia includes section 3(26) of General Clauses Act, 1897 which defines 'immovable property' as under:

"immovable property shall include land, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth."

Further, for the purpose of interpretation of the expression "attached to the earth", section 3 of the Transfer of Property Act, 1882 may be referred to which reads as follows:

"attached to the earth" means— (a) rooted in the earth, as in the case of trees and shrubs; (b) imbedded in the earth, as in the case of walls or buildings; or (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached;

In the case of Triveni Engineering & Industries Ltd. & Anr. Vs. Commissioner of Central Excise & Anr, the Hon'ble Supreme Court of India has observed as follows:

"From a combined reading of the definition of immovable property in Section 3 of the Transfer of Property Act, Section 3(25) of the General Clauses Act, it is evident that in an immovable property there is neither mobility nor marketability as understood in the Excise Law. Whether an article is permanently fastened to anything attached to the earth require determination of both the intention as well as the factum of fastening to anything attached to the earth. And this has to be ascertained from the facts and circumstances of each case."

4.5 In the case at hand, the letter of acceptance supra dated 02.03.2021 as furnished by the applicant refers the subject of work as "e-Tender No. 07/OT/ECL-JHANJRA/Civil & P. Way/PKG-III/20 dated 30.06.2020 for the work of Construction of Earthwork in Formation, Major & Minor Bridge, ROB, Drain, P.Way Linking work including supply of Track Ballast, P. Way Fittings, Points & Crossings, Derailing Switches etc., Construction of Service Building including Internal Electrification, Installation, Testing & Commissioning of 140MT In-Motion Weigh Bridge and other allied works etc., (Pkg-III) in connection with construction of New Railway siding at Jhanjra Area, ECL, Dist. Paschim Bardhaman, West Bengal". The applicant has also furnished price schedule details in respect of all the works to be carried out in terms of the said letter of acceptance wherein description of work inter alia includes as under:

- Providing, fabricating and installing casing pipe for bored piles for all diameters with specified thickness of steel plate including all labour, material, pumping and bailing out water wherever required...

- Supplying of all types of structural steel, fabrication, assembling, erection/slewing/end launching of steel girders....
- Supplying, fitting and fixing in position true to line and level cast steel rocker bearing...
- Construction of reinforced earth retaining walls and load bearing pure abutments with fascia panels including design of reinforced earth system...

On due consideration of the nature of works being undertaken by the applicant as detailed in the scope of work, we are of the opinion that the work is in relation to immovable property and certainly involves transfer of property in goods thereby qualifies to be a 'works contract' as defined in clause (119) of section 2 of the GST Act.

Whether the said work can be considered as 'original works':

4.6 The term 'original works' has been defined in clause 2 (zs) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 which reads as under:

"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;

In the instant case the applicant executes construction work in connection of New Railway Sidings at Jhanjha Area of Eastern Coalfield Limited. Thus, we accept the contention of the applicant that the work can be considered as original works as defined in clause 2 (zs) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

Whether the work can be considered as works contract pertaining to railways:

4.7 We have already decided the issue that the scope of work, as outlined in the Letter of Acceptance issued by RITES Limited to the applicant, falls under the category of 'works contract' as defined in clause (119) of section 2 of the GST Act and also qualifies to be an 'original works' within the meaning ascribed to the term in para 2(zs) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Thus, the only issue left with us is to decide whether the work being undertaken by the applicant pertains to 'railways' or not.

4.8 During the service tax regime, services of construction, erection, commissioning or installation of original works pertaining to railways was exempted under Notification No. 25/2012- ST dated 20.06.2012 vide entry at S.No.14(a) which read as under:

14. *Services by way of construction, erection, commissioning, or installation of original works pertaining to,-*

“(a) railways, excluding monorail and metro;

Explanation.-The services by way of construction, erection, commissioning or installation of original works pertaining to monorail or metro, where contracts were entered into before 1st March, 2016, on which appropriate stamp duty, was paid, shall remain exempt.”

In the case of M/s Steadfast Corporation Ltd, Telengana, the applicant proposed to take up the activity of construction of Railway Works including sidings for private companies as well as Indian Railways. The Authority for Advance Rulings (Central Excise, Customs and Service Tax) vide order dated 15.07.2016 held that ‘Construction of railway siding for private parties is exempt under Notification No. 25/2012-ST dated 20.06.2012, as amended vide entry No. 14(a) thereof’.

Further, in the case of RITES Ltd [2018] 100 taxmann.com 452 (AAR-WEST BENGAL) where the applicant undertook the work inter alia construction of a private siding, the WBAAR has held that construction of private sidings pertains to railways.

4.9 In this context, we would like to refer that the Ministry of Railways, Government of India in its Freight Marketing Circular No 11 of 2016 issued on 22.08.2016 has also recognised ‘private siding’ for railway freight services. Relevant portion of the said circular may be reproduced herein under:

- *Siding shall normally take off from the existing serving station. However, in case when it is operationally not feasible to provide a connection from an existing serving station, on Party’s request for a connection from a location between two existing stations at his own cost, provision of a Block Hut/Block Station with required points & crossings may be considered, provided:*
 - (i) *All aspects including the operational feasibility of constructing a new Block hut/Block Station and impact of splitting of block section on train operation have been examined to the satisfaction of the Zonal Railway and are certified by the COM of the Railway.[Para 6.10]*
- *Responsibilities of Siding Owner-*
 - (i) *The siding owner shall have the option to maintain the track etc. of his siding either himself or through the Railways. The owner shall enter into an Agreement with the concerned Division regarding the Operation & maintenance of his siding.*

- (ii) *Siding owner shall, at all times, maintain his siding properly, so that train operations are not hindered.*
- (iii) *Siding owner shall be liable to pay damage costs, as advised by the Division, if the rolling stock of the Railway is derailed/damaged inside the siding due to bad maintenance conditions.[Para 9.1]*
- *Handling of wagons in Sidings:*
 - (i) *The siding owner shall ensure that no railway wagon gets damaged during loading/unloading in his siding. For damage & deficiencies caused due to the fault of the siding owner, damage & deficiency charge shall be raised as per the extant rules.[Para 9.5.2]*
- *Maintenance of S&T Assets-*

Maintenance of Signal & Telecommunication equipments, provided at the take off point of the siding and linked to the main line Railway Track, shall be maintained by Railway at its own expense.[Para 9.6.1]

Maintenance of Signal & Telecommunication equipments inside the siding, which includes Block Instrument & Communication Equipment, Interlocking of Points & Signals, Level Crossing Gates and Centralized Operation of Points & Signals etc. shall be done by the Party at its cost. Maintenance shall be got done through the sources (Contractors) approved by the Railways.[Para 9.6.2]

Periodicity of inspection of equipments inside the siding shall be once in a quarter. Railway shall inspect the installation at the level of Sr. Section Engineer to ensure the safety and reliability aspects of the Signal & Telecom equipments. The cost of such inspection & supervision shall be charged to the siding owner.[Para 9.6.3]

4.10 We, therefore, hold that the work executed by the applicant in connection with construction of New Railway siding at Jhanjra Area, ECL pertains to railways.

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

RULING

The contract for construction of new railway siding at Jhanjra Area of ECL against order received from M/s. RITES Ltd is covered under the definition of works contract as defined in clause (119) of section 2 of the GST Act and would be taxable @ 12% vide Sl. No. 3(v)(a) of

Notification No 11/2017-Central Tax (Rate) dated 28.06.2017 till omission of the said entry vide Notification No. 03/2022- Central Tax (Rate) dated 13.07.2022.

(BRAJESH KUMAR SINGH)
Member
West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member
West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 22.12.2022

To,

TRIVENI ENGICONS PRIVATE LIMITED

FLAT NO.2B, 2nd floor, RISHIKESH APARTMENT, ASHUTOSH CHOWDHURY AVENUE,
KOLKATA-700019

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-7000107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Sr. JCCT/JCCT, Purulia Charge, At & PO-Dulmi Nadiha, Purulia, Pin-723102
- (4) The Commissioner, CGST & CX, Bolpur Commissionerate, GST Bhawan, Nanoor Chandidas Road, Sian, Bolpur, Pin Code- 731204
- (5) Office Folder