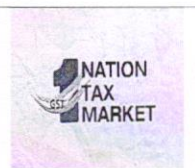


**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2025/33
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2025/AR/05)

Date: 06/09/2025

Name and address of the applicant	:	M/s. Gujarat Energy Transmission Corporation Ltd. Sardar Patel Vidyut Bhavan, Race Course, Vadodara-390007
GSTIN of the applicant	:	24AABCG4029R2ZC
Jurisdiction Office	:	Office of the Assistant Commissioner of State Tax, Unit-39, Range-10, Division-5, Vadodara.
Date of application	:	18.02.2025
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(b)
Date of Personal Hearing	:	19.08.2025, 24.04.2025
Present for the applicant	:	Shri Uchit N Sheth (Advocate) & Shri Bishen R. Shah, CA

Brief facts:

M/s. Gujarat Energy Transmission Corporation Ltd., Sardar Patel Vidyut Bhavan, Race Course, Vadodara-390007 [for short – ‘*applicant*’] is registered under GST and their GSTIN is 24AABCG4029R2ZC.

2. The applicant has stated that they are a wholly owned subsidiary of Gujarat Urja Vikas Nigam Ltd. (a Government of Gujarat undertaking), and is engaged in the transmission of electricity. In exercise of powers conferred under Section 39(1) of the Electricity Act, 2003, the Gujarat Government, by notification dated 29th May 2004, notified the Applicant as “State Transmission Utility (STU)” with effect from 1st June 2004.

3. The activity undertaken by the applicant has been defined in Section 39(2) of the Electricity Act, which reads as under: -

- (a) to undertake transmission of electricity through intra-state transmission system;



(b) to discharge all functions of planning and co-ordination relating to intra-state transmission system with

- (i) Central Transmission utility;
- (ii) State Governments;
- (iii) Generating companies;
- (iv) Regional Power Committees;
- (v) Authority;
- (vi) Licensees;
- (vii) Any other person notified by the State Government in this behalf;

(c) to ensure development of an efficient, co-ordinated and economical system of intra-state transmission lines for smooth flow of electricity from a generating station to the load centres;

(d) to provide non-discriminatory open access to its transmission system for use by: -

- (i) any licensee or generating company on payment of transmission charges; or
- (ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of Section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission.

4. The applicant has sought a ruling on the following question: -

Whether the charges recovered by the applicant from consumers for deposit work activities such as construction and erection of bays, substations, overhead lines and underground cables, for an on behalf of its consumers, under different heads such as material and erection charges, pro-rata charges, supervision charges, proportionate line charges, and registration fees etc. which are incidental and ancillary to principal supply of transmission of electricity are exempt from tax under the GST Acts under Entry No. 25A of Notification No. 12/2017 dtd. 28.06.2017 as introduced by Notification No. 8/2024-CT(R) dtd. 08.10.2024.

5. The applicant further submits as under: -

- (a) The principal function of a State Transmission Utility such as the applicant is transmission of electricity and all other activities are merely incidental or ancillary to the main activity.

(b) The applicant is duty bound under law to ensure development of an efficient, co-ordinated and economical system of intra-state transmission lines for smooth flow of electricity from a generating station to the load centres.

(c) The applicant is, therefore, required to construct/erect bays, sub-stations, overhead lines and underground cables for increase in generating capacity; increase in electricity demand; system strengthening that may become necessary to achieve reliability under changed load generation scenario; and due to specific request/requirement of various EHT consumers as well as from DISCOMs for HL/LT consumers for augmentation of transmission facilities, additional contract power demand, construction of lines/bays for them, shifting the lines etc.

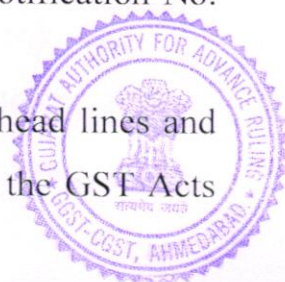
(d) They claim reimbursement of such construction cost from their consumers in accordance with the regulations framed by the Gujarat Electricity Commission.

(e) The applicant has to ensure development of an efficient, co-ordinated and Economic System of Inter state Transmission Lines for smooth flow of electricity from the generating station to Load station, for which they undertake Network Expansion etc. as per system requirement. For this purpose, in case of demand for new load or additional load, they recover the cost from new as well as existing consumers. As per the GERC regulations, it is mandatory to recover such cost from customers in the form of pro rata charges.

(f) An option is given by the applicant to the consumers to themselves arrange for having such construction/erection. However, where the consumers do not avail such option, the applicant is bound to get such construction/erection carried out through its contractors and the reimbursement is claimed from the consumers as per the GERC regulations. Irrespective of who gets the construction done, the transmission system vests solely with the applicant.

(g) Even prior to Entry No. 25A, the applicant believes that no tax was payable under the GST Acts on reimbursement received towards construction of bays, cables in view of Sr. No. 25 of Notification No. 12/2017-CT(R) dtd. 28.06.2017.

(h) The construction/erection of bays, sub-stations, overhead lines and underground cables did not result in any 'supply' under the GST Acts



since the ownership of the entire transmission system remains with the applicant.

(i) The applicant's activity is that of transmission of electricity and the erection of transmission system was incidental and in fact integral part of such activity of transmission.

(j) To avoid uncertainty, they had filed an application for advance ruling on 08.02.2018 seeking an opinion on the tax liability in respect of the activity of construction of bays, substations, overhead lines and underground cables as well as other ancillary activities relating to transmission of electricity.

(k) The advance ruling authority vide order no. GUJ/GAAR/R/12/2019 dtd. 20.08.2019 had held that the amounts recovered by the appellant from the consumers for providing electric line or electric plant or other facilities for the purpose of giving supply of electricity to them were ancillary services in relation to transmission of electricity and therefore it would get covered by Entry No. 25, because as per the opinion of the advance ruling authority, such entry would only cover electricity charges recovered for consumption of electricity.

(l) They have challenged this advance ruling order before the High Court of Gujarat vide SLP No. 19071/2019, which has been admitted by the High Court. The High Court has permitted the applicant to recover and deposit the tax payable as per the advance ruling order under protest and subject to the final outcome of the petition.

(m) While the petition of the applicant is pending before the High Court, Entry No. 25A has been introduced in exemption Notification No. 12/2017-CT(R) dtd. 28.06.2017 vide Notification No. 8/2024-CT(R) dtd. 08.10.2024

(n) Plain reading of the entry shows that the intention of the Government to end the earlier dispute and clarify beyond doubt that any services which are incidental or ancillary to supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers, are exempt.

(o) The entry has been introduced after specific discussion in this regard by the GST Council in its 54th meeting held on 09.09.2024.

(p) The use of the term etc, in Entry No. 25A of the exemption notification expands the scope of Entry. They have relied upon the



judgement of the Supreme Court in the case of Royal Hatcheries Pvt Ltd. in this context.

6. Personal hearing was granted on 19.08.2025 wherein Shri Uchit N Sheth, Advocate and Shri Bishen R Shah, CA appeared on behalf of the applicant and reiterated the facts & grounds as stated in the application.

Discussion and findings

7. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same, except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

9. We find that the appellant had initially approached this Authority in 2018 seeking a ruling as under:-

“Whether or not the cost of construction/ erection of Bays/ Sub-Stations, Overhead lines and Underground Cables and other charges including Pro-rata charges, supervision charges, proportionate line charges, registration fees and operation and maintenance charges, recovered by the Applicant from the consumers, forms part of the value of supply of service of “Transmission of Electricity” under Section 15 of the Central Goods and Service Tax 2017 and since the said service is exempted from GST under Sr. No.25 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 and Notification No. 12/2017-State Tax (Rate) dated 30th June 2017, the same are not liable to GST.”

10. We find that this Authority had give a ruling vide order dtd. 20.08.2019 that the cost of construction/ erection of Bays/ Sub-Stations, Overhead lines and Underground Cables and other charges including Pro-rata charges, supervision charges, proportionate line charges, registration fees and operation and maintenance

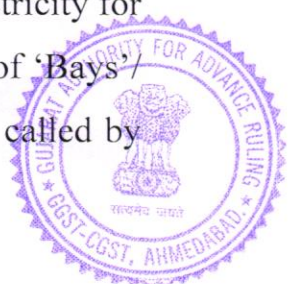


charges, recovered by GETCO from the consumers, do not form part of the value of supply of service of "Transmission of Electricity" under Section 15 of the Central Goods and Service Tax Act, 2017. The Authority had also held that the applicant is liable to pay GST @ 18% (CGST @9% and SGST@9%) on amount recovered towards cost of the construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network up to the premises of the consumers along with supervision charges under the service category of "Construction Services" (HSN Code- 9954/995423) and on recovery of other charges viz. Pro-rata charges, Proportionate line charges, Registration fees and Operation and maintenance charges etc. under the residual category of services i.e. "999799- Other services n.e.c."

11. Against the Advance Ruling order dtd. 20.08.2019, the applicant had preferred an appeal before the High Court of Gujarat and the same is still pending. As per the proviso to Section 98(2) of the CGST Act, 2017, we cannot admit any application where the question raised in the application is already pending or decided in any proceedings in the case of the applicant under any of the provisions of the Act, *ibid*. In view of the above facts, we have to first decide whether the present application dtd. 18.02.2025 can be admitted or otherwise.

12. We find that though the question asked by the applicant in their earlier application dtd. 08.02.2018 was almost similar to the one asked in the present application, there is a major difference between the two. In the earlier application, the query was with regard to the applicability of Sr. No. 25 of Notification No. 12/2017-CT(R) dtd. 28.06.2017 whereas the present application is with regard to the applicability of Sr. No. 25A of Notification No. 12/2017-CT(R) dtd. 28.06.2017, which was introduced vide Notification No. 8/2024-CT(R) dtd. 08.10.2024. Thus, on first sight though the questions appear to be similar, they are substantially different from each other as they deal with different Sl.Nos. of the same notification. We, therefore, hold that the present application dtd. 18.02.2025 is not hit by the bar provided in proviso to Section 98(2), *ibid*, and thus admit the same. Having held so, we move on to the merits of the case.

13. We find that the applicant is engaged in the transmission of electricity for which they create the necessary infrastructure like construction/erection of 'Bays', 'Sub- Stations', 'Overhead Lines' and 'Underground cables', which are called by

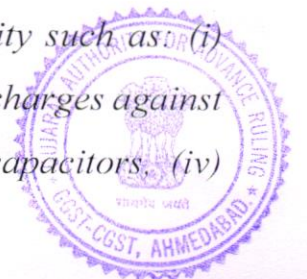


them as deposit work activities. The applicant is recovering the charges from their consumers for such deposit work activities under different heads such as material and erection charges, pro-rata charges, supervision charges, proportionate line charges, registration fees etc.

14. As per the applicant, these charges are incidental and ancillary to the principal supply of transmission of electricity. We find that the issue as to whether there is an exemption on incidental and ancillary service provided by a DISCOM viz. application fee for releasing connection of electricity; rental charges against metering equipment; testing fee for meters/transformers, capacitors; labour charges from customer for shifting of meters/service lines; charges for duplicate bills, was the subject matter of the dispute earlier also and had travelled up to the High Court. The Department had clarified in Circular No. 34/8/2018-GST dtd. 01.03.2018 that only service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under Sl. No. 25 of Notification No. 12/2017-CT(R). The other services mentioned supra provided by the DISCOMS to consumers are taxable. The High Court in the case of *Torrent Power Ltd Vs UOI* [2020 (34) G.S.T.L. 385 (Guj.)] had held that these services are naturally bundled in the ordinary course of business and has direct and close nexus with the transmission and distribution of electricity. Therefore, the taxability of related/ancillary services has to be given the same treatment as given to transmission and distribution of electricity. Paragraph 4(1) of Circular No. 34/8/2018-GST dtd. 01.03.2018 which clarified that these services are taxable was also struck down by the High Court as ultra vires of the provisions of Section 8 of the Act, *ibid*. The Department has filed an SLP before the Supreme Court against the said order of the High Court, which is still pending.

15. Consequent to the above development, the issue was deliberated by the GST Council in its 54th meeting held on 09.09.2024. The minutes of the GST Council meeting on the discussions made on this issue is reproduced below:-

5.46 JS, TRU-I presented the agenda item pertaining to issue of corrigendum to the Circular No. 34/8/2018- GST dated 01.03.2018 in respect of taxation of ancillary services of transmission and distribution of electricity such as: (i) application fees for providing electricity connection, (ii) rental charges against electricity meter, (iii) testing fees for meters/ transformers/capacitors, (iv)



labour charges from customers for shifting of meters/service lines & (v) charges for duplicate bills etc. She stated that the Fitment Committee had recommended to partially modify the Circular No. 34/8/2018- GST dated 01.03.2018, clarifying that supply of above-mentioned services which are incidental, ancillary or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply are exempt. It was also informed by JS, TRU-I that the Fitment Committee has also suggested that the Special Leave Petition (SLP) pending in the Hon'ble Supreme Court on this issue may be withdrawn once the clarification is issued.

5.47 The Hon'ble Member from Punjab stated that these services should not be treated as a composite supply and ancillary services such as rental charges against electricity meter etc. should instead be taxed as separate supply. The Hon'ble Member also suggested that if the Council decides to proceed with the modification, it should apply only prospectively as applying it retrospectively will have revenue implications for the States.

5.48 The Hon'ble Member from Andhra Pradesh, however, requested that the modification be applied retrospectively.

5.49 The Hon'ble Member from Uttar Pradesh also supported a prospective application, citing potential complications otherwise.

5.50 The Hon'ble Member from Andhra Pradesh noted that the matter is still under judicial consideration, The Hon'ble Chairperson inquired about Andhra Pradesh's position in court, to which the Hon'ble Member from Andhra Pradesh replied that they had not collected GST but some parties have contested that these services are not liable for GST.

5.51 The Hon'ble Chairperson summarised that the consensus was not to apply the modification retrospectively but to implement it prospectively, aligning with the suggestions from Hon'ble Member from Punjab and Hon'ble Member from Uttar Pradesh. She confirmed that the modification would not be applied retrospectively but implemented prospectively. The State of Andhra Pradesh's case would be addressed accordingly, as the decision aligns with their stated position.

5.52 The Secretary stated that the modification would be applied prospectively, with past collections regularized on an "as is where is" basis.



5.53 Member (Tax Policy), CBIC added that the implementation should be prospective and could be done by way of exemption. The past period can be regularised on ‘as is where is’ basis through clarification.

Decision: *The Council recommended to create a separate entry in exemption notification No. 12/2017-CTR dated 28.06.2017 for exempting supply of services by way of providing metering equipment on_ rent, testing for meters/ transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity by electricity transmission and distribution utilities to their consumers. The Council also recommended to regularize the past period on ‘as is where is’ basis.*

16. In consonance with the decision taken by the GST Council, the Government issued Notification No. Notification No. 8/2024-CT(R) dtd. 08.10.2024 inserting a separate entry namely Sr. No. 25A in Notification No. 12/2017-CT(R) dtd. 28.06.2017. The same is reproduced below:-

(1)	(2)	(3)	(4)	(5)
"25A	Heading 9969 or Heading 9986	Supply of services by way of providing metering equipment on rent, testing for meters/transformers/ capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.	Nil	Nil"

This notification shall come into force with effect from the 10th day of October, 2024.

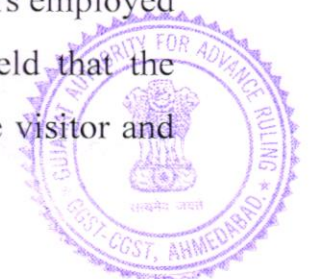


17. Thus, by way of the above notification, services which are also incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers were made exempt. This exemption was provided prospectively i.e from 10.10.2024, the date of the notification.

18. Therefore, as on date, apart from the transmission or distribution of electricity by an electricity transmission or distribution utility, the incidental and ancillary services to the supply of transmission and distribution of electricity provided by these utilities to their consumers are also exempted. We find that the exemption provided in Sr. No. 25A of Notification No. 12/2017-CT(R) dtd. 28.06.2017 provides exemption to incidental and ancillary services such as metering equipment on rent, testing for meters/transformers/ capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills. We also find that these terms are followed by 'etcetera' [in short etc.]. The Supreme Court in the case of *Royal Hatcheries Pvt Ltd. and Othrs Vs State of Andhra Pradesh* [AIR 1994 SC 666] has held that the word 'etc.' means all the rest. This means that the list of services provided in Sr. No. 25A is not exhaustive but illustrative. Thus, apart from the services mentioned in Sr. No. 25A, any other service which are incidental or ancillary to the principal supply of transmission of electricity are also exempted.

19. In this backdrop, it is to be seen whether the deposit work activities such as construction and erection of bays, substations, overhead lines and underground cables undertaken by the applicant on behalf of the consumer are incidental or ancillary to the principal supply of transmission of electricity.

20. We find that GST Act does not define incidental or ancillary activities. As per Black's Law Dictionary (Ninth Edition), "incidental" means dependent upon, subordinate to, arising out of, or otherwise connected with (something else, usually of greater importance). Also, the term "ancillary" is defined in the Black's Law Dictionary (Ninth Edition) as supplementary; subordinate. The Supreme Court in *Royal Talkies Vs ESIC* [1978(8) TMI-Supreme Court] while dealing with the liability of theatre owners as Principal Employers in the case of workers employed by contractors in canteen and cycle stands within their premises, held that the canteen and cycle stands were primarily for the convenience of theatre visitor and



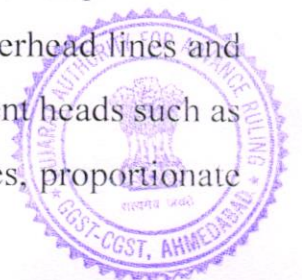
thus connected with the work of theatre. The Court held that the work done by the canteen and cycle stand workers is incidental to the purpose of the theatre, making the theatre owner's liable for contributions. Similarly, the Supreme Court in *State of Tamil Nadu Vs Binny Limited*. [1980(8) TMI 174-Supreme Court] held that the activity of selling provisions to the workmen employed in the factory where textiles were being manufactured was incidental to the carrying on the business of manufacture of textiles. As per the Supreme Court- '*a thing is incidental to another if it merely appertains to something else as primary*'.

21. As per the submission of the applicant, their primary function is to undertake transmission of electricity through intra-state transmission system. They are also duty bound under law to ensure development of an efficient, co-ordinated and economical system of intra-state transmission lines for smooth flow of electricity from a generating station to the load centres. For this, they are required to construct/erect bays , sub-stations, overhead lines and underground cables for increase in generating capacity; increase in electricity demand; system strengthening that may become necessary to achieve reliability under changed load generation scenario; and due to specific request/requirement of various EHT consumers as well as from DISCOMs for HL/LT consumers for augmentation of transmission facilities, additional contract power demand, construction of lines/bays for them, shifting the lines etc. We, therefore, feel that unless the deposit work activities in question are not undertaken by the applicant, they cannot create and provide an efficient infrastructure for transmission of electricity to the ultimate consumers. We also find that in the advance ruling dtd. 20.08.2019, this authority in Para 12.1 had held these activities as ancillary services. Thus, we hold that these activities are incidental and ancillary to the transmission and distribution of electricity and thus eligible for exemption under Sr. No. 25A of Notification No. 12/2017-CT(R) dtd. 28.06.2017.


22. In view of the foregoing, we rule as under:-


RULING

The charges recovered by the applicant from consumers for deposit work activities such as construction and erection of bays, substations, overhead lines and underground cables, for an on behalf of its consumers, under different heads such as material and erection charges, pro-rata charges, supervision charges, proportionate



line charges, and registration fees etc. which are incidental and ancillary to principal supply of transmission of electricity are exempt from tax under the GST Acts under Entry No. 25A of Notification No. 12/2017 dtd. 28.06.2017 as introduced by Notification No. 8/2024-CTR dtd. 08.10.2024. The exemption would be applicable from 10.10.2024 only.


(Sushma Vora)
Member (SGST)


(Vishal Malani)
Member (CGST)



Place: Ahmedabad
Date: 06.09.2025