

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow-**

ADVANCE RULING NO. UP ADRG 10/2025 Dated. 20/01/2025

PRESENT:

1. **Shri Amit Kumar, I.R.S.**
Additional Commissioner, Central Goods and Service Tax
Commissionerate, LucknowMember (Central Tax)
2. **Shri Harilal Prajapati**
Joint Commissioner, State Goods and Service TaxMember (State Tax)

1.	Name of the Applicant	M/s Kanpur Electricity Supply Company Ltd, 14/71, Civil Lines, Kanpur, Uttar Pradesh-208001.
2.	GSTIN or User ID	09AACCK3753D1ZO
3.	Date of filing of Form GST ARA-01	01.12.2023(received on 25.10.2024)
4.	Represented by	Mr. Dharmendra Srivastava, CA
5.	Jurisdictional Authority-Centre	Range-XVI, Div.-Division-III Kanpur, Commissionerate – Kanpur.
6.	Jurisdictional Authority-State	Sector – Kanpur Sector-16, Range- Kanpur (C), Zone- Kanpur II, State –Uttar Pradesh
7.	Whether the payment of fees discharged and if yes, the CIN	Yes, 23110900536781

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. M/s Kanpur Electricity Supply Company Ltd (**KESCO**), having registered office at 14/71, Civil Lines, Kanpur, Uttar Pradesh-208001 (hereinafter referred as "the applicant") having GSTIN- 09AACCK3753D1ZO, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and Section 97 of UPGST Act, 2017 read with Rule 104 of the UPGST Rules, 2017 in Form GST ARA-01 (the application form for Advance Ruling), discharging the fee of Rs. 5,000/-each under the CGST Act and the UPGST Act.

2. The applicant has submitted an application for Advance Ruling dated 01.12.2023 (received on 25.10.2024) enclosing dully filled Form ARA-01 (the application form for Advance Ruling) along with written statement in the form of attachment. The applicant in his application has sought advance ruling on following question-

- a. *Whether undertaking of deposit works under both modes qualifies to be 'supply' in terms of Section 7 of the CGST Act?*
- b. *If answer to the above question is yes, then what shall be the value of such supply under the First mode and under the Second mode.*
- c. *When deposit work is executed in First mode, whether the Applicant is eligible to avail ITC of GST charged by LEC. Whether consumer is eligible to avail ITC of GST charged by the Applicant?*

d. When deposit work is executed in Second mode, whether consumer is eligible to avail ITC of GST charged by LEC?

3. The question is about applicable GST rate under the provisions of CGST Act and liability to pay GST, hence is admissible under Section 97(2)(a) of the CGST Act 2017. Further, as per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant..

4. The applicant has submitted statement of relevant facts as under:-

A. Kanpur Electricity Supply Company Ltd. (hereinafter referred as "KESCO" A (Applicant) is a public service utility company, responsible for providing power supply to consumers in its area of supply i.e., KESCO is responsible for carrying out the business of Distribution of electricity within its Area of Supply. It builds, maintain and operate the electricity distribution systems. The system so developed, is accounted for as fixed assets in the books of accounts which is subject to depreciation over a useful life.

B. Facts of the case on which we are seeking Advance Ruling:

(i) In addition to the primary activity of providing services of distribution of electricity, the Applicant is also undertaking development of electricity infrastructure as requested by consumers/intending agencies ('consumer') for distribution of electricity, as 'deposit works'. Such deposit work is either in the form of making additions to the existing distribution system or augmenting/modifying/shifting the existing system to a new location

(ii) In terms of Section 40 of the Electricity Act, 2003 ('Electricity Act') and Clause 4 of the Electricity Supply Code, 2005 ('ES Code'), the exclusive right to carry out deposit works remains with the Applicant as per the technical standards of operation and maintenance of distribution lines specified by the Central Electricity Authority/Central Electricity Regulatory Commission/UPERC. The deposit works is carried out at the behest of the consumer via two modes:

(iii) **First method** (Deposit work is the Applicant by the Applicant itself at the instance of consumer): Entire cost is incurred by the Applicant and such cost including applicable Goods and Services Tax ('GST') is recovered from the consumer.

(iv) **Second method** (Deposit work is undertaken by the consumer under the supervision of the Applicant): The entire expenditure is directly incurred by the consumer and work is carried out under the supervision of Applicant. The consumer is required to pay supervision charges and shut down charges to the Applicant computed at a fixed percentage on total cost estimate and shutdown charges along with GST. As per the current practice, the Applicant is computing GST on the total estimate of expenditure.

(v) It may be noted that the actual execution of works under both modes is undertaken by Licensed Electrical Contractor (LEC), as are licensed by Directorate, Electrical Safety. Under the first mode, LEC will be engaged by Applicant and under the Second mode, it will be engaged by the consumer. The cost of deposit works is calculated by the Applicant as per the estimation methodology which includes cost (material and labour), overhead charges, other charges, etc.

(vi) It is the understanding of the Applicant that irrespective of the mode of execution of deposit works, the ownership of the distribution system shall vest in with them only, in capacity of being distribution licensee.

(vii) As per the understanding of the Applicant they are exclusively liable and responsible for modification/alteration/extension of the distribution infrastructure. It is for this reason that the deposit work is to be executed under the supervision of the Applicant only.

5. The applicant has submitted their interpretation of law as under-

- a) It may now be determined, as to what will be the value of such 'deposit work' for the purpose of the CGST Act. Section 15(1) of the CGST Act provides that the value of a supply of goods or services or both shall be the transaction value, i.e., price actually paid or payable for the said supply of goods or services or both, where supplier and recipient are not related, and price is the sole consideration.
- b) Now, coming back to the facts of the present case, under the First mode, the complete work is undertaken by the Applicant itself. In such a case, the cost of such supply is calculated by the Applicant as per the estimation methodology, which includes cost (material and labour), overhead charges, other charges, etc. as prescribed under the ES Code. Thus, the price charged by the Applicant from the consumer, is the total cost as per the estimation methodology.
- c) As per Section 15(1), value of supply is the price actually paid or payable for such supply, where price is the sole consideration and parties to the transaction are not related. In the present case, the total cost is the only amount, which is charged by the Applicant from the consumer. The supplier and the recipient of supply are not related parties. Thus, the amount payable by the consumer, i.e., the total cost, shall be the value of supply in the present case.
- d) Thus, as per Section 15(1) of the CGST Act, the value of such supply of deposit works under the First mode shall be the total cost paid by the consumer as computed in terms of the ES Code.
- e) There may be a certain case where, related parties are involved in these works. It may be noted that Section 15(1) provides for value computation mechanism, where, inter-alia, parties are not related. In cases, where related parties are involved, Section 15(1) is not applicable. Here Section 15(4) is of relevance, which provides that where value cannot be determined in terms of Section 15(1), it may be determined in such manner as may be prescribed. The valuation mechanism in case of related parties is prescribed under Rule 28 of the CGST Rules.
- f) Thus, value of supply in the aforementioned scenario shall be determined in terms of Rule 28 of the CGST Rules, which provides for determination of value of supply between distinct or related persons.
- g) Under the Second mode, the responsibility to undertake the work is on the consumer through the LEC, under supervision of the Applicant. The consumer is required to pay supervision charges to the Applicant computed at a fixed percentage on total cost estimate and shutdown charges. Since supervision charges are recovered by the Applicant from the consumer under the Second mode, the same shall, inter-alia, constitute value of supplies made under the Second mode. The further question, however, is whether the cost of works is also includible in value of such supplies. To

answer this question, reference needs to be made to certain provisions of the electricity law.

- h) As per Section 40 of the Electricity Act, it shall be the duty of the transmission licensee to build, maintain and operate an efficient, co-ordinated and economical inter-state transmission system or intra-state transmission system, as the case may be. Further, Section 42 of the Electricity Act provides that it is the duty of the distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in the Electricity Act. Further, the Applicant has the exclusive right and responsibility to undertake deposit works of the distribution system.
- i) As per clause 4.1 of the ES Code, the licensee shall on an application by the owner or occupier of any premises, located in his area of supply, give supply of electricity to such premises within one month after receipt of complete application and payments. The proviso thereafter states that where supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified.
- j) As per clause 4.2 of the ES Code, it shall be the obligation of the licensee to ensure that its distribution system is upgraded, extended and strengthened to meet the demand for electricity in its area of supply. In terms of clause 4.8(f) of the ES Code, the applicant i.e., the consumer, shall have the option to execute these works himself through LEC under the supervision of the licensee i.e., the Applicant, for which supervision charges shall be payable to the licensee.
- k) Clause 4.9 provides mandate qua electricity connection in multistory buildings/multiplex/marriage halls/colonies to be developed by development authorities and/or private builders/promoters/ colonizers/institutions/individual applicants.
- l) Clause (c) therein provides that the applicant/developer/development authority shall be responsible to develop and construct the entire infrastructure required for distribution network from the licensee's sub-station up to the connection outlets in individual owner's premises at his own cost or by depositing fixed amount as per cost data book, with the licensee.
- m) It is contemplated in clause (d) thereafter, that the development authority/promoter/builder/colonizer/institution shall undertake to hand over the entire distribution system along with the transformer to the distribution licensee i.e., the Applicant, without claiming any payment or refund of any charges, after completion of works satisfactorily.
- n) Further, it is specified in clause (f) therein that the development authority/promoter/builder/colonizer shall bear the estimated cost of the distribution system on the basis of sanctioned load as specified therein.
- o) Now, in terms of the Electricity Act as well as the ES Code, the responsibility to develop, maintain and operate the distribution system solely lies on the Applicant. Further, it is clearly mandated in the ES Code that where the infrastructure is developed by the applicant or development authority, it shall handover the said infrastructure to the licensee i.e., the Applicant. We have been informed that the infrastructure developed in either of the modes is under exclusive possession of Applicant. It can be used later by it for distribution of electricity, not only to the concerned consumer, but also other consumers as well.

- p) Thus, though under the Second mode of deposit works, cost is borne by the consumer and not paid to the Applicant, the ultimate responsibility to build, operate, control and maintain the distribution system always vests with the Applicant in terms of the provisions of the Electricity Act and the ES Code.
- q) This is further supported by the fact that after the completion of deposit works, the entire distribution system is handed over to the Applicant for operation and maintenance and such distribution system is booked as assets by the Applicant in its books of accounts. It may be noted that the said distribution system is not only used for supplying/distributing electricity to the consumer, but to other consumers also. In other words, the infrastructure accrues to benefit of Applicant only, which shall be at its will to use is in the course of its business.
- r) In the present case, cost of works is directly borne by the consumer. Regardless, the Applicant is exclusively liable and responsible for modification/alteration of the distribution infrastructure as per the Electricity Act, so as to comply with the ES Code and it is for this reason that the deposit work is to be mandatorily executed under the supervision of the Applicant. Now, provisions regarding valuation under the CGST Act and Central Goods and Services Tax Rules, 2017 ('CGST Rules') are relevant in order to determine the consideration for the instant supply.
- s) As per Section 15(1) of the CGST Act, value of supply shall be the transaction value, i.e., price actually paid or payable for the said supply, where the supplier and the recipient are not related, and price is the sole consideration. In the Second mode of execution of deposit works, price is not the sole consideration, as the handover of infrastructure so created under deposit work by the consumer to the DISCOM is the non-monetary consideration to the Applicant, since benefit thereof accrues to DISCOM. Thus, Section 15(1) shall not apply.
- t) Section 15(4) provides that where the value of supply of goods or services or both cannot be determined under Section 15(1), the same shall be determined, as may be prescribed. Rule 27 to 31 of the CGST Rules prescribe for determination of value of a supply.
- u) Rule 27 provides for valuation mechanism in cases where consideration is not wholly in money. It inter alia, states that where the supply of goods or services is for a consideration not wholly in money, the value of supply shall be:
- a) Open Market Value of such supply;
 - b) If open market value is not available under (a) above, the sum total of consideration in money and any such further amount in money, as is equivalent to the consideration not in money, if such amount is not known at the time of supply.
- v) As defined in Rule 35 of the CGST Rules, Open Market Value means the full value of money excluding taxes under GST laws, payable by a person to obtain such supply at the time when such supply being valued is made, provided such supply is between unrelated persons and price is the sole consideration for such supply. To similar effect, is the explanation provided in GST e-flyer on valuation. In order to determine the Open Market Value in the present case, the value of the same supply when made by another person, at the same time as this, is to be considered.
- w) It may be noted that the supply undertaken by the Applicant is peculiar to the consumer's case, where deposit work is carried out as per its specifications. The deposit works is as per the requirement as specified by the consumer. There is no such similarly placed, standardized supply, which can be taken as a parameter for

determining the value of supply in the present case. Thus, clause (a) of Rule 27 shall not apply.

- x) Clause (b) provides that the value of supply shall be the sum total of consideration in money and any such further amount in money, as is equivalent to the consideration not in money. In the present case, clause (b) shall be applicable as there are three components to the consideration. Two components i.e., supervision charges and shutdown charges are received in cash and the third component of undertaking deposit work is received in kind.
- y) So far as the first two components are concerned, they shall form part of the value of supply. For the third component which is not in money, the amount equivalent to such consideration shall be included in the value of such supply. The amount equivalent to such consideration would be the total cost incurred by the consumer, in executing the deposit works.
- z) Thus, total consideration in the second mode of carrying out the deposit work would be total cost of executing the deposit work + supervision charges + shutdown charges. As intimated, currently the Applicant is computing GST on the sum of (a) total expenditure incurred by consumer on the intended work, (b) supervision charges and (c) shutdown charges. In our view, this is in accordance with provisions of Section 15 of the CGST Act and the Rules made there under.

6. The application for advance ruling was forwarded to Assistant Commissioner, Central Tax & Central Excise, Division- Meerut I vide letter dated 13.06.2024 to offer their comments/views/verification report on the matter. But no comments in the matter was offered.

7. The applicant was granted a personal hearing on 12.11.2024 which was attended by Mr. Dharmendra Srivastava, CA, the authorized representative of the applicant during which he reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

8. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST 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 provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

9. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling required-

- (1) *Determination of time and value of supply of goods or services or both.*
- (2) *Admissibility of input tax credit of tax paid or deemed to have been paid.*
- (3) *Determination of the liability to pay tax on any goods or services or both*

At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

10. Applicant Kanpur Electricity Supply Company Ltd. (hereinafter referred as "KESCO" A (Applicant) is a public service utility company, responsible for providing power supply to consumers in its area of supply i.e., KESCO is responsible for carrying out the business of Distribution of electricity within its Area of Supply..

11. Applicant undertakes development of electricity infrastructure as requested by consumers/intending agencies ('consumer') for distribution of electricity, as 'deposit works'. Such deposit work is either in the form of making additions to the existing distribution system or augmenting/modifying/shifting the existing system to a new location.

12. The deposit works is carried out at the behest of the consumer via two modes:

A. **First method** (Deposit work is the Applicant by the Applicant itself at the instance of consumer): Entire cost is incurred by the Applicant and such cost including applicable Goods and Services Tax ('GST') is recovered from the consumer.

B. **Second method** (Deposit work is undertaken by the consumer under the supervision of the Applicant): The entire expenditure is directly incurred by the consumer and work is carried out under the supervision of Applicant. The consumer is required to pay supervision charges and shut down charges to the Applicant computed at a fixed percentage on total cost estimate and shutdown charges along with GST. As per the current practice, the Applicant is computing GST on the total estimate of expenditure.

13. We have gone through the submissions made by the applicant and have examined the same. We observe that the applicant has sought advance ruling on the following questions-

a. *Whether undertaking of deposit works under both modes qualifies to be 'supply' in terms of Section 7 of the CGST Act?*

b. *If answer to the above question is yes, then what shall be the value of such supply under the First mode and under the Second mode.*

c. *When deposit work is executed in First mode, whether the Applicant is eligible to avail ITC of GST charged by LEC. Whether consumer is eligible to avail ITC of GST charged by the Applicant?*

d. *When deposit work is executed in Second mode, whether consumer is eligible to avail ITC of GST charged by LEC?*

14. Now we discuss the first method where **Deposit work is undertaken by DISCOM:**

As all the work including cost of material and its supervision is being done by the applicant. The GST charged on the cost of material and supervision charge is tenable. In case materials have to be provided by the applicant including supervision charge the GST shall be charged under single invoice raised by the applicant.

Further, the entire material and installation work is arranged by the applicant on behalf/ instance of consumers/ intending agencies and work is done in the supervision of the Applicant. The work done by applicant falls under "Works Contract" as per section 2 (119) of the CGST Act, 2017.

The structure created in this process is used in the furtherance of business by the Applicant.

In this regard, Section 17(5) (c) and (d) the CGST Act, 2017 is reiterated as under:

(5) *Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:—*

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.—For the purposes of clauses (c) and (d), the expression —constructionl includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property;

It is pertinent to note that the ownership of the property is vested with the KESCO, after construction of lines the property will be kept by the applicant as custodian of these lines and it is credited in the applicant's books of account. However the construction of lines is being done on behalf of the customers of applicant, the applicant is not doing it on his own account, thus the ITC on the material, labour, installation and other overhead does not falls under block credit under section 17(5) of the CGST Act, 2017. Hence, applicant is eligible for Input Tax Credit as per Section 16 of the CGST Act, 2017.

15. We discuss the Second method where **Deposit work is undertaken by consumers :**

Under this method, the responsibility to undertake the deposit work is on the consumer/intending agencies through the contractors, under supervision of KESCO. The consumer is required to pay supervision charges to the KESCO computed at a fixed percentage on total cost estimate. Since supervision charges are recovered by applicant from the consumer under this mode, the same shall, inter-alia, constitute value of supplies as per the GST Act. The further question, however, is whether the cost of works is also includible in value of such supplies. To answer this question, reference needs to be made to certain provisions of the electricity law.

- i. In this method, the works contract service supplied in course of electric line installation are neither supplied by nor the consideration for same has been received by applicant. The contract for works contract services is executed between the concerned party and a third-party work contractor. Therefore, the applicant is a stranger to this contract. In a case where the third-party work contractor remains unpaid for the services supplied by him, he can sue only the concerned party not the applicant. There is no obligation to pay on the part of applicant. Hence, the case shall not be covered under section 15(2)(b) of the CGST Act 2017.
- ii. Here, KESCO is not a supplier of goods and services as per provisions of section 2(105) of CGST Act, 2017 as the work is being undertaken by the customer itself. There is no relationship between the customer and KESCO which can be categorized as that of supplier and recipient except for the services of the supervising the whole work.
- iii. It is also pertinent to note that in the present transaction there is no consideration which comes under the purview of section 2(31) of CGST Act, 2017. All the payments are being made by the customer directly to the vendor and contractors and no payment is being made to KESCO except supervision charge for the work.

- iv. The work contract services supplied in the course of construction/ dislocation/shifting are neither supplied by nor the consideration for the same has been received by KESCO hence there is no supply of works contract services by the KESCO.
- v. In this case the ownership of the property being dislocated / shifted is vested with KESCO, the KESCO receives money in the form of dislocation / shutting charges. The services supplied in such cases is related to an act of tolerance with respect to such immovable property and hence covered under "agreeing the obligation to refrain from an act, or to tolerate an act or a situation , or to do an act" and are classified under SAC999794.
- vi. The work contract services in the present case is being supplied by an independent contractor and is covered under SAC 9954, it is distinct service which is being supplied by a registered person other than KESCO.
- vii. Though the property subjected to works contract services belongs to the KESCO but the supply of works contract services is not made on behest of KESCO. The contract for works contract services is executed between the concerned party and a third party works contractor and hence KESCO is a stranger to this contract.
- viii. In a case where the third party works contractor remains unpaid for the services supplied by him, he can sue only the customer and not the KESCO. So, there is no liability to pay on the part of KESCO.
- ix. As the construction or dislocation work is not made on the behest of KESCO and there is only a consent or tolerance for such shifting hence the KESCO is not liable to pay for the expenses incurred in such shifting. Since there is no obligation to pay on part of KESCO hence the provisions of section 15(2)(b) of CGST Act, 2017 are not applicable in this case.
- x. In this case the consideration for works contract services is fully paid by concerned party and there is no shared / part payment by the same. In such cases it is not feasible for having two considerations for a single supply.
- xi. Accordingly, we are of the view that in the facts and circumstances, where the value of materials and cost of execution of work for installation of electric lines are borne by the recipient of service and the applicant charges supervision fees only, the value of materials and cost of installation shall not be included in the value of supply for determination of taxable value under GST and the applicant shall be liable to pay GST only on the supervision charges.

16. **Discussion on admissibility of ITC:**

A. First method where Deposit work is undertaken by DISCOM:

Section 16(1) of the CGST Act provides that every registered person is entitled to take credit of input tax charged on supply of goods and/or services, which are used or intended to be used in the course or furtherance of his business, subject to certain restrictions and conditions. Sub- section (2) thereof provides for certain conditions, subject to which the registered person shall be entitled to ITC qua the supply of goods or services to him.

Section 17 of the CGST Act provides for apportionment of credit and blocked credit. Section 17(2) provides that where goods and I or services are partly used for effecting taxable supplies (including zero-rated supplies) and partly used for effecting

exempt supplies, the credit shall be restricted to so much of the input tax, which is attributable to taxable supplies (including zero-rated supplies).

Section 17(5) of the CGST Act specifies the goods and services in respect of which a registered person is not entitled to take ITC. Section 17(5)(c) restricts the availability of ITC with respect to works contract, when supplied for construction of an immovable property (other than plant and machinery), except where it is input service for further supply of works contract service. Section 17(5)(d) restricts the availability of ITC on goods or services, or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

The phrase "plant and machinery" is defined in Explanation to Section 17(6) to mean apparatus, equipment and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes (i) land, building or any other civil structures; (ii) telecommunication towers; and (iii) pipelines laid outside the factory premises.

In the First mode, the DISCOM is procuring input supplies from LEC for supply of deposit works i.e., output taxable supplies. The LEC raises an invoice on the Applicant for the supplies made by it. The Applicant makes supply to consumer and raises its invoice accordingly. Accordingly, supplies by LEC are received by DISCOM for making further supply to consumer. Such supplies are used by the Applicant in the course of its business. Accordingly, it shall be eligible to avail ITC of GST charged thereon, subject to fulfillment of other conditions.

In this regard, it may be noted that various jobs such as shifting of equipment, laying of underground lines, diversion of underground lines etc. do not result in creation of an immovable property. The assets created in such jobs are movable in nature. Accordingly, these supplies are not for construction of immovable property. For this reason, thus, the restrictions under Section 17(5)(c) and Section 17(5)(d) are not applicable. However, this aspect of movability may be disputed by the department.

Further, in any case, if such infrastructure qualifies to be plant and machinery, the restrictions under Section 17(5)(c) and Section 17(5)(d) shall not apply.

B. Second method where Deposit work is undertaken by consumers:

In the Second mode, where deposit works is undertaken by the consumer and supervised by the Applicant, an invoice shall be issued by the Applicant to the consumer. We cannot comment on this issue as the deposit works is not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant, but deposit works are made by LEC to the consumer and not to Applicant. Hence, we cannot comment on this issue.

In view of the above discussions, we pass the ruling as follows:

RULING

Question. A. Whether undertaking of deposit works under both modes qualifies to be 'supply' in terms of Section 7 of the CGST Act?.

Answer: Replied in affirmative

Question. B. If answer to the above question is yes, then what shall be the value of such supply under the First mode and under the Second mode?.

Answer: In first mode value of supply will be the value of material and cost of execution work reimbursed on cost basis for installation of for determination of taxable value under GST.

In Second mode, the value of materials and cost of installation shall not be included in the value of supply for determination of taxable value under GST and the applicant shall be liable to pay GST only on the supervision charges.

Question. C When deposit work is executed in First mode, whether the Applicant is eligible to avail ITC of GST charged by LEC. Whether consumer is eligible to avail ITC of GST charged by the Applicant?

Answer: Replied in affirmative subject to conditions of Section 17(5) (c) and (d) of the CGST Act, 2017 and other rules.

Question. D When deposit work is executed in Second mode, whether consumer is eligible to avail ITC of GST charged by LEC?

Answer: Can not Comment.

17. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Harilal Prajapati)
Member of Authority for Advance
Ruling


(Amit Kumar)
Member of Authority for Advance
Ruling

To,

M/s Kanpur Electricity Supply Company Ltd,
14/71, Civil Lines, Kanpur,
Uttar Pradesh-208001

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, GST Bhawan, 117/7, Sarvodaya Nagar, Kanpur-208005, Uttar Pradesh.
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-Kanpur III, GST Bhawan, 117/7, Sarvodaya Nagar, Kanpur-208005, Uttar Pradesh.
5. Through the Additional Commissioner, ~~ZONE-II, KANPUR~~ Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.