


GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2022/27

(In Application No. Advance Ruling/SGST&CGST/2021/AR/50)

Dated: 11.05.2022

Name and address of the applicant	:	M/s. Tata Advanced Systems Limited 5th Floor, No.521, Loha Bhavan, Old High Court Lane, Navarangpura, Ahmedabad, Ahmedabad, Gujarat, 380009
GSTIN of the applicant	:	24AACCT5245K1Z9
Date of application	:	24-12-21
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a),(b), (c),(e) & (g)
Date of Personal Hearing	:	18-02-22 and 22-03-22
Present for the applicant	:	Shri Kanchi Varada Raju Panchadi, Taxation Head of TASL, Shri Rohit Jain, Advocate and Shri Niraj Bagri, CA

Brief facts

M/s. Tata Advanced Systems Limited, Ahmedabad (hereinafter referred to as TASL for the sake of brevity) with GSTIN 24AACCT5245K1Z9 filed the subject Application. It was submitted that the Ministry of Defence (MoD),GoI has entered into a contract dated 24-09-21 with Airbus Defence and Space, S.A.U., Spain (Airbus) for manufacture and supply of 56 C295 MW transport aircraft with associated equipment under its C295 aircraft programme. Airbus is a company incorporated in Spain and is not registered under GST in India.

2. Question on which Advance Ruling sought

- (i) What is the nature of supply under the contract between the Applicant and Airbus (i.e., whether the same will qualify as ‘supply of goods’ or ‘supply of service’)?
- (ii) Given the nature of the activities undertaken by the Applicant under the contract, what will be the appropriate classification and rate of tax of the said supply?
- (iii) What is the value to be adopted for the purpose of payment of GST?
- (iv) What will be the time of supply for payment of GST?

Revenue’s Submission

3. Revenue has neither submitted its comments nor appeared for hearing.

Personal Hearing

4. Virtual hearing was granted on 18-02-22 but TASL requested for adjournment. Further, Virtual Hearing granted on 22-03-22 was attended by Shri Kanchi Varada Raju Panchadi, Shri Rohit Jain, and Shri Niraj Bagri. During hearing, We sought the following clarification: The Contract presented before us is of Tata Advanced Systems Limited, Hyderabad with Airbus and Tata Consultancy services limited; Tata Advanced Systems limited, Hyderabad, if registered in Telangana State under GST, the admissibility of Advance Ruling by GAAR is not legal and proper.

4.1 Shri Rohit Jain submitted that TASL has identified three sites in Gujarat for manufacturing activities of the aircrafts and the process of finalising is underway and not yet finalised. He submitted to file a submission in this regard.

Additional submission by TASL

5. TASL vide letter dated 24-03-22 submitted as follows:

1. We, Tata Advanced Systems Limited ('Applicant' or 'Company') have filed the captioned application for Advance Ruling. The application is filed in respect of manufacture and supply of 40 aircrafts proposed to be undertaken by the Applicant vide contract dated 29-10-21 (the contract) entered with Airbus Defence and Space, S.A.U., Spain under the C295 aircraft programme of the Ministry of Defence (MoD).

2. The Applicant through its authorised representatives appeared before the Hon'ble Authority for the admission hearing on 22-3-22. During the hearing, the Hon'ble Authority required submissions to be placed on record that the proposed manufacturing operations in respect of which Advance Ruling is sought will be undertaken in the State of Gujarat.

3. The Company is registered in the State of Gujarat and is holding Goods and Services Tax Identification Number 24AACCT5245K1Z9. The Company hereby states that it conducted site surveys, discussed with the local authorities, and shortlisted four locations in the State of Gujarat for setting up the unit.

4. It may not be out of place to mention here that the project involves final assembly of aircrafts which need to be ultimately delivered to the MoD in a fly-away condition at the project location. Hence, the project land needs to be co-located with an airport with all available air-side infrastructure. For this purpose, the Company is in discussions with the relevant authorities to get the requisite clearances and regulatory/statutory approvals. The location will be finalised based on obtaining the necessary authorisations/approvals from the regulatory agencies.

5. Once the location is finalised, the same will be declared as an additional place of business of the Applicant in the State of Gujarat. The activities under the contract will then be executed in the State of Gujarat.

Findings

6. We note that Tata Advanced System Limited registered office at Hyderabad, Telangana has entered the contract dated 29-10-21 with Airbus and Tata Consultancy Services Limited. The said contract dated 29-10-21, reads that Tata Consortium of 'Tata Advanced Systems Ltd' and 'Tata Consultancy Services Ltd', led by Tata Advanced System Ltd is recognised in the Contract as India Aircraft Contractor (IAC).

7. During hearing, Shri Rohit Jain submitted that three locations at Gujarat are under consideration for undertaking the proposed manufacture of aircrafts. Vide submission dated 24-3-22, TASL submitted that four locations in Gujarat are under consideration for this purpose and once location is finalised, same will be declared as an additional place of business of applicant in Gujarat.

8. We find the subject Application premature at this stage for the following reasons:

- i. The Contract dated 29-10-21 entered between TASL registered office at Hyderabad with Airbus and TATA Consultancy services ltd, **at clause 2.2.1** reads as follows:

' 2.2. Orders

*2.2.1 All the orders under this Contract shall be placed by the purchaser upon the Supplier. The following address to be considered as **project execution address** and this would be changed once the final location for execution is finalised, which would be supported by the address modified Orders by the Purchaser to the Supplier;*

Tata Advance System Pvt. Ltd.

Plot No. 42-43 Electronic City, Phase-1, Hosur Road

Bengaluru 560100, Karnataka

GSTN :29AACCT5245K1ZZ

Any change in the place of the Orders must be notified to the Purchaser in writing by the Supplier with sufficient prior notice.

- ii. **No such intimation for change in the place of the Orders notified to the Purchaser in writing by TASL, as per said clause 2.2.1 at page number 14 of the said Contract, has been placed/ produced before us.**

Further, the project execution unit TASL, Bengaluru, Karnataka is registered under GST in the State of Karnataka with the GST Registration number GSTN :29AACCT5245K1ZZ.

9. In conspectus of aforementioned facts on record and in pursuance to said clause 2.2.1 at page number 14 of the said Contract dated 29-10-21, We hold that the said application

filed before us by TASL, Ahmedabad **GSTIN24AACCT5245K1Z9** is rejected for the following three reasons:

- i. The Applicant has no locus standi to file said Advance Ruling Application, as per clause 2.2.1 of the said Contract 29-10-21, wherein the project execution unit is TASL Bengaluru **GSTIN is 29AACCT5245K1ZZ**.
- ii. The Application by the applicant is premature and without locus standi, as no Intimation for change in place of project execution as per clause 2.2.1 has been made in the name of TASL Ahmedabad GSTIN 24AACCT5245K1Z9.
- iii. In the eyes of GST scheme of law, GSTIN 24AACCT5245K1Z9 (TASL Ahmedabad), GSTIN 29AACCT5245K1ZZ (TASL Bengaluru) and GST registered Unit of TASL Hyderabad are distinct persons for the purposes of CGST Act, as per the provisions of Section 25(5) CGST Act, which reads as follows:

‘ Section 25(5):

Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act. ’

10. The Application is rejected as non- maintainable under Section 95(a) CGST Act.

(ATUL MEHTA)
MEMBER (S)

(ARUN RICHARD)
MEMBER (C)

Place: Ahmedabad
Date: 11.05.2022