

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6**

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

Members present are:

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,
Office of the Principal Chief Commissioner of GST&Central Excise,
Chennai-34.
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member(FAC),
Inter-State Investigation Cell, Chennai-6

ORDER No. 2/AAR/2018 DATED 27.06.2018

| | | |
|--|------------------------|--|
| GSTIN Number, if any / User id | | 33AAACF5620Q2ZI |
| Legal Name of Applicant | | M/s. Fichtner Consulting Engineers (India) Private Limited, Chennai. |
| Registered Address/Address provided while obtaining user id | | 9 th Floor, Menon Eternity, St. Mary's Road, Alwarpet, Chennai - 600 018. |
| Details of Application | | GST-ARA, Application No.6 dated 5.3.2018 |
| Concerned Officer | | State: Alwarpet Assessment Circle, Centre: Chennai North-Mylapore Division |
| Nature of activity(s) (proposed / present) in respect of which advance ruling sought | | |
| A | Category | Service Provision |
| B | Description (in Brief) | Engineering consultancy organization |
| Issue/s on which advance ruling required | | Determination of the liability on service taxes for Inter-State immovable propriety and the charge of GST (IGST or CGST and SGST) |
| Question(s) on which advance ruling is required | | Charging IGST treating the place of supply as outside Tamil Nadu since the project site is in the state of Jharkhand(where the mine/end user is located) as per Sec12(3) of IGST Act or Charging SGST and CGST, treating place of supply as Tamil Nadu since the drawings are delivered to the client at their Chennai Office, in Tamil Nadu. |

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

Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

1. M/s. Fichtner Consulting Engineers (India) Private Limited, Chennai (hereinafter called the Applicant or the company) has preferred an application for Advance Ruling on which one is applicable from the following options to charge Tax in transaction specified in the application.

a. Charging IGST, treating the place of supply as outside Tamil Nadu since the project site is in the state of Jharkhand (where the Mine /End user is located), as per sec 12(3) of the IGST Act.

b. Charging SGST and CGST, treating place of supply as Tamil Nadu since the drawings are delivered to the client at their Chennai office, in Tamil Nadu.

2. The Applicant are an Engineering consultancy organization, providing Engineering Services, mainly Design and Drawings to power and other projects, operating from Chennai and Bengaluru. They are registered under GST in both the places. They had received an order for their Chennai office possessing GSTN 33AAACF5620Q2ZI, from TENOVA INDIA PRIVATE LIMITED , 94/3,TTK ROAD, ALWARPET, CHENNAI — 600 018 (TenoVA) possessing GSTN 33AAMCS6453Q1ZL, based and operating from Chennai, Tamil Nadu. The job description is as follows:

"Basic and Detail Engineering for Civil, Structural, Mechanical and Utility Works for the Coal Handling Plant for the west PIT of PakriBarwadih Coal Block in North Karanpura Coalfields in Hazaribagh district of Jharkhand state, as per the requirements of NTPC/Tenova's Enquiry Specifications"

The said Client is an EPC sub-contractor for the coal handling plant in the Mine. As per the enquiry specification given by the client, the successful bidder (Applicant) shall be responsible for the basic and detailed engineering for the mechanical, structural and auxiliary systems of the coal handling plant meeting the requirements of the Main EPC Contractor and meeting the technical guidance of the end user (owner).The order is being executed from their design office at Chennai and the drawings are delivered to their client to their Chennai office. This fulfils their scope of supply. Their design and drawings are specifically made for the Coal Handling Plant of the Mine referred in the job description. They deal only with their client and do not have any direct interaction with the main EPC Contractor or the End User (Owner), in respect of this project. They also confirm their scope entirely ends with their Client and there is no dotted line supplies to any other parties connected with this project. All their deliverables were taken as input for making deliverables / manufacturing by

their client towards execution of PO issued by the EPC contractor to them. SAC assigned for their transaction is 998333 —Engineering Services for Industrial and Manufacturing Projects. In the light of aforementioned, the Applicant has sought Advance Ruling on which one is applicable from the following options to charge GST in their transaction from 01.07.2017.

Charging IGST, treating the place of supply as outside Tamil Nadu since the project site is in the state of Jharkhand (where the Mine /End user is located), as per sec 12(3) of the IGST Act. (OR)

Charging SGST and CGST, treating place of supply as Tamil Nadu since the drawings are delivered to the client at their Chennai office, in Tamil Nadu.

3. The Authorised Representative of the Applicant was heard in the matter. They submitted that they are providing engineering consultancy services to a recipient in Chennai in relation to an immovable property, a coal mine located in North Karanpura Coalfields, Jharkhand for coal handling activities at the site. They state that as it is service in relation to immovable property, place of supply under Section 12(3) will be Jharkhand and hence it is an inter-state supply.

4. The Advance Ruling sought is whether CGST & SGST or IGST is payable on the said supply. i.e., whether the transaction is an inter-state supply or intra-state supply. In this connection Section 97 of the CGST Act and Tamilnadu GST Act (TNGST) has given the scope of Advance Ruling Authority, i.e, the question on which the Advance Ruling can be sought. For ease of reference, the section is reproduced as under:

97. (1) An Applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought under this Act, shall be in respect of,—

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;

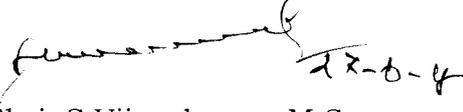
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

No other issue can be decided by the Advance Ruling Authority and therefore the Acts limit the Advance Ruling Authority to decide the issues earmarked for it under Section 97(2). The Application is therefore rejected without going into the merits of the case, on the issue of lack of jurisdiction

RULING

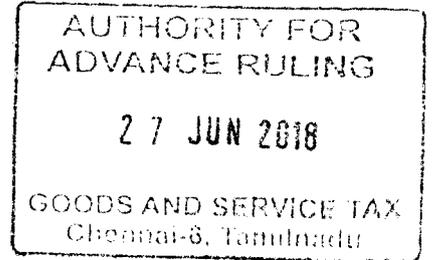
The Application for Advance Ruling dated 06.02.2018 of M/s. Fichtner Consulting Engineers (India) Private Limited is rejected, under sub-section (2) of section 98 of the CGST Act, 2017 and the TNGST Act, 2017.


Ms. Manasa Gangotri Kata, IRS
Member


Shri. S. Vijayakumar, M.Sc.,
Member (FAC)

To

M/s. Fichtner Consulting Engineers (India) Private Limited
9th Floor, Menon Eternity
No.165, St. Mary's Road
Alwarpet, Chennai – 600018



Copy Submitted to:

1. Additional Chief Secretary/Commissioner of Commercial Taxes, II Floor,
Ezhilagam, Chepauk, Chennai-5.
2. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Assistant Commissioner (CT)
Alwarpet Assessment Circle, No.46, Pasumpon Muthuramalingam Salai,
Taluk Office Building, RA Puram, Chennai-28.
4. The Commissioner of GST & C.Ex., Chennai North Commissionerate,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
5. Master File/ Spare – 2