

*Handwritten signature and date: 31/09*



*10847*  
*03/09/19*

GOVERNMENT OF INDIA  
OFFICE OF THE PRINCIPAL COMMISSIONER OF CGST & CENTRAL TAX:  
KOLKATA- NORTH COMMISSIONERATE, CGST BHAWAN:

1<sup>ST</sup> FLOOR: 180, SHANTIPALLY, RAJDANGA MAIN ROAD, E.M BYPASS, KOLKATA-700107

C. No. V(30)76/RTI/HQ/CGST & CX/Kol-North/2019/  
To  
Shri Sreekumar Bose,  
25/2A, Ramanath Kabiraj Lane,  
Bowbazar, Kolkata-700012.



Sir/Madam,

Sub: - Information under the RTI Act, 2005 — Regarding

Please refer to your letter dated 09.08.2019 with reference to your RTI application dt. 10.06.2019 which was received by this Commissionerate on 10.06.2019. Subsequently the said RTI application was registered at this office vide Registration No. 64/RTI/Kol-North/19 dt. 12.06.2019.

The desired information as received from the Assistant Commissioner (Adjn), CGST & CX, Kolkata North Commissionerate on 29.08.2019 under C.No.V (15)04 / North CGST & CX /Adjn/RTI / 2017/15118 dt. 29.08.2019 is enclosed herein.

If you are aggrieved or dissatisfied with the above information, you may prefer an appeal within 30 (thirty) days of receipt of the information before the 1<sup>st</sup> Appellate Authority namely Sri Gaurav Sinha,, Additional Commissioner, CGST & CX, Kolkata-North Commissionerate, O/o The Principal Commissioner of CGST & CE, Room No. 117, Kendriya Utpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.

Encl- 07 ( seven) Sheets.

Yours faithfully,

*Signature of Samiran Roy*

(Samiran Roy)

CPIO & Assistant Commissioner  
CGST: Kol-North Comm'te

C. No. As above/

*15435*

Copy forwarded for information to: -

Dated : **2 SEP 2019**

The Assistant Commissioner (Systems), Computer Cell, CGST & CX, Kolkata North Commissionerate with a request to again upload the RTI application submitted by Shri Sreekumar Bose, dt. 10.06.2019 along with the desired information as mentioned above (enclosed seven sheets) with reference to this office letter vide even No. 10142 dated. 11.07.2019

*Signature of Samiran Roy*  
*24/9/19*

(Samiran Roy)

CPIO & Assistant Commissioner  
CGST: Kol-North Comm'te.



10542  
29/8/19



*Shri S. Anil, Prop*  
*29.08.19*

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE  
OFFICE OF THE PRINCIPAL COMMISSIONER OF CGST & CENTRAL TAX:  
KOLKATA-NORTH COMMISSIONERATE, GST BHAWAN:  
180, SANTIPALLY, RAJDANGA MAIN ROAD, KOLKATA-700107.

C. No. V(15)04/North CGST & CX/Adjn/RTI/2017//15118

Date: 28.08.2019

29 AUG 2019

To  
The CPIO & Assistant Commissioner,  
HQ RTI Cell, CGST&CX,  
Kolkata North Commissionerate,  
Kolkata,

Sub: RTI application dt. 10.06.2019 filed by Shri Sreekumar Bose, Kolkata-700012 transfer under sec. 5(4) of RTI Act, 2005-Reg.

Please refer to your letter bearing C. No.-V(30)76/RTI/HQ/CGST & CX/ Kol North/2019/13752 dated: 14.08.2019 on the subject captioned above.

As desired by the applicant,

- Enclosed please find the photocopies of the relevant note sheets of the relevant files bearing no. V(15)10/North CGST&CX/ Adjn/Commr/RMC/19 and V(5)68/ST-Adjn/Commr/07 respectively.
- Enclosed please find the written note submitted by the assessee during PH dated: 12.02.2019 rescheduled to 22.02.2019. At the last page of their submission complete list of documents and nature thereof is available.

Encl: As stated above (06 sheets)

*Dame...*  
*28/8/19*

ASSISTANT COMMISSIONER (ADJN)  
KOLKATA CGST NORTH



# Rawalwasia Manufacturing Co. Pvt. Ltd.

Haute Street, 86A, Topsia Road South, 9th Floor, Kolkata - 700 046  
T +91 33 4003-1325/26 F +91 33 40040892 C +91 9830065666  
Mail - info@rawalwasia.co.in Website - www.rawalwasia.co.in  
CIN - U27106WB1993PTC058737

**Written Note submitted during PH dated 12/02/2019 rescheduled to  
22/02/2019**

Before The:

**Hon'ble Commissioner,**  
Kolkata North Commisionerate,  
GST Bhawan, 2<sup>nd</sup> Floor,  
180, Rajdanga Main Road,  
Kolakta-700107

Kindly Refer to the PH fixed on 12.02.2019 and rescheduled on 22.02.2019 in connection with CESTAT Order No. FO/76932-76935/2018 dated 14.11.2018 passed in respect of O-I-O No. 19/Commr/ST/Kol/2008-09 dated 24.09.2008 of M/s. Rawalwasia Manufacturing Company Pvt. Ltd. and No. 14/Commr/ST/Kol/2009-10 dated 31.08.2009 of M/s. K.L.Mechanical Works Pvt. Ltd.

We would place the following submissions in respect of the above proceedings for your kind consideration:-

**A. Submission in respect of M/s. Rawalwasia Manufacturing Company Pvt. Ltd : -**

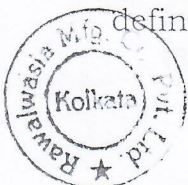
1. That, during the relevant period, we were operating four different companies all engaged in the same business of supply and erection of telecom towers. The four companies were created to serve different telecom clients as there was bar in providing service to competitor companies.

All the four companies namely,

1. Rawalwasia Manufacturing Company Pvt. Ltd.
2. K L Mechanical Pvt. Ltd.
3. Transmission Projects Pvt. Ltd., and
4. Teletronic Products Pvt. Ltd.

were engaged in identical job of supply and erection of telecom towers and related other civil/electrical work under composite contract on which Works Contract VAT was applicable and paid.

2. No service tax was paid in respect of above jobs in view of the fact that Telecom Tower is a Steel structure and erection/installation of such structures were out of the scope of levy of service tax under the category of "Erection Installation & Commissioning Service" in view of the definition contained under Section 65(39a) of the Finance Act, 1994. The





said definition of 'Erection Installation & Commissioning Service' was amended w.e.f. 01.05.2006 to include such structures within the said definition.

3. Accordingly, we started paying service tax on such services after the above date of amendment. This would be evident from annexure 4B of the Show Cause Notice which shows no dues in respect of such service for the year 2006-07. This is without prejudice to our claim of classification of the job under "Works Contract".
4. The DGCEI visited our office premises on 26.06.2006 and a common statement was recorded for all the four companies under summons dated 26.06.2006 which are RUD [No. 1 & 2] in the SCN and the present proceedings. The nature of job has been recorded under such statement for all the four companies. Relevant Books of accounts, bills and work orders were also submitted before the investigating authority as would be clear from Question 10 of the statement.
5. A second statement was also recorded on completion of the investigation on 05.05.2007 against summons dated 05.05.2007 which are RUD to the SCN as Annexure No. 3 & 4A. According to Para-5 of such statement, the work order was composite in nature but bills were raised in two stages. First, when the civil foundation work was completed and second when the tower material were supplied and installed. Under the misconception some service tax was collected and paid on part of the job though the same was not leviable during the relevant period on works contract. We have paid taxes as per direction of the authorities whether we collected the same or not. This fact has been recorded under para-2.2 of the SCN.
6. The present dispute has two following dimensions;
  - a) Whether the contracts under which we have executed the job of erection/installation of tower is a works contract within the meaning of Section 65(105)(zzzza) of the Finance Act, 1994.
  - b) If not, whether service tax was applicable on such job of erection/installation of towers during the relevant period as per Section 65(39a) of the Finance Act, 1994.
7. The relevant statutory definition of Works Contract as was contained under Section 65(105)(zzzza) of the Finance Act, 1994 is reproduced herein below;
8. As per the above definition the two principle features for a job to qualify as works contract are;
  - i) The contract should be for transfer of property in goods involved in the execution of the contract and such contract is leviable to tax as sale of goods (works contract tax)
  - ii) The contract should be in the nature of any one or more of the following purposes;
    - (a) contract of erection, commissioning or installation service



- (b) contract of commercial or industrial construction service
- (c) contract of .....
- (d) Contract of .....

The contracts under which we have executed the alleged jobs are contracts of erection, commissioning or installation service which is an admitted fact under the demand notice.

Such contract is leviable to tax as deem sale of goods under works contract tax as would be evident from the relevant contracts, WC TDC Certificates, VAT Returns and the Balance Sheets as has been submitted earlier and is also being placed for scrutiny today.

9. Further Section 2 of the Central sales Tax Act, a works contract is defined as follows;

*“A contract for carrying out work which includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property.”*

As per the above definition, a Works Contract is a contract for the sale of goods as well as the provision of work or services, but is indivisible in nature as has been held by various Court of Law.

The contract under which we have executed the disputed jobs are covered under both the definition provided under The Central sales Tax Act as also the Finance Act, 1994.

10. All of our job contracts are identical in nature. We have already submitted original copies of such work orders and bills to the departmental authority during investigation as would be evident from Answer to Question No. 4 and 10 of the relied upon statement dated 26.06.2006 and the relevant summons dated 26.06.2006. Therefore, we are not in possession of all the work orders. As we have not executed any other job/services during the relevant period, jobs executed under all the work orders are of identical nature relating to supply and erection of telecom towers. As per your requirement, we are further submitting copies of Work Orders and Bills as available. Balance Sheet, & TDS Certificates as available are also being submitted for your scrutiny.
11. The Balance sheet will also reveal that most of the revenue has been received from execution of works contract and WC sale tax has been paid on such contracts.
12. There is a standard work order issued initially for a particular type of tower. However, on the basis of specific requirement of the erection site, such work orders are often amended after inspection and the work value in most cases are amended under WORK CHANGE ORDERS according to which payment is finally made after statutory deduction of Works Contract VAT and ITDS. We have submitted copies of both types of orders for scrutiny as available. That during the relevant period, we have executed identical jobs in all the work orders.



13. That the matter of dispute involves classification of service and interpretation of law for which longer period of limitation is not applicable as has been held under a series of case laws including the Apex Court.

In view of the above facts and arguments, it would be evident that the work orders executed by us during the alleged period are classifiable as works contract and the allegations under the impugned Show Cause cum Demand Notice are baseless, and contrary to available evidence. The allegation of willful suppression of facts and intention of evasion of tax are mere mechanical allegations, far and contrary to the true facts on record and is not tenable under law.

Under the above facts and circumstances it is fervently prayed that –

- i) The disputed work executed by us be classified as Works Contract.

Your noticee would crave leave of your honour to add to and/or omit and/or annul and/or modify and/or substitute the submissions made hereinabove and to adduce/produce any evidence, which is material to this proceeding at any time during the course of this proceeding.

And for this act of kindness your noticee as is duty bound shall ever pray.

Yours faithfully,

For M/s. **Rawalwasia Manufacturing Company Pvt. Ltd.**

For RAWALWASIA MANUFACTURING CO. PVT. LTD.

D.R. Agarwal

Director

**Enclosures :**

1. Copy of Balance sheets showing payment of WC TDS. [ ..... pages]
2. Copy of WC TDS Certificates. [ ..... pages]
3. Copy of Sale Tax Returns (State of WB). [ ..... pages]
4. Copy of Work Orders & Work Change Orders as available. [ ..... pages]
5. Copy of Bills as available. [ ..... pages]

V(15)10/North (GST & CA) Adjn/Comms/RMC/19

○ Has been fixed on 12.02.19 at 15.30 hrs. As directed by the Commissioner, the date of PH  
Accordingly, a letter in this respect has been prepared & placed opposite for your kind perusal & signature if deemed fit.

~~Amrinder Singh~~  
29/1/19

~~Amrinder Singh~~

~~[Signature]~~  
29/1/19

(Sd/- Adjn)

~~[Signature]~~  
29.01.19



The SCN dated 31.5.07 has been issued by DGCEG. In file only one letter of the assessee dated 27.6.07 is available. In this letter they have requested for 30 days time for submitting reply. But reply is not available in file. It appears that the party have not submitted any reply till date.

As directed by the Commissioner on 26/6/08, P.H. fixed on 17.7.08 at 11:00 hrs. Letter of PH prepared, signed & sent to dispatch.

~~Smith~~  
01.07.08  
Supt (Adjin)

Nobody appeared for ph. Next date is 31<sup>st</sup> July 08 at 11:00 AM. Inform by fax

~~PH~~  
17/7/08

As directed letter of PH prepared and dispatched to the party and could not Fax as there is no Fax No. available in the file. For u/information pls.

~~PH~~  
18/7/08  
Supt (Adjin)

Commr.

Nobody appeared for personal hearing.

This is the last opportunity now. PH fixed for 13<sup>th</sup> Aug 08. Inform by fax

~~PH~~  
31/7/08

Supt (Adj)

As directed letter of PH prepared and dispatched to the party and could not Fax as there is no Fax No. available in the file. For u/information pls.



Nobody appeared for hearing.

Next fb fixed for 27th Aug 08. at  
11.0 hrs. in form that this is the  
last hearing.

SJA  
14/8

As directed letter of PH prepared and  
dispatched.

SJA  
14/8/08  
S(Adjo)

2