

AUTHORITY FOR ADVANCE RULINGS
(Central Excise, Customs and Service Tax)
Hotel Samrat, 4th Floor, Kautilya Marg, Chanakyapuri
New Delhi

Present:

Justice V.S. Sirpurkar (Chairman)
Shri S.S.Rana (Member)
Shri R.S.Shukla (Member)

The 15th day of July, 2016

Ruling No. AAR/ST/ 16 /2016

in

Application No. AAR/44/ST/25 /2015

Name & address of the applicant : M/s Steadfast Corporation Ltd.,
Telengana

Commissioners concerned : Principal Commissioner of Service Tax,
11-5-423/1/A, Sitaram Prasad Towers,
Red Hills, Hyderabad 500004
Telegana State

Present for the applicant : Shri Y.S.Reddy, Advocate,

Present for the Department : Shri Amresh Jain (AR)

Ruling

M/s Steadfast Corporation Ltd. (hereinafter also referred to as applicant) is a Public Limited Company. They propose to take up the activity of construction of Railway Works including sidings for private companies as well as Indian Railways. Applicant has raised the following question for ruling by this Authority:

Whether construction of railway siding for private parties is exempted under Notification No. 25/2012-ST dated 20.06.2012, as amended vide entry No. 14(a) thereof?

2. It is observed that service of construction, erection, commissioning or installation of original works pertaining to railways is exempted under Notification No. 25/2012-ST dated 20.06.2012 vide entry at S.No.14(a), which reads as under;

(14) Services by way of construction, erection, commissioning or installation of original works pertaining to,-

a) railways, including monorail or metro

3. Further, Section 2 (20) and (25) of the Railways Act, 1989 define Government railway and Non-Government railway, as under;

(20) Government railway means a railway owned by the Central Government

(25) Non-government railway means a railway other than a Government railway.

4. Section 2(31) of the Railways Act, 1989 define railway as under;

(31) railway means a railway, or any portion of railway for the public carriage of passengers or goods and includes-

x x x x x

(b) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway

x x x x x

5. Revenue inter-alia submits that there are 2 types of railways; Government and Non-Government; that in order to qualify as “railway” for both of them, it should be used for public carriage of passengers or goods; that construction of railway sidings for private companies/public undertakings which are exclusively used for private purposes cannot qualify as railway; that the side track constructed by a private/non-Governmental agency / private entity cannot qualify as railway and are not eligible for exemption.

6. The basic thrust of argument on behalf of the Revenue is that out of two types of railways i. e. Government and Non-Government railway, benefits of Notification No. 25/2012-ST would be applicable only to Government railway. It is admitted fact that construction of railway siding would be construction of original work pertaining to railways in terms of Notification No. 25/2012-ST. It is to be observed that subject Notification No.25/2012-ST does not differentiate between Government and Non-Government railway. Railway as per the Railways Act, 1989 inter-alia means a railway, or any portion of railway for the public carriage of passengers or goods.

However, Notification No. 25/2012-ST dated 20.06.2012 vide entry at S.No.14 (a) grants exemption to “railways” and is not restricted to “railway”. Even if the definition of “railway” is taken from the Railways Act, 1989 for interpreting said Notification, as Revenue has resorted to do, the benefit of Notification would be available to “railways” including “railway” used for purposes other than for public carriage of passengers or goods. Further, Section 94 of the Railways Act, 1989 relied upon by the Revenue is not relevant, as deals with the liability of damage to in-transit goods. In view of above conclusion, we are not considering other points raised by the applicant in support of their application.

8. In view of above, we rule as under;

Construction of railway siding for private parties is exempt under Notification No. 25/2012-ST dated 20.06.2012, as amended vide entry No. 14(a) thereof.

Sd/-
(S.S. Rana)
Member(R)

Sd/-
(V.S. Sirpurkar)
Chairman

Sd/-
(R.S. Shukla)
Member(L)