

EV Vehicles charging stations to provide 'battery charging service' and not supply or distribution of 'electricity' – liable to GST @ 18%

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Classification under GST Law can sometimes be contrary to general understanding. The charging of a battery in EVs requires electricity and an electricity company will provide electricity supply to the public charging stations which will in-turn provide the electricity to all electric vehicle users who can access these public charging stations for battery charging. General understanding is that the EV vehicle battery shall be charged with electricity (which is an exempt goods)', but The AAR dug deep and concluded that it is 'Battery Charging Service'. The AAR Karnataka has opined that the charging of EV vehicles will be a service liable to GST @18% in the case of M/s CHAMUNDESWARI ELECTRICITY SUPPLY CORPORATION LIMITED [2023-VIL-147-AAR].

The decision is based on the clarification issued by The Ministry of Power that charging of an EV battery by a charging station involves 'a service' requiring the consumption of electricity by the charging station. The activity does not involve any sale or distribution of electricity. It stated that "The charging of battery essentially involves utilization of electrical energy for its conversion to chemical energy, which gets stored in the battery. Thus, the charging of battery of an electric vehicle by a charging station involves a service requiring consumption of electricity by the charging station and earning revenue for this purpose from the owner of the vehicle. The activity does not in any way include sale of electricity to any person as the electricity is consumed within the premises owned by the charging station, which may be connected to the distribution system or otherwise for receiving electricity. By the same logic, the activity does not involve further distribution or transmission of electricity". Further it is mandatory to have a licence to supply electricity. In the instant case, the Public Charging Stations (PCS) do not have licence as required under the Electricity Act 2003 as it is considered that the supply by PCS is not electricity.

The applicant would issue tax invoices and collect "Electric Vehicle Charging Fee", which would include two components - (a) 'Energy Charges', and (b) 'Service Charges'. 'Energy Charge' refers to the number of units of energy consumed and the 'Service Charge' refers to the services provided by the charging station, i.e., the cost of setting up the service station and running the same. The entire amount will fall under SAC 998714 and GST@18% should be charged on the entire value of the service.

BRIEF ABOUT THE AUTHOR:

Vivek Jalan is a Chartered Accountant & a qualified L. LM & LL.B. He is the Founder & Partner of Tax Connect Advisory Services LLP. He is the Chairman of The Indirect Tax Core Group of The Confederation of Indian Industries – Economic Affairs and Taxation Committee (ER). He is the Chairman of The Fiscal Affairs and Taxation Committee of The Bengal Chamber of Commerce and Industry. He is the Member of The Managing Committee of The Bengal Chamber of Commerce and Industry.

He is a regular Columnist and guest expert in Economic Times, Business Standard, Times of India, Dalal Street Journal, Money Control, Live mint, CNBC, Hindustan Times, Zee Business, Financial Express, other dailies and business magazines like Business Today, etc. He is also a guest expert on Taxation matters in All India Radio and other media platforms. He is the Editor of Weekly Bulletin TAX CONNECT, a publication on Direct and Indirect Taxes which reaches more than 70000 professionals.

He is also a visiting faculty in The Confederation of Indian Industries (CII), The Institute of Chartered Accountants of India, Institute of Cost Accountants of India, Indian Institute of Foreign Trade, The Bengal Chamber of Commerce and Industry, The Indian Chamber of Commerce, The Merchant Chamber of Commerce and other Business Forums. He has also delivered Lectures at various Government Taxation Forums including the CGST & SGST Departments across the country.

He has worked as a Finance Manager in ITC Ltd. and Chief Compliance Officer with Intra Soft Technologies Ltd. He has more than 18 years of experience in the field of Information Technology, Finance, Taxation and Logistics. He was also an All-India Rank holder in CA Final Examination conducted by the Institute of Chartered Accountants of India.

His Books include the following –

- COMMENTARY ON UNION BUDGET 2023 – February 2023
- HOW TO HANDLE GST LITIGATION– September 2022
- HANDBOOK ON GST– June 2022
- GST PLEADING & PRACTISE – August 2021 – **India's Bestseller**
- UNION BUDGET 2021 – February 2021
- SECTIONWISE COMPENDIUM ON GST – October 2020
- INTEGRATED APPROACH TO E-INVOICING E-WAYBILL & RETURN FILING – October 2020
- COMMENTARY ON UNION BUDGET 2020– Feb 2020
- COMMENTARY ON UNION BUDGET 2019 – July 2019
- WITHDRAWAL OF LEGAL TENDER 2016
- COMMENTARY ON UNION BUDGET 2017
- SECTION-WISE COMPENDIUM ON GST – Oct 2020
- INTEGRATED APPROACH TO GST E-INVOICE, E-WAYBILL & RETURN E-FILING – Oct 2020
- **SECTION-WISE COMMENTARY ON GST – SEPTEMBER 2018**
- HOW TO HANDLE GST-TDS, GST-TCS, GST AUDIT & GST ANNUAL RETURN – NOVEMBER 2018
- A COMPENDIUM ON GST W.E.F. 1ST JULY 2017
- GST MODEL LAW (NOVEMBER 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
- GST MODEL LAW (JUNE 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
- "SERVICE TAX AND VAT IN WORKS CONTRACT: A COMPREHENSIVE TECHNICAL GUIDE".

He is a regular speaker at various professional forums on the various key areas in Finance and has delivered more than 300 lectures on various topics under Information Technology, Finance, GST, Customs, Foreign Trade Policy of India, Income Tax, etc.