

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560009**

Advance Ruling No. KAR ADRG 03/2024

Date: 29.01.2024

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. Kiran Reddy T
Additional Commissioner of Customs & Indirect Taxes . . . Member (Central)

1.	Name and address of the applicant	M/S. MANISH MANPOWER AGENCY, No. 41-76/1, Sri Lingeshwar Sadam, Halepeth, Shahapur, Yadgiri
2.	GSTIN or User ID	29AAPFM7745M1ZA
3.	Date of filing of Form GST ARA-01	12.10.2023
4.	Represented by	Sri. Lingaraj M Pujari Chartered Accountant
5.	Jurisdictional Authority - Centre	SGSTO 521, Shahpur
6.	Jurisdictional Authority - State	The Commissioner of Central Taxes, Belagavi GST Commissionerate Gulbarga Division, Yadgir Range
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from Electronic Cash Ledger vide reference No. DC2906230074290 dated 16.06.2023.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Manish Manpower Agency, No. 41-76/1, Sri Lingeshwar Sadam, Halepeth, Shahapur, Yadgiri, (hereinafter referred to as 'The applicant') having GSTIN 29AAPFM7745M1ZA, have filed an application for Advance Ruling under Section 97 of CGST Act 2017 and KGST Act 2017 read with Rule 104 of CGST Rules 2017 and KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



2. The applicant is a Partnership firm, registered under the provision of Central Goods and Services Tax Act, 2017, as well as Karnataka Goods and Services Tax Act, 2017 (herein after referred to as the CGST Act and KGST / SGST Act respectively). The applicant is engaged in supplying manpower services to Zilla Panchayat, Taluk Panchayat, Forest Department, KPTCL, Railway Department etc.

3. The applicant has sought advance ruling in respect of the following question:

1. *Whether the pure services provided to Zilla panchayat (social welfare department) and Taluk Panchayat are exempted under Article 243G of the constitution.*

However, during the personal hearing, duly authorized representative of the Applicant has requested to amend the question as below and has submitted a letter for the same:

1. *Whether the supply of manpower services to Zilla Panchayat (Social Welfare Department) and Taluka Panchayat are exempted from GST under Sl.No.3 of the Notification No.12/2017-Central Tax (Rate) as Pure Services?*

4. Admissibility of the application : The question is about "Determination of the liability to pay tax on any goods or services or both", which are covered under Sections 97(2)(e) respectively of the CGST Act 2017.

5. BRIEF FACTS OF THE CASE: The applicant furnishes some facts relevant to the issue.

5.1.The Applicant states that they are providing manpower services to Zilla Panchayat, Taluk Panchayat, Forest Department, KPTCL, Railway Department. The nature of manpower services provided are in the form of 'C' Group and 'D' Group, teachers, Data Entry Operators, Staff Nurse, Typists, Cooks, Assistant Cooks, Watchman, Cleaning Staffs etc.,

5.2.The Applicant states that they are providing manpower services to educational institutions under Zilla Panchayat like Social Welfare Department/ BCM Department, Taluk Panchayat, Social Welfare Department, Forest Department and we claim that manpower services provided by us are exempted from GST under Sl.No.3 of Notification No.12/2017-Central Tax (Rate), dated 28th June, 2017 as pure services.

5.3.The Applicant states that the provision of manpower services like cleaning staff, cook, assistant cook, teachers, staff nurse and watchman to hostels and residential schools working under Social Welfare Department is exempted as it satisfies both the conditions mentioned under entry no.3 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017. These manpower services are provided to Social Welfare Department, which is a department of State Government. These manpower services are provided to socially backward people, scheduled caste and scheduled



tribe which is in relation to function entrusted to a Panchayat under article 243G of the Constitution which is covered by 27th entry of eleventh schedule which says 'Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.

PERSONAL HEARING / PROCEEDINGS HELD ON 03.11.2023

6. Sri. Lingaraj M Pujari, Chartered Accountant and duly authorised representative of the applicant appeared for personal hearing proceedings held on 03.11.2023 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the authorized representative and also their submissions made during the time of hearing.

9. The applicant states that they are providing manpower services to educational institutions run by Social Welfare Department, Backward Classes Welfare Department, Forest Department, KPTCL, Railway Department etc. The nature of manpower services provided are in the form of 'C' Group and 'D' Group, teachers, Data Entry Operators, Staff Nurse, Typists, Cooks, Assistant Cooks, Watchman, Cleaning Staffs etc.

9.1 The Applicant has provided few copies of work orders given by the Office of Deputy Commissioners of different districts. After going through the same it is observed that, the Applicant has to provide manpower for the posts of FDA, SDA, teachers, Typists, Cooks, Assistant Cooks, Watchman, Cleaning staffs, staff nurse, drivers etc to the residential schools, colleges or hostels run by Social Welfare Department/ Backward Classes Welfare Department of Government of Karnataka. The Applicant is of the opinion that they are providing pure services to Social Welfare Department/Backward Classes Welfare Department through Zilla panchayat/Taluk Panchayat and hence exempted from GST as per entry no.3 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

10. Whether the manpower services provided to Zilla Panchayat, Taluk Panchayat, Social Welfare Department, Backward Classes Welfare Department is exempted under entry no.3 of the Notification No.12/2017- Central Tax (Rate)



dated 28.06.2017, is to be examined and the said Entry reads as under:

"Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution."

10.1 From the above said entry of the notification it is observed that, in order to claim exemption on supply of man power services two conditions should be satisfied:

1. *Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority*
2. *by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution."*

Now we examine one by one. The Applicant states that he is providing manpower services to Zilla Panchayat, Taluk Panchayat, Social Welfare Department, Backward Classes Welfare Department As per section 2(69) of KGST Act 2017 "Local Authority" means

- (a) Panchayat as defined in clause (d) of article 243 of the Constitution;
- (b) a Municipality as defined in clause (e) of article 243P of the Constitution;
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

From the above it is evident that Zilla Panchayat and Taluk Panchayat are covered under local authorities and hence the first condition is satisfied.

10.2 The Applicant is also providing Manpower Services like FDA, SDA, teachers, Typists, Cooks, Assistant Cooks, Watchman, Cleaning staffs, staff nurse, drivers to the residential schools, colleges or hostels run by Social welfare department or Backward Classes Welfare Department of Karnataka Government which is nothing but State Government and hence the first conditioned mentioned supra is satisfied.



243G- Powers, authority and responsibilities of Panchayats subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

- (a) The preparation of plans for economic development and social justice;
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Matters listed in Eleventh schedule are:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. **Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.**
28. Public distribution system.



29. Maintenance of community assets.

243W. Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law, may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

There are 18 items in the twelfth schedule of the Constitution which are as below:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and **solid waste management**.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

11. The applicant is providing manpower services like FDA, SDA, Typists, drivers Data Entry Operator, "D" Group etc to Zilla Panchayat/Taluk Panchayat/ Social welfare department/Backward Classes Welfare Department. But these manpower services are not provided by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to



any function entrusted to a Municipality under article 243W of the Constitution. Hence provision of such manpower services is liable to tax at 18% (9% CGST and 9% SGST).

11.1 The applicant is also providing manpower services like cleaning staff, cook, assistant cook, teachers, staff nurse and watchman to hostels and residential schools/colleges run by Social welfare department is exempted as it satisfies both the conditions mentioned under entry no.3 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017. These manpower services are provided to Social welfare department which is a department of State Government. These manpower services are provided to weaker sections including scheduled caste and scheduled tribe which are in relation to the function entrusted to a Panchayat under article 243G of the constitution which is covered by 27th entry of eleventh schedule which says 'Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes'.

12. In view of the foregoing, we pass the following

R U L I N G

Supply of manpower services like cleaning staff, cook, assistant cook, staff nurse, teachers and watchman to hostels and residential schools/colleges run by Social welfare department is exempted since the manpower services provided are by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

Supply of Manpower services like Data Entry Operator, Drivers, "D" Group staff, FDA, SDA, Typists to Zilla Panchayat/Taluk Panchayat/ Social welfare department/Backward Classes Welfare Department are not by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution and hence attracts GST at the rate of 18% (CGST @ 9% and KGST @ 9%).


(Dr. M.P. Ravi Prasad)
Member

MEMBER
Karnataka Advance Ruling Authority
Place: Bengaluru,
Bengaluru - 560 009

Date: 29.01.2024

To,

The Applicant

M/s. Manish Manpower


(Kiran Reddy T)
Member
MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, Belagavi GST Commissionerate, Belagavi.
4. The Commercial Tax Officer, SGSTO-521, Shahpur.
5. Office Folder.

(Kiran K. T.)
Member
Karnataka Advance Rating Authority
Bengaluru - 560 009

(Dr. M. T. K. S. S. S.)
Member
Karnataka Advance Rating Authority
Bengaluru - 560 009
Date: 20/01/2024

