

**AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH**

**Goods and Service Tax()**

**O/o THE COMMISSIONER, COMMERCIAL TAX,**

**MOTI BUNGALOW,**

**MAHATMA GANDHI MARG, INDORE (M.P.) - 452007**

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**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING**

**U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017**

**Members Present**

1. Rajiv Agrawal

Additional Commissioner ,

Office of the Commissioner,CGST and Central Excise, Indore

2. Manoj Kumar Choubey

Joint Commissioner ,

Office of the <sup>Joint</sup> Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AACCB6390F1ZW
Name and address of the applicant	Egis India Consulting Engineers Private Limited Pandit Deen Dayal Nagar, Housing Board Colony, District – Sajapur, 465001, Madhya Pradesh
Date of Application	11-04-2018
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) applicability of a notification issued under the provision of this Act; i.e., Eligibility of exemption of GST in respect of consulting services provided to assist the state/Urban Local Bodies (ULB) in implementation of Atal Mission for Rejuvenation and Urban Transformation ('AMRUT') and Pradhan Mantri Awas Yojana('PMAY'), in light of Notification No.12/2017- Central Tax (Rate) dated 28 June, 2017 as amended by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018; and Notification No. FA -3-42/201711/v (53) dated 30 June 2017.
Date of Personal hearing	11-05-2018
Present on behalf of applicant	Shri Ravindra Singh Jadon, Project Manager
Case Number	08/2018
Order dated	22.06.2018
Order No.	02/2018



## PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act 2017 and Madhya Pradesh Goods and Services Tax Act,2017)

### 1. BRIEF FACTS OF THE CASE:

- 1.1. M/s. Egis India Consulting Engineers P. Ltd., Shajapur (hereinafter referred to as the Applicants) have been engaged in providing Consulting services to their clients and they have been registered with GSTN under GSTIN **23AACCB6390F1ZW**.
- 1.2. The Applicant is engaged in providing engineering, project structuring and operations services in various sectors like transport, urban development, building, industry, water, environment and energy. The Ministry of Urban Development, Government of India has rolled out the **Atal Mission for Rejuvenation and Urban Transformation ('AMRUT')** for transforming urban India.
- 1.3. The Applicant has been appointed as Project Development and Management Consultant ('PDMC') to provide necessary services to the State/ULBs to ensure implementation of the AMRUT Scheme. The scope of work in respect of the AMRUT is as follows:
  - i. Project management
  - ii. Project planning
  - iii. Survey, studies and investigations
  - iv. Feasibility study
  - v. Detailed design
  - vi. Bidding process and contract award
  - vii. Construction supervision and contract management
- 1.4. Further, the Ministry of Housing and Urban Poverty Alleviation, Government of India has launched the **Pradhan Mantri Awas Yojana – Housing for All (Urban) ('PMAY')** to improve civic infrastructure and increase the supply of affordable housing to target segments. The Applicant has been appointed as Project Management Consultant ('PMC') for the PMAY Scheme. The scope of work for **PMAY** is as under:
  - Review of HFPoA and Details Project Report
  - Bid Process Management
  - Project and Contract Management
  - Supervision and Quality Control





1.5. On perusal of the aforesaid terms of the both the contracts of AMRUT as well as PMAY, the following understanding appears, as contended by the applicants:

- (i) For the purpose of executing the Contracts, the Applicant would provide consulting services to the Recipient in respect of survey and investigations, feasibility study, bid process management, contract management and supervision etc., by deploying its personnel conforming to the requirement of the RFP documents for both Schemes. Such personnel would be required to travel and visit the Project site.
- (ii) Further, the Applicant procures certain goods which are required for rendering the above services of survey, investigation etc. Such goods include laptop, desktop etc., which are procured by Applicant on behalf of Recipient, which are later on reimbursed on actual cost basis. Such expenses are charged over and above the consideration for remuneration and reimbursable expenses of travel, office accommodation, per diem allowance etc. These assets are later on transferred to the Recipient by the Applicant.
- (iii) Accordingly, it follows that the Project costing of both the Contracts consists of two aspects – (a) remuneration for staff deployed including reimbursable expenses incurred by staff (including per diem allowance, travel, stay, office accommodation etc.); and (b) costs of goods (like laptop, desktop, refrigerator, furniture, software, water dispenser, air conditioner etc.) procured by Applicant for executing the Contract, which are later on transferred to the Recipient.

1.6. As per the payment terms, the remuneration of personnel would be reimbursed on monthly basis, and reimbursements will be on actual or lump sum basis, as agreed between the parties.

1.7. In view of the facts and circumstances of the above two agreements, under which the respective contracts have been awarded to the applicants, the applicants have approached the Authority seeking answers to the questions referred hereunder;

## **2. QUESTIONS RAISED BEFORE THE AUTHORITY:**

The below question have been formed in relation to the services being provided by applicant to the recipient (State/ULBs) vide reference to the contracts:





- 2.1. Whether the Project Development and Management Consultancy services ('PDMC') provided by Applicant to recipient under the Contract for AMRUT; and the Project Management Consultancy services ('PMC') under the Contract for PMAY would qualify as an activity *in relation to* function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?
- 2.2. If answer to question 2.1 is in affirmative, would such services provided by the Applicant qualify as "Pure services (excluding works contract service or other composite supplies involving supply of any goods)" as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017 [Notification No. FA -3-42/201711/v (53) dated 30 June 2017, as amended by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 ('CGST') and corresponding notifications issued under Madhya Pradesh Goods and Services Tax Act, 2017 ('MPGST Act'), where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and MPGST, respectively.

**3. DEPARTMENT'S VIEW POINT:**

**4. RECORD OF PERSONAL HEARING:**

Shri Ravindra Singh Jadon, Project Manager appeared on behalf of the applicants for personal hearing on 11.06.2018 and he reiterated the submissions already made in the application and Annexures with the application. He also sought to submit copies of certain documents and requested that the same may be taken on record. Accordingly, the documents submitted have been taken on record for consideration.

**5. DISCUSSIONS AND FINDINGS:**

- 5.1. We have carefully considered the submissions made by the applicant in the application and also the documents submitted at the time of personal hearing. In view of above deliberations and on considering the various clauses of agreement between Directorate, Urban Administration & Development, Government of Madhya Pradesh, Bhopal, and the applicant M/s. Egis India Consulting Engineers Pvt. Ltd., Shajapur, Madhya Pradesh for "Project Development and Management Consultant (PDMC) for Atal Mission for Rejuvenation and Urban Transformation (AMRUT) including





Project Management of other Notified Schemes in Project Area and the Project Management Consultancy Services (PMC) under the Contract for PMAY”, we proceed to examine the questions applied for by the applicant.

5.2. Coming to the first question; *‘Whether the Project Development and Management Consultancy services (PDMC) provided by Applicant to recipient under the Contract for AMRUT, and the Project Management Consultancy Services (PMC) under the Contract for PMAY would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243-G or Article 243-W respectively of the Constitution of India ?’*, we need to dwell into the purpose and scope of the Schemes AMRUT and PMAY.

5.3. As per website of the Ministry of Housing and Urban Affairs, the Government of India has launched the Atal Mission for Rejuvenation and Urban Transformation (AMRUT) with the aim of providing basic civic amenities like water supply, sewerage, urban transport, parks as to improve the quality of life for all especially the poor and the disadvantaged. The purpose of “AMRUT” mission is to (i) ensure that every household has access to a tap with assured supply of water and a sewerage connection (ii) increase the amenity value of cities by developing greenery and well maintained open spaces e.g. parks and (iii) reduce pollution by switching to public transport or constructing facilities for non-motorized transport e.g. walking and cycling. The major components of the AMRUT Scheme are Water Supply system, Sewerage, Septage, Storm Water Drainage, Urban Transport, Green Space and Parks, Reforms management and support, Capacity building, etc.

5.4. Similarly, as per website of Pradhan Mantri Awas Yojana-Housing for All (Urban), Ministry of Housing and Urban Affairs, the PMAY is a Scheme to provide central assistance to Urban Local Bodies (ULBs) and other implementing agencies through States/UTs for Rehabilitation of existing slum dwellers using their land as a resource through private participation, and Affordable Housing in Partnership.

5.5. Thus, the various objectives of both the above Schemes are covered in more than one clauses of the Eleventh and Twelfth Schedule referred in Article 243G and 243W of the Constitution, including Housing, drinking water, sanitation, Park, etc.

5.6. Accordingly, we hold that the Consultancy services rendered by the applicant under the Agreement with Urban Administration & Development,





Government of Madhya Pradesh, Bhopal for implementation of AMRUT and PMAY are in relation to functions entrusted to Municipalities under Article 243-W and to Panchayats under Article 243-G of the Constitution of India.

- 5.7. Now coming to second question for consideration before us is a corollary to the first question, in case the answer to first question is in affirmative. Since we have already made our findings in affirmative as far as first question, we now move to examine the second question which reads as under:

*'If answer to question 1.1 is in affirmative, would such services provided by the applicant qualify as "Pure Service" (excluding works contract service or other composite supplies involving supply of any goods) as provided in Serial Number 3 of Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017 ), as amended by Notification No. 2/2018-Central Tax (Rate), dated 25th January, 2018 issued under Central Goods and Services Tax Act, 2017 (CGST) and corresponding notifications issued under Madhya Pradesh Goods and Services Tax Act, (MPGST Act), where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such services, and, this, be eligible for exemption from levy of CGST and MPGST, respectively ?'*

- 5.8. The Contract awarded to the applicant by Urban Administration & Development, Government of Madhya Pradesh, Bhopal, for "Project Development and Management Consultant (PDMC) for Atal Mission for Rejuvenation and Urban Transformation (AMRUT) including Project Management of other Notified Schemes in Project Area" is a Pure Service Contract. It is not covered in exclusion clause pertaining to "works contract service" or "composite supplies involving supply of any goods". It is evidently in relation to the functions entrusted to Municipalities under Article 243W and to Panchayats under Article 243G of the Constitution, and therefore, it is exempt from tax being covered in Sr. No. 3 of Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017 (as amended from time to time) issued under Central Goods and Services Tax Act, 2017 (CGST Act), and corresponding notifications issued under issued under Madhya Pradesh Goods and Services Tax Act, 2017 (MPGST Act).

- 5.9. Having said that, we find that the contract speaks further to provision of Pure Service in respect of equipments, furnitures etc. purchased by the





applicant during the course of providing services entrusted to them. As per clause (a) of Para 5 of the Appendix given at Para 5 of "Section 4 - Financial Proposal - Standard forms" to the Agreement read with its Para 3.9 of the General Terms of the contract, the applicant '*....shall purchase Office Equipments, Furnitures, etc. with the approval of the Employer, and shall get reimbursement of actual cost of these equipment, etc. from the employer, these Equipments, Furnitures, etc. shall be property of the Employer, and shall be disposed of by the applicant as per instruction of the Employer after their use for the contract*'.

5.10. Having carefully considered the nature of equipments, furnitures etc., which the applicant is required to purchase, of the like of Lap-tops, computers, refrigerators, furnitures etc., we find that these items are not naturally bundled into the service being provided by the applicant. Further, we also find that as per the contracts, such items have to be disposed off by the applicant after completion of contract as directed by the principal, and the cost of such items would be over and above the contract price. Therefore, we hold that such purchases of equipments, furnitures, etc. would neither make the said contract of consultancy as a works contract, nor a composite contract, and therefore, due to purchase of Equipments, Furnitures, etc. by the applicant, and getting reimbursement of their costs from the employer will not affect eligibility of the applicant for NIL rate of tax in Sr. No. 3 of Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017 and corresponding notification issued under Madhya Pradesh Goods and Services Tax Act, 2017 (MPGST) Act in respect of Consultancy services rendered under the contract in question.

5.11. However, the question about liability of tax on disposal of Equipments, Furnitures, etc. purchased by the applicant under the contract in question has not been applied for by the applicant, and therefore, the Authority is neither obliged nor required to venture into that subject. Though it may not be out of place to mention that disposal of such goods shall be governed by the provisions of CGST Act 2017/MPGST Act 2017/IGST Act 2017, as the case may be.

#### **RULING**

6. The Advance Ruling on questions posed before the authority are answered as under:

6.1. In respect of Question 1, we hold that the Project Development and Management Consultancy services ('PDMC') provided by Applicant to recipient under the Contract for AMRUT; and the Project Management Consultancy services ('PMC') under the Contract for PMAY would qualify as an activity **in relation to** function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India.

6.2. In respect of Question No.2, we hold that such services provided by the Applicant would qualify as "Pure services (excluding works contract service or other composite supplies involving supply of any goods)" as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017 as amended by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 ('CGST') and corresponding notifications issued under Madhya Pradesh Goods and Services Tax Act, 2017 (MPGST Act) in respect of the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and MPGST, respectively. However, the disposal of tangible goods at the end of contract shall be subject to GST depending upon the circumstances and manner of disposal of such tangible goods.

— sd —  
RAJIV AGRAWAL  
(MEMBER)

— sd —  
MANOJ KUMAR CHOUBEY  
(MEMBER)

No. 08/2018/A.A.R/R-28/22

Indore, 22/06/2018

Copy to:-

1. Applicant
2. The Chief Commissioner(CGST) Bhopal
3. The Commissioner (SGST), Indore
4. The Concerned Officer
5. The Jurisdictional Officer – State/Central

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