
 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR – 302005 (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2023-24/09

Umesh Kumar Garg Joint Commissioner	:	Member (Central Tax)
Mahesh Kumar Gowla Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/S Ramesh kumar jorasia (Muskan Construction), 75/86, Shipra Path, Mansarovar, JAIPUR-302020, Rajasthan
GSTIN of the applicant	:	08AEMPV1900N1Z0
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 provisions of this Act;
Date of Personal Hearing	:	26.06.2023.
Present for the applicant	:	Adv. Anil Goyal, Anirudh Goyal, CA
Date of Ruling	:	31.08.2023

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The issue raised by M/S Ramesh Kumar Jorasia (Muskan Construction), 75/86, Shipra Path, Mansarovar, JAIPUR-302020, Rajasthan(hereinafter referred to as “applicant”). Applicant is registered and going to start process to make the glasses, toughened/reflective/laminated/secured/low e glass etc., in the name of M/Ramesh Kumar Jorasia, (Muskan Construction)The two issues raised by applicant is fit to pronounce advance ruling & it falls under the ambit of the Section 97(2) (b) given as under:

(b) applicability of a notification issued under the provisions of this Act;

A Submission of The Applicant: (in brief)

That Muskan Construction, Regd. at 75/86, Shipra Path, Mansarovar, Jaipur has been awarded a contract from Jaipur Development Authority through vide Work order No. JDA/EE/PHE I/WO/2021-2022/Nov/08 dated 03.11.2021 for Operation and Maintenance of Water Supply Scheme for 1 year in JDA Jurisdiction at PHE – I (South) Jaipur.

B Interpretation and understanding of applicant on question rose (in Brief)

The applicant submitted his interpretation which is under-

Under said contract, the Major works under the said contract are as follows:

-Pure Labour Service Contract including involvement of material not exceeding 25% of total contract value.

1. That, Jaipur Development Authority is a body constituted under The Jaipur Development Authority Act, 1982 as a special vehicle for undertaking of various government projects as envisaged by the Government of Rajasthan.

The major works executed by the RIICO includes the following: -

- Infrastructural Development of Rajasthan region by construction of Roads, flyovers, etc....
 - Development of Commercial projects and residential buildings for residential purpose.
 - Development of basic amenities like parks, roads.
 - Development & Rehabilitation of Industries.
 - Preparation and implementation of guidelines for colonization of industrial area.
 - Environment development by planning and implementing of roadside plantations and by developing eco – friendly schemes.
 - Development of industrial area around region of Rajasthan
 - Development of Transport facilities.
2. That Jaipur Development Authority is covered under the status of Government: -

Definition of term “Government”: -

The definition of the term as given under the CGST Act, 2017 & respective RSGST Act, 2017 is being iterated as under: -

“As per section 2(53) of the CGST Act, 2017, ‘Government’ means the Central Government. As per clause (23) of section 3 of the General Clauses Act, 1897 the ‘Government’ includes both the Central

Government and any State Government. As per clause (8) of section 3 of the said Act, the 'Central Government', in relation to anything done or to be done after the commencement of the Constitution, means the President. As per Article 53 of the Constitution, the executive power of the Union shall be vested in the President and shall be exercised by him either directly or indirectly through officer's subordinate to him in accordance with the Constitution. Further, in terms of Article 77 of the Constitution, all executive actions of the Government of India shall be expressed to be taken in the name of the President. Therefore, the Central Government means the President and the officers subordinate to him while exercising the executive powers of the Union vested in the President and in the name of the President. Similarly, as per clause (60) of section 3 of the General Clauses Act, 1897, the 'State Government', as respects anything done after the commencement of the Constitution, shall be in a State the Governor, and in an Union Territory the Central Government. As per Article 154 of the Constitution, the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or indirectly through officers' subordinate to him in accordance with the Constitution. Further, as per article 166 of the Constitution, all executive actions of the Government of State shall be expressed to be taken in the name of Governor. Therefore, State Government means the Governor or the officers subordinate to him who exercise the executive powers of the State vested in the Governor and in the name of the Governor."

Since, Jaipur Development Authority is being set up by an Act vide Act No. 25 of 1982, Received assent of the President on the 12th October, 1982 is an authority legally entitled to carry out the function entrusted by the Government of Rajasthan under which the all the executive powers are vested with Governor of Rajasthan and which shall be exercised by him either directly or indirectly through the officers subordinated to him in accordance of the Constitution of India for which the copy of organization chart of Jaipur Development Authority is enclosed which clearly specifies the division of Ministry as done by the Governor of Rajasthan in order to exercise the executive powers either directly or indirectly through the Ministers and subordinate officers so appointed under the Constitution of India

Furthermore, as stated under the Article 166 of the Constitution of India, all the executive actions of the subordinates' officers of Jaipur Development Authority as executed by them shall be deemed to be the powers executed by under the name of Governor of Rajasthan. Thus, we can conclude that the department established by the Government of Rajasthan comes under the purview of definition of State Government under the CGST Act, 2017 and RSGST Act, 2017.

3. That the GST rate applicable for the nature of work being awarded i.e., Nil Rated : -

As per description of the services mentioned at Sl. No. 3A of the Notification No. – 12/2017 – Central Tax Rate dt. 28th June, 2017 GST rate applicable for the following services is Nil rated.

Notification No. – 12/2017 dated 28.06.2017: -

“3A.

“Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity 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.”

4. Scope of works covered in the projects in the following: -

Since, the scope of works covered in the projects is primarily in the nature of Pure Labour Services Contract including involvement of material not exceeding 25% of total contract value, the project is covered under Sl. No. 3A of the Notification No. 12/2017 – Central Tax Rate dt. 28th June, 2017 and the GST Rate applicable on such project would be Nil rated.

C QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT: -

1. (i) Whether the Jaipur Development Authority can be considered as State Government in regards of entry 3A of Notification No. – 12/2017 – CT (Rate) dated 28.06.2017.

D. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 26.06.2023. Adv. Anil Goyal, Anirudh Goyal, CA, Authorized Representatives appeared for personal hearing. He reiterated the submission already made in written submission.

E. COMMENTS OF THE JURISDICTIONAL OFFICER

The Jurisdictional Joint Commissioner, State Tax, Circle G, Jaipur vide her letter स.आ./जी-3/2022-23/63 17.02.2023 intimated that no comments can be given in the matter. which is as under-

QUESTION AND ANSWER FOR WHICH THE PRESENT AAR HAS BEEN FILED

- (i) Whether the Jaipur Development Authority can be considered as State Government in regards of entry 3A of Notification No. – 12/2017 – CT (Rate) dated 28.06.2017 .

ANS.- उपरोक्त विषयान्तर्गत प्रासंगिक पत्र के क्रम में निवेदन है कि आप दारा मैसर्स मुस्कान कन्सट्रक्शन एवं जयपुर विकास प्राधिकरण से संबंधित सूचना/टिप्पणी चाही गई थी। उक्त संबंध में निवेदन है कि अधोहस्ताक्षरकर्ता द्वारा उक्त प्रकरण पर कोई टिप्पणी नहीं की जा सकती है।

F. FINDINGS, ANALYSIS & CONCLUSION:

At the outset we would like to make it clear that the provisions of CGST Act and RGST Act are in parimateria 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 RGST Act

1) We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts. We would like to discuss the submission made by applicant and will take up the above question for discussion one by one.

2) The applicant M/S Ramesh kumar jorasia (Muskan Construction), 75/86, Shipra Path, Mansarovar, JAIPUR-302020, Rajasthan, has sought ruling on the following question: Whether the Jaipur Development Authority can be considered as State Government in regards of entry 3A of Notification No. – 12/2017 – CT (Rate) dated 28.06.2017.

3) We have gone through the constitution and other provisions of Jaipur Development Authority.

3.1) The Section 2(53) of the Central Goods and service Tax Act 2017 had defined the government

"Government" means the Central Government;

And sub-section 2(53) of the Rajasthan Goods and service Tax Act, 2017 provided that

"Government" means the Government of Rajasthan;

As per clause (23) of section 3 of the General Clauses Act, 1897 the 'Government' includes both the Central Government and any State Government. As per clause (8) of section 3 of the said Act, the 'Central Government', in relation to anything done or to be done after the commencement of the Constitution, means the President. As per Article 53 of the Constitution, the executive power of the Union shall be vested in the President and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, in terms of Article 77 of the Constitution, all executive actions of the Government of India shall be expressed to be taken in the name of the President. Therefore, the Central Government means the President and the officers subordinate to him while exercising the executive powers of the Union vested in the President

and in the name of the President. Similarly, as per clause (60) of section 3 of the General Clauses Act, 1897, the 'State Government', as respects anything done after the commencement of the Constitution, shall be in a State the Governor, and in a Union Territory the Central Government. As per Article 154 of the Constitution, the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, as per article 166 of the Constitution, all executive actions of the Government of State shall be expressed to be taken in the name of Governor. Therefore, State Government means the Governor or the officers subordinate to him who exercise the executive powers of the State vested in the Governor and in the name of the Governor.

3.2) We observe that it is clearly mentioned at chapter two under the head of about establishment and authority of JDA that the establishment of Jaipur development authority shall be a **body corporate** by the name of JDA having perpetual succession and a common seal with power subject to the provision of this act to acquire hold and dispose of property both movable and immovable and the contract and may sue or to be sued by its corporate name of JDA. The authority shall be deemed to be a local authority within the meaning of the term local authority as defined in Rajasthan general clauses act 1955.

4) Further, Section 2(69) of the GST Act defines a local authority as below. "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;** (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006 (41 of 2006); (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution; (f) a Development Board constituted under article 371 [and article 371J] of the Constitution; or (g) a Regional Council constituted under article 371A of the Constitution;"

Here, Section 2(69)(c) of the GST Act is like section 3(31) of the General Clauses Act, 1897, which defines a local authority to mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with the control or management of a **municipal or local fund**.

4.1) We observe that JDA is not a Municipality as municipal corporation already exists in Jaipur City thus JDA cannot, therefore, be entrusted with the control or management of a municipal fund.

4.2) Further the "government Authority" is being defined in the clause (zf) of notification no. 12/2017 dated 28.06.2017 of Central Goods and service Tax Act 2017 as amended is as under- "Governmental Authority" means an authority or a board or any other body, -

(i) Set up by an Act of Parliament or a State Legislature; or

(ii) Established by any Government, With 90 per cent. or more participation by way of equity or control, to carry out any function

entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.

5) The question put before Authority is Whether the Jaipur Development Authority can be considered as State Government in regards of entry 3A of Notification No. – 12/2017 – CT (Rate) dated 28.06.2017, however> however it is out of preview of authority, but We observe and found from records that JDA is constituted by State Government under Jaipur Development Authority Act 1982 (Act No. 25 of 1982) and fully controlled by state government, Thus its amply clear for us that JDA is Governmental Authority under GST Act.

6) We would also like to refer Notification No. 16/2021 - Central Tax (Rate) New Delhi, 18th November, 2021. Which is reproduced as under-

G.S.R. -----(E). - In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following amendments further to amend the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 691(E), dated the 28th June, 2017,

namely: — In the said notification, in the TABLE, - (i) against serial number 3, in column (3), in the heading “Description of Services”, the words “or a Governmental authority or a Government Entity” shall be omitted; (ii) against serial number 3A, in column (3), in the heading “Description of Services”, the words “or a Governmental authority or a Government Entity” shall be omitted

..

7) We observe that JDA is not “State Government” in reference of entry 3A of Notification No. – 12/2017 – CT (Rate) dated 28.06.2017

In view of the foregoing, we rule as follows: -


RULING

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Rajasthan Goods and Services Tax Act, 2017)

Q.1: Whether the Jaipur Development Authority can be considered as State Government in regards of entry 3A of Notification No. – 12/2017 – CT (Rate) dated 28.06.2017?

Ans.1: No, Jaipur Development Authority is not covered under the definition of “State Government” in reference of entry 3A of Notification No. – 12/2017 – CT (Rate) dated 28.06.2017.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.


31.8.23
(Umesh Kumar Garg)
MEMBER
CENTRAL TAX




31/08/2023
(Mahesh Kumar Gowla)
MEMBER
STATE TAX

SPEED POST

M/S Ramesh kumar jorasia (Muskan Construction), 75/86, Shipra Path,
Mansarovar, JAIPUR-302020, Rajasthan

F. No. AAR/SF/2023-24/ 89 . 93

Date: 31/08/23

Copy to: -

1. The Chief Commissioner, CGST and central Excise, (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan 302005
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Pr.Commissioner, CGST and Central Excise Commissionerate UDAIPUR, Rajasthan.
4. The Deputy Commissioner, Circle-G, Jaipur-3rd, Divisional Kar Bhawan, Jhalana dungri, Rajasthan

O/C