
	<b>RAJASTHAN</b> <b>AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX</b>	
	<b>KAR BHAWAN, AMBEDKAR CIRCLE, NEAR</b> <b>RAJASTHAN HIGH COURT</b> <b>JAIPUR – 302005 (RAJASTHAN)</b>	

**ADVANCE RULING NO. RAJ/AAR/2021-22/24**

J.P.Meena Additional Commissioner	:	Member (Central Tax)
M. S. Kavia Joint Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s SHRI VINAYAK BUILDCON, 7-E Class, Meter Office Road, Pratap Nagar, Udaipur- 313001, Rajasthan.
GSTIN of the applicant	:	08ACMFS6195A1ZU
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	:	27.09.2021
Present for the applicant	:	Keshav Maloo, CA
Date of Ruling	:	01.10.2021

**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".

**A. SUBMISSION AND INTERPRETATION OF THE APPLICANT:**

1. That M/s. Shri Vinayak Buildcon (hereinafter referred to as the "applicant") are registered under GST having GSTIN 08ACMFS6195A1ZU. Applicant is engaged in supply of services of construction of residential houses under affordable housing scheme under Chief Minister's Awas Yojana-2015 framed to achieve the objective of "Affordable Housing for All" under Pradhan Mantri Awas Yojana of Government of India on pure labour basis.

2. That the applicant has entered into an agreement with M/s. Sanwaliya Buildcreation LLP (hereinafter referred to as “Builder”) who is engaged in construction of Residential Buildings on the plot of land allotted by Urban Improvement Trust (UIT), Udaipur vide letter dated 30.07.2018 under the affordable housing scheme under Chief Minister’s Awas Yojana-2015. Copy of UIT’s allotment letter dated 30.07.2018 is attached. Further, the Chief Minister’s Awas Yojana-2015 is the policy framed by the Rajasthan Government to achieve the objective of “Affordable Housing for All” under Pradhan Mantri Awas Yojana of Government of India. An extract of the message of the former Hon’ble Chief Minister of Rajasthan from the policy is attached. Contract of construction of residential houses to the builder has been awarded by the Rajasthan Government under the Chief Minister’s Awas Yojana-2015.
3. That under the above agreement, builder has sublet the labour work related to the Civil Work and development of such residential houses to the applicant. The scope of work which is being sublet to the applicant is for pure labour services for construction, excavation, levelling, dressing, earth filling, soiling, reinforcement, RCC work, brick masonry, plaster work, flooring, toilet tiles, stone/marble choukhat, gutai, MS railing, outside painting, fixing of doors and windows, fixing of railing on staircase, electrical fittings, sanitary fitting and drainage, etc. There is no material or goods in the scope of applicant. Copy of agreement is attached.
4. To clarify further, the supply of material for the above mentioned works shall be in the scope of the main contractor and only labour work has been sub contracted to the applicants.

**Question(s) on which advance ruling is required.**

1. Whether the services provided by the applicant falls under the exemption entry at Sl. No 10 of the Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017 and eligible for exemption from payment of GST?

**Statement of Applicant’s Interpretation of Law/ Facts**

1. Applicant understands that under GST law, scope of supply is provided in Section 7 of the CGST Act, 2017, relevant portion of Section 7 reads as under:

**7. Scope of supply** — (1) *For the purposes of this Act, the expression “supply” includes—*

- (a) **all forms of supply of goods or services** or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (b) *import of services for a consideration whether or not in the course or furtherance of business;*
- (c) *the activities specified in Schedule I, made or agreed to be made without a consideration;*



2. Section 9(1) of the CGST Act, 2017 provides of levy of GST on such supply covered under Section 7. Section 9(1) reads as under:

**9. Levy and collection.**— (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

3. Further, Section 11(1) of the CGST Act, 2017 provides the power to grant exemption from levy of tax. Section 11(1) reads as below:

**11. Power to grant Exemption**— (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

4. In exercise of the powers conferred by above section, government has issued Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 wherein at Sl. No. 10, following exemption has been provided.

<b>Sl. No.</b>	<b>Chapter, Section, Heading, Group or Service Code (Tariff)</b>	<b>Description of Services</b>	<b>Rate (per cent.)</b>	<b>Condition</b>
(1)	(2)	(3)	(4)	(5)
10	Heading 9954	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.	Nil	Nil

5. Applicant wishes to submit that as per their understanding, services of labour work of construction of residential houses under Chief Minister's Awas Yojana-2015 framed to achieve the objective of "Affordable Housing for All" under Pradhan Mantri Awas Yojana of Government of India contracted to them by the builder is a supply of service as per Section 7 of the CGST Act, 2017 and is further leviable to GST under Section 9 of the CGST Act, 2017.
6. Further, applicant understands that exemption provided under Sl. No. 10 of the Notification No. 12/2017-CT(R) dated 28.06.2017 is available to them as the services provided by the applicant in the present case under consideration is by way of pure labour contract of construction of new residential houses which are being constructed under the Chief Minister's Awas Yojana-2015 framed to achieve the objective of "Affordable Housing for All" under Pradhan Mantri Awas Yojana of Government of India.
7. Hence, in applicant's understanding, services of labour work of construction of residential houses under Chief Minister's Awas Yojana-2015 framed to achieve the objective of "Affordable Housing for All" under Pradhan Mantri Awas Yojana of Government of India is exempt from GST by virtue of Sl. No. 10 of the Notification No. 12/2017-CT(R) dated 28.06.2017.
8. Further, applicant wishes to submit that in an identical case of M/s. Sevk Ram Sahu, Jaipur for Advance Ruling reported at 2020 (33) G.S.T.L. 437 (A.A.R. - GST - Raj.), wherein the applicant being a sub-contractor supplying pure labour services for Chunai and Plaster work for construction of residential houses under affordable housing scheme under Pradhan Mantri Awas Yojana to main contractor executing the project under agreement with the Rajasthan Government, it was held by your honour that pure labour contract services supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works is exempt under Entry 10 of Notification No. 12/2017-C.T. (Rate). Further, said exemption is not person-centric but project-centric. Accordingly, sub-contractor is eligible for exemption for supplying aforesaid service for aforesaid Project which is an original work.
9. Applicant submits that the ratio of the above case applies equally in the present case as well, hence, in view of the facts of the case discussed above and the advance ruling given in the matter of M/s. Sevk Ram Sahu, applicant wishes to seek the advance ruling on the question that whether the services provided by the applicant falls under the exemption entry at Sl. No 10 of the Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017 and eligible for exemption from payment of GST?



**B. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:-**

- Whether the services provided by the applicant falls under the exemption entry at S. No. 10 of the notification No. 12/2017-Central Tax (Rate), dated 28.06.2017 and eligible for exemption from payment of GST?

**C. PERSONAL HEARING**

In the matter personal hearing was granted to the applicant on 27.09.2021 through video conferencing. Shri Keshav Maloo, CA, Authorised Representative of applicant appeared for PH. During the PH, he reiterated the submissions already made in the written application. They requested for early disposal of the application.

**D. FINDINGS, ANALYSIS & CONCLUSION:**

1. We have gone through the facts of the case and submission made by the applicant at the time of preliminary hearing.
2. The applicant has entered into an agreement on 13.12.2019 with M/s Sanwaliya Buildcreation LLP (hereinafter referred as "Builder") who is engaged in construction of Residential Buildings on the plot of land allocated by Urban Improvement Trust (UIT), Udaipur under the affordable housing scheme under Chief Minister's Awas Yojna-2015. As per an extract of the message of the former Chief Minister of Rajasthan, the objectives for construction of residential houses was under policy of "Affordable Housing for All".
3. The applicant entered into an agreement on 13.12.2019 with Builder i.e. M/s Sanwaliya Buildcreation LLP for labour work related to civil work and development of residential houses at "Sanwaliya Dham", Debari, Udaipur under Chief Minister's Jan Awas Yojna-2015. A copy of agreement {between the applicant and Builder} dated 13.12.2019 has been provided with the original submissions. The issue pertains to applicability of exemption notification No. 12/2017-Central Tax (Rate), dated 28.06.2017.
4. As per Point No. 1 of the agreement dated 13.12.2019, the duration of contract for completion of said project by the applicant was for a period of 24 months i.e. 01.04.2019 to 31.03.2021. under this agreement the applicant must handover to complete all work whatsoever required as per released & approved drawings & signed by both party of whole project and handover the complete project to Builder i.e. M/s Sanwaliya Buildcreation LLP .
5. Further, as per Note to point No. 1 of the said agreement, all conditions of the agreement had been decided on 01.04.2019 and the construction work started on site. But the agreement terms and conditions had been written and registered on 13.12.2019.

6. Before we delve deep to decide the case, it would be proper in the fitment of justice to discuss the relevant provisions of the statute which are as under-  
**Section 95 of the CGST Act, 2017:**

95. Definitions of Advance Ruling— In this Chapter, unless the context otherwise requires—

(a) —advance ruling means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both **being undertaken or proposed to be undertaken by the applicant;**

7. we find that the Applicant wants the authority to decide whether the benefit of the exemption entry at S. No. 10 of the notification No. 12/2017-Central Tax (Rate), dated 28.06.2017 is available to them or not. We find from the record that the Applicant has asked for the benefit of this notification with respect to Agreement dated 13.12.2019 made with M/s Sanwaliya Buildcreation LLP which was effective from **01.04.2019**. We find that the supplies mentioned in the agreement had been effected in the month of April, 2019 and work had been started. We also find that the Applicant had applied for the Advance Ruling on 06.07.2021 in respect of availability of benefits of the notification No. 12/2017-Central Tax (Rate), dated 28.06.2017. Since the Applicant has asked for ruling on the transactions effected prior to the date of filing of the application before AAR, we find it appropriate to visit the definition of the 'Advance Ruling' given under Section 95(a) of the CGST Act which we are reproducing here-under: -

95(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both **being undertaken or proposed to be undertaken by the applicant;**


8. From the definition, it is very much clear that the scope of the Advance ruling for Authority for Advance Ruling (AAR) is limited to the transactions being undertaken or proposed to be undertaken. In the instant case, as already narrated, the application seeking advance ruling was filed on 06.07.2021 before the AAR with respect to supplies undertaken for the period from 01.04.2019 to 31.03.2021. Hence the case is out of the purview of the Advance Ruling.

9. In view of the foregoing, we rule as under: -




## RULLING

10. As the question posed by the applicant is related to supplies undertaken by them prior to the date of filing of the application for advance ruling, no ruling can be given on the questions. Hence, the subject application for advance ruling made by the applicant is not maintainable and rejected under the provisions of the GST Act, 2017.

  
(J.P. MEENA)  
MEMBER  
CENTRAL TAX



  
(M. S. KAVIA)  
MEMBER  
STATE TAX

### SPEED POST

M/s SHRI VINAYAK BUILDCON,  
7-E Class, Meter Office Road,  
Pratap Nagar, Udaipur-313001,  
Rajasthan

O/C

F. No. AAR/SVB/2021-22/178-182

Date: 11/10/2021

Copy to: -

1. The Chief Commissioner, CGST and Central Excise, Jaipur Zone, NCRB, Statue Circle, Jaipur-302005 (Raj.).
2. The Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005
3. The Commissioner, Central Tax, CGST and Central Excise Commissionerate, Udaipur (Rajasthan).
4. The Dy/Assistant Commissioner, CGST Division-A, 4<sup>th</sup> floor, LIC Building, Reti stand circle, Sub-city Centre, Central Area, Udaipur, Rajasthan.