



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S. V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/08/2022

Date:07.07.2022

TSAAR Order No.35/2022

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017
AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT,2017.]**

1. M/s. Srico Projects Private Limited,178/A, Srico, Road No.12, MLA Colony, Banjara Hills, Hyderabad, Telangana, 500034(36AAGCS7109F1ZD) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.
4. **Brief facts of the case:**
M/s. Srico Projects Private Limited are executing works for State & Central Governmental authorities & Governmental entities. They are desirous of ascertaining the rate of tax on the works contract services rendered by them before 01.01.2022 & after 01.01.2022. Hence this application.

5. Questions raised:

1. In view of the services provided by the applicant to Contractees (Details Enclosed as Annexure II) is the applicant eligible to avail the concessional rate of GST at 12% as prescribed in of S. No. 3 (vi) of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended?
2. If not, what is the appropriate rate and classification of GST to be charged by the applicant? Before 1.1.2022 and after 1.1.2022

6. Personal Hearing:

The Authorized representatives of the unit namely K. Ramesh, ICWA, Sr. Manager (Finance&Accounts) attended the personal hearing held on 28.06.2022. The authorized representatives reiterated their averments in the application submitted and contended as follows:

1. That they are executing works for State Government departments, Central Government departments, Governmental authorities and Government entity.
2. That in view of the services provided by the applicant to contractees (Details enclosed in the application) is the applicant eligible to avail the concessional rate of GST at 12% as prescribed in of S.No. 3(vi) of the Notification No. 11/2017 – Central Tax(Rate) dated 28.06.2017, as amended.
3. That if not, what is the appropriate rate and classification of GST to be charged by the applicant? Before 01.01.2022 and after 01.01.2022.

7. Discussion & Findings:

The applicant is rendering works contract services to the following institutions:

1. Bhabha Atomic Research Centre (BARC), Department of Atomic Energy, Government of India
2. Hyderabad Metropolitan Development Authority (HMDA)
3. Telangana State Police Housing Corporation Limited (TSPHCL)
4. Telangana State Tourism Development Corporation (TSTDC)
5. Telangana state industrial infrastructure corporation(TSIICL)
6. Telangana State Medical Services & Infrastructure Development Corporation (TMSIDC)
7. Tirumala Tirupati Devasthanams (TTD)
8. Sri Laxmi Narasimha Swamy Vaari Devasthanam
9. All India Radio Prasar Bharati
10. Greater Hyderabad Municipal Corporation (GHMC)

11. Greater Warangal smart city corporation limited (GWSCCL)
12. Telangana State Road Transport Corporation(TSRTC)
13. Indian Institute of Technology Madras(IIT Madras)
14. Rail Infrastructure Development Company (Karnataka) Limited

As seen from the above list, some of the institutions are Government entities i.e., local bodies, few are Government authorities, Endowments (Devasthanams) and Public Sectors Undertakings(PSUs).

The terms '**Government Authority**' & '**Government entity**' were inserted as definition by notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017 in Notification No. 11/2017 at clauses (ix) & (x) to explanation at Para 4 and the same are follows:

- (ix) **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 percent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article **243 W of the Constitution** or to a Panchayat under article **243 G of the Constitution**.
- (x) **Government Entity** means an authority or a board or any other body **including a society, trust, corporation,-**
 - (i) Set up by an Act of Parliament or State Legislature; or
 - (ii) Established by any Government, with 90per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

Now it is to be examined whether the contracts executed by the applicant fall under at S.No. 3(vi)of Notification No. 11/2017 taxable @6% under CGST & SGST respectively; the said entry reads as follows:

- "(vi) [Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, {other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –
- (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - (b) a structure meant predominantly for use as (i) an educational,
 - (ii) a clinical, or(iii) an art or cultural establishment; or

(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.

Explanation.- For the purposes of this item, the term business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities."

As seen from the Entry, this service is taxable @6% CGST & SGST each.

However this entry was amended in Nov' 2021 vide Notification No. 15/2021 dt. 18.11.2021 and the phrases 'Government Entity' & 'Governmental Authority' were deleted from the Entry at S.No. 3(vi) of Notification No. 11/2017 with effect from 01.01.2022. Thus the works executed for 'Governmental Entity or 'Government Authority' from 01.01.2022 are taxable @9% CGST & SGST each as covered under Entry S.No. 3(xii).

A combined reading of the above provisions and amendments reveals the following:

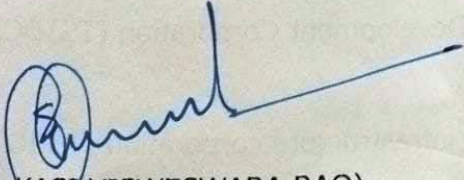
- a. The entry S.No 3(vi) of Notification No. 11/2017 covers the services i.e., works contract provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity upto 31.12.2021. The rate of tax applicable to this service is 6% CGST & SGST each.
- b. Upto 31.12.2021 a 'Governmental Authority' or a 'Government Entity' is eligible for this concessional rate of 6% if the works contract is inturn entrusted to them by a Municipality under Article 243W or a panchayat under Article 243G or the Central Government or State Government.
- c. From 01.01.2022, 'Governmental Authority' or a 'Government Entity' are excluded from S.No 3(vi)of Notification No. 11/2017 vide Notification No. 15/2021 dt. 18.11.2021. Therefore the work contract provided to 'Governmental Authority' or a 'Government Entity' from 01.01.2022 is 9% CGST & SGST each as covered under Entry S.No. 3(xii).
- d. The public sector units and autonomous bodies are not covered under Entry S.No.3(vi) and therefore the works executed for these entities are taxable @9% CGST & SGST respectively prior to and after 01.01.2022.
- e. The effective rates for various institutions in light of the above are

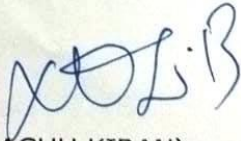
- i. The work executed for local bodies, the Central Government & the State Government is taxable @6% CGST & SGST each both **prior to and after 01.01.2022.**
 1. Baba Atomic Research Centre (Government of India, Department of Atomic Energy).
 2. Greater Hyderabad Municipal Corporation (GHMC).
- ii. The work executed for **Government Entity** who inturn are engaged in executing works entrusted to it by the Central Government & State Government or local authority is taxable @6% CGST & SGST each **upto 31.12.2021& at the rate of 9% CGST & SGST from 01.01.2022 onwards as Entry at Sl.No.3(xii) of Notification No.11/2017.**
 - 1) Telangana State Police Housing Corporation Limited (TSPHCL)
 - 2) Telangana State Tourism Development Corporation (TSTDTC)
 - 3) Telangana state industrial infrastructure corporation (TSIICL)
 - 4) Telangana State Medical Services & Infrastructure Development Corporation (TSMSIDC).
 - 5) Telangana State Road Transport Corporation (TSRTC).
 - 6) All India Radio Prasar Bharati.
 - 7) Indian Institute of Technology Madras (IIT Madras).
- iii. The work executed for **Governmental Authority** is taxable @6% CGST & SGST each upto 31.12.2021& **at the rate of 9% CGST & SGST from 01.01.2022 onwards as Entry at Sl.No.3(xii) of Notification No.11/2017..**
 1. Greater Warangal Smart City Corporation Limited.
 2. Hyderabad Metropolitan Development Authority.
- iv. The work executed for Devasthanams/Temple Board such as Tirumala Tirupati Devasthanams(TTD) and Sri Laxmi Narasimha Swamy Vaari Devastanam is taxable @9% CGST & SGST each both **prior to and after 01.01.2022.**
- v. The works executed for PSUs & autonomous bodies are taxable @9% CGST & SGST each both **prior to and after 01.01.2022.**
 1. Rail Infrastructure Development Company (Karnataka) Limited.

8. The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. In view of the services provided by the applicant to Contractees (Details Enclosed as Annexure II) is the applicant eligible to avail the concessional rate of GST at 12% as prescribed in of S. No. 3 (vi) of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, as amended?	As detailed in the discussion above..
2. If not, what is the appropriate rate and classification of GST to be charged by the applicant? Before 1.1.2022 and after 1.1.2022.	As detailed in the discussion above.


(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER(STATE TAX)


(B.RAGHU KIRAN)
ADDL.COMMISSIONER (CENTRAL TAX)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. Srico Projects Private Limited
178/A, Srico, Road No.12, MLA Colony,
Banjara Hills, Hyderabad, Telangana, 500034

Copy submitted to :

- 1. The Commissioner (State Tax) for information.
- 2. The Commissioner (Central Tax), Hyderabad Commissionerate, Room No. 813, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad 500 004.

Copy to:

- 3. The Assistant Commissioner (ST) Jubilee Hills-II - Circle,
//t.c.f.b.o//

Superintendent (Grade-I)