

<b>GUJARAT AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX</b> <b>D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,</b> <b>AHMEDABAD – 380 009.</b>	
-----------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------

**ADVANCE RULING NO. GUJ/GAAR/R/2025/12**  
**(IN APPLICATION NO. Advance Ruling/SGST&CGST/2023/AR/27 )**

**Date: 25/03/2025**

Name and address of the applicant	:	M/s. Kishor Projects P Ltd., 1 <sup>st</sup> floor, Kalyan Park Society, Bhushan, Race Course Ring Road, Rajkot, Gujarat-360 001.
GSTIN of the applicant	:	24AACCK3721F1Z0
Jurisdiction Office	:	Office of the Assistant Commissioner of State Tax, Unit-93, Range- 23, Division- 10, Rajkot.
Date of application	:	21.07.2023
Clause(s) of Section 97(2) of CGST/IGST Act, 2017, under which the question(s) raised.	:	(e)
Date of Personal Hearing	:	23.01.2025
Present for the applicant	:	Shri Priyank Lalcheta (CA)

**Brief facts:**

M/s. Kishor Projects P Ltd., 1<sup>st</sup> floor, Kalyan Park Society, Bhushan, Race Course Ring Road, Rajkot, Gujarat-360 001 [for short – ‘applicant’] is registered under GST and their GSTIN is 24AACCK3721F1Z0.

2. The applicant is engaged in executing Government contracts. The applicant has been awarded contract for dredging by Gujarat Fisheries Board, which is a department of the Government of Gujarat. As per the applicant, the dredging contracts have been given to maintain minimum draft at the port/ seashore so as to enable the fisherman to float the boats upto the ports easily.

3. The applicant has further stated the following:

- that the recipient of the service is a Government entity, in terms of clause 2(zfa) of notification No. 9/2017-IT (Rate);
- that the Fisheries department falls under the Ministry of Fisheries of the Government of Gujarat;
- that one of the vision of the Gujarat Fisheries Board [recipient of the service] is development of fisheries sector both marine and inland for socio-economic development of fisheries;

- that fisheries is one of the functions entrusted to a Panchayat under Article 243G of the Constitution of India;
- that to maintain minimum draft at fisheries harbour, dredging is essential and hence dredging activity is primary activity for maintenance of fishing harbour;
- that they have enclosed certificate from the Chief Engineer of Fisheries department dated 28.6.2023;
- that the dredging work has a direct nexus with fisheries development, which is listed under serial No. 4 of the XI<sup>th</sup> Schedule of the Constitution of India.

4. The applicant therefore feels that they are eligible for exemption under serial No. 3A of exemption notification No. 9/2017-IT (Rate) dated 28.6.2017 as amended.

5. In view of the foregoing, the applicant raised the following question seeking a ruling:

Whether the supply of services of Dredging Activity undertaken by the applicant given to Government is covered in an exemption under serial No. 3A of notification No. 9/2017-IT (Rate) dated 28.6.2017 as amended by notification No. 2/2018-IT (Rate) dated 25.1.2018 applies to the above supply?

6. Personal hearing was granted on 28.10.2024 and 23.01.2025 wherein Shri Priyank Lalcheta, CA appeared on behalf of the applicant and reiterated the facts as stated in the application.

### **Discussion and findings**

7. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 provisions under the GGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

9. Before advertng to the submissions made by the applicant, we would like to reproduce the extract of the relevant exemption notification, for ease of reference:



**Notification No. 9/2017-IT (Rate) dated 28.6.2017 [as amended] relevant extracts**

Sr. No.	Chapter, Section, heading, Group or Service Code (Tariff)	Description of service	Rate (per cent)	Condition
3A	Chapter 99	Composite supply of goods & services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union Territory or local authority [****] <sup>2</sup> 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.	Nil	Nil

➤ **XI<sup>th</sup> Schedule of the Constitution of India+**

**[ELEVENTH SCHEDULE  
(Article 243G)]**

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.]

<sup>1</sup> Eleventh Schedule added by the Constitution (Seventy-third Amendment) Act, 1992, s. 4(w.e.f. 24-4-1993).

10. The applicant has also attached along with his application, copy of 2 pages viz the first page titled as "Maintenance dredging at Porbandar, Fishery Harbour, Volume-I, issued by the Director of Fisheries, Gandhinagar. The second page enclosed is a extract of chapter 11, containing name of work as

<sup>1</sup> Inserted by notification No. 2/2018-IT (Rate) dated 25.1.2018

<sup>2</sup> Notification No. 16/2021-IT (Rate) dated 18.11.2021 amended the following:

*(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;*



"Maintenance dredging at Porbandar Fishery Harbour, which is extracted below for ease of reference:

CHAPTER II  
NAME OF WORK: MAINTENANCE DREDGING AT PORBANDAR FISHERY HARBOUR

Price Bid

Items No	Quantities estimated out or less	Item of work	Tendered Rates		Unit	Total amount according to estimated quantities
			In figures Rs	In words Ps		
1	2	3	4	5	6	7
1	600000	Soil dredging by using suitable excavator equipment or by suitable soil dredging machinery Dredging in all type of soil, in the harbour area by suitable dredger including mobilization and demobilization with loading & unloading on to barge, dispatched by barges /Trauk within 5 km distance to barge unloading at wharf area / specified area for reclamation filling & balance dredged material shall be transported by barge unloading at notified sea location/ specified area up to 5NM distance as per approval & as directed by EIC			Cum	

(A) Total Tendered amount Rs. ....  
 (B) Rebate on above tendered amount (if any) ..... % (In figure)  
 Rs. ....  
 (..... in words)

(C) Net tendered amount (A - B)  
 Rs. ....  
 In ..... words  
 (Rupees .....)

Notes 1 - All work shall be carried out as per Public Works Department Handbook or procedure followed by GMB and other specifications of Division or as directed.  
 Notes 2 - Rates quoted include clearance of site (prior commencement of work and at its close) in all respects and hold good for work under all conditions, site, moisture, weather etc.

11. The applicant has also enclosed two certificates issued by the Chief Engineer, Fisheries, Gandhinagar viz

(i) dated 28.6.2023, certifying that the applicant has been allotted tender for maintenance dredging work at Porbandar Fishery Harbour vide work order no. GUM/Porbandar/Drdg/work order/134/22-23 dated 30.9.2022; that it is necessary to maintain draft for smooth functioning of fishing boat; that it is necessary to carry out dredging activity to maintain minimum level of draft; that the dredging at Porbandar port has a direct nexus with fisheries development; that the dredging work allotted does not constitute more than 25% of value of supply of goods.

(ii) dated 10.7.2023, certifying that the Fisheries department falls under Government of Gujarat; that their main activity is to provide better infrastructure facility & improve support system for fisherman; that the endeavour of the fisheries department is to increase fish production through various means like bringing more water bodies under scientific pisciculture, ensuring access of nonrationality balanced fish feed and high qualify fish seed/fingerlings to the fish farmers, dissemination of scientific knowledge about improved techniques of pisciculture, imparting hands on training to fishermen, etc..

12. Briefly to summarize, the applicant has been awarded the dredging contract by the Fisheries Department. The applicant's averment is that the dredging service rendered would fall within the ambit of serial no. 3A of notification No. 9/2017-IT (Rate) dated 28.6.2017, as amended.

13. Now serial No. 3A of the exemption notification, as reproduced *supra*, clearly entails that [a] it should be a composite supply of goods and service; [b] that the value of goods should not constitute more than 25% of the value of the said composite supply; [c] that the supply is to be provided to the Central Government, State Government or UT or local authority; [d] that the composite supply so provided should be by way of an activity in relation to any function entrusted to a Panchayat under Article 243G, or Municipality under Article 243W, of the Constitution of India, respectively.

14. Now the item of work to be undertaken by the applicant is mentioned in the tender documents, which is reproduced above. The work as is evident includes soil dredging, using an excavator, including mobilization and demobilization with loading and unloading on to a barge/Trauk within 5 km distance to barge unloading at wharf area/specified area for reclamation filling and balance dredged material shall be transported by barge unloading at notified sea location/specified area. Thus, it is a composite supply of goods or services, thus satisfying the first condition.

15. The second condition, we have listed above is that the value of goods should not constitute more than 25% of the value of the said composite supply. The certificate dated 28.6.2023 of the Chief Engineer, Fisheries, Gandhinagar states as follows "*Further it is also to certify that the Dredging work allotted to M/s. Kisho Projects Pvt ltd does not constitute more than 25% of value of Supply of goods*". During the course of personal hearing, on being specifically asked that the words used in the certificate is not clear and could also be read in a manner, which leads to a conclusion, that the condition mentioned above is not satisfied, the authorized representative fairly conceded that it was a drafting error.

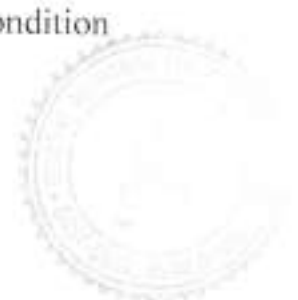
16. The third condition, we have listed above is that the supply is to be provided to the Central Government, State Government or UT or local



authority. Now, we find that the applicant, in his application under paragraph 2 [Annexure -D], has stated that the recipient, ie Fisheries Department is a government entity in terms of clause 2(zfa) of the notification and therefore the condition, according to them is satisfied. The term 'government entity' was introduced under paragraph 2, definitions, in notification No. 9/2017-IT(Rate) dated 28.6.2017, vide notification No. 33/2017-IT(Rate) dated 13.10.2017. However, this would be relevant only if the serial no. 3A of notification, reproduced supra contained the term government entity. The term Government entity, having been omitted from Serial No. 3A, vide notification No. 16/2021-IT(Rate) dated 18.11.2021, the averment of the applicant fails.

17. The applicant during the course of personal hearing has also submitted a copy of the '**Port Policy**' of December 1995. This has been issued by the Ports & Fisheries Department, Government of Gujarat. What is relevant as far as the present application is concerned, is that along the 1600 kms of coastline of Gujarat, there are 41 ports, of which Kandla being a major port; that of the remaining 40 ports, 11 are intermediate ports and 29 are minor ports under the control of the Gujarat Maritime Board [GMB]; that Porbandar port is an all weather port with direct berthing facility; that draft of 8-10 mtrs are available at Porbandar, etc., where ships ranging from 15000 to 25000 tonnes are directly berthed; that Porbandar handles cargo containers for fish exports; that dredging being an important component for development of ports & its subsequent maintenance; that GMB after gradually withdrawing in a phased manner would encourage formation of JV company to form Dredging Corporation of Gujarat. On going through the GMB website, [<https://gmbports.org/gmb-owned-ports>], it is forthcoming that Porbandar port is owned by GMB.

18. Therefore, what is forthcoming is that though the tenders are being floated by the Director of Fisheries, GMB is the owner of the port. The dredging services rendered by the applicant is being received by GMB. Now, GMB does not fall within the ambit of either the Central Government, State Government or Union Territory or local authority. Thus, the third condition that the supply is to be provided to the Central Government, State Government or Union Territory is not satisfied. Further, GMB is not a local authority in terms of section 2(69) of the CGST Act, 2017. Thus, the condition



not having been fulfilled, the applicant is ineligible for the benefit of the notification, *ibid*.

19. Even otherwise, the Section 3 of the Gujarat Maritime Board Act, 1981 states as follows: [relevant extract]

#### CHAPTER II.

##### ESTABLISHMENT OF GUJARAT MARITIME BOARD.

3. (1) As soon as may be after the commencement of this Act, the State Government may, by notification in the *Official Gazette*, establish a Board to be called the Gujarat Maritime Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act to acquire, hold and dispose of property, both movable and immovable, and to contract, and may by the said name sue and be sued.

Thus, the Gujarat Maritime Board is a body corporate.

20. Having said so above, the next condition, that the composite supply so provided should be by way of an activity in relation to any function entrusted to a Panchayat under Article 243G, or Municipality under Article 243W, respectively, is not being examined, as it is only an academic exercise.

21. The applicant has relied upon three Advance Rulings to substantiate his averments *viz*

- Dredging & Desiltation Company P Ltd<sup>3</sup>. In this matter, the issue involved was a contract for sectioning of Makara River (right drainage) & Garanimumha branch of Makara River in Orissa. The Authority in this matter in paragraph 4.2 held that "It appears from the documents mentioned in para 2.2 that the recipient is a government entity as defined under clause 2(zfa) of exemption notification."
- Dredging & Desiltation Company P Ltd<sup>4</sup>. In this matter, the issue involved was upgradation of Jalda Kutli Landing Centre by protection to Mandarmani river & upgradation of navigability by dredging of Mandarmani river. The Authority in this matter in paragraph 4.5 held that "It appears from the documents mentioned in para 2.2 that the recipient is a government entity as defined under clause 2(zfa) of exemption notification."
- Reach Dredging Ltd<sup>5</sup>. In this matter, the issue involved was execution of project of development of water body/reservoir at Lamphelpat, Imphal West, Manipur under the project name 'Rejuvenation of Lamphelpat water body to alleviate urban flooding, providing sustainable water source for Imphal city & promoting eco tourism.' The Authority in this matter in paragraph 4.5 held that "It transpires from above that the applicant provides the aforesaid services to Government of Manipur".

<sup>3</sup> Order No. 12/WBAAR/2019-20 dated 27.6.2019.

<sup>4</sup> Order No. 3/WBAAR/2019-20 dated 10.6.2019.

<sup>5</sup> Order No. 13/WBAAR/2024-25 dated 1.10.2024.


As is evident the facts are clearly different. Further, as already mentioned *supra*, the term 'government entity' stands omitted from the exemption notification. Even otherwise, in terms of Section 103 of the CGST Act, 2017, the advance ruling pronounced by the Authority is binding only on the applicant.


22. Thus, we find that the applicant is not eligible for the benefit of the exemption notification.

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

### **RULING**

The supply of services of dredging activity undertaken by the applicant provided to Gujarat Maritime Board is **not covered** under serial No. 3A of notification No. 9/2017-IT (Rate) dated 28.6.2017 as amended by notification No. 2/2018-IT (Rate) dated 25.1.2018.

  
(Kamal Shukla)  
Member (SGST)

  
(P.B. Meena)  
Member (CGST)

Place: Ahmedabad  
Date 25.03.2025

