

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd& 4th Floor, Vanijyikar GST Bhawan, North Block Sector-19,
Alal Nagar, District-Raipur (C.G.) 492002
Email ID – gst.aar-cg@gov.in

PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur (C.G)

Subject :-Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 sought by M/s AKM BALAJI JV, HIG-02, M.P. Nagar, Korba Chhattisgarh (GSTIN-22AAKAA0849G1Z1) on GST Rate applicable on Works Contract Services Provided to RITES Ltd, under letter of acceptance dated 20/12/2019 for Works Contract Service in relation to works contract for renewal/renovation and other improvements for railway track from Karonji Station to Bhatgaon Railway Siding at Bhatgaon Area of SECL.

Read :-Application dated 20/08/2020 from M/s AKM BALAJI JV, HIG-02, M.P. Nagar, Korba Chhattisgarh (GSTIN-22AAKAA0849G1Z1)

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/13/2020

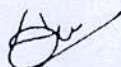
Raipur Dated ..25.../11/2020

M/s AKM BALAJI JV, HIG-02, M.P. Nagar, Korba Chhattisgarh [hereinafter also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling on

(a) GST Rate applicable on Works Contract Services Provided to RITES Ltd, under letter of acceptance dated 20/12/2019 for Works Contract Service in relation to works contract for renewal/renovation and other improvements for railway track from Karonji Station to Bhatgaon Railway Siding at Bhatgaon Area of SECL.

2. Facts of the case:-

2.1 AKM-Balaji JV is a joint Venture firm, registered vide GSTIN 22AAKAA0849G1Z1.





2.2 They have submitted that they are engaged in providing works contract services to its client M/s. RITES Limited vide letter of acceptance dated 20/12/2019.

2.3 Under the said contract the applicant has submitted that they are providing works contract services by way of repairing/renovation and other improvements works including supply of P. Way Fittings & Track Ballast, PSC & Steel Channel Sleepers, Points & Crossings (Excluding supply of rails), Construction of Retaining Wall, drain etc. for railway Track from Karonji Station to Bhatgaon Railway Siding at Bhatgaon Area of SECL.

2.4 The total value of Contract awarded by M/s. RITES Ltd. was for an amount of Rs. 23,99,29,974.00 Copy of Contract is enclosed herewith as Annexure A.

3 Contentions of the Applicant:- The applicant's contention is as under :-

3.1 Service Provided shall be termed as "Works Contract" under Section 2(119) of The Central Goods & Service Tax Act, 2017 which reads as under –

"works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;"

3.2 Further the said services provided by them shall be classified under HSN 995429 under Annexure to Notification 11 Central Tax (Rate) dated 28/06/2017 which is read as under –

"Services involving repair, alterations, additions, replacements, renovation, maintenance or remodeling of the constructions covered above."

3.3 Further, that the said services provided by them shall fall under residual entry under i.e., entry no.3 (xii) of Notification 11 Central Tax (Rate) dated 28/06/2017 (as amended till date) and the rate of CGST shall be 9%. Thus rate of SGST shall also be 9%.

3.4 However M/s. RITES Ltd. sought to classify said services under entry no.3 (v) of Notification 11 Central Tax (Rate) dated 28/06/2017 (as amended till date) and the rate of CGST shall be 6%. Thus rate of SGST shall also be 6%.

3.5 Through this application the applicant sought ruling as regards the rate at which GST has to be charged for the said works contract services provided by them.

4. Personal Hearing:-

Keeping with the established principles of natural justice, personal hearing in the matter through virtual mode was extended to the applicant and accordingly their authorized representative Shri Priyesh Agrawal, C.A. appeared before the authority online for hearing on 22/10/2020 and reiterated their contention.



5. The legal position, Analysis and Discussion:-

5.1 At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, 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 CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

5.2 The applicant sought advance ruling regarding the applicable rate at which GST has to be charged for the said work of renewal/renovation and other improvements for railway track from Karonji Station to Bhatgaon Railway Siding at Bhatgaon Area of SECL which has been informed by them to be a works contract service. The issues involved could be discussed as under:-

5.2.1:- The rate of GST for Works Contract service has been prescribed under serial number 3 of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017, which reads as under:-

Notification No. 11/2017-Central Tax (Rate)

New Delhi, the 28th June,

In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:-

Table

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
2	Section 5	Construction Services		



3	Heading 9954 (Construction services)	(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	9	-
		(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9	-
		(iii) construction services other than (i) and (ii) above.	9	-

5.2.2 Thereafter, the chronology of amendments to aforesaid Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017, at Sr. no. 3 are detailed here under:-

Notification No. 20/2017-Central Tax (Rate) Dated-22.08.2017.

Notification No. 20/2017-Central Tax (Rate)

New Delhi, the 22nd August, 2017

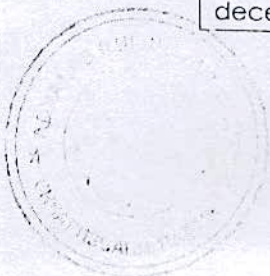
G.S.R (E).- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 11/2017- 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. 690(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table,-

(i) against serial number 3, for item (iii) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following shall be substituted, namely:-



(3)	(4)	(5)
<p>(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -</p> <p>(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);</p> <p>(b) canal, dam or other irrigation works;</p> <p>(c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.</p>	6	-
<p>(iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -</p> <p>(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;</p> <p>(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awas Yojana;</p> <p>(c) a civil structure or any other original works pertaining to the "In-situ rehabilitation of existing slum dwellers using land as a resource through private participation" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;</p> <p>(d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or a structure meant for funeral, burial or cremation of deceased.</p>	6	-

<p>(v) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-</p> <p>(a) railways, excluding monorail and metro;</p> <p>(b) a single residential unit otherwise than as a part of a residential complex;</p> <p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved</p>	6	-
<p>by the competent authority under-</p> <p>(1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(2) any housing scheme of a State Government;</p> <p>(e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>		
<p>(vi) Construction services other than (i), (ii), (iii), (iv) and (v) above.</p>	9	-";

5.2.3 Further Amendments made to aforesaid Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 vide Notification No. 24/2017-Central Tax (Rate) Dated-21.09.2017 is as under:-



[Handwritten signature]

Notification No. 24/2017-Central Tax (Rate)

New Delhi, the 21st September, 2017 G.S.R (E).- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.11/2017- 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. 690(E), dated the 28th June, 2017, namely:-
In the said notification, in the Table, against serial number 3, for item (vi) in column (3) and the entries relating thereto, in columns (3), (4) and (5), the following shall be substituted, namely:-

(3)	(4)	(5)
(vi) Services provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority 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.	6	-
(vii) Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above.	9	-

5.2.4 Subsequent amendments made to aforesaid Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 vide Notification No. 31/2017-Central Tax (Rate) Dated-13.10.2017 is as under:-



Notification No. 31/2017-Central Tax (Rate)

New Delhi, the 13th October, 2017

G.S.R(E).- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.11/2017- 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. 690(E), dated the 28th June, 2017, namely:-

In the said notification,

(i) in the Table, -

(a) against serial number 3, -

- A. in item (iii), in column (3), for the words "Government, a local authority or a Governmental authority", the words "Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity" shall be substituted;
- B. in item (vi), in column (3), for the words "a local authority or a Governmental authority" the words "a local authority, a Governmental Authority or a Government Entity" shall be substituted;
- C. in items (iii) and (vi), in column (5), for the existing entry, the following entry shall be substituted, namely: -
"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";
- D. for item (vii), in columns (3), (4) and (5) and the entries relating thereto, the following shall be substituted, namely: -



(3)	(4)	(5)
"(vii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority, a Governmental Authority or a Government Entity.	2.5	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
(viii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line.	6	-
(ix) Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above.	9	-

5.2.5 Thereafter, amendments made to aforesaid Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017, vide Notification No. 01/2018-Central Tax (Rate) Dated-25.01.2018 is as under:-

Notification No. 1/2018-Central Tax (Rate)
New Delhi, the 25th January, 2018

G.S.R

(E).- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.11/2017- 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. 690(E), dated the 28th June, 2017, namely:-

In the said notification,

(i) in the Table, -

(a) against serial number 3, in column (3), -

(A) in item (iv),-

(I) for sub-item (c), the following sub-item shall be substituted, namely: -

'(c) a civil structure or any other original works pertaining to the "In-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)";

(II) after sub-item (d), the following sub-items shall be inserted, namely: -

'(da) a civil structure or any other original works pertaining to the "Economically Weaker Section (EWS) houses" constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)

(db) a civil structure or any other original works pertaining to the "houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)" under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)";

(III) after sub-item (f), the following sub-items shall be inserted, namely: -

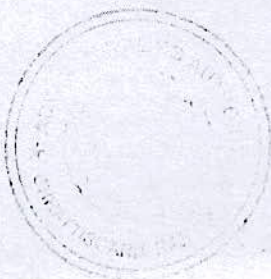
"(g) a building owned by an entity registered under section 12AA of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralised cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities.";

(B) in item (v),

(I) in sub-item (a), for the word "excluding", the word "including" shall be substituted;

(II) after sub-item (d), the following sub-item shall be inserted, namely: -

"(da) low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of



India, in Ministry of Finance, Department of Economic Affairs
vide F. No. 13/6/2009-INF, dated the 30th March, 2017;"

(C) for item (ix) and the entries relating thereto in columns (3), (4) and (5),
the following shall be substituted, namely: -

(3)	(4)	(5)
(ix) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity.	6	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.

(x) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity.	2.5	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.
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Explanation. - For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.";

5.2.7 Thus on going through the above chronology of amendments relevant to the issue in hand, detailed above as made in Notification no. 11/2017-Central Tax (Rate), dated 28-6-2017, we come to the considered conclusion that the activities referred to by the applicant as works contract services provided to RITES Ltd, under letter of acceptance dated 20/12/2019 in relation to the work of renewal/renovation and other improvements for railway track from Karonji Station to Bhatgaon Railway Siding at Bhatgaon Area of SECL, would be leviable to GST at the rate of 9% CGST + 9% CGGST, as stipulated under serial number 3 [s.no. (xii)] of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 lastly amended vide 03/2019-Central Tax (Rate) New Delhi, the 29th March, 2019

Having regard to the facts and circumstances of the case and discussions as above, we pass the following order:-

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)


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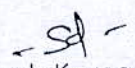
Raipur Dated ...25/11/2020

The ruling so sought by the Applicant is accordingly answered as under:

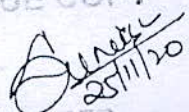
RULING

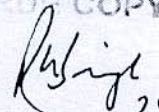
The activities described in the said letter of acceptance dated 20.12.2019, referred to by the applicant for Works Contract Service in relation to works contract for renewal/renovation and other improvements for railway track from Karonji Station to Bhatgaon Railway Siding at Bhatgaon Area of SECL for renewal / renovation would attract GST at the rate of 9% CGST + 9% CGGST .


Sonal K. Mishra
(Member)


Rajesh Kumar Singh
(Member)



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