

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

**GST Bhavan, Old Building, 1st floor, B-Wing, Room No.107, Mazgaon, Mumbai - 400010.**

**(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

**(1) Shri. D. P. Gojamgunde, Joint Commissioner of State Tax, (Member)**

**(2) Ms. Priya Jadhav, Joint Commissioner of Central Tax, (Member)**

ARA No.	AD270424002064M
GSTIN Number, if any/ User-id	27AAACF9161E1ZP
Legal Name of Applicant	M/s. FLY ASH MOVERS INDIA PRIVATE LIMITED
Registered Address/ Address provided while obtaining user id	Central Railway Kalamboli Goods Shed Yard, Raigad, Navi Mumbai 410218.
Details of application	GST-ARA, Application No. 02 Dated 08.04.2024
Concerned officer	Range-II, Division-VI, Raigad, Mumbai
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision, Service Recipient, Works Contract
B Description (in brief)	Applicant is inter alia engaged in the business of providing services In handling, transportation and supply of Fly Ash and Coal. The company is also into construction of infrastructure facilities i.e development of Goods Shed and Gati Shakti Freight terminals for freight handling in association with Ministry of Railways.
Issue/s on which advance ruling required	<ul style="list-style-type: none"><li>➤ Classification of goods and/or services or both</li><li>➤ Applicability of a notification issued under the provisions of the Act</li><li>➤ Determination of the liability to pay tax on any goods or services or both</li></ul>
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below

**PROCEEDINGS**

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

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by M/s. FLY ASH MOVERS INDIA PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following questions.

1. Classification and GST Rate applicable to the work undertaken by the applicant of "Reconstruction, Maintenance, housekeeping and security at Kalamboli Goods Shed near Panvel for 90% proportion of Terminal charges a consideration"
2. Whether Central Railway is entitled to claim ITC (Input tax Credit for the GST payable on the payment made to the Applicant for the said work?

That the provisions of both the CGST Act and the MGST 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 MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

1. **FACTS AND CONTENTIONS - AS PER THE APPLICANT**



- 1.1. Central Railway introduced a scheme under which private players would reconstruct Goods sheds and maintain the same for 10 years. Private players would have to invest the entire capital cost for reconstruction. No upfront payment would be paid by Central Railway for such capital expenditure. The private player also has to maintain and upkeep the goods shed during the entire contract period.
- 1.2. Thereafter, Terminal charges are collected by Central Railway for inward and outward traffic of goods at the Goods shed in addition to freight charges (for transportation of the goods by rail) applicable to the goods.
- 1.3. Present rate of Terminal Charges is Rs.20 per ton. The firm quoting the least share (i.e. lowest bid) on the Terminal Charges is awarded the contract. Terminal Charges is collected as part of freight charges by Central Railway. Central Railway charges GST @ 5% on such terminal charges collected by them from their clients as part of freight charges.
- 1.4. Central Railway has awarded contract to Fly Ash Movers for reconstruction, maintenance, housekeeping and security at Kalamboli Goods shed near Panvel for 10 years for which 90% terminal charges collected by Central Railway from its clients will be paid to Fly Ash Movers as consideration on a monthly basis.



1.5. The Goods shed developed by Fly Ash movers would become the property of Railway at the end of the term of contract period.

**Details of Questions on which Advance Ruling is sought:**

1.6. Whether the work for "Reconstruction, Maintenance, housekeeping and security at Kalamboli Goods Shed near Panvel for 90% proportion of Terminal Charges as consideration" involving the aforesaid Scope of Work can be classified under Notification No. 11/2017 - Central (Rate) dated 28/06/2017 (as amended by Notification No. 3/2022- Central Tax (Rate), dated 13/07/2022 - SAC 9954) in respect of composite supply of works contract taxable at GST Rate 12% i.e. 6% CGST + 6% SGST as per sub clause (vii) of the clause 119 of Section 2 of the CGST Act, 2017?

1.7. Without prejudice to the aforesaid, if the said work cannot be classified as a composite supply of works contract, can it be classified as terminal charges for transportation of goods by rail (I.e. freight services) taxable at GST 5% Le. 2.5% CGST + 2.5% SGST as per Sr No.9(i) of Notification No. 11/2017 -Central (Rate] dated 28/06/2017 (as amended) - SAC 9965.

1.8. Without prejudice to the aforesaid, if the said work cannot be classified as either composite supply of works contract or transportation of goods by rail services, what will the said work be classified as and what will be the GST Rate applicable to the Applicant as per attached scope of work?

1.9. Whether Central Railway is entitled to claim ITC (input tax credit) for the GST payable on the payment made to the Applicant for the said work?

**02. STATEMENT CONTAINING 02. APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS**

2.1. Relevant Provisions of GST Law for which the Advance Ruling is sought;

• **Composite Supply**

As per Section 2(30) of the CGST Act, 2017:

*"composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.*

*Illustration: Where goods are packed and transported with insurance. the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply."*



- **Principal Supply**

As per Section 2(90) of the COST Act, 2017:

"principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary"

- **Works Contract**

Clause (119) of section 2 of the COST Act, 2017:

"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:"

- Sr. NO. 3 (vii) of Notification no. 11/2017-Central (Rate)dated 28/06/2017 (as amended)

Sl. NO.	Chapter, Section or Heading	Description of services	Rate (percent)	Condition
3	Heading 9954 (construction services)	(vii) Composite supply of works contract as defined in clause (119) of section 2 of such 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, 26b [Union territory a local authority].	6	-

- Sr. No. 9 (i) Notification No. 11/2017-central (Rate) dated 28/06/2017 (as amended)





Sl. No.	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
9	Heading 9965 (Goods transport services)	(i) Transport of goods by rail (other than services specified at item no. (iv)).	2.5	Provided that credit of input tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service.

#### Views of the Applicant:

After perusing above provisions & on the basis of inputs, records & discussion with Central Railway officials, we are of the view that:

22. Contract awarded by Central Railway to the Applicant for reconstruction, maintenance, housekeeping and security at Kalamboli Goods shed near Panvel for 10 years and Railways will pay 90% of the terminal charges collected from its customers to Fly Ash Movers as consideration on a monthly basis involves supplying a bundle of goods and services and thus the same would classify as composite supply under GST.

#### Composite Supply

- As per Section 8(a) of the CGST Act, 2017, a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply. Composite supply and Principal supply are defined under Section 2(30) and Section 2(90) of the CGST Act, respectively.
- A supply of goods and/or services will be treated as composite supply if : it is a supply of two or more goods or services together; it is a natural bundle i.e. goods or services are usually provided together in the normal course of business; and they cannot be separated. To undertake the impugned supply, natural bundle of supply of goods and/or services is inevitable. Thus, the



work allotted to the Applicant shall fall within the ambit of composite supply

- As per Notification No. 11/2017 - Central (Rate) dated 28/06/2017 (as amended), GST Rate applicable is 12% under Sr No. 3(vii) under HSN 9954 for composite supply of works contract involving predominantly earth work that is, constituting more than 75% of the value of the works contract provided to Central/State Govt.
- The expression 'earthwork' has not been defined in the GST Act or GST Rules or any other notifications. Various dictionary meanings of the same areas under -

Wikipedia - as per Civil engineering use

Earthworks are engineering works created through the processing of parts of the earth's surface involving quantities of soil or unformed rock ...

Typical earthworks include road construction, railway beds, causeways, dams, levees, canals, and berms. Other common earthworks are land grading to reconfigure the topography of a site, or to stabilize slopes

Merriam Dictionary

1. an embankment or other construction made of earth especially: one used as a field fortification
  2. the operations connected with excavations and embankments of earth
  3. a work of art consisting of a portion of land modified by an artist
- In the instant case, the agreement copy has detailed the works to be carried out by the Applicant under the current project which consists of cement concreting of entire rail level platform/goods shed circulating area, cement concreting of approach road connecting to goods shed, provisions/improvement of drainage system, water supply system etc. In view of the activities listed, it appears that the works of the Applicant will fall under the definition of earthwork.





2.3. Without Prejudice to above, the Applicant is constructing the goods shed and maintaining the same indirectly to provide freight services (i.e. by charging terminal charges). Central Railway collects Terminal charges for inward and outward traffic of goods at the Goods shed in addition to freight charges [for transportation of the goods by rail) applicable to the goods. Terminal Charges is collected as part of freight charges by Central Railway. Central Railway charges GST @ 5% on such terminal charges collected by them from their clients as part of freight charges.

Such terminal charges are thereafter shared with the Applicant as per the contract [i.e. 90% of the terminal charges). Thus, the consideration received by the Applicant is merely a share or proportion of the said Terminal Charges only. Since Terminal Charges are taxable at GST 5% as per Sr No. 9 (I) of Notification No. 11/2017 - Central (Rate) dated 28/06/2017 (as amended) and even Central Railway is collecting and paying GST @ 5% on such terminal charges. Thus, the Applicant must also pay GST @ 5% on consideration received by them for the said work as it is only a share of terminal charges.

**03. CONTENTION - AS PER THE CONCERNED OFFICER:**

**OFFICER SUBMISSION DATED 13.01.2025:**

In this regard, the view sought from this Commissionerate based on the advance ruling application filed by the Taxpayer is as under:

**Question No 1:** Classification & GST Rate applicable to the work undertaken by the Applicant of 'Reconstruction, Maintenance, housekeeping and security at kalamboli goods shed near Panvel for 90% proportion of Terminal Charges as consideration.

**Reply to Question No 1:** Considering the entire contract the transaction appears to be composite supply wherein supply of goods as well as services both are involved. Accordingly, it may fall under Works Contract with heading 995414 attracting 18% GST as per Notification 11/2017 as amended.

**Question No 2:** Whether Central Railway is entitled to claim ITC (input tax credit) for the GST payable on the payment made to the Applicant for the said work.

**Reply to Question No 2:** The question relates to Central Railway and not to the applicant. The same does not fall within the purview of sub-section (2) of section 97 or sub-section (1) of section 100.



#### 04. HEARING

Preliminary e-hearing in the matter held on 14.11.2024. Mr. Prakash Mehta, C.A., appeared, and requested for admission of the application. Jurisdictional Officer Mr. Gokhru Pravin, Assistant Commissioner of CGST is available.

The application was admitted and called for final e-hearing on 13.02.2025. Mr. Pranav Mehta, C.A. (Authorized Representative) appeared made oral and written submissions. Jurisdictional Officer Mr. Ashishkumar Pati, Assistant Commissioner of CGST appeared. We heard both the sides.

#### 05. OBSERVATIONS AND FINDINGS:

5.1. We have gone through the records of the case, the application submitted by the applicant and the views expressed by the applicant and the views submitted by the jurisdictional officer vide letter dated 13.1.2025.

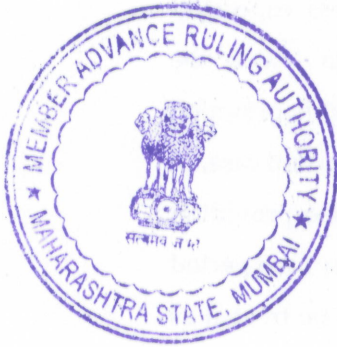
5.2. From the application filed by the applicant and the copy of the agreement dated 10.10.2022 between the applicant and the Divisional Regional Manager (Commercial), Central Railway, submitted by the applicant, it is seen that the applicant has been given the contract for development and maintenance of infrastructural facilities at Kalamboli Goods Shed as a common user facility through private investment in lieu of share of Terminal Charges/Terminal Access Charges & Commercial activities as permitted for a period of 10 Years. The scope of the infrastructural work is cement concreting of entire rail level platform/entire goods shed circulating area, cement concreting of approach road connecting to goods shed circulating area, provision/improvement in drainage system -drains with precise drain covers running along old goods line and new goods line giving proper slope of 1 in 1200 with outlet falling in CIDCO storm water drain, water supply system-cemented water stands, pipe lines, taps, hoarding structure etc. In addition to the development of the said facilities, the applicant will have to maintain the existing as well as developed infrastructure at his own cost. They are also responsible for the security of the said facility. The consideration for the said work would be in the form of 90% share in the Terminal charges and terminal access charges for all inward and outward traffic dealt at Kalamboli goods shed for a period of 10 years from the date of completion of work. In addition to the said payment the applicant shall have the license to erect hoardings for advertisement and to run a catering stall in the said premises. It is also mentioned in the agreement that the common





user traffic facility developed by the applicant shall become the property of railway administration and the licensee shall have no claim to these assets.

- 5.3. We find that the applicant is providing the services of construction, development and maintenance of Kalamboli goods shed for the Central Railway. The applicant has also mentioned in the application that they are also responsible for the security of the said facility. For all these services provided by them, they receive compensation from the railways in the form of revenue sharing of 90% of the revenue generated from the said goods terminal by way of inward and outward traffic dealt at Kalamboli goods Shed for ten years. From the nature of the work described herein above, we find that the services provided by the applicant is in the nature of works contract. Section 2(119) of the CGST Act, 2017, defines Works Contract as 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 the goods (whether as goods or in any other form) is involved in the execution of such contract. We find that in the instant case, the applicant is constructing, maintaining, modifying, renovating and repairing an immovable property for the Central Railway and the property so developed would be considered to be the property of the Central railway. Thus, it is observed that the said services provided by the applicant would qualify as a works contract as per the CGST Act, 2017. Further, we find that the applicant is providing the services of reconstruction, maintenance, housekeeping and security services at the existing shed at kalamboli. The scheme introduced by the Central Railway is to reconstruct goods shed and maintain the same for 10 years. On detailed examination of the scope of the work, it is seen that the applicant would do the cement concreting of entire rail level platform/entire goods shed circulating area, provision/improvement of drainage system etc. As per Notification No.12/2017 Central Tax (Rate) dated 28.06.2017, 'Original works' means all new constructions - (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable. The reconstruction work undertaken by the applicant can be termed as original works.



5.4. We also find that the applicant, in addition to development, is providing services of maintenance, housekeeping and security of the said premises to the Central Railway. As per Section 2(30) of the CGST Act, 2017, defines Composite Supply as under:-

*"composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.*

*Illustration: Where goods are packed and transported with insurance. the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply."*

We find that the services of construction and maintenance of the railway shed can be treated as naturally bundled and supplied in conjunction with the development and repair services in the ordinary course of business, especially when the same is covered under a single contract for the which the consideration is also not divided for each services separately but is provided for the entire contract as a whole. However, we find that in the instant case, in addition to reconstruction and maintenance, the applicant is also providing housekeeping services and security services to the Central Railway for a period of 10 years. It has to be determined whether these services can be treated as naturally bundled and supplied in conjunction with the development and repair services in the ordinary course of business. In this regard, we find that Section 2(74) of the CGST Act, defines Mixed Supply as two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. In order to determine the proper classification and rate of tax in respect of the services provided by the applicant, it has to be determined whether the services provided by the applicant is a composite supply or a mixed supply. In order to constitute a composite supply, the services provided by the applicant should be naturally bundled in the ordinary course of business.





5.5. The concept of 'naturally bundled' supplies is not defined under CGST Act. For this, reliance can be placed on the flyer cum FAQ issued by CBIC to explain the concepts of 'composite supply' and 'mixed supply', which also makes reference to the Education Guide issued under service tax regime in determining whether a supply is a composite or a mixed supply under GST regime. The 'Education Guide' issued by the Central Board of Excise & Customs ('CBEC') in the year 2012 explains the 'Bundled service' to mean a bundle of provision of various services wherein an element of one service is combined with an element or elements of any other service or services. Para 9.2.4, the Education Guide discusses whether a bouquet of services is bundled in the ordinary course of business would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:



a) The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.

b) Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.

c) Nature of the services offered is such that one is the main service and the other services combined with such a service are ancillary.

d) Other illustrative indicators, not determinative but indicative of bundling of services in ordinary course of business are -

There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.

The elements are normally advertised as a package.

The different elements are not available separately.

The different elements are integral to one overall supply - if one or more is removed, the nature of the supply would be affected.

By applying the aforementioned principles and guidelines to examine whether the housekeeping and security services provided by the applicant can be considered as naturally bundled with reconstruction and maintenance of the goods shed, we find that such services are not naturally bundled with each other in the ordinary course of business. The service of housekeeping and security services can be and is normally provided separately by various agencies or is more often looked after by in-house employees. Such services are not handed over to the person who undertakes the construction or repairs and maintenance of any immovable property ordinary in the course of business. They cannot be treated as naturally bundled in the ordinary course of business. We also find that in the ordinary course of business, the construction is done by one entity and the maintenance is provided by some other entity or by the owner himself. It is not naturally expected in the line of business that the work of construction, maintenance, housekeeping and security is naturally supplied by one person in one package. Therefore, we hold that the services provided by the applicant of reconstruction, repairs and maintenance, housekeeping and security of the Kalamboli goods shed to the Central Railway would not qualify as a composite supply of service. It would rather be treated as a mixed supply of service involving supply of various services which can be individually classified as under:-



S.No.	Nature of Service	Classification of service	Classification heading under GST	Rate of tax
1	Reconstruction	Works contract Service	995414	12%
2	Repairs and Maintenance	Works Contract Service	995419	18%
3	Housekeeping Services	Cleaning Services	9985.39	18%
4	Security services	Other security services nowhere else classified	9985.29	18%




We find that Section 8 of the CGST Act, reads as under:- Tax liability on composite and mixed supplies- The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Accordingly, we hold that the services provided by the applicant would be considered as a mixed supply and the same shall be treated as supply of works contract service (repairs and maintenance) under Chapter 995419 which attracts the highest rate of tax of 18% (9% CGST + 9% SGST) which is the dominant and principle service amongst the services having the highest rate of tax.

5.6. The applicant has raised the question as to whether the services provided by them would be eligible to concessional rate of taxation in terms of Notification No.11/2017 Central (Rate) dated 28.6.2017 @ 6% CGST + 6% SGST as per sub clause (vii) of the said Notification. We find that Sr.3(vii) of Notification 11/2017 dated 28.6.2017 reads as under: -



Sl. NO.	Chapter, Section or Heading	Description of services	Rate (percent)	Condition
3	Heading 9954 (construction services)	(vii) Composite supply of works contract as defined in clause (119) of section 2 of such 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, 26b [Union territory a local authority].	6	-

5.7. We find that in order to be eligible for the benefit of the said clause of the Notification, the works contract service should involve predominantly earth work i.e. more than 75% of the value of the works contract should be involving earth work. We find that 'earthwork' has not been defined in the said notification nor in the CGST Act, 2017. The Hon'ble Supreme Court in the case of CIT, Bangalore Vs. Venkateswara Hatcheries (OP) Ltd., reported in 1999 (3) SCC 632 has held that 'when the word is not so defined in the Act, it may be permissible to refer to dictionary to find out the meaning of that word, as it is understood in common parlance'. In view of this first we are required to understand the general meaning of the word 'earthwork' in common parlance in the field of civil engineering/construction.

5.8. We find that Earthwork is the process of moving a portion of the earth's surface from one location to another. Earth movement also includes transforming the earth's material into a new desired shape and physical condition. It is commonly known as Earthwork excavation. Earthwork should not be confused with soil only; the engineering processes involving unformed rocks are also termed as earthwork. For the construction of foundations and trenches, earthwork is needed, which includes excavation and backfilling of soil to a required depth. To optimise the operation and avoid safety concerns, excavation and backfilling must be done correctly. While excavating, several soil strata may be encountered which require different types of operations. Because excavation costs make up a significant portion of the foundation, accurate measurement of excavation and backfilling is necessary.

5.9. From the details of the work submitted by the applicant and as can be inferred from the contract, it is seen that the major portion of the work involves cement concreting of rail level platform, cement concreting of approach roads, provision of drainage system, water supply system and hoarding structure, in addition to the maintenance of the said structures. This work would involve some amount of earthwork but by the very nature of the work involved, it would be far-fetched to arrive at a conclusion that 75% of the value of the works contract would be earth work. The work of building a platform, concreting of roads etc., cannot be considered as earthwork as they are construction activities, after necessary earthwork is completed. Further, the applicant has





not produced any evidence or documentary proof to establish that the works contract undertaken by them predominantly involves earthwork, the value of which is more than 75% of the entire value of the services supplied. Under the circumstances, we hold that the works contract services supplied by the applicant would not be eligible for the benefit of Sr.No.3(vii) of Notification No.11/2017 Central (Rate) dated 28.6.2017, as amended, from time to time.

5.10. The applicant has further raised the question as to whether the services provided by them would be classified as terminal charges for transportation of goods by rail i.e. freight services, taxable at 5% i.e. 2.5% CGST and 2.5% SGST as per Sr.No.9(i) of Notification No.11/2017 Central (Rate) dated 28.6.2017. We find that Sr.No.9(i) of Notification No.11/2017 Central (Rate) dated 28.6.2017 covers service of transport of goods by rail. It is clear from the submissions of the applicant that they provide the service of development, repair and maintenance, housekeeping and security of the goods shed at Kalamboli. They are not involved in the provision of service of transportation of goods by rail. The compensation received by the applicant is a percentage of the terminal handling charges collected by Central Railway. It would not be out of place to mention that the manner of calculation of compensation would not, in any manner, influence the classification of the services provided by the applicant. The applicant is not providing any service of transportation of goods by rail. It is the Central Railway which is providing the said service. The applicant is providing mixed services including works contract, maintenance, housekeeping and security services to the Railway and by no stretch of imagination can it be held that the applicant is providing services of transportation of goods by rail. Therefore, the benefit of Sr.No.9(i) of Notification No.11/2017 Central (Rate) dated 28.6.2017 would not be available to the applicant.

5.11 We find that the applicant is providing supply of services such as works contract service, repairs and maintenance, housekeeping services and security services to the Central Railway which can be considered as a supply of mixed service, with works contract (repairs and maintenance) having the highest rate of tax of 18%. (9% CGST + 9% SGST) . In terms of Section 8 of the CGST Act, 2017, the said services are appropriately classifiable under Heading 995419 and chargeable to tax at the rate of 18% i.e. 9% CGST + 9% SGST.



5.12. The applicant has further raised the question whether the Central Railway would be entitled to avail input tax credit on the services provided by the applicant.

In this regard, provisions of section 97 are produced below:

*Section 97*

- (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*
- (2) The question on which the advance ruling is sought under this Act, shall be in respect of,-*
  - (a) classification of any goods or services or both;*
  - (b) applicability of a notification issued under the provisions of this Act;*
  - (c) determination of time and value of supply of goods or services or both;*
  - (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
  - (e) determination of the liability to pay tax on any goods or services or both;*
  - (f) whether applicant is required to be registered;*
  - (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

This section provides that an applicant desirous of obtaining an advance ruling can make an application in respect of issues mentioned in subsection (2) above. All these issues are qua-applicant i.e. they should be related to the applicant. Clause (d) of subsection 2 mentions 'admissibility of input tax credit of tax paid or deemed to have been paid'. This reference is with respect to admissibility of input tax credit to the applicant. The applicant in this case has raised question regarding admissibility of input tax credit for this recipient which is not covered by the scope of Section 97. Further Section 103 (1) provides that the advance ruling pronounced by the Authority or the Appellate Authority shall be binding only on the applicant and the concerned officer or jurisdictional officer in respect of the applicant. Thus, the ruling in this case would not be binding upon the recipient of the applicant. Hence, such a ruling that affects the recipient but would not be binding on him is not expected under the provisions of section 97,98 and 103 of the Act. Further Section 100 provides that an appeal against any advance ruling can be filed by the concerned officer,





the jurisdictional officer or applicant. If an advance ruling order is made on issue which affects the recipient of the applicant, he would not be able to file an appeal against the said order as per the provisions of section 100. Hence, the provisions of law do not allow a ruling in respect of any other person but the Applicant.

In view of this, the question of admissibility of ITC to the recipient of the applicant i.e. Central Railway is not answered.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

### ORDER

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

NO.GST-ARA- 10/2023-24/B-

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Mumbai, dt.

27/03/2025

For reasons as discussed in the body of the order, the questions are answered thus -

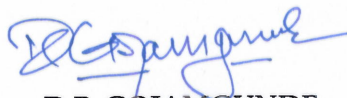
Question No.1. Classification and GST Rate applicable to the work undertaken by the applicant of "Reconstruction, Maintenance, housekeeping and security at kalamboli Goods Shed near Panvel for 90% proportion of Terminal charges a consideration"

Answer No.1 The services provided by the applicant will be classified as mixed supply with works contract (repairs and maintenance) services classifiable under Heading 995419 having the highest rate of tax of 18% (9% CGST + 9% SGST). Hence, this supply of "reconstruction, maintenance, housekeeping and security" will be liable to tax at the rate of 18% (9% CGST+9% SGST) as mixed supply.

Question No.2. Whether Central Railway is entitled to claim ITC (Input tax Credit for the GST payable on the payment made to the Applicant for the said work?

Answer No.2. Not answered.



  
D.P. GOJAMGUNDE  
(MEMBER)

  
PRIYA JADHAV  
(MEMBER)



**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint commissioner of State Tax, Mahavikas for Website.

**Note:-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India Building, Nariman Point, Mumbai - 400021. Online facility is available on [gst.gov.in](http://gst.gov.in) for online appeal application against order passed by Advance Ruling Authority.