HARYANA AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, HARYANA VANIJYA BHAWAN, PLOT NO I-3, SECTOR 5, PANCHKULA-134151 (HARYANA)

ADVANCE RULING NO.HAR/HAAR/2018-19/ 36

(In Application No.: 37 dated 14.11.2018)

Name & Address of the Applicant	:	M/s R. R. Enterprises, House No. 792, Sector-9, Panchkula, Haryana
GSTIN of the Applicant	:	06ACTPS4403L1Z4
Date of Application	:	14.11.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	(b) applicability of a notification issued under the provisions of this Act; and (*e*) determination of the liability to pay tax on any goods or services or both
Date of Personal Hearing	:	07.02.2019
Present for the Applicant	:	Sh. Sachit Soni, CA (authorised representative)

ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND SUB-SECTION (4) OF SECTION 98 OF THE HARYANA GOODS AND SERVICES TAX ACT, 2017

1. M/s R. R. Enterprises [hereinafter referred to as the "Applicant"], having registered and correspondence address at House No. 792, Sector-9, Panchkula, Haryana is a registered taxable person having GSTIN - 06ACTPS4403L1Z4.

2. The Applicant, under a contract since April, 2018, is supplying manpower services of tube-well operators for operation of tube-wells and boosters of drinking and irrigation water supply in various villages in Chandigarh to Executive Engineer, Project, Public Health Department, Chandigarh [hereinafter referred to as the "department"]. In the application for advance ruling, the applicant has sought clarification as to whether the provision of services (Manpower Supply) of tube well operator for operation of tube well and booster of drinking and irrigation water supply in various villages covered under Panchayat are exempt or taxable?

3. The applicant submits that for the period from 1st April, 2018 to 30th September, 2018, he was issuing invoices against the said supply of services without any GST and department was also accepting all such invoices as such and releasing the payments.

4. The applicant further submits that with effect from 1st October, 2018, the provisions of TDS under section 51 of CGST Act, 2017 were made effective by CBIC by issuing notification No. 50/2018-Central Tax, dated 13th September, 2018 and, since, the Public Health Department is a Government Department, it intimated to all the vendors on board that TDS shall be deducted on every payment made by the Department, without completely understanding the applicability of provisions of

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Addl. Excise & Taxation Commissioner (GST Haryana, Panchkula section 51 of the act ibid. The applicant, through his counsel, explained to the department that as per section 51, the TDS provisions are applicable only to the taxable supply of goods or services or both.

5. The applicant submits that although the department agreed to this viewpoint but it came up with an opinion that the above said supply is not exempted and is asking the applicant to raise invoice with GST so that it can deduct GST. In this background, the applicant has sought a ruling on whether such supply of services in various villages covered under panchayat shall be exempted or taxable?

6. Opportunity of personal hearing was granted to the applicant on 07.02.2019 and the proceedings on behalf of applicant were attended by Sh. Sachit Soni, CA, the authorised representative of the applicant. Since, the question submitted for ruling was covered by clauses (b) and (e) of sub-section (2) of section 97 of the CGST/HGST Act, 2017, the application for advance ruling was admitted. Sh. Ravinder Kumar, ETO, the concerned officer in the case, also appeared before the authority and submitted his written comments, in which he has supported the version put forth by the applicant. After hearing both the parties in detail, decision was reserved, which is released today.

7. It is case of the applicant that services supplied by it are exempted, being covered under entry at Sr. No. 3 of CGST Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017, which is reproduced as under:-

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity 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

8. As per perusal of the copy of contract, submitted by applicant along with his application, only manpower supply services are to be provided by the applicant and since, no supply of goods is involved, such services qualify as pure services. Further, the said services are being supplied by applicant to Union Territory of Chandigarh as the contract is awarded by Executive Engineer, Project P. H. Division No. 3, Chandigarh functioning under the Department of Engineering of Union Territory of Chandigarh. The functions entrusted to a panchayat under the Eleventh Schedule to Article 243G of the Constitution include Agriculture, Land Improvement, Minor irrigation, Water management, Drinking water, Rural housing, Fuel and Fodder etc

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Addl. Excise Taxation Commissioner (GST) Haryana, Panchkula and therefore the activities performed by applicant under the said contract are services supplied in relation to any function entrusted to a Panchayat under article 243G of the Constitution.

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

RULING

Whether the provision of services (Manpower Supply) of tube well operator for operation of tube well and booster of drinking and irrigation water supply in various villages covered under Panchayat are exempt or taxable?

In view of the above discussion, the provision of services (Manpower Supply) of tube well operator for operation of tube well and booster of drinking and irrigation water supply in various villages covered under Panchayat are exempt being covered under entry at Sr. No. 3 of CGST Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017.

Ordered accordingly.

To be communicated.

Dated : 13.02.2019
Place : Panchkula

Sangeeta

(Sangeeta Karmakar)
Member CGST

(Vijay Kumar Singh)
Member SGST

Certified true Copy

Addl. Excise & Taxation Commissioner (GST)
Haryana, Panchkula

Regd. AD/Speed Post

M/s R. R. Enterprises,
House No. 792, Sector-9,
Panchkula, Haryana

Copy to

1. Deputy Excise & Taxation Commissioner (ST), Panchkula
2. The Assistant Commissioner, SCO No. 407-408, Sector-8, Panchkula.
3. The Commissioner of CGST Commissionerate Panchkula, SCO-407-408, Sector-8, Panchkula.