

**THE AUTHORITY FOR ADVANCE RULING  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 03/ 2023**

**Dated: 23.01.2023**

Present:

1. Dr. M.P. Ravi Prasad  
Additional Commissioner of Commercial Taxes . . . . Member (State)
2. Sri. Kiran Reddy. T  
Additional Commissioner of Customs & Indirect Taxes . . . . Member (Central)

1.	Name and address of the applicant	M/s. SANJEEVINI ENTERPRISES, 04, Sri Kalleshwara, Near Government School, Gopishetty Koppa, Gopala, Shivamogga-577205.
2.	GSTIN or User ID	29AJHPT4167D1ZW
3.	Date of filing of Form GST ARA-01	16.08.2022
4.	Represented by	Shri Siddeshwar, Proprietor and Shri Girish, Manager
5.	<b>Jurisdictional Authority - Centre</b>	The Commissioner of Central Tax, Mysuru Commissionerate, Shivamogga Division, Shivamogga South Range, Mysuru.
6.	Jurisdictional Authority - State	ACCT, LGSTO-223, Shivamogga
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act vide transfer of amount through <b>FORM GST DRC-03</b> Reference No.DC2908220112491 Dated 18.08.2022 and Rs.5,000/- under KGST Act vide debit of Electronic Cash Ledger Reference No. DC2907220361570 dated 25.07.2022

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017  
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Sanjeevini Enterprises, 04, Sri Kalleshwara, Near Government School, Gopishetty Koppa, Gopala, Shivamogga-577205 (hereinafter referred to as 'The applicant'), having GSTIN have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST





Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a Proprietorship concern registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The applicant states that they are bidding for a tender called by Department of Horticulture which includes the supply of manpower for Bio-Centre, Department of Horticulture, Centre of Excellence for Floriculture, Tunga Horticulture Farm, Shivamogga, for maintenance of plants, tissue culture, production of mushroom and also for cleaning of offices.

3. The applicant has sought advance ruling in respect of the following questions:

- i. *Whether works contract service provided to Bio Centers, Department of Horticulture and Center of excellence are exempted as per GST Exemptions?*
- ii. *Whether other service like data entry operator, security, provided to Horticulture Department attracts GST?*
- iii. *Whether material like fertilisers, soil, sand supplied for use of bio centers are exempted as per GST?*

4. **Admissibility of the application:** The question is about the "Determination of the liability to pay tax on any goods or services or both" and hence is admissible under Section 97(2) (e) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that they are bidding for a tender called by Department of Horticulture which includes the supply of manpower for Bio-Centre, Department of Horticulture, Centre of Excellence for Floriculture, Tunga Horticulture Farm, Shivamogga, which includes followings works:

1) Department of Horticulture: Handling complete process of tissue culture production of various agriculture plants and mushroom research, growing under guidance of agriculture officer including cleaning and maintenance of equipment used for production under tissue culture process.

2) Center for Excellence, Tunga Floriculture Center: Handling complete process of research on flower, planting and growing process and maintenance under guidance of agriculture officer including cleaning and maintenance of equipment used and handling of wastage.



M/s. Sanjeevini Enterprises



## PERSONAL HEARING / PROCEEDINGS HELD ON 29.09.2022

6. Shri Siddeshwar, Proprietor and Shri Girish, Manager, appeared for personal hearing proceedings held on 29.09.2022 through video conference and reiterated the facts narrated in their application.

### FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and relevant facts & the submissions made by the proprietor and their learned representative during the time of hearing.

9. The Applicant states that they are bidding for a tender called by Department of Horticulture which includes the supply of manpower for Bio-Centre, Department of Horticulture, Centre of Excellence for Floriculture, Tunga Horticulture Farm, Shivamogga. The manpower is supplied for the following works:

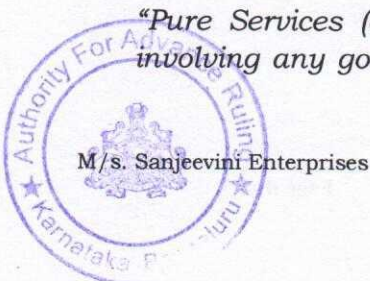
1) Department of Horticulture: Handling complete process of tissue culture production of various agriculture plants and mushroom research, growing under guidance of agriculture officer including cleaning and maintenance of equipment used for production under tissue culture process.

2) Center for Excellence, Tunga Floriculture Center: Handling complete process of research on flower, planting and growing process and maintenance under guidance of agriculture officer including cleaning and maintenance of equipment used and handling of wastage.

10. The Applicant wants to know whether works contract service provided to Bio Centers, Department of Horticulture and Center of excellence are exempted from GST. However, there is no specific exemption for any works contract service as per Notification No.12/2017-Central Tax (Rate), dated 28.06.2017.

11.1 The Applicant wants to know whether providing manpower supply for tissue culture production and for handling the process of research on flowers, planting and growing process attracts GST. Now we invite reference to entry no.3 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 which reads as under:

*"Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or*





*Union territory or local authority 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."*

11.2 From the above said entry of the notification it is observed that, in order to claim exemption on supply of man power services two conditions should be satisfied:

1. *Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority*
2. *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."*

Now we examine whether the applicant satisfies above two conditions to claim exemption under the said notification.

11.3 The Applicant states that he intends to provide manpower supply for tissue culture production and for handling the process of research on flowers, planting and growing conducted by Horticulture department, Government of Karnataka. Thus the first condition of providing pure services to state government is satisfied.

11.4 243G- Powers, authority and responsibilities of Panchayats subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

- (a) The preparation of plans for economic development and social justice;
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Matters listed in Eleventh schedule are:

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.

243W. Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law, may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to
  - (i) the preparation of plans for economic development and social justice;
  - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

There are 18 items in the twelfth schedule of the Constitution which are as below:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.





7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

11.5 The applicant is providing manpower supply for tissue culture production and for handling the process of research on flowers, planting and growing for Horticulture department, Government of Karnataka. Now let us see whether tissue culture is covered under 1<sup>st</sup> entry of eleventh schedule which says 'Agriculture, including agricultural extension'.

As per Merriam-Webster dictionary, Tissue Culture means "the process or technique of making body tissue grow in a culture medium outside the organism".

Honorable Supreme Court of India in case of CIT v. Raja Benoy Kumar Sahas Roy (1957) 32 ITR 466 (SC) in the judgment observed that "Agriculture" in its root sense means *ager*, a field and culture, cultivation, cultivation of field which -of course implies expenditure of human skill and labour upon land..."

11.6 In view of the above we observe that, tissue culture is not same as agriculture and there is no direct nexus to the items mentioned in eleventh or twelfth schedule of the constitution. Thus supply of manpower for tissue culture production and for handling the process of research on flowers, planting and growing to Horticulture department, Government of Karnataka are not provided 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. Hence provision of such manpower services are liable to tax at 18% (9% CGST and 9% KGST).

12. The Applicant wants to know whether supply of materials like fertilisers, soil and sand for use of bio centers are exempted under GST. However, there is no specific exemption for supply of materials like fertilisers, soil and sand for use of bio centers as per Notification No.2/2017-Central Tax (Rate), dated 28.06.2017.

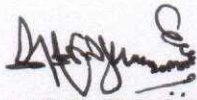




13. In view of the foregoing, we pass the following

**RULING**

- i. Works contract service provided to Bio Centers, Department of Horticulture and Center of excellence are not exempted from GST.
- ii. Providing Manpower service like data entry operator, security to Horticulture Department is exigible to GST at 18% (CGST @ 9% and KGST @ 9%).
- iii. Materials like fertilisers, soil and sand supplied for use of bio centers are not exempted under GST.



(Dr. M.P. Ravi Prasad)

Member

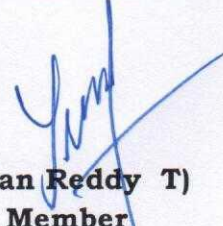
MEMBER

Place: Bengaluru,  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009

Date: 23.01.2023

To,  
The Applicant  
Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Taxes, Mysuru Commissionerate, Shivamogga Division, Shivamogga South Range, Mysuru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-223, Shivamogga.
5. Office Folder.



(Kiran Reddy T)

Member

MEMBER

Karnataka Advance Ruling Authority  
Bengaluru - 560 009



M/s. Sanjeevini Enterprises