

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

**Advance Ruling No. KAR ADRG 44/2022**

**Date : 29-11-2022**

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. KBL SPML JV, C/o Workafella, 150,1, Infantry Road, Opp. Commissioner Office, Shivajinagar, Bengaluru – 560 001.
2.	GSTIN or User ID	29AAKFK4967C1Z0
3.	Date of filing of Form GST ARA-01	17-09-2022
4.	Represented by	Sri. K J Kamath, Advocate & Authorised Representative
5.	<b>Jurisdictional Authority – Centre</b>	The Commissioner of Central Tax, Bengaluru North Commissionerate, Bengaluru. (Range-BND4)
6.	Jurisdictional Authority – State	ACCT, LGSTO-130, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from Electronic Cash Ledger vide reference No. DC2909220070782 dated 16.09.2022.

**ORDER UNDER SECTION 98(2) OF THE CGST ACT, 2017  
& UNDER SECTION 98(2) OF THE KGST ACT, 2017**

M/s. KBL SPML Joint Venture (herein after referred to as 'Applicant'), C/o Workafella, 150,1, Infantry Road, Opp. Commissioner Office, Shivajinagar, Bengaluru – 560 001, having GSTIN 29AAKFK4967C1Z0, 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 KGST Act.

# KBL-SPML-JV

Page 1 of 4



2. The applicant stated that they undertook pure services of Operation & Maintenance (O&M) of pumping stations and reservoirs at T K Halli, Harohalli and Tataguni as per contract with M/s BWSSB; that the contractee BWSSB has been classified as Local Authority in their GST registration No.29BLRA06245B1DJ, issued by GST Department; entry No.3 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 exempts the supply of pure services to a local authority.

3. In view of the above, the applicant has sought advance ruling in respect of the following questions:

- a. Whether the transaction undertaken by the applicant is covered under the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, amended by Notification No.2/2018 dated 25.01.2018 and further Notification No.16/2021 dated 18.11.2021.

#### **PERSONAL HEARING PROCEEDINGS HELD ON 29.09.2022**

4. Sri. K J Kamath, Advocate & Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

#### **FINDINGS & DISCUSSION**

5. 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 matters 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.

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

7. The applicant sought advance ruling in respect of the question mentioned at para 3 supra. We proceed to examine, before going into the merits of the case, the maintainability of the instant application.

8. The applicant was awarded a contract by BWSSB for execution of civil and electromechanical works for pumping stations & reservoirs at T. K. Halli, Harohalli and Tataguni as well as Operation & Maintenance for a period of 7 years. It is an admitted fact that the construction of said pumping stations & reservoirs was completed in the VAT regime and the O&M work was effective from 01.11.2014 and





got completed by 31.10.2021. The instant application was filed on 17.09.2022 after completion of O&M work, as the tax amount was withheld by the contractee BWSSB. Thus the maintainability of the instant application need to be examined.

9. In this regard we observe that Section 95(a) of the CGST Act 2017, while defining the term 'advance ruling', stipulates that an applicant can seek advance ruling on the questions specified under Section 97(2) of the CGST Act 2017, **in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the said applicant.**

10. It is pertinent to mention here that the word "being" is the present participle of the verb "be" and used to form tenses in the progressive (or continuous) aspect. A present participle is a verb form (or verbal) made by adding -ing to the base that often functions as an adjective. Use of present participle denotes present and continuing action. Thus the phrase 'being undertaken' refers to an ongoing and continuous supply.

11. The GST Flyer also says that the definition of Advance Ruling under the CGST Act 2017 is a broad one, which can be given on a proposed transaction as well as a transaction already being undertaken by the applicant, which is an ongoing transaction.

12. In the instant case the questions, on which the applicant seeks advance ruling, are not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the said applicant, but in relation to a completed supply, provided by them. Therefore the instant application is beyond the jurisdiction of this Authority and hence is liable for rejection.

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

### **RULING**

The application filed by the Applicant for advance ruling is rejected, in terms of Section 98(2) of the CGST Act 2017.

  
(Dr. M.P. Ravi Prasad)  
Member

MEMBER  
Karnataka Advance Ruling Authority  
Place : Bengaluru, 560 009  
Date : 29-11-2022

  
(Kiran Reddy T)  
Member

MEMBER  
Karnataka Advance Ruling Authority  
Bengaluru - 560 009



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 Tax, Bengaluru North Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-130, Bengaluru.
5. Office Folder.

10. It is pertinent to mention here that the word "being" in the present participle of the verb "be" and used in form tenses in the progressive (or continuous) aspect. A present participle is a verb form for verbal made by adding -ing to the base that often functions as an adjective. Use of present participle denotes present and continuing action. Thus the phrase "being undertaken" refers to an ongoing and continuous supply.

11. The GST flyer also says that the definition of Advance Ruling under the CGST Act 2017 is a broad one, which can be given on a proposed transaction as well as a transaction already being undertaken by the applicant, which is an ongoing transaction.

12. In the instant case the questions on which the applicant seeks advance ruling are not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the said applicant, but in relation to a completed supply provided by them. Therefore the instant application is beyond the jurisdiction of this Authority and hence is liable for rejection.

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

**RULING**

The application filed by the Applicant for advance ruling is rejected, in terms of Section 98(1) of the CGST Act 2017.

(Signature)  
Member

(Signature)  
(Mr. M. P. V. Ravi)

Member

Karnataka Advance Ruling Authority  
Bengaluru - 560 009

Karnataka Advance Ruling Authority  
Bengaluru - 560 009  
Date : 29-11-2023

