AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow

ADVANCE RULING NO. UP ADRG- 09/2022 DATED 28/07/2022

PRESENT:

1. **Shri Rajendra Kumar**
   Additional Commissioner, Central Goods and Service Tax
   ....Member (Central Tax)
2. **Shri Vivek Arya**
   Joint Commissioner, State Goods and Service Tax .Member (State Tax)

1.	Name of the Applicant	M/s KDS Services (P) Ltd 2nd Floor, 011 & 012, Parshvanatha Planet Plaza, Vibhuti Khand, Gomti Nagar, Lucknow-226010
2.	GSTIN or User ID	09AADCK2144H2ZN
3.	Date of filing of Form GST ARA-01	19-05-2022
4.	Represented by	Shri Pankaj Shukla (CA & Authorized representative)
5.	Jurisdictional Authority-Centre	Range-II, Division-Lucknow-I
6.	Jurisdictional Authority-State	Lucknow Sector-20, Range- Lucknow (C)
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes SBIN22050900089993

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

1. M/s KDS Services (P) Ltd, 2nd Floor, 011 & 012, Parshvanatha Planet Plaza, Vibhuti Khand, Gomti Nagar, Lucknow-226010, (here in after referred to as the applicant) is a registered assessee under GST having GSTIN: 09AADCK2144H2ZN.

2. The Applicant has submitted an application for Advance Ruling dated 19-05-2022 enclosing duly filled Form ARA-01(the application form for Advance Ruling).

3. The Applicant in his application sought Advance Ruling as follows : -

(1) Whether the Project Development Service (i.e. Detailed Project Report Service and Project Management Consultancy services ('PMCS') provided by the applicant to the recipient under the Contract from District Urban Development Agency (herein after referred as "DUDA") which is District Level Agency of State Urban Development Agency (SUDA) and the Project Management Consultancy services ('PMC") under the Contract for PMAY would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?

(2) If answer to first question is in affirmative then, whether such services provided by the applicant would qualify as Pure services (excluding works contract service or composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental 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, as provided in serial number 3 of Notification No. 12/2017-Central Tax (Rate) dated 28 June, 2017, as amended (S. No. 3A) by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 (CGST') and corresponding Notifications No. KA.N.I.-2-843/X1- 9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017 ('UPGST Act'), where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and UPGST, respectively.

4. As per the declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending in any proceedings nor decided in any proceedings in the applicant's case under any of the provisions of the CGST Act, 2017/UPGST Act, 2017.

5. The applicant has submitted following facts-

(1) District Urban Development Agency (DUDA), Gorakhpur which is District Level Agency of State Urban Development Agency (SUDA) awarded the work order and entered into an **agreement** with "M/s KDS SERVICES PRIVATE LIMITED" (the Applicant) for Preparation of Detailed Project Report (DPR) and providing Project Management Consultancy Service (PMC) services under Pradhan Mantri Awas Yojna (PMAY in short).

(2) Under the Department of Urban Employment and Poverty Alleviation Program at the state level, SUDA has been constituted as the nodal agency in the Uttar Pradesh government. This agency is registered under the Societies Registration Act with effect from 20th November, 1990. At the district level District Urban Development Agencies (DUDAs) have been established. Through these agencies (SUDA/DUDA), schemes for social and economic upliftment of the urban poor are being implemented. In the direction of all-round upliftment of the urban poor by the Department of Urban Employment and Poverty Alleviation Programme, the following scheme is being operated mainly through the State Urban Development Agency (SUDA) - Pradhan Mantri Awas Yojana-Housing for All (Urban) Mission.

(3) SUDA Lucknow is a State Level Nodal Agencies (SLNA) for PMAY (U) in Uttar Pradesh. SUDA through its Director invited technical and financial proposals from eligible Consultancy Firms / Agencies/ Companies for Preparation of Detailed Project Report (DPR) and providing Project Management Consultancy Service (PMC) services under Pradhan Mantri Awas Yojna (PMAY) for Projects under Beneficiary Led Construction in 635 ULBs in Uttar Pradesh by its Request for Proposal (RFP) vide Invitation No. 708/01/29/HFA/2016-17 dated 01-06-2017

(4) Pradhan Mantri Awas Yojna- The Housing for All (Ministry of Housing & Urban Poverty Alleviation Government of India) Mission for urban area is being implemented to provide central assistance to the implementing agencies through States

and UTs for providing houses to all eligible families/ beneficiaries. Mission seeks to address the housing requirement of urban poor including slum dwellers and non-slum dwellers of Economic Weaker Section (EWS) of annual income up to Rs. 300000 and Lower Income Group (LIG) of Annual Income up to Rs. 300001 to Rs. 600000 by ensuring a pucca house to all eligible urban households by the year 2022, when Nation completes 75 years of its Independence through following programme verticals :

- Slum rehabilitations of slum dwellers with participation of private developers using land as a resource
- Promotion of affordable housing for weaker section through credit linked subsidy
- Affordable housing in partnership with Public and Private sectors
- Subsidy for Beneficiary- Led individual house construction

(5) District Urban Development Agency (DUDA), is organizational extension of SUDA in various Districts of Uttar Pradesh. DUDA works on same lines of objectives in a district on which SUDA works in the entire state of Uttar Pradesh.

(6) Principal Secretary U.P. Govt. wrote a letter to Director SUDA vide its Letter No. 483/2018/1584/69-1-2018-14(139)/2015 TC Dated 04-09-2018 to provide instructions to District Magistrates to choose an agency as per the list of agencies mentioned in the said letter, or any **"New Agency"** by the District Magistrate/Authorized Officer for "Preparation of Detailed Project Report" and providing "Project Management Consultancy Service" under Pradhan Mantri Awas Yojna (PMAY) in their districts.

(7) DUDA Gorakhpur by District Magistrate of Gorakhpur has given work order vide ref no. 1295/DUDA dated 05-01-2022 and entered into an agreement no. 1294/DUDA/2021-22 dated 04-01-2022 with M/s. KDS SERVICES PRIVATE LIMITED, 2nd Floor, 011 And 012, Parsvanath Planet Plaza, Vibhuti Khand, Gomti Nagar, Lucknow, Uttar Pradesh, 226010 (applicant) for "Preparation of Detailed Project Report" and providing "Project Management Consultancy Service" under Pradhan Mantri Awas Yojna (PMAY) specifying the terms of reference and scope of work as per model RFP of SUDA referred above.

(8) Though the work order has been allotted by DUDA but the billing by the applicant will be done to SUDA and payment shall also be released by SUDA. Director SUDA is also authorized to direct the applicant for any additional work required by PMAY which is not covered under the agreement but necessary for PMAY.

(9) The applicant is providing no other services to SUDA/DUDA other than the services mentioned in scope of work mentioned in section-5 of RFP No. 708/01/29/HFA/2016-17 for preparation of DPR and providing Project Management Consultancy (PMC) Service.

(10) **<u>SUDA</u>** has been established as a state level nodal agency, under the department

for Urban Employment and Poverty Alleviation by Uttar Pradesh Government to carry out any function entrusted to a municipality under article 243W of the Constitution. As per the "Memorandum of Association of State Urban Development Agency", it's main objectives shall be-

(a) To identify the urban poor in the state.

(b) To draw up plans and formulate schemes for the upliftment of the urban poor in the state.

(c) To implement schemes for the benefit of the urban poor either directly or through other agencies engaged in this direction, whether private, public or cooperative.

(d) To review the progress of the execution of these activities as well as effectiveness of the benefits directed towards the urban poor.

(e) To set up or establish any specific service such as training facilities, infrastructural etc. in furtherance of the economic interest of the urban poor.

(11) District Urban Development Agencies (DUDAs) have been established at the district level. DUDA as mentioned above is an organizational extension of SUDA in various Districts of Uttar Pradesh. DUDA works on same lines of objectives in a district on which SUDA works in the entire state of Uttar Pradesh. . As per the "Memorandum of Association of "District Urban Development Agency Gorakhpur", it's main objectives shall be-

(a) To identify the urban poor in the District.

(b) To draw up plans and formulate schemes for the upliftment of the urban poor in the District.

(c) To implement schemes for the benefit of the urban poor either directly or through other agencies engaged in this direction, whether private, public or cooperative.

(d) To review the progress of the execution of these activities as well as effectiveness of the benefits directed towards the urban poor.

(e) To set up or establish any specific service such as training facilities, infrastructural etc. in furtherance of the economic interest of the urban poor.

(12) Further, Pradhan Mantri Awas Yojana-Housing for All (Urban), Ministry of Housing and Urban Affairs, the PMAY is a Scheme to provide central assistance to Urban Local Bodies (ULBs) and other implementing agencies through States/UTs for Rehabilitation of existing slum dwellers using their land as a resource through private, participation, and affordable Housing in Partnership.

(13) Furthermore, the matters listed in the 11th and 12th schedule to the constitution (details 243G and 243W, respectively), as functions pertaining to Panchayats/Municipality, are inter alia:

(a) Safe water for drinking,

(b) Maintenance of community assets,

(c) Family welfare,

(d) Markets and Fairs,

(e) Poverty Alleviation Programmes,

(f) Regulation of land use and construction of land buildings,
(g) Urban planning including the town planning,
(h) Planning for economic and social development,
(i) Urban poverty alleviation,
(j) Slum improvement and up-gradation.

(14) The **scope of work by the applicant with main contractctor is as under-**

A. Scope of work under Preparation of DPR:

• 100% physical verification includes door survey, collection of land documents and consent letters from the beneficiaries as per HFAPOA (Housing for All by 2022- Plan of Action), data collection, data verification and data compilation.
• Inclusion of present status and proposed works of infrastructure details.
• MIS Entry.
• Key stakeholder consultations.
• Preparation of beneficiaries wise detailed Architectural/Engineering designs. Drawing and estimates for all sizes of plots, project structuring under appropriate development and funding mechanism. .
• Assistance in obtaining appropriate approvals from concerned agencies/departments. .
• Appropriating all necessary data in reference to Slum Free city Plan in the DPR.
• The DPR should be complete in all respect with all report drawings, statements and documents necessary for obtaining the grant from the Government of India.

B. Scope of Work under Project Management Consultancy (PMC)/Supervision Services:

• PMC will coordinate, execute and monitor the activities leading to the construction of approved DUs (Dwelling units) by Govt. of India.
• All the activities till the completion of DUs will be taken care of by PMC.
• PMC shall also administer the works by the beneficiaries and ensure that the agreement between the ULBs and beneficiaries whether related to quality or quantities of work are executed in accordance with its provisions.
• PMC shall attach Beneficiaries to the project in PMAY-MIS and also upload Annexure 7A & 7C.
• PMC shall execute all MIS related work of PMAY (U).
• PMC will supervise the construction work to ensure adherence to the drawings, prescribed high standards of quality and timely completion of the project and verify and certify the progress of the work.
• Preparation of Physical and Financial progress and shall submit to respective ULBs and DUDA.
• Preparation of individual files consist of application, copy of Aadhar Card, bank details, land documents, consent letters etc, stage wise photographs for every beneficiaries.
• PMC will assist Beneficiaries at various stages such as Plinth Level, Lintel Level, roof level and final finishing works and assist to get timely installments.

• PMC will make sure that the project/ DUs construction must complete as per the agreement made with the beneficiaries for the successful and timely implementation of the Project.

• PMC will implement GEO tagging of constructions of all the stages.

• Time extension will not be considered except in very exceptional cases without prejudice to levy of penalties. However any approval for extension of time of completion of the works stipulated in the construction, beneficiaries will be without any additional financial implication.

• PMC shall be fully responsible for quality control and shall put in place such measures as are essential for ensuring regular on site quality check.

• PMC shall submit the tentative organization chart for managing the project so that appropriate decisions are taken quickly. However, the actual number of technical and financial personnel to be deployed and the deployment schedule shall be prepared by the PMC and manually agreed upon after the award of work. .

• Generate and submit to the ULBs time to time progress reports in the agreed formats and the agreed frequency.

• PMC shall also apprise the beneficiaries of the progress or activities of the project on fortnightly/monthly basis.

• Cash flow Chart —Actual and Scheduled & Bar Chart Actual and Scheduled Status of payments of beneficiaries. Photographs of various stages (Before excavation, Foundation, Plinth Level, Lintel Level & Completion) of DUs of each beneficiary, Geo tagging of constructions all the stages Visitors' Site Inspection, Settlement of all accounts of the beneficiaries with the ULBs.

• Provide project completion report/closure report which shall contain all technical and financial information of the project.

6. The applicant has submitted statement containing the applicant's interpretation of law as under-

(1) Issue raised in the application is squarely covered under Section 97(2) (b) of the CGST Act 2017 being a matter related to applicability of a notification issued under the provisions of this Act.

(2) **As per Constitution of India the text of Article 243G and 243W stands as follows-**

Functions entrusted to Panchayats as laid down under section 243G of the Constitution of India are:-

"Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats 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 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."

Functions of Municipality as laid down under section 243W of the Constitution of India are:-

"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;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule."

(3) According to foregoing discussions it may be construed that the Consultancy services rendered i.e. DPR and PMC under the contract with District Urban Development Agency, Gorakhpur (DUDA) as per scope of RFP issued by SUDA, and for PMAY are in relation to functions entrusted to Municipalities under Article 243G and to Panchayats under Article 243W of the Constitution of India

(4) Now coming to second question for consideration which is a corollary to the first, when answer to the first is in affirmative. Since it may be established that answer to the first question is in affirmative, moving to decide as to whether such services provided would qualify as "Pure services (excluding works contract service or other composite supplies involving supply of any goods)" as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017 (relevant portion attached as per Annexure- 7), as amended (S. No. 3A) by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 ('CGST') and corresponding Notifications No. KA.N.I.-2-843/X1-9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017, where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service and, thus, be eligible for exemption from levy of CGST and UPGST, respectively.

(5)The extracts of Notification No. 12/2017-Central Tax (Rate) dated 28 June, 2017 are as follows:

Table

S.No.	**Chapter,Section, Heading, Group or Service Code (Tariff)**	**Description of Services**	**Rate (per cent.)**	**Condition**
1	2	3	4	5

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 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

(6) Going through the Scope of work under preparation of DPR and scope of work under PMC, this may be clearly opined that such services provided would qualify as "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 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 as provided in serial number **3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017, as amended (S. No. 3A) by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 ('CGST') and corresponding Notifications No. KA.N.I.-2-843/X1-9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017 ('UPGST Act'),** where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service and, thus, be eligible for exemption from levy of CGST and UPGST, respectively.

(7) As per the said entry (entry no. 3 of notification No. 12/2017Central Tax (Rate) dated 28 June, 2017, as amended), the main conditions for the exemption are:
a. It should be a pure service (excluding works contract service or other composite supplies involving supply of any goods).
b. Provided to the Central Government, State Government or Union Territory or Local Authority or a Governmental Authority,
c. 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.

(8) From perusal of entry no. 03 of the Notification No. 12/2017, it may be observed that service should be pure service, supplied to specific class of recipient and should be in relation to any function entrusted to panchayat or municipality under article 243G or 243W of the constitution. Accordingly it may be established that the service of providing "Preparation of Detailed Project Report (DPR)" and providing "Project Management Consultancy Service (PMC)" under Pradhan Mantri Awas Yojna, by the

applicant, in terms of contract entered between applicant and DUDA, as per scope of RFP issued by SUDA, is exempt from GST.

(9) M/S Saryu Babu Engineer India Pvt. Ltd., Lucknow, Uttar Pradesh was providing Project Development Service (i.e. Detailed Project Report Service) and Project Management Consultancy services ('PMCS') under the Contract to State Urban Development Authority ("SUDA") under the Contract for Pradhan Mantri Awas Yojna "PMAY". In the **AAR Order No. 53 dated 11.02.2020, in the case of M/S Saryu Babu Engineer India Pvt. Ltd., Lucknow;** Uttar Pradesh, the same two questions as raised here in this application were raised before the Authority for advance ruling "AAR". Answers to both the questions were given in affirmative by the AAR.

(10) There also in similar matter full exemption was granted to **M/s Rudhrabhishek Enterprises Limited, Noida, U.P.** by **Authority for advance ruling Uttar Pradesh, vide order no. 22 dated 25.01.2019**.

(11) Thus this has been established that based on the above Notification No. 12/2017 and 02/2018 issued under Central Tax (Rate), GST is exempt in the hands of applicant in case of DPR and PMCs provided to DUDA/SUDA.

(12) Hence it is prayed before the Honorable Members of the Authority for advance ruling "AAR" to provide the rulings on the questions rose through this application to exempt the GST in the hands of applicant in case of DPR and PMCs provided to DUDA/SUDA.

7. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer his comments/views/verification report on the matter. The Dy./Assistant Commissioner, CGST & Central Excise Division-1, Lucknow offered no comments on the questions raised by the applicant.

8. The applicant was granted a personal hearing in the matter. In compliance, Shri Pankaj Shukla, Chartered Accountant & Authorized representative, attended personal hearing on 27.07.2022 on behalf of the applicant. During the personal hearing, he reiterated the submissions already made in the application of advance ruling.

DISCUSSION AND FINDING

9. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

10. We have gone through the submissions made by the applicant and have examined the explanation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2)(b) of the CGST Act 2017 being a matter related to applicability of a notification issued under the provisions of this Act. We therefore, admit the application for consideration on merits.

11. We have gone through the submissions made by the applicant and examined the detailed explanation submitted by them. We observe that the question sought by the applicant is as under-

(1) Whether the Project Development Service (i.e. Detailed Project Report Service and Project Management Consultancy services ('PMCS') provided by the applicant to the recipient under the Contract from District Urban Development Agency (herein after referred as "DUDA") which is District Level Agency of State Urban Development Agency (SUDA) and the Project Management Consultancy services ('PMC") under the Contract for PMAY would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?

(2) If answer to first question is in affirmative then, whether such services provided by the applicant would qualify as Pure services (excluding works contract service or composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental 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, as provided in serial number 3 of Notification No. 12/2017-Central Tax (Rate) dated 28 June, 2017, as amended (S. No. 3A) by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 (CGST') and corresponding Notifications No. KA.N.I.-2-843/X1- 9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017 ('UPGST Act'), where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and UPGST, respectively.

12. We observe that as per Sl. No. 3 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 "*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 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*" are exempt from tax.

13. We observe that SUDA has been established as a state level nodal agency, under the department for Urban Employment and Poverty Alleviation by Uttar Pradesh Government. As per the "Memorandum of Association of State Urban Development Agency", its main objectives shall be-

(a) To identify the urban poor in the state.

(b) To draw up plans and formulate schemes for the upliftment of the urban poor in the state.

(c) To implement schemes for the benefit of the urban poor either directly or through other agencies engaged in this direction, whether private, public or cooperative.

(d) To review the progress of the execution of these activities as well as effectiveness of the benefits directed towards the urban poor.

(e) To set up or establish any specific service such as training facilities, infrastructural etc. in furtherance of the economic interest of the urban poor.

14. As per the Memorandum of Association, the Secretary, Urban Employment & Poverty alleviation Programe, will be the Chairman of the SUDA. Further, as per point no. 33 of Article of Association, the accounts of the SUDA shall be subject to an account audit by the Comptroller and Auditor General of India and as per point no. 43 "*Members to receive no profit upon dissolution of the society if after disposal and settlement of the property of the society and its claims and liabilities, there are any surplus assets, such asset shall not be paid to or distributed amongst the member of the society or any of them but shall be disposed off as directed by the Government of India or State Government*".

15. As SUDA has been established as a state level nodal agency, under the department for Urban Employment and Poverty Alleviation by Uttar Pradesh Government and as per the information contained in Memorandum of Association (in Para 14 above), it is clear that SUDA is a part of State Government of UP. The said observation is further supported by the following Government Orders which is addressed to the Director, SUDA UP, Department for Urban Employment and Poverty Alleviation (available on www.shasnadesh.up.nic.in)-
(i) No. 172/69-1-10-75(Sa)/97 dated 26.02.2010 and No. 123/2021/174/69-1-21-14(137)/12 dated 11.05.21 both regarding continuity of post in SUDA/DUDA UP.
(ii) No. 595/69-1-10-14(27)/10 dated 24.05.2010 regarding declaration of property by the employees of SUDA/DUDA UP.

In view of facts stated above, at least it can be established that SUDA falls under Government category.

16. The District Urban Development Agency is subordinate district level office of SUDA as such, DUDA also falls under Government category. As per the organizational structure of DUDA as available on the website **upsuda.org,** the District Magistrate of the district concerned will be the ex-officio chairman of DUDA. Project director and project officers are also appointed by the U.P. government. DUDA utilizes the fund which is released by the SUDA.

17. Further, as per website of Pradhan Mantri Awas Yojana-Housing for All (Urban), Ministry of Housing and Urban Affairs, the PMAY is a Scheme to provide central assistance to Urban Local Bodies (ULBs) and other implementing agencies through States/UTs for Rehabilitation of existing slum dwellers using their land as a resource through private, participation, and affordable Housing in Partnership. As per the details available on website SUDA is the state level nodal agency for PMAY(U) in the state of Uttar Pradesh.

18. Now coming to the functions entrusted to Panchayats/Municipalities, the matters listed in the 11^{th} and 12^{th} schedule to the constitution (details 243G and 243W, respectively), are inter alia: (a) Safe water for drinking, (b) Maintenance of community assets, (c) Family welfare, (d) Markets and Fairs, (e) Poverty Alleviation Programmes, (f) Regulation of land use and construction of land buildings, (g) Urban planning including the town planning, (h) Planning for economic and social development, (i) Urban poverty alleviation, (j) Slum improvement and up-gradation etc. Further as per the preface to the PMAY, Housing for All (Urban) Scheme Guidelines:-

"The Mission seeks to address the affordable housing requirement in urban areas through following programme verticals:

- *Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource*
- *Promotion of Affordable Housing through Credit Linked Subsidy*

- *Affordable Housing in Partnership with Public & Private sectors*
- *Subsidy for Beneficiary-Led individual house construction /enhancement."*

19. In view of forgoing discussions, we are of the opinion that the Consultancy services rendered by the Applicant under the contract with DUDA, and for PMAY are in relation to functions entrusted to Municipalities / Panchayats under Article 243W / 243G of the Constitution of India.

20. Now coming to the second question that whether such services provided by the Applicant would qualify as Pure services, we come to examine the scope of work under agreement, as provided by the Applicant:-

a. Identification and Validation of new beneficiaries/replacement of beneficiaries as and when required

b. <u>Scope of work under preparation of DPR</u>:-
- 100% Physical verification including Door to Door Survey,
- Collection of land documents and consent letter from the beneficiaries
- Data collection, Data verification and Data compilation
- Inclusion of present status and proposed works of infrastructure details
- MIS Entry
- Key Stakeholder consultations
- Preparation of Beneficiaries wise detailed Architectural/ Engineering designs, Drawings & Estimates for all sizes of plots
- Project structuring under appropriate development and funding mechanism
- Assistance in obtaining approvals from concerned agencies / departments
- The Consultant shall incorporate all necessary data in reference to Slum Free City Plan in the DPR.
- The DPR should be complete in all respects with all reports drawings, statements and document necessary for obtaining the grant from the Government of India.
- The DPR shall be computer typed and printed and drawing should be in Auto Cad.

c. <u>Scope of work under Project Management Consultancy (PMC)</u>:-
- PMC will coordinate, execute and monitor the activities leading to the construction of approved DUs by Govt. of India. All the activities till the completion of DUs will be taken care of by PMC.
- PMC shall also administer the works by the beneficiaries and ensure that the agreement between the ULBs and Beneficiaries whether related to quality or quantities of works are executed in accordance with its provisions.
- PMC shall attach Beneficiaries to the project in PMAYMIS and also upload Annexure 7C/7D/7E.
- PMC shall execute all MIS related work of PMAY (U).
- PMC will supervise the construction work to ensure adherence to the drawings, prescribed high standards of quality and timely completion of the project and verify and certify the progress of the work.
- Preparation of Physical and Financial progress and shall submit to respective ULBs and DUDA
- Preparation of individual files consist of application, copy of Aadhar card, bank details, land documents, consent letters etc, stage wise photographs for every beneficiaries.

- PMC will assist Beneficiaries at various stages such as Plinth Level, Lintel Level, roof level and final finishing works and assist to get timely installments.
- PMC will make sure that the project / DUs construction must complete as per the agreement made with the beneficiaries for the successful and timely implementation of the Project.
- PMC will implement the Geo tagging of constructions of all the stages.
- Time extension will not be considered except in very exceptional cases without prejudice to levy of penalties. However any approval for extension of time of completion of the works stipulated in the construction, beneficiaries will be without any additional financial implication.
- PMC shall be fully responsible for quality control and shall put in place such measures as are essential for ensuring regular on site quality checks.
- PMC shall submit the tentative organization chart for managing the project so that appropriate decisions are taken quickly.
- However, the actual number of technical and financial personnel to be deployed and the deployment schedule shall be prepared by the PMC and mutually agreed upon after award of work.
- Generate and submit to the ULBs time-to-time progress reports in the agreed formats and at the agreed frequency.
- PMC shall also apprise the beneficiaries of the progress and/or activities of the project on fortnightly/monthly basis.
- Cash Flow Chart – Actual and Scheduled & Bar Chart-Actual and Scheduled
- Status of Payment to beneficiaries
- Photographs of various stages (Before Excavation, Foundation, Plinth level, Lintel Level & Completion) of DUs of each beneficiary
- Geo tagging of constructions of all the stages
- Visitors' Site Inspection
- Settlement of all accounts of the beneficiaries with the ULBs
- Provide project completions report/closure report which shall contain all technical and financial Information of the project.

21. After examining the agreement and scope of work, we are of the opinion that services mentioned in the contract would qualify as Pure Service (excluding works contract service or other composite supplies involving supply of any goods)" as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017 issued under Central Goods and Services Tax Act, 2017 ('CGST') and corresponding Notifications No. — KA.N.I.-2-843/X1- 9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017 ('UPGST Act').

22. We find that in an identical matter, the Appellate Authority of Advance Ruling, Uttar Pradesh vide Appeal Order No. 17/AAAR/02/7/2021 dated 02.07.2021 has held as under-

In view of above discussion, we hold that the Services rendered by the appellant to the State Urban Development Agency, Uttar Pradesh (SUDA), and for PMAY are in relation to functions entrusted to Municipalities under Article 243W and to Panchayats under Article 243G of the Constitution of India and such services would qualify as Pure Service (excluding works contract service or other composite supplies involving supply of any goods)".

23. In view of the above, both the members unanimously rule as under;

RULING

Question 1- Whether the Project Development Service (i.e. Detailed Project Report Service and Project Management Consultancy services ('PMCS') provided by the applicant to the recipient under the Contract from District Urban Development Agency (herein after referred as "DUDA") which is District Level Agency of State Urban Development Agency (SUDA) and the Project Management Consultancy services ('PMC") under the Contract for PMAY would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?

Answer 1- The Services rendered under the contract with District Urban Development Agency, Uttar Pradesh (DUDA), and for PMAY are in relation to functions entrusted to Municipalities under Article 243W and to Panchayats under Article 243G of the Constitution of India.

Question 2- If answer to first question is in affirmative then, whether such services provided by the applicant would qualify as Pure services (excluding works contract service or composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental 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, as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017, as amended (S. No. 3A) by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 (CGST') and corresponding Notifications No. KA.N.I.-2-843/X1- 9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017 ('UPGST Act'), where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and UPGST, respectively.

Answer 2- Such services would qualify as Pure Service (excluding works contract service or other composite supplies involving supply of any goods)" and accordingly exempt from the payment of GST duly covered in Sl. No 3 of Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017 issued under Central Goods and Services Tax Act, 2017 (CGST/Act), and corresponding notifications issued under Uttar Pradesh Goods and Services Tax Act, 2017 (UPGST Act).

24. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.

(Vivek Arya)
Member of Authority for Advance Ruling

(Rajendra Kumar)
Member of Authority for Advance Ruling

To,

M/s KDS Services (P) Ltd,
2nd Floor, 011 & 012,
Parshvanatha Planet Plaza, Vibhuti Khand,
Gomti Nagar, Lucknow-226010

AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, 7-A, Ashok Marg, Lucknow, 226001
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-Lucknow I, 12th Floor, Kendriya Bhawan, Aliganj, Lucknow 226024
5. Through the Additional Commissioner, Gr-I, Commercial Tax, Zone-2, Lucknow, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.