

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd & 4th Floor, Vanijyikar GST Bhawan, North Block Sector-19,
Alai Nagar, District-Raipur (C.G.) 492002
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PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur (C.G)

Subject :- Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 sought by M/s Miura Infrastructure Pvt. Ltd., Bhilai, Durg, Chhattisgarh (GSTIN-22AACCB6411F1ZC) on whether the activity of steel fabrication by using consumable items like paints, welding electrodes etc., by the applicant would be covered under job work or not; its coverage under the HSN code 9988; its coverage the under sl. No. 26(id) of Notification No. 20/2019 Central Tax (Rate) dated-30.09.2019 and the applicable GST rate on the above activity.

Read :- Application dated 10/07/2020 from M/s Miura Infrastructure Pvt. Ltd., Bhilai, Durg, Chhattisgarh (GSTIN-22AACCB6411F1ZC)

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/05/2020/35

Raipur Dated ...08.../10/2020

M/s Miura Infrastructure Pvt. Ltd., Bhilai, Durg, Chhattisgarh [hereinafter also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling as to :-

- A. Whether the activity of Steel fabrication by using consumable items, paints, welding electrodes etc., by the Applicant is covered under Job work or not.
- B. Whether the activity of Applicant is covered under the HSN Code 9988 (manufacturing Services on physical inputs (goods) owned by other.
- C. Whether the activity of Applicant is covered under Sl. No. 26(id) of Notification No. 20/2019 Central Tax (Rate) dated 30.09.2019 and liable to GST @12%.
- D. Whether the activity of Applicant is covered under Sl. No. 26(iv) of Notification No. 20/2019 Central Tax (Rate) dated 30.09.2019 and liable to GST @18%

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- E. Whether the interpretation of the Applicant is correct with reference to the circular 126/45/2019-GST dated 22.11.2019 that GST Rate of 18% is applicable only in case where the physical inputs belong to the unregistered person and GST Rate of 12% is applicable where the physical inputs belong to the registered person.
- F. What GST Rate is Applicable on Applicant's activity?
In case of physical inputs like Paints, Primers, Electrodes etc. are arranged by the "applicant fabricator" and properties of those being transferred to the "Customer", then is there any change in rate of tax under GST Law on such job-work provided by the "applicant fabricator"?

2. Facts of the case:-

2.1. Introduction

The applicant, working under legal and trade name of M/s Miura Infrastructure Private Limited (hereinafter referred to as the "**Applicant**"), is a registered dealer, engaged in the business of manufacturing of steel fabricated technological Steel Structures/ building structures and machined equipment, having its manufacturing facility at Bhilai, Dist : Durg, Chhattisgarh.

2.2 The "Work"

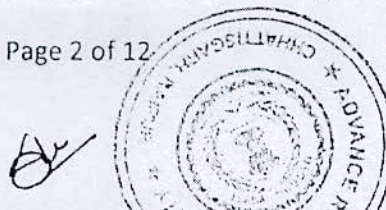
The applicant is awarded with a Work Order by Rungta Mines Limited (hereinafter referred to as the "**customer**") for fabrication of Technological Steel Structures Grade IS2062-E-250 for Rolled Sections and plates as per technical specification of Essar Construction (hereinafter referred to as the "**Work**").

2.3 The Customer provide the steel items i.e. '**Plates, Sheet, beam , Angle, Channels etc.,** of specific grade as per the requirement of the project as free issue to "the Applicant" under the job work challan and thus ownership of the steel items always remains with customer.

2.4 Applicant is engaged in performing Fabrication, welding, cutting, machining, blasting, painting process on aforesaid Steel items as per the technical specification of customer by using their own necessary physical inputs like Electrodes, Paints, consumables items etc. and all other tools, tackles, machinery, jigs, fixtures etc..

2.5 The Applicant converts the aforesaid steel items into technical structures which are classifiable under HSN Code 7308.

2.6 Physical Inputs required for carrying out the "work" at different stages and character of pre-production and post-production property of the physical inputs. The activity-wise list of Physical Inputs, being used for carrying out the



"work" at different stages and subsequent transfer of property thereof post-production is as under:-

	Physical Input (Raw Material)	Usage in activity	Responsibility to Supply the material lies with	Property of the physical input belongs to (Pre-production)	Property of the physical input belongs to (Post-production)
01.	Structural Steel Sections, Plates , Flats etc.	Fabrication of structures	Customer	Customer	Customer
02.	Electrodes, MIG Wire, Flux etc.	Welding of the fabricated structures	Fabricator	Fabricator	Customer
03.	Paints	Painting of Fabricated Structures	Fabricator	Fabricator	Customer
04.	All consumables, bolts, labour, tools, tackles, machinery, jigs, fixtures etc..	During all the above stages of fabrication	Fabricator	Fabricator	Property does not transfer post-production

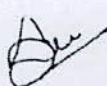
2.7 This clearly shows that properties of the physical inputs like electrodes and Paints - which are being supplied by the "fabricator" are getting transferred to the "customer" with the finished product of fabricated Steel Structure.

2.8 Although steel being the main raw materials are being supplied by the "Customer", still the physical inputs supplied by the "applicant" whose properties are getting transferred to the "customer" with the finished product of fabricated Steel Structure, constitutes around 2% of the total material removed by weight.

2.9 As per the Work-Order of the "Customer" the finished product i.e fabricated Steel Structure are being removed from the premises of the "applicant " on delivery challan with the remark of job work challan issued by Customer. Applicant also raises their service invoice under **HSN Code 9988**. As per the **Work Order** issued by the "Customer" to the "Applicant's" output GST rate is 12%.

3. **Contentions of the Applicant:-** The applicant's contention is as under :-

3.1. Rate of tax in relation to job-work under **HSN Code 9988** was earlier in terms of serial no. 26, Item No. (iv) of Notification No. 11/2017- **Central Tax(Rate)**



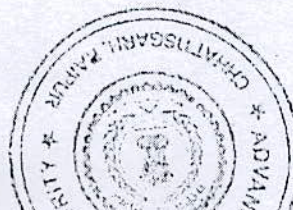

dated 28.06.2017 (as amended) which reads as under :

Sl. No.	HSN	Description of Services	Rate
26	9988 (Manufacturing Services on physical inputs (goods) owned by others)	(i) Services by way of job-work in relation to (a)	5
		(ia) Services by way of job-work in relation to (a) manufacturing of umbrella (b) printing	12
		(ii) Services by way of any treatment or process on goods belonging to any other person , in relation to (a) Printing of Newspaper	5
		(iia) Services by way of any treatment or process on goods belonging to any other person, in relation to printing of all goods falling	12
		(iii) Tailoring Services	5
		(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ii), (iia) & (iii) above	18

3.2. Subsequently, rate of tax relation to job-work under HSN Code 9988 was further amended vide Sl. No. 26, Item No. (id) of Notification no. 20/2019 Central Tax (Rate) dated 30.09.2019 which reads as under :

Sl. No.	HSN	Description of Services	Rate
26	9988 (Manufacturing Services on physical inputs (goods) owned by others)	(i)	
		(ia) Services by way of job-work in relation to (c) manufacturing of umbrella (d) printing	12
		(ib) Services by job work in relation to diamonds falling under chapter 71	1.50
		(ic) Services by way of job work in relation to bus body building	18
		<u>(id) Services by job work other than (i),(ia),(ib) and (ic) above</u>	<u>12</u>
		(ii) Services by way of any treatment or process on goods belonging to any other person , in relation to (a) Printing of Newspaper	5
		(iia) Services by way of any treatment or process on goods belonging to any other person, in relation to printing of all goods falling	12
		(iii) Tailoring Services	5
		<u>(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) & (iii) above</u>	<u>18</u>

[Signature]



3. Further clarificatory **Circular No. 126/45/2019-GST dated 22.11.2019** was issued by Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India, clarifying that :
- 3.3.a. Entry at Item No. 26 (id) under heading 9988 of Notification No. 01/2017-Central Tax(Rate) dated 28.06.2017 covers only job-work services as defined in section 2(68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person.
- 3.3.b. The entry at Item No. (iv) specifically excludes the services covered by entry in item no. (id) and therefore covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.
- 3.4. "Job Work" is defined under Section 2(68) of CGST Act,2017 as under –
"job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;
Thus any process undertaken by the registered person on the goods owned by another registered person is a Job Work. In the present case the applicant is registered person and when they undertakes fabrication/machining /painting/ activities on the goods belonging to another registered person (customer), then the nature of work of the applicant is Job Work. However for performing the fabrication/ machining/painting / etc. process applicant also use own materials like welding electrodes, paints, consumable items, jigs, fixtures, etc.
- 3.5. Further, Section 2(72) of the CGST Act, 2017 defines "Manufacture" as -
"manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly.
- 3.6 In the instant case the "customer" sends physical input i.e Structural Steel items to the "Applicant" for Fabrication of Technical Steel Structures. Applicant also uses other inputs like Electrodes, Consumables, Paints etc. during processing and the resulted output being 'Fabricated Steel Structures' becomes a new product having a distinct name, character and use.
4. **Personal Hearing:-** Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant and accordingly their authorized representative Shri Nilesh Choudhary, Advocate appeared before the authority for hearing on 16/07/2020 and reiterated their contention. They also furnished a written submission dated 16/07/2020 which has been taken on record.



the legal position, Analysis and Discussion:-

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

The jurisdictional officer, Assistant Commissioner, CGST Division 1 Bhilai under his letter dated 1.10.2020 from F.No. IV(16)30-06/CGST/Job Work/Bhi-I/2020 opined on the matter as under:-

- (i) Whether the activity of steel fabrication by using consumable items, paints, welding electrodes etc. by the applicant covered under the job work or not

Ans: Yes

- (ii) Whether the activity of applicant covered under the HSN Code 9988 (manufacturing services on physical inputs (goods) owned by other

Ans: Yes

- (iii) Whether the activity of applicant covered under the SI.No.26(id) of Notification No 20/2019 Central tax (Rate) dated 30.09.2019 and liable to GST @12%

Ans: Yes as per circular No.126/45/2019- GST dated 22.11.2019

- (iv) Whether the activity of applicant covered under the SI.No.26(iv) of Notification No 20/2019 Central tax (Rate) dated 30.09.2019 and liable to GST @18%

Ans: No as per circular No.126/45/2019- GST dated 22.11.2019

- (v) Whether the interpretation of applicant correct that with reference to the circular 126/45/2019-GST dated 22.11.2019 that GST rate 18% applicable only in case where the physical inputs belong to the registered persons ?

Ans: No

- (vi) What GST Rate to be Applicable on Applicants activity?

Ans: 12%

- (vii) In case of physical inputs like paints ,primers Electrodes etc. are arranged by the "applicant fabricator" and properties of those being transferred to the "Customer" then is there any change in rate of tax under GST law on such job-work provided by the "applicant fabricator"

Ans: No



Now, we proceed to address the issues involved in the instant case. The applicant sought advance ruling on the points which could be discussed as under:-

5.1 The applicant, working under legal and trade name of **M/s Miura Infrastructure Private Limited** (hereinafter referred to as the "**Applicant**"), is a registered dealer, engaged in the business of manufacturing of steel fabricated technological Steel Structures/ building structures and machined equipment, having its manufacturing facility at Bhilai, Dist : Durg, Chhattisgarh, having GSTIN-22AACCB6411F1ZC.

5.2 The applicant is awarded with a Work Order by **Rungta Mines Limited** (hereinafter referred to as the "**customer**") for fabrication of Technological Steel Structures Grade IS2062-E-250 for Rolled Sections and plates as per technical specification of Essar Construction (hereinafter referred to as the "**Work**"). The Customer provide the steel items i.e. '**Plates, Sheet, beam , Angle, Channels etc.,** of specific grade as per the requirement of the project , free issue to "the Applicant" under the job work challan. Hence ownership of the steel items always remains with customer. Applicant is engaged in performing Fabrication, welding, cutting, machining, blasting, painting process on aforesaid Steel items as per the technical specification of customer by using their own necessary physical inputs like Electrodes, Paints, consumables items etc. and all other tools, tackles, machinery, jigs, fixtures etc. The Applicant converted the aforesaid steel items into Technological Steel Structures.

5.3 Section 2(52) of the CGST Act, 2017 defines goods as every kind of movable property other than money and securities. Thus, the term job work is confined to the process undertaken by the job worker on movable goods only.

As per Section 2(68) of the CGST Act, 2017 "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly. As per section 2(72) of the CGST Act, 2017, the "manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly. As per Section 143(1) of the CGST Act and Explanation to section 143(1) of CGST Act, 2017, the term '**Principal**' for job work provisions means a registered person who sends any inputs and/or capital goods **without payment of tax, to a job worker** for job-work and from there subsequently sends to another job worker and likewise. The procedure for removal of goods for job-work without payment of tax is prescribed under section 143 of the CGST Act. Rule 45 of CGST Rules specifies conditions and restrictions in respect of inputs and capital goods sent to the job worker.

5.4 As per clause 3 of Schedule II of the GST Law, 2017, any treatment or process which being applied to another person's goods is considered as "supply of services".

5.5 Tariff Heading 9988 covers, Manufacturing services on physical inputs (goods) owned by others. In the impugned case fabrication job done by the applicant

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is a portion of manufacturing process of their customer and therefore, the activity of the applicant gets covered under heading 9988. Further as discussed, Section 2(68) of the CGST Act defines "job work" as any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly. The definition of job work thus makes it abundantly clear that the term job work can be used only when goods belonging to another registered person for any further process or treatment. Thus, the person sending goods for job work is termed as 'Principal' and as per the definition of "job work", he must necessarily be a registered person under GST, whereas the definition uses the term 'process undertaken by a person', meaning therein that the job worker need not necessarily be registered under GST.

5.6 Here in the instant case in hand it is seen that the applicant is a registered person who is engaged in undertaking fabrication activities on the goods belonging to another registered person, thus the nature of work undertaken by the applicant gets aptly covered under 'Job work', as defined under section 2(68) of the CGST Act, 2017.

Rate of tax in relation **HSN Code 9988** as stipulated earlier in terms of serial no. 26, Item No. (iv) of Notification No. 11/2017- Central Tax(Rate) dated 28.06.2017 (as amended), read as under :

Sl. No.	HSN	Description of Services	Rate
26	9988 (Manufacturing Services on physical inputs (goods) owned by others)	(i) Services by way of job-work in relation to (a)	5
		(ia) Services by way of job-work in relation to (e) manufacturing of umbrella (f) printing	12
		(ii) Services by way of any treatment or process on goods belonging to any other person, in relation to (a) Printing of Newspaper	5
		(iia) Services by way of any treatment or process on goods belonging to any other person, in relation to printing of all goods falling	12
		(iii) Tailoring Services	5
		(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ii), (iia) & (iii) above	18



Subsequently, rate of tax in relation to HSN Code 9988 was further amended by inserting Sl. No. 26, Item No. (id) vide Notification no. 20/2019 Central Tax (Rate) dated 30.09.2019 and accordingly Notification No. 11/2017- Central Tax(Rate) dated 28.06.2017 (as amended), reads as under :

Sl. No.	HSN	Description of Services	Rate
26	9988 (Manufacturing Services on physical inputs (goods) owned by others)	(i)	
		(ia) Services by way of job-work in relation to (g) manufacturing of umbrella (h) printing	12
		(ib) Services by job work in relation to diamonds falling under chapter 71	1.50
		(ic) Services by way of job work in relation to bus body building	18
		<u>(id) Services by job work other than (i),(ia),(ib) and (ic) above</u>	<u>12</u>
		(ii) Services by way of any treatment or process on goods belonging to any other person , in relation to (a) Printing of Newspaper	5
		(iia) Services by way of any treatment or process on goods belonging to any other person, in relation to printing of all goods falling	12
		(iii) Tailoring Services	5
		<u>(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) & (iii) above</u>	<u>18</u>

5.7 Thus, the applicable rate of tax effective from 1.10.2019, gets stipulated @ 12% (CGST + CGGST), vide entry 26(id) of Notification No.11/2017-C.T. (RATE) as amended by Notification No. 20/2019 C.T. (RATE) dated 30.09.2019, in job work cases where the goods are owned by another Registered person as in such cases the applicant is engaged in supply of engineering services as job-work, whereas the applicable rate of tax continues to be @ 18% (CGST + CGGST) in cases when the goods are owned by unregistered persons, in terms of entry no. 26 (iv) of Notification No. 11/2017-C.T. (RATE) dated 28.06.2017 as amended. This gets summarized as under:-

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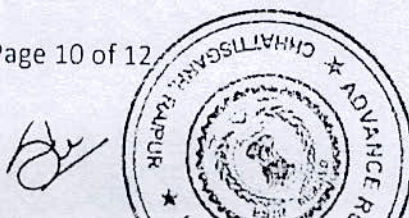


Service provider	Service Recipient (The owner who sent goods for processing)	GST Rates	Remarks
Registered Job Worker	Registered Person	12%	With effect from 1.10.2019, as per sr.no. 26(id) of Notification No. 11/2017 C.T. (RATE) dated 28.6.2017 as amended by Notification No. 20/2019 C.T. (RATE) dated 30.09.2019.
Registered Person	Unregistered Person	18%	With effect from 1.10.2019, as per sr.no. 26(iv) of Notification No. 11/2017 C.T. (RATE) dated 28.6.2017 as amended by Notification No. 20/2019 C.T. (RATE) dated 30.09.2019.

5.8 It is also seen that CBEC, New Delhi vide circular 126/45/2019 dated 22 Nov 2019 has clarified that there is a clear demarcation between the scope of the entries at item 26 (id) and item 26 (iv) of the Notification No. 11/2017 as amended. Entry at item (id) covers only job work services as defined in section 2(68) of the Act, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.

5.9 Further, circular No.38/12/2018 from F. No. 20/16/03/2017-GST dated 26th March, 2018 issued by CBEC, New Delhi on matters relating to Job Work has inter alia clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work. Normally, a 'job worker' uses only minor items in addition to raw materials received by him from the principal and recovers charges under this head from the principal and in such cases the value of such items used, is includible in the transaction value / taxable value for payment of the applicable GST on the supply in question.

6. Having regard to the facts and circumstances of the case and discussions as above, we pass the following order:-



ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

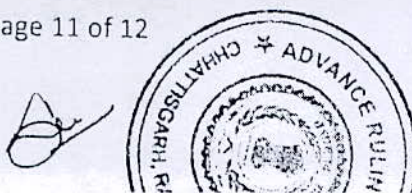
Raipur Dated/10/2020

No.STC/AAR/5/2020/36


The ruling so sought by the Applicant is accordingly answered as under:


RULING

- (I) The activity of fabrication of structural steel/ technological structures undertaken by the applicant is 'Supply of service', classifiable under Heading '9988- Manufacturing services on Physical Inputs owned by others'.
- (II) (a) For the period up to 30.9.2019, the applicable rate of tax in respect of above supply of services (in this case to M/s Rungta Mines Limited) was 18% (CGST + CGGST), as was stipulated under Sl. No. 26(iv) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017, irrespective of whether the goods were owned by registered or unregistered person.
- (b) For the period with effect from 01.10.2019, the applicable rate of tax in respect of above supply is as under:-
- (i) 12% (CGST + CGGST) in respect of job work services on goods owned by another Registered person (in this case M/s Rungta Mines Limited), as stipulated under entry Sl.No. 26(id) of Notification No. 11/ 2017-C.T.(Rate) dated 28.06.2017 as amended and as clarified vide CBEC circular 126/45/2019-GST dated 22.11.2019.
- (ii) 18% (CGST + CGGST) in respect of job work services on goods owned by / belonging to another unregistered person, as stipulated under entry Sl.No. 26(iv) of Notification No. 11/ 20 17-C.T (Rate) dated 28.06.2017 as amended.
- (iii) As minor physical items like paints, electrodes, consumables etc. are arranged by the "applicant fabricator" and after being used are transferred to the "customer" in addition to the raw materials received from the principal, then although there is no change in the rate of tax under GST Law on such supply of services provided as detailed above, the value of such items procured by the applicant is includible in the transaction /taxable value for paying the applicable

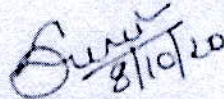


as the applicant recover charges under this head from the Principal


Sonal K. Mishra
(Member)


Rajesh Kumar Singh
(Member)

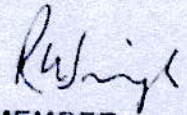
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MEMBER

ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

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8/10/2020

MEMBER

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CHHATTISGARH, RAIPUR

Place: - Raipur

Date:

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