

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH
GOODS AND SERVICE TAX
O/o THE COMMISSIONER, COMMERCIAL TAX,
MOTI BUNGALOW,
MAHATMA GANDHI MARG, INDORE (M.P.) - 452007
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PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S,98 OF THE GOODS AND SERVICES TAX ACT, 2017

Members Present

.1. Shri Manoj Kumar Choubey
Joint Commissioner
Office of the Joint Commissioner of Commercial Tax, Indore Division-1

2. Shri Virendra Kumar Jain
Joint Commissioner
Office of the Commissioner CGST and Central Excise, Indore

GSTIN Number, if any / User-id	23AAACM1924E1Z3
Name and address of the applicant	METHODEX SYSTEMS PRIVATE LIMITED, 35A, Fort Industrial Estate, Kila Maidan, Indore (M.P.) - 452006
Clause(s) of Section 97(2) of CGST / SGST Act, 2017 under which the question(s) raised	(g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
Present on behalf of applicant	S. KRISHNAN, CHARTERED ACCOUNTANT
Case Number	03/2020
Order dated	05/03/2020
Order Number	08/2020

PROCEEDINGS

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods and Services Tax Act, 2017 (hereinafter also referred to CGST Act and SGST Act respectively) by M/s METHODEX SYSTEMS PRIVATE LIMITED (hereinafter referred to as the Applicant), registered under the Goods & Services Tax.

The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a



reference to such a similar provision under the CGST Act or MP GST Act would be mentioned as being under the GST Act.

3. **BRIEF FACTS OF THE CASE**

3.1 The applicant is registered under the provisions of GST law in the State of Madhya Pradesh, vide GSTIN: 23AAACM1924E1Z3 and the principal place of business is in Indore with the production facility at Pithampur.

3.2 The Executive Engineer, Construction Division-2, Capital Production Administration (CPA), Bhopal - a Department of Government of Madhya Pradesh, floated a tender reference No.CPA/Tender No.2402 for supply, installation and fixing of customized furniture, as detailed below for newly constructed Mantralaya, Vallabh Bhawan Extension, Bhopal.

- (a) Main Table + ERU
- (b) Back Runner for Minister
- (c) Minister Room Corner Table
- (d) Conference Room Table
- (e) Dining Table & Chair
- (f) Conference Room 3 seater sofa
- (g) Back Runner units
- (h) Meeting Room Table
- (i) Meeting Hall table etc.

3.3 The Executive Engineer, CPA, Bhopal has issued to the applicant company the contract No.12/DL 18-19/Work order No.1941/SAC/C-II/18 dated, 02.05.2018.

3.4 The invoices were issued by the applicant charging therein tax @18% considering the supply of furniture as composite supply of furniture, where item-wise price of furniture was charged in the invoice.

4. **QUESTIONS RAISED BEFORE THE AUTHORITY:**

4.1 Whether the work relating to "supply, installation and fixing of customized furniture in a building" is composite supply of goods or in the nature of works contract?

4.2 What is applicable rate of GST on the above Supply, if it is supply of goods or supply in the nature of works contract?

5. **RECORD OF PERSONAL HEARING**

5.1 Shri S, Krishnan, Chartered Accountant – Authorized Representative of the applicant appeared for personal hearing on behalf of the applicant and reiterated the submissions made in the application.

5.2 The applicant states that The contract placed by Capital Project Administration – a Department of Govt. of Madhya Pradesh, the awarding of contract is of the view that the



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same is of the nature of works contract as per section 2(119) of CGST Act and the concessional rate of tax of 12% (6% CGST & 6% SGST) is applicable as per Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017 and the Notification No.20/2017-Central Tax (Rate) dated, 22.08.2017.

5.3 As per Sl.No.1 of Heading 9954 (Construction Services) of Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017 amended from time to time, the rate of tax is as under:-

S. No	Chapter, Section or Heading	Description of service	Rate (per cent)	Condition
2	Section 5	Construction services		
3	Heading 9954 (Construction services)	<p>(vi) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority or Government Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –</p> <p>(a) a civil structure or any other original works meant predominately for use other than for commerce, industry, or any other business or profession”.</p> <p>(b)</p>	6%	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.

Explanation – For the purposes of this item, the term “business” shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

The phrase “**original works**” has not been defined under the provisions of GST law. The said phrase “**original works**” has been frequently used with regard to construction services under head 9954 in the Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017 and Notification No.12/2017-Central Tax (Rate) dated, 28.06.2017 exempting specific construction services of heading 9954. The said term has been defined under Explanation 1(zs) of Notification No.12/2017-Central Tax (Rate) dated, 28.06.2017, which reads as under:-



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“(ZS) “**original works**” means – all new constructions;

- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable.
- (ii) erection, commissioning or installation of **plant, machinery or equipment or structures**, whether pre-fabricated or otherwise”.

5.4 Section 2(119) of CGST Act provides “**works contract**” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

5.5 As per Annexure – Scheme of Classification of services to Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017, works contract services has been classified as “construction services” under heading 9954, which includes the following groups;

Group	Service description
99541	Construction services of buildings
99542	General construction services of civil engineering works
99543	Site preparation services
99544	Assembly and erection of prefabricated construction.
99545	Special trade construction services
99546	Installation services
99547	Building completion and finishing services

5.6 The claim as made by the CPA, Bhopal, which is a Department of the State Government, in their letter dated, 28.12.2019 that the supply, installation and fixing of customized furniture for newly constructed Mantralaya, Vallabh Bhawan Extension, Bhopal is covered under composite supply of works contract as defined u/s 2(119) of CGST Act and the rate of tax applicable to the said supply is 12% as per Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017 is not legally tenable.

5.7 As per **Sl.No. 438** of **Schedule III** of CGST Act under **HSN 9403** “**other furniture**(other than furniture wholly made of bamboo, cane or rattanj and parts thereof)” is taxable @**18%** with effect from 15.11.2017.

5.8 Clause (a) of para 6 of Schedule II as notified u/s 7 of CGST Act, “works contract” as defined in clause (119) of section 2 shall be treated as **supply of service**.

5.9 As per section 2(30) of CGST Act, “**composite supply**” means a supply made by a taxable person to a recipient consisting of **two or more taxable supplies of goods or services** or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, **one of which is a principal supply**.



Illustration: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

5.10 As per section 8(a) of CGST Act, the tax liability on a composite or a mixed supply shall be determined in the following manner, namely –

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply,
- (b)

5.11 As per section 10(1)(d) of IGST Act, the place of supply of goods, other than supply of goods imported into or exported from India, shall be as under:-

- “(d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly”.

5.12 As per the interpretation of law and the facts of the case, the **supply, installation, fixing of customized furniture for newly constructed Mantralaya, Bhopal is composite supply of goods within the meaning of section 2(30) and 8(a) of CGST Act, where the supply of furniture is a principal supply and installation/ fixing thereof is ancillary supply.** The rate of tax of principal supply will be applicable to composite supply. The supply of furniture, which may or may not be customized is principal supply where the rate of tax is 18% (9% CGST & 9% SGST) as per Sl.No.438 of Schedule III of CGST Act under HSN 9403 with effect from 15.11.2017. The supply of furniture which may or may not be customized and the installation thereof are naturally bundled and as per business practice, the furniture is supplied in conjunction with their installation and fixing. In the applicant's view point, the supply of furniture and the installation and fixing thereof is composite supply of goods and the rate of tax of furniture which is principal supply is applicable to composite supply.

5.13 As per the contract executed with CPA, item-wise prices of furniture in the tender were required to be submitted which were approved by the contractee CPA. The items mentioned were such as Main Table + ERU, Back Runner for Minister etc. The **invoice issued by the applicant to the CPA was item-wise and consolidated transaction price was charged. The installation / fixing charges are not separately charged in the invoice, nor these charges are required to be charged item-wise.**

5.14 As per section 10(1)(d) of IGST Act, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. It means that installation or assembly of goods is considered as supply of goods.

5.15 As per section 2(119) of CGST Act, **works contract** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement modification, repair, maintenance, renovation, alteration or commissioning of **any immovable property** wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract. In the light of



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definition of "works contract" under GST, any contract for building, construction, installation, fitting out etc must be of **immovable property**.

- 5.16 As per the definition of "works contract" u/s 2(119) of CGST Act, the contract **must result into immovable property** and the contract must be for creation of immovable property and the result of the said contract should be immovable property or part thereof.
- 5.17 The supply, installation and fixing of furniture, customized or customized cannot be a works contract, as the items of furniture have been made or manufactured at the supplier's place which have been installed or fixed at the place of the recipient. Such installed or fixed items of furniture can be removed/ moved to any place without damage to the furniture. Thus, supply, installation and fixing of furniture cannot be covered under works contract, as it does not result in immovable property or it is not going to be part of immovable property.
- 5.18 As per Sl.No.3(vi) of Notification No.11/2017-Central Tax (Rate), composite supply of works contract as defined u/s 2(119) of CGST Act, provided to the Central Government, State Government etc by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a civil structure or any other original works meant predominately for use other than for commerce, industry, or any other business or profession covered under heading 9954 are chargeable to tax @12% (CGST 6% & SGST 6%). The heading 9954 does not include the supply, installation or fixing of furniture customized or not customized in a building.
- 5.19 Sl. No.3(vi) of Notification No.11/2017-Central Tax (Rate) deals with composite supply of works contract of a civil structure or any other original works meant predominately for use other than for commerce, industry, or any other business or profession. It is evident that the composite supply of works contract of a civil structure must result in the creation of immovable property, which is not happening by any stretch of imagination in the case of the applicant. Or the composite supply of works contract must be of original works. The Notification No.12/2017-Central Tax (Rate) dated, 28.06.2017 defines "original works" as under:-

“(zs) **“original works”** means – all new constructions;

- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable.
- (ii) erection, commissioning or installation of **plant, machinery or equipment or structures**, whether pre-fabricated or otherwise”.

The supply and installation of furniture by the applicant will not cover under works contract of original works, as it is neither new construction nor it is additions and alterations to abandoned or damaged structures on land that are required to make them workable.



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Moreover, the applicant's work does not cover under erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise.

The said entry of Notification No.11/2017-Central Tax (Rate) is not applicable to supply and installation of furniture by the applicant.

5.20 As per the view point and interpretation of law and facts of the case, the supply, installation and fixing of furniture, either customized or not customized, is not composite supply of works contract by way of construction etc of civil structure or other original works to the Government and therefore, is not chargeable to concessional rate of 12% as per the Notification No.11/2017 dated, 28.06.2017.

5.21 As per the view point and interpretation of law and facts of the applicant, the supply, installation and fixing of customized furniture is composite supply of goods where the supply of furniture is principal supply and is chargeable to tax @18% under HSN 9954.

6. DISCUSSIONS AND FINDINGS:

6.1 We have carefully considered the submissions made by the applicant in the application and during the time of personal hearing.

6.2 We find that the question before us essentially pertains to whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term. We, therefore, observe that the issue before us is squarely covered under Section 97(2)(g) and therefore we admit the application for consideration.

6.3 The applicant dealing in wide range of office furniture and automation products is registered under the GST Act, 2017. The applicant is carrying on the business as manufacturer, marketers, exporters, importers and distributors in all kinds of office equipment. The goods dealt by the applicant are classifiable under Chapter 94 of the first Schedule to Customs Tariff Act, 1975, which has been adopted in the GST regime as GST Tariff.

6.4 Section 2(119) of CGST Act provides "**works contract**" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

6.5 As per Annexure – Scheme of Classification of services to Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017, works contract services has been classified as "construction services" under heading 9954, which includes the following groups;

Group	Service description
99541	Construction services of buildings
99542	General construction services of civil engineering works



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99543	Site preparation services
99544	Assembly and erection of prefabricated construction.
99545	Special trade construction services
99546	Installation services
99547	Building completion and finishing services

- 6.6 The claim as made by the CPA, Bhopal, which is a Department of the State Government, in their letter dated, 28.12.2019 that the supply, installation and fixing of customized furniture for newly constructed Mantralaya, Vallabh Bhawan Extension, Bhopal is covered under composite supply of works contract as defined u/s 2(119) of CGST Act and the rate of tax applicable to the said supply is 12% as per Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017 is not legally tenable.
- 6.7 As per section 2(30) of CGST Act, "**composite supply**" means a supply made by a taxable person to a recipient consisting of **two or more taxable supplies of goods or services** or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, **one of which is a principal supply**.
- 6.8 As per section 8(a) of CGST Act, the tax liability on a composite or a mixed supply shall be determined in the following manner, namely –
- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply,
- (b)
- 6.9 As per the definition of "works contract" u/s 2(119) of CGST Act, the contract **must result into immovable property** and the contract must be for creation of immovable property and the result of the said contract should be immovable property or part thereof.
- 6.10 The supply, installation and fixing of furniture, customized or customized cannot be a works contract, as the items of furniture have been made or manufactured at the supplier's place which have been installed or fixed at the place of the recipient. Such installed or fixed items of furniture can be removed/ moved to any place without damage to the furniture. Thus, supply, installation and fixing of furniture cannot be covered under works contract, as it does not result in immovable property or it is not going to be part of immovable property.
- 6.11 As per the view point and interpretation of law and facts of the case, the supply, installation and fixing of furniture, either customized or not customized, is not composite supply of works contract by way of construction etc of civil structure or other original works to the Government and therefore, is not chargeable to concessional rate of 12% as per the Notification No.11/2017 dated, 28.06.2017.
- 6.12 Having regard to our observations and findings detailed in the foregoing paras, we conclude that the contract in questions i.e. work order relating to supply, installation and fixing of customized furniture in a building conform to the "COMPOSITE




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SUPPLY” as provided in section 2(30) of CGST Act, 2017. The supply made by the applicant to the Capital Project Administration consists of Two taxable supplies of Goods and Services, which are naturally bundled and supplied in conjunction with each others, where the supply of goods viz. Furniture is the principal supply. We thus hold that the work order in question shall merit classification under Chapter Head 9403 of GST Tariff and shall be liable to GST at the rate applicable at the time of supply.

7. RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

- 7.1 The activities of supply, installation and fixing of furniture to be performed by the applicant cannot be classified under Heading 9954 – Construction services, as provided in Sl.No.1 of Notification No.11/2017-Central Tax (Rate) dated, 28.06.2017, as amended from time to time. Rather, the contract conforms to **composite supply** as provided in **Section 2(30) of GST Act, 2017**. The supply made by the applicant consists of two taxable supplies of goods and services which are naturally bundled and supplied in conjunction with each other, where the **supply of goods** i.e. furniture is the **principal supply**.
- 7.2 The goods shall merit classification under Chapter Head 9403 of GST Tariff and shall be liable to GST at the rate applicable at the time of supply.
- 7.3 The ruling is valid subject to the provisions under section 103(2) until and unless declared void under section 104(1) of the GST Act.


(MANOJ KUMAR CHOUBEY)
MEMBER


(VIRENDRA KUMAR JAIN)
MEMBER

Copy to: No. 03/2020/A.P.R./R-28/19

INDORE-Date - 05/03/2020

1. Applicant
2. The Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal.
3. The Commissioner (SGST), Indore
4. The Commissioner, CGST & Central Excise, Indore.
5. The Concerned Officer
6. The Jurisdictional Officer – State / Central

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