



**RAJASTHANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
KAR BHAWAN, AMBEDKAR CIRCLE, NEAR
RAJASTHAN HIGH COURT, JAIPUR - 302005
(RAJASTHAN)**



ADVANCE RULING NO. RAJ/AAR/2023-24/20

Mahipal Singh Additional Commissioner	: Member (Central Tax)
Mahesh Kumar Gowla Additional Commissioner	: Member (State Tax)
Name and address of the applicant	: M/s Mpower Saksham Skills, First Floor, F-130, Cine Star, Central Spine, Vidhyadhar Nagar, Jaipur -302039 (Rajasthan)
GSTIN of the applicant	: 08ABBFM5940P1ZR
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	: (b) Applicability of a notification issued under the provisions of this Act (e) Determination of the liability to pay tax on any goods or services or both
Date of Personal Hearing	: 12.10.2023
Present for the applicant	: Shri Nitesh Choudhary Partner, Shri Tanmay Saini CA
Date of Ruling	: 19.09.2024

Note 1: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling, constituted under Section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

Note 2: At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST 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 SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s. Mpower Saksham Skills, First Floor, F-130, Cine Star, Central Spine, Vidhyadhar Nagar, Jaipur, Rajasthan-302039 (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under:

(b) Applicability of a notification issued under the provisions of this Act

(e) Determination of the liability to pay tax on any goods or services or both

A. SUBMISSION OF THE APPLICANT (IN BRIEF):-

The applicant M/s Mpower Saksham Skills is a partnership firm and registered under GST and having its principle place of business at Jaipur (Rajasthan) and engaged in multiple domain of business. Out of that one of the work is Security Services to the Gram Panchayats and second proposed work is Manpower Supply (Man with machine: Computer with operator) to Block Development Officer (Panchayat Samiti). The another proposed work is "Anti Termite Treatment Services" for community assets/government buildings of the Gram Panchayat, whereas the work will be awarded by Gram panchayat or Panchayat Samiti or any Government Entity will sub late the said work.

B INTERPRETATION AND UNDERSTANDING OF APPLICANT ON QUESTION RAISED (IN BRIEF):-

The Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 exempts the intra-state supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, namely:-

Sl. No	Chapter	Description of Service	Rate	Condition
3	Heading 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 or a Government entity 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

The pre-requisite for claiming exemption under the above entry is that it is necessary to provide pure service by way of any activity in relation to any function entrusted to Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution; that the definition of 'Pure service' has not been given anywhere so that we can refer it; that the term is construed by the applicant in general meaning as "Pure Service" means any supply for consideration in which goods are not supplied along with services to construe the same as composite supply, hence if a person provides only service to any person for a consideration without involvement of supply of goods, then the said supply of service can be termed as supply of Pure Service.

Article 243G of the Constitution of India has entrusted the following functions to the panchayats:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.

23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.

29. Maintenance of community assets.

Finally, the crux of the above exemption entry can be summarised for taking benefit of the said exemption as under:

- A. Pure services are provided
- B. Service recipient is either Central Government or State Government or Local authority or Government entity; and
- C. Such services are provided to the specified recipients to perform functions as mentioned under Article 243G or under Article 243W of the Constitution.

Further, the applicant's work has been described in the below mentioned table:

S. No.	Type of Services	Service Recipient	Coverage of Article 243 G	Remark
1	Security Services	Gram Panchayat (A "Panchayat" is defined as local authority in clause (d) of Article 243 of the constitution)	Point No - 29 Maintenance of community assets	Security Services of Gram Panchayat Bhawan (community asset) including its maintenance
2	Man with Machine (Operator with Computer)	Panchayat Samiti (A "Panchayat" is defined as local authority in clause (d) of Article 243 of the constitution)	All functions of Article 243G of the Constitution of India	The operators will help in the fundamental work of the Panchayat Samiti in relation to discharge of various responsibilities cast upon the Block Development Officer under the Article 243G of the Constitution of India.
3	Anti Termite Treatment	Gram Panchayat or Panchayat Samiti (A "Panchayat" is defined as local authority in clause (d) of Article 243 of the constitution)	Point No - 29 Maintenance of community assets	Anti Termite Treatment work will prevent the community assets/building form termite attack and it is considered as the major work for the maintenance of the building
4	Anti Termite Treatment	Govt Agencies such as Central Warehousing Corporation: Schedule 'A' Mini Ratna CPSE (A statutory body registered under The Ministry of Consumer Affairs, Food and Public Distribution, Govt of India setup under "The Warehousing Corporation Act, 1962"	Point No - 29 Maintenance of community assets	The govt agency will be awarded the work order from Gram Panchayat or Panchayat Samiti and then CWC will sub contract the work to the M/s Mpower Saksham Skills

The detailing of the work has been done below:

S. No.	Type of Work	Description
1	Security Services	1. Appointment of Security Guard at Gram Panchayat Bhawan 2. Security and Watch of the Gram Panchayat Bhawan 3. Maintenance of the Building, Garden, Solar System or other assets at the Gram Panchayat Bhawan 4. Any other functions in relation to Article 243G of the Constitution of India for the welfare and development of the Gram Panchayat
2	Man with Machine (Operator with Computer)	1. Providing Computer System on Rent to Block Development 2. Manpower to operate the Computer Systems 3. Operators will work for documentation, reporting, data collection etc. related to various schemes of rural development in relation to Article 243G of the Constitution of India for the welfare and development of the Gram Panchayat
3	Anti Termite Treatment	1. Drilling the Hole at the termite infestation area 2. Injecting the Imidacloprid 17.8% Chemical 3. Filling the hole with white cement 4. Matching the Paint Colour with wall

C. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:-

Is the applicant eligible to claim exemption benefit under Sr.No.3 of Notification No.12/2017-CT (Rate) dated 28.06.2017 for pure services (supply of manpower: man with machine, security services and anti-termite services) provided to Central Government, State Government, Local Authorities, Governmental Authorities, Government Entities such as Gram Panchayats, Panchayat Samiti viz. Block Development Officer and Other Government Agencies viz. Central Warehousing Corporation, as detailed above, for the reasons discussed hereinabove subject to the condition that the services provided to these entities mentioned above are services provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India.

D. PERSONAL HEARING

In the matter, personal hearing was granted to the applicant on 12.10.2023. Shri Nitesh Choudhary, Partner and Shri Tanmay Saini, CA and Authorized Representative appeared for personal hearing. They reiterated the submission already made. During P.H., they have submitted new work agreement/MOU. They requested for early disposal of the application.

E. COMMENTS OF THE JURISDICTIONAL OFFICER

Comments received from the Assistant Commissioner, Ward-I, Circle-G, Zone-IV, Divisional Kar Bhawan, Jhalana Doongri, Jaipur, Rajasthan, vide letter S.No. 623 dated 12.06.2023, are as under: -

Is supply of service for turpentine treatment purely service?:-
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.

So, it is clear that supply of service for turpentine treatment is not a supply of pure service but is a composite supply and also is being covered in works contract supply, because it deals with goods also in proportion of supply. Therefore, it cannot be covered under the impugned notification as an exempted supply of purely supply of services to the government Body.

In respect of the other matters, as these supply fall purely in supply of services, it may be covered under the supply of pure services to the Govt. Body.

F. FINDINGS, ANALYSIS & CONCLUSION:

1) We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of hearing and the comments of the State Tax Authority. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts. We would like to discuss the submission made by applicant and will take up the above question for discussion one by one.

2) The applicant is engaged in multiple domain of business including supply of Security Service, Manpower Supply and Anti-Termite Treatment Services.

3) The issue involved in this case is whether the applicant is eligible to claim exemption benefit as provided under S.No.3 of Notification No.12/2017-CT (Rate) dated 30.06.2017 for pure services (supply of Security, Manpower Service and Anti-Termite Treatment Service and Pest Control Service), provided to Central Government, State Government, Local Authorities, Governmental Authorities and Government Entities such as Gram Panchayats, Panchayat Samiti, Block Development Officer and Other Government Agencies subject to the condition that the services provided to these entities mentioned above are services provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India.

4) In this regard, the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 exempts the intra-state supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, namely:-

Sl. No.	Chapter	Description of Service	Rate	Condition
3	Heading 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 or a Government entity 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

5) On going through the aforesaid notification, it is clear that the conditions, required for taking benefit of the exemption notification, are as under-

- (i) Pure Services to be provided
- (ii) Service recipient should be either Central Government or State Government or Union territory or Local authority or Governmental authority or Government entity and
- (iii) Such services provided or to be provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India.

6) Accordingly, we find it appropriate to discuss the definition of "Pure Service". Nowhere "Pure Service" has been defined under GST Act and Rules, framed thereunder. However as per general terms, "Pure Service" is a service that does not involve the supply of any goods or the use of goods as a material for rendering the service. Examples of "Pure Service" include

consultancy, training, software development, accounting, legal services, etc. Pure services are intangible and cannot be touched, tasted, or seen.

- 7) The services provided by the applicant are as under-
- (i) Security Service
 - (ii) Man power with machine
 - (iii) Anti-termite Treatment and Pest Control Service

8) Security Service:-

8.1 The applicant has submitted Memorandum of Understanding (MOU) dated 30.09.2022 entered between them and Block Development Officer (BDO), Village Shiv Singh Pura, Panchayat Samiti Piprali (Sikar). According to which, the applicant has agreed upon to supply Security Guards for security. Since the service provided by the applicant is without supply of goods, it is termed as Pure Service.

8.2 Second condition, to be examined, is whether the recipient of service is Central Government or State Government or Local Authority or Governmental Authority or Government entity. As per Section 2(53) of CGST & RGST Act, 2017, "Government" means the Central Government & State Government, respectively

8.3 "local authority" means-

- (a) a "Panchayat", as defined in clause (d) of article 243 of Constitution
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution
- (c) a Municipal Committee, a Zilla Parishad, a District Board and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund.

8.4 As per clause (zf) of paragraph-2 of Notification No.12/2017-CT(Rate) dated 28.06.2017, "governmental authority" has the same meaning as assigned to it in the explanation to clause (16) of Section 2 of the IGST Act, 2017 (13 of 2017), which is as under:-

8.5 "governmental authority" means an authority or a board or any other body, -

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government, with ninety percent or more participation by way of equity or control, to carry out any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution;

8.6 Notification No.12/2017-CT(Rate) dated 28.06.2017 was further amended by Notification No.32/2017-CT (Rate) dated 13.10.2017 by adding clause (zfa) of paragraph-2 as under-

(zfa) "Government Entity" means an authority or a board or any other body including a society, trust, corporation,

- (i) setup by an Act of Parliament or State Legislature ;or
- (ii) established by any Government, with 90 percent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority".

8.7 On going through the aforesaid provisions, we find that the service is provided to the local authority i.e. Panchayat Samiti. So the second condition is also met by the applicant.

8.8 The third condition, to be examined, is whether the service provided to the Local Authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243 G of the constitution of India or in

relation to any function entrusted to a Municipality under Article 243 G of the Constitution of India. The functions entrusted to the panchayat by Article 243G of the Constitution of India are listed hereunder-

- (i) Agriculture, including agricultural extension.
- (ii) Land improvement, implementation of land reforms, land consolidation and soil conservation.
- (iii) Minor irrigation, water management and watershed development.
- (iv) Animal husbandry, dairying and poultry.
- (v) Fisheries.
- (vi) Social forestry and farm forestry.
- (vii) Minor forest produce.
- (viii) Small scale industries, including food processing industries.
- (ix) Khadi, village and cottage industries.
- (x) Rural housing.
- (xi) Drinking water.
- (xii) Fuel and fodder.
- (xiii) Roads, culverts, bridges, ferries, waterways and other means of communication.
- (xiv) Rural electrification, including distribution of electricity.
- (xv) Non-conventional energy sources.
- (xvi) Poverty alleviation programme.
- (xvii) Education, including primary and secondary schools.
- (xviii) Technical training and vocational education.
- (xix) Adult and non-formal education.
- (xx) Libraries.
- (xxi) Cultural activities.
- (xxii) Markets and fairs.
- (xxiii) Health and sanitation, including hospitals, primary health centres and dispensaries.
- (xxiv) Family welfare.
- (xxv) Women and child development.
- (xxvi) Social welfare, including welfare of the handicapped and mentally retarded.
- (xxvii) Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
- (xxviii) Public distribution system.
- (xxix) Maintenance of community assets.

8.9 On carefully gone through the aforesaid functions, we find that Security Service, provided by the applicant, is not entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution. Therefore, the applicant is not entitled to avail exemption in term of Serial No.3 of Notification No. 12/2017-CT(Rate) dated 28.06.2017.

9. Manpower with machine supply; Anti-termite Treatment and Pest Control Service:-

9.1 The applicant has not supplied any copy of work order with regard to provision of Manpower with machine; Anti-termite Treatment and Pest Control Service, consequently it is not possible to determine the nature of service. However on perusal of the contents, mentioned in their submission, it is evident that these services have been supplied with goods. Therefore the same is termed as Composite Supply and not Pure Service.

9.2 In view of the above as the first condition is not met by the applicant, it can be inferred that the applicant is not entitled to avail benefit under Sr.No.3 of Notification No.12/2017-CT (Rate) dated 28.06.2017 in respect of supply of Manpower with machine and Anti-termite Treatment, Pest Control Service.

9.3 In view of the above, we have reached to the conclusion that the applicant is not eligible to claim exemption from GST in term of Sr. No.3 of Notification No.12/2017-CT (Rate) dated 28.06.2017 in respect of Security

Service, Manpower Supply with machine and Anti-termite Treatment & Pest Control Service.

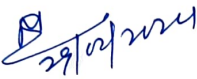
10. In view of the foregoing, we rule as under: -

RULING

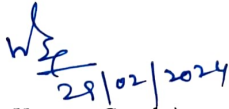
(Under Section 98 of the GST Act, 2017)

Q1. Is the applicant eligible to claim exemption benefit under Sr.No.3 of Notification No.12/2017-CT(Rate) dated 28.06.2017 for pure services (Supply of Manpower: Man with Machine, Security Services, Anti Termite Treatment & Pest Control Services) provided to Central Government, State Government, Local Authorities, Governmental Authorities, Government Entities such as Gram Panchayats, Panchayat Samiti: Block Development Officer and Other Government Agencies as detailed in separate attachment for the reasons discussed here in above subject to the condition that the services provided to these entities mentioned above are services provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India.

Ans- The Applicant is not entitled for exemption benefit under Sr. No.3 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 in respect of the aforesaid services, supplied to Central Government, State Government, Local Authorities, Governmental Authorities, Government Entities such as Gram Panchayats, Panchayat Samiti: Block Development Officer and Other Government Agencies.


(Mahipal Singh)
Member (Central Tax)




(Mahesh Kumar Gowla)
Member (State Tax)

F.No.AAR/SF/2023-24/197
SPEED POST

Date: 29.02.2024

To,

✓ M/s.MpowerSaksham Skills,
First Floor, F-130, Cine Star, Central Spine,
Vidhyadhar Nagar, Jaipur -302039 (Rajasthan)

Copy to:-

1. The Chief Commissioner, CGST and Central Excise (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan-302005
2. The Chief Commissioner, State Tax, KarBhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur-302005.
3. The Pr.Commissioner, CGST and Central Excise Commissionerate, Jaipur, Rajasthan.
4. The Assistant Commissioner, Ward-I, Circle-G, Zone-IV, Divisional KarBhawan, JhalanaDoongri, Jaipur, Rajasthan