
 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR – 302005 (RAJASTHAN)	 राष्ट्र कर बाजार
---	---	---

ADVANCE RULING NO. RAJ/AAR/2022-23/18

Umesh Kumar Garg Joint Commissioner	:	Member (Central Tax)
M. S. Kavia Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s SPML Infra Ltd. Flat no.701, 7th Floor, Ridhiraj Park Central,, J-91-92, Heera Bagh, Sawai Ram Singh Road, Jaipur, Rajasthan 302004
GSTIN of the applicant	:	08ADCS2469K1ZZ
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	:	29.08.2022
Present for the applicant	:	C.A. BHASKAR THAKKAR, Authorized Representative
Date of Ruling	:	11.11.2022

Note: 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.

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 / RGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s SPML Infra Limited, having GSTIN-08AADCS2469K1ZZ, (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (b)&(e) 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)

- a) M/s SPML Infra Limited having GSTIN-08AADCS2469K1ZZ, is engaged in the business of executing various types of infrastructure projects pertaining to power, waste management, water body works, etc. under various taxable service categories declared by them including (i) Works contract service (ii) Erection, commissioning or installation service (iii) Management, Maintenance or Repair service etc.
- b) The company was awarded a contract from Public Health Engineering Department Rajasthan in the pre GST regime for rendering works contract service in relating to laying of pipelines for water projects. The contract price was inclusive of all taxes (service tax/VAT/CST etc). With the implementation of GST from 1st July 2017, the cost of all materials and service increased drastically due to applicability of GST on the works contract service in relation to water projects which were earlier exempted under service tax.
- c) Initially, GST @ 18% was applicable on works contract service falling under HSN Code 9954 vide Notification No.11/2017 dated 18.06.2017. However, the GST rate on works contract was reduced to 12% retrospectively vide Notification No. 20/2017 Central Tax (Rate) dated 22.08.2017.
- d) CBIC vide Notification No. 15/2021-Central Tax (Rate) dated 18.11.2021 issued by Ministry of Finance (Department of Revenue), clarified that any supply made to Government Authority or Governmental Entity in relation to works contract services shall be liable to 18% instead of 12% w.e.f. 1st January 2022.

- e) With reference to the above notification, the company has submitted a letter to Public Health Engineering Department Rajasthan for clarification on the concessional rate of 12% applicable on works contract service rendered by SPML Infra Limited to PHED Rajasthan. In the response to the above letter, a circular was issued by PHED clarifying that the department will fall under the definition mentioned in the notification and concessional rate of 12% shall be applicable on works contracts.
- f) With reference to above facts the company have raised following queries before the Advance ruling:
- g) Whether works contract service rendered in relation to laying of pipelines for water projects supplied to PHED Rajasthan would attract a concessional rate of 12%GST?
- h) The above question arises in the light of rate amendment carried out vide Notification 15/2021 dated on 18.11.2021.

B Statement of Applicant's Interpretation of Law/ Facts

1. The charging section for GST is Section 9 of the Central Goods and Services Tax Act 2017. The term "services" has been defined under section 2(102) of the CGST Act, 2017. The term works contract has been defined under Section 2(119) of the CGST Act, 2017. Further, clause 6 of the Schedule states that works contract as defined in clause (119) of section 2 shall be treated as a supply of services if supplied to the {Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity} 1 by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of:
 - (a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
 - (b) Canal, dam or other irrigation works
 - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal
2. The GST rates on works contract services initially have been notified by the Government vide Serial No. 3(iii) in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 at 18%. However, the GST rate on works contract

has been changed from 18% to 12% retrospectively vide Notification No. 20/2017 Central Tax (Rate) dated 22.08.2017

3. CBIC vide Notification No. 15/2021-Central Tax (Rate) dated 18.11.2021 issued by Ministry of Finance (Department of Revenue), clarified that any supply made to Government Authority or Governmental Entity in form of works contract services shall be liable to 18% GST and concessional rate of 12% shall not be applicable w.e.f. 1st January 2022
4. The GST rate on works contract has been amended vide Notification No. 15/2021-Central Tax (Rate) dated 18.11.2021 and SL.No 3 (ix) of the said notification (as amended up to date) states that Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory & a Local authority would attract 12% GST.
5. In reference to the above notification, a circular has been issued by the PHED Rajasthan wherein it has clarified that the department falls under the definition of State Government. Therefore, GST shall be applicable at a concessional rate of 12% on the work contracts service rendered to them by SPML Infra Limited.
6. In the circular, PHED Rajasthan mentioned that they are covered under the exemption clause and shall fall under the concessional rate of 12%.

C QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:-

- i) *Whether works contract service rendered in relation to laying of pipelines for water projects supplied to PHED Rajasthan would attract a concessional rate of 12% GST?*

The above question arises in the light of rate amendment carried out vide Notification 15/2021 dated on 18.11.2021.

D PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 29.08.2022.C.A. Shri Bhaskar Thakkar, (Authorised Representative) of applicant appeared for PH. During the PH, he reiterated the submissions already made in the written application. He requested for early disposal of the application.

E COMMENTS OF THE JURISDICTIONAL OFFICER

Comments received from the Joint Commissioner, Circle A, Zone 2, SGST, Jaipur vide letter dated 22.06.2022 are as under: -

- 1) The term "services" has been defined under section 2(102) of the CGST Act, 2017 and works contract has been defined under Section 2(119) of the CGST Act, 2017. Further, clause 6 of the Schedule states that works contract as defined in clause (119) of section 2 shall be treated as a supply of services if supplied to the (Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity) 1 by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal
- 2) The GST rates on works contract services initially have been notified by the Government vide Serial No. 3(iii) in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 at 18%. The GST rate on works contract has been changed from 18% to 12% retrospectively vide Notification No. 20/2017 Central Tax (Rate) dated 2.08.2017. CBIC vide Notification No. 15/2021-Central Tax (Rate) dated 18.11.2021 issued by Ministry of Finance (Department of Revenue), clarified that any supply made to Government Authority or Governmental Entity in form of works contract services shall be liable to 18% GST and concessional rate of 12% shall not be applicable w.e.f. 1st January 2022. Notification No. 15/2021-Central Tax (Rate) dated 18.11.2021 and SL.No 3 (ix) of the said notification (as amended up to date) states that Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory & a Local authority would attract 12% GST.
- 3) This has also been stated that The contract awarded PHED Rajasthan has clarified that the department falls under the definition of State Government.
- 4) Therefore in view of the relevant notifications and tax rates of GST and clarification by the PHED department that they fall under the definition of State Government, concessional rate of 12% GST on the work

contracts service rendered to the PHED by suppliers may be applicable in case of the applicant.

F FINDINGS, ANALYSIS & CONCLUSION:

1. We have perused the records on file and gone through the facts of the case and the submissions made by the applicant as well as the Jurisdictional Officers. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.
2. Before examine whether the application made by applicant falls under the preview of Advance Ruling, we would like to discuss submissions made by applicant. Based on the written submission made by the applicant i.e. M/s SPML Infra Limited, we find that the applicant was awarded a work contract in relating to laying of pipelines for water projects. The contract price was inclusive of all taxes (service tax/VAT/CST etc). With the implementation of GST from 1st July 2017, the cost of all materials and service increased drastically due to applicability of GST on the works contract service in relation to water projects. The same projects were executing since introduction of GST i.e. w.e.f 01.7.2017 and paying GST/ submitting GST returns since 1.7.2017 on these supply.
3. We shall now examine the provisions of laws as laid down under the GST Act for the purposes of Advance Rulings. Chapter XVII of the GST Act comprising of Sections 95 is relevant provisions for advance ruling purposes.
4. As per Section 95 of CGST Act, 2017; this authority shall decide on matters or on questions specified in sub-section (2) of Section 97, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken, by the applicant and "Authority" means the Authority for Advance Ruling, constituted under Section 96. Thus Section 95 allows this authority only to decide on matters or on questions in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant i.e. in the subject case this application can be entertained only if the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
5. From the above-mentioned provision, it is seen that this authority is constituted to decide on matters or questions specified in sub-section (2) of Section 97, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.


6. We observe that purpose of Advance ruling is to provide certainty of tax liability in advance in relation to a future activity to be undertaken by the applicant and help the applicant in planning about GST liability on activities well in advance along with proper interpretation and understanding of tax laws. Advance rulings can be given only for a proposed transaction & matters related to qualify for advance ruling whether it will be undertaken or proposed to be undertaken. We also observe that advance ruling under GST can be obtained for a proposed transaction as well as a transaction already undertaken by the appellant but the transactions on which GST is being paid are out of preview of advance ruling.
7. Moreover, on gone through the facts of the case, we observe that applicant filed their application before the Rajasthan Authority for Advance Ruling (RAAR) on 11.03.2022 i.e. much later from the execution of contract i.e July 2017. We observe that the applicant is well aware about the type of supply, its notification, circular, discharging his GST tax liability and submitting his GST returns in accordance to them wef 01.7.2017.
8. We observe that applicant motto is to find out whether the mechanism opted by him for payment of GST on said service is right or wrong, which is against the spirit of Advance Ruling and can only be decided by the competent authority as per transactions taken place, GST paid and GST returns submitted by applicant time to time.
9. From the above details, it is very much clear that the scope of the ruling for Authority for Advance Ruling (AAR) is limited to the transactions being undertaken or proposed to be undertaken on the matters which are not sorted out. In the instant case, as already narrated, the application seeking advance ruling was filed on 11.03.2022 before the RAAR with respect to supplies already being undertaken, GST being paid and Monthly returns already being submitted.
10. Hence, the case is out of the purview of the Advance Ruling.

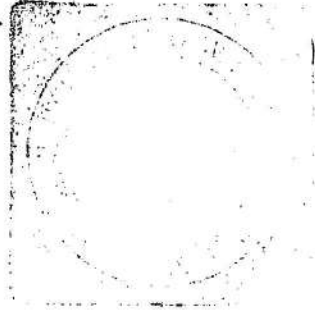
In view of the foregoing, without going into the merits of the case, we rule as under: -

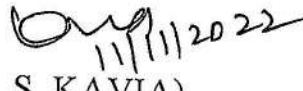
RULING

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

The subject application for advance ruling made by the applicant is not maintainable and hereby rejected under the provisions of the GST Act, 2017.


11.11.2022
(Umesh Kumar Garg)
MEMBER
CENTRAL TAX




11/11/2022
(M. S. KAVIA)
MEMBER
STATE TAX

SPEED POST

M/s SPML Infra Ltd. Flat no.701, 7th Floor, Ridhiraj Park Central,, J-91-92, Heera Bagh, Sawai Ram Singh Road, Jaipur, Rajasthan 302004

F.No.AAR/Spml/2022-23/230-234

Date: 11/11/2022

Copy to:-

1. The Chief Commissioner, CGST and Central Excise, Jaipur Zone, NCRB, Statue Circle, Jaipur-302005 (Raj.).
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Pr. Commissioner, Central Tax, CGST and Central Excise Commissionerate, NCRB, Jaipur-302005 (Rajasthan).
4. The Joint Commissioner, Circle-A, Zone 2, SGST, Jaipur (Rajasthan).

0/C