



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/17/2021

Date: 02.03.2022

TSAAR Order No.12/2022

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s. Siddhartha Constructions, Hyderabad, 6-3-668/10/8, Durganagar, Durganagar Colony, Punjagutta, Hyderabad, Telangana, 500082 (36AAXFS8120Q1Z6) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The concerned jurisdictional officer also raised no objection to the admission of the application. The application is therefore, admitted
4. **Brief facts of the case:**

M/s. Siddhartha Constructions are into business of works contracts and have executed works for Telangana State Industrial Infrastructure Corporation Limited (TSIIC). The applicant in this contract has constructed IT Incubation Centre at Pothugal, Karimnagar for the TSIIC. As per the Memorandum of Association filed by the applicant TSIIC is owned by the Government of Telangana with paid up equity share capital of the Government of Telangana in excess of 90%. Therefore it is opined by the applicant that they have executed works to a Government entity and hence qualify for a lower rate of tax at the rate of 12%. Hence this application.

5. **Questions raised:**

1. In view of the services provided by the applicant to TSIIC., is the applicant eligible to avail the concessional rate of GST at 12% as prescribed in of S. No. 3 (vi) of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended by?
2. If not, what is the appropriate rate and classification of GST to be charged by the applicant?

6. **Personal Hearing:**

The Authorized representatives of the unit namely P. Sai Makarandh, Advocate attended the personal hearing held on 05.01.2022. The authorized representatives reiterated their averments in the application submitted and requested the AAR to dispose the case on merits

7. **Discussion & Findings:**

The applicant has averred that they have constructed an IT Incubation Centre for TSIIC which is a 'Government entity'. The term 'Government entity' was inserted as definition in notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017 in Notification No. 11/2017 and this means:

"...an authority or a board or any other body including a society, trust, corporation, i) set up by an Act of Parliament or State Legislature; or ii) established by any Government, with 90per cent. 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".

Therefore, TSIIC being wholly owned by Government of Telangana qualifies to be a Government entity under this definition.

Further, in respect of works contract services provided to a Governmental Entity, the tax rate is 12% as enumerated at Sr No. 3(vi) of Notification No. 11/2017-CT (Rate) as amended till date.

"The works contract service by way of construction, erection, commissioning. Installation, completion, fitting out, repair, maintenance, renovation, or alteration of

- (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession.
- (b) ...
- (c) ...

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".

The Memorandum of Association of TSIIC at clause III(a)(3) clearly states that the company pursues the objectives to implement the schemes of incentives, subsidies and the like formulated by the Government of Telangana or Government of India or other authorities or institutions and to administer such schemes of incentives from time to time in the interest of establishments and development of industries. Thus TSIIC organization works to further the policies of the State Government, Central Government and Local Government for development of industries in the State of Telangana.

Therefore in view of the above facts:

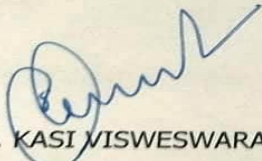
- 1. The applicant has executed works contracts for TSIIC which is a Government entity.
- 2. This work is construction of IT Incubation Centre. Therefore the civil structure is meant for commerce/industry or any other business.

Therefore the works contract executed by the applicant for construction of IT Incubation Centre for TSIIC falls under exception to Sr No. 3(vi) of Notification No. 11/2017-CT (Rate) wherein the civil structure is meant for commerce/industry or any other business and therefore the supply of this service is taxable at the rate of 9% under CGST & SGST each.

8. **The ruling is given as below:**

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. In view of the services provided by the applicant to TSIIC., is the applicant eligible to avail the concessional rate of GST at 12% as prescribed in of S. No. 3 (vi) of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended by?	No.
2. If not, what is the appropriate rate and classification of GST to be charged by the applicant?	9% under CGST & SGST each



(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER(STATE TAX)



(B. RAGHU KIRAN)
ADDL. COMMISSIONER(CENTRAL TAX)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. Siddhartha Constructions, Hyderabad
6-3-668/10/8, Durganagar,
Durganagar Colony, Punjagutta,
Hyderabad, Telangana, 500082.

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Hyderabad Commissionerate, Room No. 813, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad 500 004.

Copy to:

1. The Assistant Commissioner (ST) Khairatbad- Somajiguda Circle.
//t.c.f.b.o//

Superintendent (Grade-I)