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. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/03/2019 **Date:08.10.2021**

TSAAR Order No.14/2021

[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.]

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1. Smt. Bhagyalakhsmi Devamma Vangimallu, trade name is M/s. Versatile Resource Solutions ,H.NO.13-9-91/102, Panduranga Nagar, Mothinagar Rangareddy, Telangana, 500 018 (GSTIN No. 36AERPV2388F2ZS) 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 Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act.

4. **Brief facts of the case:**
The applicant Smt. Bhagyalakhsmi Devamma Vangimallu whose trade name is M/s. Versatile Resource Solutions has entered into a contract with M/s. Asian Institute of Gastroenterology Private Limited, Somajiguda, Hyderabad for providing Housekeeping services. As per the memorandum of Understand the applicant will provide Housekeepers and supervisor to maintain and assist the medical team of the Hospital in maintaining cleanliness, covering 24 Hours service on shift basis. It is the opinion of the applicant that as the salary / wages are fixed by the Hospital management and as EPF, ESI are statutory payments, therefore these amounts reimbursed by the Hospital management cannot form value of supply. Hence this application.

5. **Questions raised:**

1. Whether are not applicant is liable to pay tax on the amount of wages / salaries, EPF/ ESI etc., reimbursed by the client?
This being the case Consequent upon receipt of the application filed by M/s. Bhagyalakhsmi Devamma Vangimallu, the jurisdictional officer i.e. Superintendent (Central Tax) Range, was requested vide this office letter CCT's Ref no.A.R.Com/03/2019 dated: 11.04.2019 inform, whether the questions raised in

the application is already pending or decided in any proceedings in the case of the applicant and inform any issue pending before with them within a week lest it would be construed that these issues are not pending before them and the application would be processed under any of the provisions of the GST Act, 2017 and also requested to offer his/he comments on the points raised in the application, However case was admitted even though Officer have not replied by the grounds of the draft letter, Therefore, Personnel hearing given to the applicant.

6. **Personal Hearing:**

The Authorized representatives of the unit namely M/s. Bhagya Lakshmi Devamma, K. Chandrasekhar Reddy, Advocate and V. Kesava Reddy, Manager of the applicant attended the personal hearing held on 09-07-2021. The authorized representatives reiterated their averments in the application submitted and contended as follows:

1. That they have entered into a contract for house-keeping with M/s. Asian institute of Gastroenterology, Somajuguda and in turn employed certain persons for the execution of this contract.
2. That they are passing on the Salary, ESI, PF etc., received from the contractee to the persons employed in house-keeping. The same is passed on to the persons employed. However, that they are charging commission/charges against each such bill. Therefore in their view they are pure agents of the contractee, and as such the amounts received by them and passed on to the employees does not form turnover at their hands.
3. That in view of the above understanding of the applicant they seek for a clarification regarding exigibility of the total amounts received from the contractee i.e., M/s. Asian institute of Gastroenterology, Somajuguda to CGST/SGST or on the contrary whether only the commission received by them is taxable.

7. **Discussion & Findings:**

The applicant has made various averments regarding the deductibility of Wages / Salaries, EPF, ESI contribution which are reimbursed by the Hospital from the value of supply which is exigible tax under CGST/SGST Act. The contention of the applicant are abstracted as follows:

1. That in the pre GST period reimbursable expenses have been held not to form gross value of service provided by the service provider and hence not assessable to tax. Reliance was placed on decision of Delhi High Court in the case of M/s. Intercontinental Consultants (2012) 12TMI150 and other Tribunal Judgments relating to service tax valuation rules.
2. That value of supply to be arrived under Section 15 (1) of the CGST Act 2017 is transaction value which should be paid by the recipient. This is further qualified by two conditions:
   i. Suppler and the recipient of the supply are not related; and
   ii. The price is the sole consideration of supply.

   That both the above conditions are met by the applicant.
3. That after deducting salaries, wages, EPF, ESI etc., the net amount received by the applicant is taxable.

In this connection it is observed that the case law relied by the applicant relates to interpretation of service tax valuation rules, enumerated in the Finance Act. The Hon'ble High Court of Delhi and later the Hon'ble Supreme Court of India discussed the applicability of Rule 5 of Service Tax Rules and Sections 66 and 67 of Finance Act of India. No general principles have been laid down for determination of value of supply on service in these Judgment which travel beyond the interpretation of these rule and related section pertaining to the pre GST Service tax.

The applicant is not a pure agent under GST Law. Further the deductions available under Section 15 of the CGST Act do not include the amounts pertaining to EPF, ESI, Salary, or Wages. Therefore entire amount received from the Hospital are exigible to CGST / SGST Act 2017.

8. In view of the observations stated above, the following ruling is issued :

Advance Ruling

Question Raised	Advance Ruling Issued
1.Whether are not applicant is liable to pay tax on the amount of wages / salaries, EPF/ ESI etc., reimbursed by the client?	The applicant is liable to tax on all the amounts received from the Hospital.

(S.V. KASI VISWESHWAR 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. Bhagyalakhsmi Devamma Vangimallu,
H.NO.13-9-91/102, Panduranga Nagar,
Mothinagar Rangareddy, Telangana, 500 018

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. Superintendent(Central Tax), Sanathnagar Range. H.No.8-3-1040, Plot No. 140, 3rd to 5th Floor, Opp. Ratnadeep Super Market, Srinagar Colony, Hyderabad - 500 073.