

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING U/S. 98 OF THE
GOODS AND SERVICES TAX ACT, 2017**

Sub:- GST ACT, 2017 – Advance Ruling U/s 98 – liability to tax under GST Act in respect to application dated 18.02.2020 from M/s Snow Fountain Consultants, House No. 259, Sector-5, Vikas Nagar, Lucknow, Uttar Pradesh – Order– Reg.

1) M/s Snow Fountain Consultants, House No. 259, Sector-5, Vikas Nagar, Lucknow, Uttar Pradesh - 226 022 (here-in-after called 'the applicant') is a registered assessee under GST having GSTN: 09ABHFS3242C1ZD.

2) The Applicant has submitted application for Advance Ruling dated 18.02.2020 enclosing duly filled Form ARA-01 (the application form for Advance Ruling) along with certain annexure and attachments.

3) The Applicant in his application sought Advance Ruling as follows : –

i. Whether the Project Development Service (i.e. Detailed Project Report Service) and Project Management Consultancy services ('PMCS') provided by the applicant to recipient under the Contract from State Urban Development Authority (herein-after referred as "SUDA") and the Project Management Consultancy services ('PMC') under the Contract for Pradhan Mantri Awas Yojna (PMAY in short) would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?

4). The applicant further submitted that based on the Notification No. 12/2017 and 02/2018 issued under Central Tax (Rate), GST is exempt in case of DPR and PMCs. They also submitted copy of Order No. 22 dated 25.01.2019, in the case of M/S Rudhrabhishek Enterprises Ltd, Noida, Uttar Pradesh wherein full exemption was granted by the Authority for Advance Ruling Uttar Pradesh.

5). As per the declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending in any proceedings nor decided in any proceedings in the applicant's case under any of the provisions of the Act.

6). The application for advance ruling was forwarded to the Jurisdictional GST Officer (Assistant Commissioner, CGST & CEX, Division-II, Lucknow) to offer his comments/views/verification report on the matter. However, no reply was received despite of repeated reminders. Accordingly, it is deemed that they are in agreement with the applicant and no proceeding, is neither pending nor decided, against the applicant on the question raised in the advance ruling application.

7). The applicant was granted a personal hearing in the matter. In compliance, Sh. Narendra Kumar, Chartered Accountant, Authorized representative, appeared on 10.06.2020 for hearing on behalf of the applicant. During the personal hearing he reiterated the submissions already made vide application dated 18th February 2020. He further informed that he had forgot to enclose the "Annexure-1", as mentioned in the application for advance ruling dated 18.02.2020, wherein one more question i.e. if the services provided by them qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India, then whether such services provided by the applicant would qualify as Pure services (excluding works contract service or composite supplies involving supply of any goods) as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017, and requested to admit the same for advance ruling. Acceding to the request of the applicant, the Authority admitted the second question also.

DISCUSSION AND FINDING

8). *At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST 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 UPGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.*

9). *We have gone through the submissions made by the applicant and have examined the explanation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2)(b) of the CGST Act 2017 being a matter related to applicability of a notification issued under the provisions of this Act. We therefore, admit the application for consideration on merits.*

10). We have gone through the submissions made by the applicant and

examined the detailed explanation submitted by them. We observe that the question sought by the applicant is whether the Project Development Service (i.e. Detailed Project Report Service) and Project Management Consultancy services ('PMCS') provided by the applicant to 'SUDA' and the Project Management Consultancy Services (PMCS) for 'PMAY' would qualify as an activity in relation to functions entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India, and if so, whether such services provided by the applicant would qualify as Pure services (excluding works contract service or composite supplies involving supply of any goods) as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017. We have also examined the Notification No. 12/2017- Central Tax, dated 28.06.2017 as amended vide Notification No. 2/2018-Central Tax dated 25.01.2018 issued by the Central Government and corresponding Notification No.- KA.N.I.-2-843/X1- 9 (47) / 17-UP. Act-1 -2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued by the State Government, Uttar Pradesh.

11). Now first question placed before us as to whether the Project Development Service (i.e. Detailed Project Report Service) and Project Management Consultancy services ('PMCS') provided by the applicant to recipient under the Contract for SUDA and the Project Management Consultancy services ('PMC') under the contract for PMAY would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India or not. To proceed further, we need to examine the purpose and scope of work for which the applicant has gone into contract with SUDA and PMAY.

12). SUDA has been established as a state level nodal agency, under the department for Urban Employment and Poverty Alleviation by Uttar Pradesh Government. This agency is registered under the 'Registration of Societies Act' since 20th November' 1990. As per the "Memorandum of Association of State Urban Development Agency", it's main objectives shall be-

- (a) To identify the urban poor in the state.
- (b) To draw up plans and formulate schemes for the upliftment of the urban poor in the state.
- (c) To implement schemes for the benefit of the urban poor either directly or through other agencies engaged in this direction, whether private, public or cooperative.
- (d) To review the progress of the execution of these activities as well as effectiveness of the benefits directed towards the urban poor.
- (e) To set up or establish any specific service such as training facilities,

infrastructural etc. in furtherance of the economic interest of the urban poor.

13). Further, as per website of Pradhan Mantri Awas Yojana-Housing for All (Urban), Ministry of Housing and Urban Affairs, the PMAY is a Scheme to provide central assistance to Urban Local Bodies (ULBs) and other implementing agencies through States/UTs for Rehabilitation of existing slum dwellers using their land as a resource through private, participation, and affordable Housing in Partnership. Furthermore, the matters listed in the 11th and 12th schedule to the constitution (details 243G and 243W, respectively), as functions pertaining to Panchayats/Municipality, are inter alia: (a) Safe water for drinking, (b) Maintenance of community assets, (c) Family welfare, (d) Markets and Fairs, (e) Poverty Alleviation Programmes, (f) Regulation of land use and construction of land buildings, (g) Urban planning including the town planning, (h) Planning for economic and social development, (i) Urban poverty alleviation, (j) Slum improvement and up-gradation.

14). Now, we come to examine the scope of work under different contracts, as provided by the applicant—

A. Scope of work under Preparation of DPR:-

- Preparation of detailed Project under vertical IV of PMAY (U). 100% physical verification includes door survey, collection of land documents and consent letters from the beneficiaries as per HFAPOA (Housing for All by 2022- Plan of Action), data collection, data verification and data compilation.
- Inclusion of present status and proposed works of infrastructure details.
- MIS Entry.
- Key stakeholder consultations.
- Preparation of beneficiaries wise detailed Architectural/Engineering designs. Drawing and estimates for all sizes of plots, project structuring under appropriate development and funding mechanism.
- Assistance in obtaining appropriate approvals from concerned agencies/departments.
- Appropriating all necessary data in reference to Slum Free city Plan in the DPR.
- The DPR should be complete in all respect with all report drawings, statements and documents necessary for obtaining the grant from the Government of India.

B. Scope of Work under Project Management Consultancy (PMC):-

- PMC will coordinate, execute and monitor the activities leading to the construction of approved DUs (Dwelling units) by Govt. of India.
- All the activities till the completion of DUs will be taken care of by PMC.
- PMC shall also administer the works by the beneficiaries and ensure that the agreement between the ULBs and beneficiaries whether related to quality or quantities of work are executed in accordance with its provisions.

- PMC shall attach Beneficiaries to the project in PMAY-MIS and also upload Annexure 7A & 7C.
- PMC shall execute all MIS related work of PMAY (U).
- PMC will supervise the construction work to ensure adherence to the drawings, prescribed high standards of quality and timely completion of the project and verify and certify the progress of the work.
- Preparation of Physical and Financial progress and shall submit to respective ULBs and DUDA.
- Preparation of individual files consist of application, copy of Aadhar Card, bank details, land documents, consent letters etc, stage wise photographs for every beneficiaries.
- PMC will assist Beneficiaries at various stages such as Plinth Level, Lintel Level, roof level and final finishing works and assist to get timely installments.
- PMC will make sure that the project/ DUs construction must complete as per the agreement made with the beneficiaries for the successful and timely implementation of the Project.
- PMC will implement GEO tagging of constructions of all the stages.
- Time extension will not be considered except in very exceptional cases without prejudice to levy of penalties. However any approval for extension of time of completion of the works stipulated in the construction, beneficiaries will be without any additional financial implication.
- PMC shall be fully responsible for quality control and shall put in place such measures as are essential for ensuring regular on site quality check.
- PMC shall submit the tentative organization chart for managing the project so that appropriate decisions are taken quickly. However, the actual number of technical and financial personnel to be deployed and the deployment schedule shall be prepared by the PMC and manually agreed upon after award of work.
- Generate and submit to the ULBs time to time progress reports in the agreed formats and the agreed frequency.
- PMC shall also apprise the beneficiaries of the progress or activities of the project on fortnightly/monthly basis.
- Cash flow Chart —Actual and Scheduled & Bar Chart Actual and Scheduled Status of payments of beneficiaries. Photographs of various stages (Before excavation, Foundation, Plinth Level, Lintel Level & Completion) of DUs of each beneficiary, Geo tagging of constructions all the stages Visitors' Site Inspection, Settlement of all accounts of the beneficiaries with the ULBs.
- Provide project completion report/closure report which shall contain all technical and financial information of the project.

15). Accordingly, in view of forgoing discussions we are of the view that the Consultancy services rendered by the applicant under the contract with State Urban Development Agency, Uttar Pradesh (SUDA), and for PMAY are in relation to functions entrusted to Municipalities under Article 243W and to Panchayats under Article 243G of the Constitution of India.

16). Now coming to second question for consideration before us is a corollary to the first question in case the answer to first question is in affirmative. Since

we have already made our findings in affirmative as far as first question is concerned, we now move to examine the second question as to whether such services provided by the applicant would qualify as "Pure services (excluding works contract service or other composite supplies involving supply of any goods)" as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017, as amended (S. No. 3A) by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 ('CGST') and corresponding Notifications No. — KA.N.I.-2-843/X1- 9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017 ('UPGST Act'), where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and UPGST, respectively.

17). We have examined the sample Contract for Preparation of Detailed Project Report (DPR) and providing Project Management Consultancy for PMAY. After the examination of the agreement and scope of work we are of the opinion that services mentioned in the contract would qualify as Pure Service (excluding works contract service or other composite supplies involving supply of any goods)" as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017, as amended (S. No. 3A) by Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued under Central Goods and Services Tax Act, 2017 ('CGST') and corresponding Notifications No. — KA.N.I.-2-843/X1- 9 (47) / 17-UP. Act-1 - 2017 - Order - (10) - 2017 Lucknow, dated June 30, 2017 issued under Uttar Pradesh Goods and Service Tax Act, 2017 ('UPGST Act'), where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and UPGST, respectively.

In view of the above, both the members unanimously rule as under;

RULING

Ruling on Question 1. We hold that the Services rendered under the contract with State Urban Development Agency, Uttar Pradesh (SUDA), and for PMAY are in relation to functions entrusted to Municipalities under Article 243W and to Panchayats under Article 243G of the Constitution of India.

Ruling on Question 2. Such services would qualify as Pure Service (excluding works contract service or other composite supplies involving supply of any goods)" and accordingly exempt from the payment of GST duly covered in Sl.

No 3 of Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017 (as amended from time to time) issued under Central Goods and Services Tax Act, 2017 (CGST/Act), and corresponding notifications issued under Uttar Pradesh Goods and Services Tax Act, 2017 (UPGST Act).

18). This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.



(Ajay Kumar Misra)

Member of Authority for Advance
Ruling



(Dinesh Kumar Verma)

Member of Authority for Advance
Ruling

To,
M/s Snow Fountain Consultants,
House No. 259, Sector-5, Vikas Nagar,
Lucknow, Uttar Pradesh.

AUTHORITY FOR ADVANCE RULING – UTTAR PRADESH

Order No.

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Date: 24.06.2020

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.

✓ 2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.

3. The Commissioner, CGST & CX, Lucknow, Uttar Pradesh.

4. The Assistant Commissioner, CGST & Central Excise, Division-II, 12th Floor, Kendriya Bhawan, Aliganj, Lucknow, Uttar Pradesh, for information;

5. Through the Additional Commissioner, Grade-1, Commercial Tax, Lucknow, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khnad, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.