

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

**ADVANCE RULING NO. UP ADRG 81 /2021**

**DATED 30-06-2021**

**PRESENT:**

**1. Shri Abhishek Chauhan**

Additional Commissioner, Central Goods and Service Tax  
Audit Commissionerate, Lucknow .....Member (Central Tax)

**2. Shri Vivek Arya**

Joint Commissioner, State Goods and Service Tax .....Member (State Tax)

1.	Name of the Applicant	M/s Arinem Consultancy Services (P) Ltd Akash-2, 31, Gokhale Marg, Lucknow 226001
2.	GSTIN or User ID	09AAFCA8049P1ZZ
3.	Date of filing of Form GST ARA-01	17-03-2021
4.	Represented by	Shri Dharmendra Kumar (CA & Authorized representative)
5.	Jurisdictional Authority- Centre	Range-I, Division-Lucknow-II
6.	Jurisdictional Authority- State	Lucknow Sector-1
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes BARB21030900185175

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98  
(4) OF THE UPGST ACT, 2017**

**1)** M/s Arinem Consultancy Services (P) Ltd, Akash-2, 31, Gokhale Marg, Lucknow, 226001 (here in after referred to as the applicant) is a registered assessee under GST having GSTN: 09AAFCA8049P1ZZ.

**2)** The Applicant has submitted application for Advance Ruling dated 17.03.2021 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 preparation of 'Detailed Project Report' (DPR) and providing Project Management Consultancy (PMC) services for projects under Beneficiary Led Construction in Lucknow Cluster under Pradhan Mantri Awas Yojna (Urban) under an agreement with State Urban Development Agency (SUDA) would fall under activities in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?

ii. If answer to question is yes, then,

Whether such services provided by the applicant would fall under "Pure Services (excluding works contract service or other composite supplies involving supplies of goods)" as provided in serial number 3 of Notification No. 12/2017-Central Tax (Rate) dated 28 June, 2017, issued under Central Goods and Services Tax Act, 2017 (CGST) and corresponding Notification No. KA.NI.-2-843/XI-9 (47)/17-UP.Act-1-2017-Order-(10)-2017 Lucknow, dated 30 June, 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 services and thus, be eligible for exemption from levy of CGST and UPGST, respectively?

**4)** 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 CGST Act, 2017/UPGST Act, 2017.

**5)** The applicant has submitted that there is an agreement between the applicant and SUDA. As per the agreement the applicant has to perform the work of preparation of 'Detailed Project Report' (DPR) and of providing 'Project Management Consultancy' (PMC) services for Project under Beneficiary Led Construction in Lucknow cluster under Pradhan Mantri Awas Yojana (Urban).

**6)** The applicant in their application of advance ruling has further submitted as under:-

(i) State Urban Development Agency (SUDA) was formed and registered under 'Societies Registration Act, since 20-11-1990.

- (ii) SUDA was established by U.P. Government with hundred per cent participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.
- (iii) Functions entrusted to Panchayats as laid down under section 243G of the Constitution of India are mentioned as follows:

*"Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to-*

- (a) the preparation of plans for economic development and social justice;*
- (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule."*

- (iv) Functions of Municipality as laid down under section 243W of the Constitution of India are mentioned as follows:

*" Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow*

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to*

- (i) the preparation of plans for economic development and social justice;*

- (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;*

- (b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule."*

- (v) The extracts of Notification No. 12/2017-Central Tax (Rate) dated 28 June, 2017 are as follows:

Table

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
1	2	3	4	5
3	Chapter99	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 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

- (vi) SUDA is a governmental authority as the definition provided in section 2(16) of Integrated Goods & Service Tax Act, 2017.
- (vii) Applicant is providing pure services to SUDA, a governmental authority by way of activity (Pradhan Mantri Awas Yozna) in relation to function entrusted to a Panchayat under article 243G of the Constitution or relation to function entrusted to a Municipality under article 243W of the Constitution.
- (viii) Applicant is providing aforesaid services by way of an agreement for additional work of preparation of Detailed Project Report (DPR) and providing Project Management Consultancy (PMC) services for Projects under Beneficiary Led Construction in Lucknow Cluster under Pradhan Mantri Awas Yozna (Urban).
- (ix) Applicant is of the opinion that its services provided to SUDA by way of an agreement for additional work of preparation of Detailed Project Report (DPR) and providing Project Management Consultancy (PMC) services for Projects under Beneficiary Led Construction in Lucknow Cluster under Pradhan Mantri Awas Yozna (Urban) falls under serial no.3 of Table of notification no.12/2017-Central Tax (Rate), dated 28-06-2017 and GST rate on such services is Nil.

- (x) In the light of aforesaid facts, services of applicant in question should be exempt from GST under serial no. 3 of notification no.12/2017-Central Tax (Rate), dated 28-06-2017.
- (xi) Hon'ble Authority for Advance Ruling – Uttar Pradesh accepted the view of applicant in case of M/s Rudhrabhishek Enterprises Ltd, A-6, Sector-58, Noida, U.P.

7) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer his comments/views/verification report on the matter. The Deputy Commissioner, Sales Tax, Sector-1, Lucknow vide his letter C.No. 63/डीकमि0/ख0-1 वा0क0ल0 दिनांक 11.06.2021 has informed that Detailed Project Report को तैयार करना और उसे Project Management Consultancy सेवाओं को प्रधानमंत्री आवास योजना को जी एस टी के अंतर्गत कोई छूट प्राप्त नहीं है और न ही SUDA से किये गए करार के अंतर्गत DPR तैयार करना और लाभार्थी के लिए निर्माण पंचायत या municipality के कार्यों के अंतर्गत नहीं आएगा. जी एस टी में राज्य और व्यक्ति के बीच सेवाओं के अनुबंध को कोई छूट प्राप्त नहीं है और न ही वह भारतीय संविधान की धारा 243 G या 243 W से आच्छादित है. द्वितीय प्रश्न के सम्बन्ध चुकि प्रश्न १ में नकारात्मक जवाब दिया जा चुका है इसलिए इस पर टिप्पणी की आवश्यकता नहीं है.

8) The applicant was granted a personal hearing in the matter. In compliance, Sh. Dharmendra Kumar, Chartered Accountant & Authorized representative, appeared on 15.06.2021 for virtual hearing on behalf of the applicant. During the personal hearing he reiterated the submissions already made in the application of advance ruling.

### **DISCUSSION AND FINDING**

9) 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 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'.

**10)** 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.

**11)** 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 preparation of 'Detailed Project Report' (DPR) and providing Project Management Consultancy (PMC) services for projects under Beneficiary Led Construction in Lucknow Cluster under Pradhan Mantri Awas Yojna (Urban) under an agreement with State Urban Development Agency (SUDA) would fall under activities in relation to function 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 fall under "Pure Services" (excluding works contract service or other composite supplies involving supplies of goods)" as provided in serial number 3 of Notification No. 12/2017-Central Tax (Rate) dated 28 June, 2017, issued under Central Goods and Services Tax Act, 2017 (CGST) and corresponding Notification No. KA.NI.-2-843/XI-9 (47)/17-UP.Act-1-2017-Order-(10)-2017 Lucknow, dated 30 June, 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 services and thus, be eligible for exemption from levy of CGST and UPGST, respectively?

**12)** We observe that as per Sl. No. 3 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 "*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 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" are exempt from tax.

**13)** We observe that SUDA has been established as a state level nodal agency, under the department for Urban Employment and Poverty Alleviation by Uttar Pradesh Government. As per the "Memorandum of Association of State Urban Development Agency", its 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.

**14)** As per the Memorandum of Association, the Secretary, Urban Employment & Poverty alleviation Programme, will be the Chairman of the SUDA. Further, as per point no. 33 of Article of Association the accounts of the SUDA shall be subject to an account audit by the Comptroller and Auditor General of India and as per point no. 43 "*Members to receive no profit upon dissolution of the society if after disposal and settlement of the property of the society and its claims and liabilities, there are any surplus assets, such asset shall not be paid to or distributed amongst the member of the society or any of them but shall be disposed off as directed by the Government of India or State Government*".

**15)** As SUDA has been established as a state level nodal agency, under the department for Urban Employment and Poverty Alleviation by Uttar Pradesh Government and as per the information contained in Memorandum of Association (in Para 14 above), it is clear that SUDA is a part of State Government of UP. The said observation is further supported by the following

Government Orders which is addressed to the Director, SUDA UP, Department for Urban Employment and Poverty Alleviation (available on [www.shasnadesh.up.nic.in](http://www.shasnadesh.up.nic.in))-

(i) No. 172/69-1-10-75(Sa)/97 dated 26.02.2010 and No. 123/2021/174/69-1-21-14(137)/12 dated 11.05.21 both regarding continuity of post in SUDA/DUDA UP.

(ii) No. 595/69-1-10-14(27)/10 dated 24.05.2010 regarding declaration of property by the employees of SUDA/DUDA UP.

In view of facts stated above, atleast it can be established that SUDA falls under Government category.

**16)** 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. As per the details available on website SUDA is the state level nodal agency for PMAY(U) in the state of Uttar Pradesh.

**17)** Now coming to the functions entrusted to Panchayats/Municipalities, the matters listed in the 11<sup>th</sup> and 12<sup>th</sup> schedule to the constitution (details 243G and 243W, respectively), 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 etc. Further as per the preface to the PMAY, Housing for All (Urban) Scheme Guidelines:-

*"The Mission seeks to address the affordable housing requirement in urban areas through following programme verticals:*

- Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource*

- *Promotion of Affordable Housing through Credit Linked Subsidy*
- *Affordable Housing in Partnership with Public & Private sectors*
- *Subsidy for Beneficiary-Led individual house construction / enhancement."*

**18)** In view of forgoing discussions, we are of the opinion that the Consultancy services rendered by the Applicant under the contract with SUDA, and for PMAY are in relation to functions entrusted to Municipalities / Panchayats under Article 243W / 243G of the Constitution of India.

**19)** Now coming to the second question that whether such services provided by the Applicant would qualify as Pure services, we come to examine the scope of work under agreement, as provided by the Applicant:-

- a. Identification and Validation of new beneficiaries/replacement of beneficiaries as and when required
- b. Scope of work under preparation of DPR:-
  - 100% Physical verification including Door to Door Survey,
  - Collection of land documents and consent letter from the beneficiaries
  - 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, Drawings & Estimates for all sizes of plots
  - Project structuring under appropriate development and funding mechanism
  - Assistance in obtaining approvals from concerned agencies / departments
  - The Consultant shall incorporate all necessary data in reference to Slum Free City Plan in the DPR.
  - The DPR should be complete in all respects with all reports drawings, statements and document necessary for obtaining the grant from the Government of India.
  - The DPR shall be computer typed and printed and drawing should be in Auto Cad.
- c. Scope of work under Project Management Consultancy (PMC):-

- PMC will coordinate, execute and monitor the activities leading to the construction of approved DUs 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 works are executed in accordance with its provisions.
- PMC shall attach Beneficiaries to the project in PMAYMIS and also upload Annexure 7C/7D/7E.
- 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 the 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 checks.
- 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 mutually agreed upon after award of work.
- Generate and submit to the ULBs time-to-time progress reports in the agreed formats and at the agreed frequency.

- PMC shall also apprise the beneficiaries of the progress and/or activities of the project on fortnightly/monthly basis.
- Cash Flow Chart - Actual and Scheduled & Bar Chart-Actual and Scheduled
- Status of Payment to beneficiaries
- Photographs of various stages (Before Excavation, Foundation, Plinth level, Lintel Level & Completion) of DUs of each beneficiary
- Geo tagging of constructions of all the stages
- Visitors' Site Inspection
- Settlement of all accounts of the beneficiaries with the ULBs
- Provide project completions report/closure report which shall contain all technical and financial Information of the project.

**20)** After examining 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 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').

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 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).

**21).** 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.

  
(Vivek Arya)

Member of Authority for  
Advance Ruling

  
(Abhishek Chauhan)

Member of Authority for  
Advance Ruling

To,

M/s Arinem Consultancy Services Pvt Ltd,  
Akash-2, 31, Gokhale Marg,  
Lucknow 226001

**AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH**

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 & C. Ex, 7-A, Ashok Marg, Lucknow, 226001
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division- Lucknow I, 12<sup>th</sup> Floor, Kendriya Bhawan, Aliganj, Lucknow 226024
5. Through the Additional Commissioner, Gr-I, Commercial Tax, Lucknow-I, 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 Khand, Gomti Nagar, Lucknow - 226010, within 30 days from the date of service of this order.