

**AUTHORITY FOR ADVANCE RULING  
GOODS AND SERVICE TAX  
UTTAR PRADESH  
4, Vibhuti Khand, Gomti Nagar, Lucknow-**

**ADVANCE RULING NO. UP ADRG 85 /2021      DATED 22-10-2021**  
**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 M. F. Associates<br>(Legal Name- Musheer Ahmad)<br>31 – F, Om Prakash Marg, Rajroopur,<br>Prayagraj – 211 011 |
| 2. | GSTIN or User ID  | 09AEZPA1552J1Z6   |
| 3. | Date of filing of Form GST ARA-01                             | 29.07.2021  |
| 4. | Represented by  | Shri N.K. Arora, Advocate and Shri<br>Mayank Arora, Advocate  |
| 5. | Jurisdictional Authority-Centre                               | Range- I, Division -Allahabad-II  |
| 6. | Jurisdictional Authority-State                                | Sector- Prayagraj Sector-13, Range-<br>Prayagraj (B)  |
| 7. | Whether the payment of fees<br>discharged and if yes, the CIN | Yes<br>UBIN2106900285161  |

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

1. M/s M. F. Associates (Legal Name- Musheer Ahmad) , 31 – F, Om Prakash Marg, Rajroopur, Prayagraj – 211 011 (here in after referred to as the applicant) is a registered assessee under GST having GSTN 09AEZPA1552J1Z6.
2. The applicant has filed application for advance ruling in Form ARA-01 and submitted as under-
  - (1) That the applicant is engaged in business of providing works contract services.
  - (2) The applicant is engaged in work of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services. Also the applicant is providing the service of repairs and maintenance of JCBs and Mobile Toilets. All these works are directly done for Nagar Nigam Prayagraj, a local authority.
3. The applicant has sought advance ruling on following questions-

- i. Whether providing the service of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services provided to Local Authorities would be covered by Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017, which states

“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 Government 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”

and would be deemed to be an exempt supply?

- ii. Whether providing the service of repairs and maintenance of JCBs and Mobile Toilets to the Government and Local Authorities would be covered by Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 as mentioned in (i) above and would be deemed to be an exempt supply?
- iii. Whether the above mentioned both the services in (i) and (ii) would be covered under Heading 9994 as per Serial No. 75 and 76 of the Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 as mentioned in (i) above and would attract NIL rate of tax and consequently an exempt supply?

4. The applicant have submitted their interpretation of law as under-

(1.1) In question no. (i), the applicant is of the view that the Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 applies on the applicant because it says ‘any activity’ in relation to any function entrusted to Panchayat or Municipality under Article 243G and Article 243W of the Constitution of India. Since the applicant is providing the services of repairs and maintenance of such vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services, it must be squarely covered under such notification. Such vehicles are exclusively used for cleaning and sanitation services provided by the Municipalities to the public at a large as a part of their statutory duties and functions.

(1.2) The services provided by the Municipalities and Local Authorities are not commercial and are discharged to fulfill their constitutional and legal obligations. The vehicles in question are not regular vehicles but are customized for garbage and collection of waste purposes. These vehicles are only for use of Municipalities and Local Authorities. Since these services are exempt in itself under GST, and repairs and maintenance of these vehicles being an absolute integral part in providing such services, therefore the applicant contends that these should also be treated as exempt supply and no GST should be levied.

(2.1) In question no. (ii), the contention of the applicant is also the same as mentioned in (i) above. The Municipalities and Local Authorities while providing their exempt services use JCBs. So by applying the same logic, its repairs and maintenance should also be treated as an exempt supply.



(2.2) Similarly, in case of Mobile Toilets, repairs should be treated as an exempt supply because of the fact that these are core duties and functions of the Municipalities. It does not involve any commercial element and are covered under Article 243G and Article 243W of the Constitution of India.

(2.3) So the activities mentioned in question no. (ii) are also covered by Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 and are consequently should be treated as an exempt supply.

(3.1) In question no. (iii), it is submitted that the activities of the applicant as mentioned in question no. (i) & (ii) gets covered under Sl. No. 75 and 76 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017, wherein Heading 9994 is applied and consequently an exempt supply. The applicant is providing services of repairs and maintenance of sewage collection vehicles, treatment and disposal and other environmental protection services, Mobile Toilets and JCBs. The applicant is firmly of the view that such activities should be classified under Heading 9994 only as mentioned in Sl. 75 and 76 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017.

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

6. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. The Assistant Commissioner, Commercial Taxes, Sector-13, Prayagraj vide his letter C.No. 164/2021-22/Asstt. Comm. Va. Ka. Sector-13, Prayagraj Dated 01.09.2021 {addressed to Joint Commissioner (Executive), Commercial Taxes, Prayagraj Range B} submitted that the questions raised by the applicant are not covered in Sl. No. 3, 75 & 76 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 because sl. No. 3 exempts pure services excluding works contract service. He further opined that the works performed by the applicant are taxable. The Assistant Commissioner, Commercial Taxes, Sector-13, Prayagraj vide his letter C.No. 204/2021-22/Asstt. Comm. Va. Ka. Sector-13, Prayagraj Dated 16.10.2021 also informed that no proceedings on the question raised by the applicant are pending. The Deputy Commissioner, CGST & CX Division-II, Allahabad vide his C.Mo. VI(30)13/Advance Ruling/Audit/Lko/2021/26 dated 27.09.2021 submitted that the services provided by the party are not covered in Sl. No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

7. The applicant was granted a personal hearing on 20.10.2021 which was attended by Shri N.K. Arora, Advocate and Shri Mayank Arora, Advocate during which they reiterated the submissions made in the application of advance ruling.

8. The counsel of the applicant Shri N.K. Arora, Advocate provided the list of comprehensive works done by the applicant as specified in the tender document vide email dated 21.10.2021 which is as under:

- i. Servicing of Vehicles
- ii. Clutch Plate, Pressure Plate Release Bearing
- iii. Tyre Tube
- iv. Battery 130 AH
- v. Repairing of Hydraulic Wiring
- vi. Repairing of Hydraulic Pump
- vii. Repairing of Clutch Plate
- viii. Repairing of PTO Pump and PTO Gear



- ix. Self Dynamo Repairing
- x. Oil Sealing
- xi. Denting and Painting
- xii. Several Fabrication Works
- xiii. Repairing of Mobile Toilets
- xiv. Comprehensive Maintenance of Mobile Toilets
- xv. Repairing of Refuse Compactors
- xvi. Comprehensive Maintenance of Refuse Compactors
- xvii. Repairing and Comprehensive Maintenance of Electronic Weigh Bridge Machine at Baswar Plant
- xviii. And all these above works and other additional works are as per tender documents, work contract and contract agreements as per point no. 1 which are attached herewith.

9. The counsel of the applicant also provided following documents in respect of services provided by the applicant to Nagar Nigam Prayagraj vide email dated 21.10.2021-

- (1.1) Note of Nagar Nigam, Prayagraj regarding comprehensive annual maintenance of 13 JCB and 02 Rock breaker.
- (1.2) Tax Invoice No. MF/24 dated 14.09.2021 issued by the applicant for comprehensive maintenance and repair of JCB and Rock breaker
- (1.3) E-Tender Notice dated 24.06.2020 for comprehensive maintenance and repair of 13 JCB and 02 Rock breaker
- (1.4) Corrigendum to E-Tender notice
- (1.5) Tender Document and Scope of Work for comprehensive maintenance and repair of 13 JCB and 02 Rock breaker
- (1.6) E-Tender dated 17.07.2020
- (1.7) Contract Agreement for comprehensive maintenance and repair of 13 JCB and 02 Rock breaker
- (2.1) Note of Nagar Nigam, Prayagraj regarding comprehensive maintenance of Refuse Compactor
- (2.2) Tax Invoice No. MF/26 dated 14.09.2021 issued by the applicant for comprehensive maintenance and repair of Refuse Compactor
- (2.3) E-Tender dated 14.05.2020 for repair of Refuse Compactor and mobile toilets
- (2.4) Scope of work of repairing 11 nos. machine and comprehensive maintenance of 40 machines.
- (2.5) Tender Document of 11 nos. machine and comprehensive maintenance of 40 machines
- (2.6) Acceptance Intimation letter dated 09.06.2020
- (2.7) Contract Agreement for comprehensive maintenance of Refuse Compactor
- (2.8) Details containing parts used in maintenance of Refuse Compactor
- (3.1) Details of Mobile Toilets
- (3.2) E-Tender Notice dated 14.05.2020 of repair and maintenance of mobile toilets
- (3.3) E-Tender Notice dated 14.05.2020 of repair and maintenance of mobile toilets (published in Hindustan)
- (3.4) Tender Document of repairing of mobile toilet
- (3.5) Scope of Work for repairing of mobile toilets
- (3.6) Acceptance Intimation letter dated 09.06.2020



(3.7) Contract Agreement for repairing of mobile toilets

(3.8) Note of Nagar Nigam, Prayagraj regarding comprehensive maintenance of Mobile Toilets

## **DISCUSSION AND FINDINGS-**

10. 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'.

11. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling required-

- (iii) Determination of time and value of supply of goods or services or both
- (v) Determination of the liability to pay tax on any goods or services or both

At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

12. We have gone through the submissions made by the applicant and have examined the same. We observe that the applicant has sought advance ruling on the following questions-

- i. *Whether providing the service of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services provided to Local Authorities would be covered by Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017, which states*

*"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 Government 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"*

*and would be deemed to be an exempt supply?*

- ii. *Whether providing the service of repairs and maintenance of JCBs and Mobile Toilets to the Government and Local Authorities would be covered by Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 as mentioned in (i) above and would be deemed to be an exempt supply?*
- iii. *Whether the above mentioned both the services in (i) and (ii) would be covered under Heading 9994 as per Serial No. 75 and 76 of the Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 as mentioned in (i) above and would attract NIL rate of tax and consequently an exempt supply?*



13. We have examined the documents submitted by the applicant and find that-
- (A.1) 'Scope of Work' of Repairing of 11 nos. machine (Refuse Compactor) and comprehensive maintenance of 40 machines (Refuse Compactor) duly signed by the Chief Engineer, Nagar Nigam Prayagraj has mention of following points-
- 2- Bidder shall ensure all required material for maintenance of above vehicles.
- 3- All regular material/mechanic for maintenance of vehicles will be provided by firm (i.e. the applicant).
- (A.2) As per details of operation and maintenance of Compactor machines signed by the applicant and JE(W), a large number of spare parts have been used in providing the service.
- (B) We find that 'Scope of Work' of 'Comprehensive maintenance of 13 nos. Excavator cum loader & 2 Nos. Rock Breaker' duly signed by the Chief Engineer, Nagar Nigam Prayagraj has mention of following points-
- 2- The Firm shall ensure all required material for maintenance of above vehicles.
- 3- All regular material/mechanic for maintenance of vehicles will be provided by firm.
- 4- All spare parts used in maintenance of the machine should be genuine and of approved quality.
- (C) We find that 'Scope of Work' of 'Repairing of 22 nos. mobile toilets and comprehensive maintenance of 51 nos of mobile toilets' duly signed by the Chief Engineer, Nagar Nigam Prayagraj has mention of following points-
- 2- Bidder shall ensure all required material for maintenance of above toilets.
- 3- All regular material/labour for maintenance of toilets will be provided by firm.
14. We find that the applicant had sought ruling under questions 1 & 2 as to whether the 'service of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services' and the 'service of repairs and maintenance of JCBs and Mobile Toilets' are covered under entry no. 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and the same are exempt supply.
15. We find that the entry no. 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts "*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 Government 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*".
16. We find that 'service of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services' and the service of 'repairs and maintenance of JCBs and Mobile Toilets' involves supply of parts also as per 'Scope of Work' mentioned in aforesaid paragraphs. As such, the services provided by the applicant are not 'pure services' and the same are not covered in entry no. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Further, the applicant had also submitted in Statement of Facts alongwith Form GST ARA-01 that they are engaged in business of providing works contract services. As such, the exemption is not admissible to the applicant on 'service of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal



and other environmental protection services' and the service of 'repairs and maintenance of JCBs and Mobile Toilets' under entry no. 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

17. We find that the applicant had sought ruling as to whether services in (i) and (ii) would be covered under Heading 9994 as per Serial No. 75 and 76 of the Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017 and would attract NIL rate of tax and consequently is an exempt supply. The exemption as per entry no. 75 & 76 of the Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 are as under-

| Sl. No. | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services  | Rate (per cent.) | Condition |
|---------|---|--|------------------|-----------|
| 1       | 2   | 3  | 4                | 5         |
| 75      | Heading 9994  | Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto | Nil              | Nil       |
| 76      | Heading 9994  | Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.  | Nil              | Nil       |

18. We find that the applicant is not an operator of common bio-medical waste treatment facility and not engaged in providing services to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto as the Nagar Nigam Prayagraj is not a clinical establishment. As such, the exemption under Sl. No. 75 of the Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 is not admissible to the applicant.

19. We find that the applicant is not engaged in providing services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets. In fact, the applicant is engaged in providing services of repairs and maintenance of Mobile Toilets which is not covered in the entry 'services by way of public conveniences'. As such, the exemption under Sl. No. 76 of the Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 is not admissible to the applicant.

20. Further, the exemption under Serial No. 75 and 76 of the Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017 is available to SAC 9994 which covers 'Sewage and waste collection, treatment and disposal and other environmental protection services'. The SAC 9994 contains following entries as per the scheme of classification of service as appended with Notification No. 11/2017-CT (Rate) dated 28.06.2017.

| Annexure: Scheme of Classification of Services |                                    |                       |   |
|--|------------------------------------|-----------------------|---|
| S.No.  | Chapter, Section, Heading or Group | Service Code (Tariff) | Service Description   |
| (1)  | (2)                                | (3)                   | (4)   |
| 629  | Heading 9994                       |                       | Sewage and waste collection, treatment and disposal and other environmental protection services |
| 630  | Group 99941                        |                       | Sewerage, sewage treatment and septic tank cleaning services                                    |
| 631  |                                    | 999411                | Sewerage and sewage treatment services  |
| 632  |                                    | 999412                | Septic tank emptying and cleaning services  |
| 633  | Group 99942                        |                       | Waste collection services   |
| 634  |                                    | 999421                | Collection services of hazardous waste  |
| 635  |                                    | 999422                | Collection services of non-hazardous recyclable materials                                       |
| 636  |                                    | 999423                | General waste collection services, residential  |
| 637  |                                    | 999424                | General waste collection services, other nowhere else classified                                |
| 638  | Group 99943                        |                       | Waste treatment and disposal services   |
| 639  |                                    | 999431                | Waste preparation, consolidation and storage services   |
| 640  |                                    | 999432                | Hazardous waste treatment and disposal services   |
| 641  |                                    | 999433                | Non-hazardous waste treatment and disposal services   |
| 642  | Group 99944                        |                       | Remediation services  |
| 643  |                                    | 999441                | Site remediation and clean-up services  |
| 644  |                                    | 999442                | Containment, control and monitoring services and other site remediation services                |
| 645  |                                    | 999443                | Building remediation services   |
| 646  |                                    | 999449                | Other remediation services nowhere else classified  |
| 647  | Group 99945                        |                       | Sanitation and similar services   |
| 648  |                                    | 999451                | Sweeping and snow removal services  |
| 649  |                                    | 999459                | Other sanitation services nowhere else classified   |
| 650  | Group 99949                        |                       | Others  |
| 651  |                                    | 999490                | Other environmental protection services nowhere else classified                                 |

21. We find that the 'services of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services' and the service of 'repairs and maintenance of JCBs and Mobile Toilets' are not covered in SAC 9994 as



per the scheme of classification of service as appended with Notification No. 11/2017-CT (Rate) dated 28.06.2017 and Explanatory Notes to the Scheme of Classification of Services.

22. Accordingly, we pass the following ruling.

#### RULING

Question (i) 'Whether providing the service of repairs and maintenance of vehicles used for sewage and waste collection, treatment and disposal and other environmental protection services provided to Local Authorities would be covered by Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017, which states

"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 Government 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"

and would be deemed to be an exempt supply?

Answer (i)- Replied in Negative.

Question (ii)-Whether providing the service of repairs and maintenance of JCBs and Mobile Toilets to the Government and Local Authorities would be covered by Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 as mentioned in (i) above and would be deemed to be an exempt supply?

Answer (ii)- Replied in Negative.

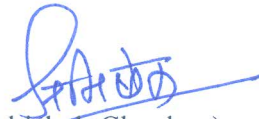
Question (iii)- Whether the above mentioned both the services in (i) and (ii) would be covered under Heading 9994 as per Serial No. 75 and 76 of the Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 as mentioned in (i) above and would attract NIL rate of tax and consequently an exempt supply?

Answer (iii)- Replied in Negative.

23. 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 M. F. Associates  
(Legal Name- Musheer Ahmad)  
31 – F, Om Prakash Marg, Rajroopur,  
Prayagraj – 211 011



## **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., 38, MG Marg, Civil Lines, Allahabad
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division I, 38, MG Marg, Civil Lines, Allahabad
5. Through the Additional Commissioner, Gr-I, Commercial Tax, Prayagraj Zone, Prayagraj, 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.