

**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 04.09.2019 from M/s Hi Tech Builder (Deepak Kumar Nigam), Banda, Uttar Pradesh – Order- Reg.

1) M/s Hi Tech Builder (Deepak Kumar Nigam), 01, Ardali Bajar, Near Labour Office, Labour Office Road, Banda, Uttar Pradesh- 210 001 (here in after called the applicant) is a registered assessee under GST having GSTN: 09ABIPN6007D1ZT.

2) The applicant is engaged in providing all kind of consultancy services related with infrastructure, environment, social survey, housing and project management, construction management including civil and electrical, survey, consultation and work contract, presently assigned with work under the DPR and PMC by SUDA UP under PMAY (Urban) Project.

3) The Applicant has submitted application for Advance Ruling dated 04.09.2019 (application completed in all aspects received by the authority on 13.11.2019) enclosing duly filled Form ARA-01(the application form for Advance Ruling) along with certain annexure and attachments.

4) The Applicant in his application sought clarification and 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?

ii. If answer to first question is in affirmative 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, 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.

5). The applicant further submitted that from the nature of work mentioned above, the services rendered by the applicant under the contract assigned to him by SUDA Uttar Pradesh for PMAY are in relation to functions entrusted to Municipalities under Article 243W and to Panchayats under Article 243G of the Constitution of India, thus eligible for exemption from levy of CGST and SGST. They further submitted that in similar matter, full exemption was granted to M/S Rudhrabhishek Enterprises Ltd, Noida, Uttar Pradesh, by Authority For Advance Ruling Uttar Pradesh, vide Order No. 22 dated 25.01.2019 .

6). The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report, which was received in this vide his letter C. No. V(30)Tech/Alld-I/Ad. Rul./Hi-Tech/38/2019/1726 dated 30.12.2019 wherein it was reported that "*M/s Deepak Kumar Nigam (Hi tech Builder, Banda) has been assigned with work under the order of DPR and PMC by SUDA (UP) under PMAY (Urban). Project falls under Article 234W of the Constitution and as per statutory provision the tax liability on the said work in Nil.*"

7). The applicant was granted a personal hearing on 30.12.2019. Sh. Anupam Kumar, Advocate, Authorized representative, appeared for hearing on behalf of the applicant. During the personal hearing certain query was raised and the authorized representative sought one week time for submitting the reply. The reply of the query was submitted by the authorized representative, vide his letter dated 08.01.2020, wherein it was submitted that:

i. That the applicant will provide Project Development Services (i.e. Detailed Project Report Service) and Project Management Consultancy Services (PMCS) to the recipient under the contract for State Urban Development Agency (SUDA); and the Project Management Consultancy Services under Pradhan Mantri Awas Yojna (PMAY) Urban.



ii. That the SUDA has been established as state level local body, under the department for Urban Employment and Poverty Alleviation by UP Govt. and the agency was registered under Registration of societies Act.

iii. That the scheme PMAY (Urban) 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 land as a resource through private participation and affordable housing in partnership.

iv. This scheme is converged with other schemes to ensure houses have a toilet, water, sanitation, sewerage, road, Saubhagya Yojana electricity connection, Ujjwala Yojana LPG gas connection, access to drinking water and Jan Dhan banking facilities, etc.

v. That as per contract which were awarded to applicant by SUDA for preparation of Detailed Project Report and Project Management Consultancy for PMAY and these services rendered by the applicant qualify as pure services.

vi. That as per notification no. 12/2017 at 28.06.17 as amended by notification no. 2/2018 and corresponding notification no 843 dt. 30.06.2017 issued under UPGST services provided to the Central Government, State government or Union Territory or local authority or a Government authority or a Government entity are eligible for exemption from levy of GST.

vii. That SUDA is urban local body established under the department for Urban Employment and Poverty Alleviation by UP Govt. The mission PMAY is being implemented through SUDA and nature of work qualify the functions listed in schedule 11 and 12 of Indian Constitution under Art. 243G and 243W.

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. We have also examined the notification 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—

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 discussion 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 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 being rendered by the applicant 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

Question 1. We hold 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.

Question 2. The Services being rendered by the applicant qualify as Pure Service (excluding works contract service or other composite supplies


involving supply of any goods)” are exempt from tax 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 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

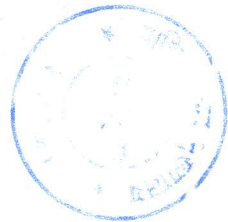


(Dinesh Kumar Verma)

Member of Authority for Advance
Ruling

To,

M/s Hi Tech Builder (Deepak Kumar Nigam),
01, Ardali Bajar, Near Labour Office,
Labour Office Road, Banda,
Uttar Pradesh- 210 001.



AUTHORITY FOR ADVANCE RULING -UTTAR PRADESH

Order No. 49

Date: 15-01-2020

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, Allahabad, Uttar Pradesh.
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-I, Allahabad, Uttar Pradesh;
5. Through the Additional Commissioner, Grade-1, Commercial Tax, Jhansi, 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.

