

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 20.11.2018 from M/s Rudhrabhishek Enterprises Ltd., Noida, Uttar Pradesh – Order– Reg.

1) M/s Rudhrabhishek Enterprises Ltd., A-6, Sector 58, Noida Uttar Pradesh, 201301 (here in after called the applicant) is a registered assessee under GST having GSTN: 09AAGCR1735A1ZP.

2) The applicant is engaged in providing all kind of consultancy services related with infrastructure, environment, urban designing, urban planning, housing & project management, civil designing, construction management including civil, mechanical, electrical, and all other types of erection, commissioning projects, project trading and execution of projects on turnkey basis and carry out engineering, procurement and construction contracts and turnkey contracts including design services for all types of building, infrastructure and urban development projects for private and government agencies.

3) The Applicant has submitted application for Advance Ruling dated 29.10.2018 enclosing duly filled Form ARA-01(the application form for Advance Ruling) along with annexure and attachment.

4) The Applicant in his application sought clarification and Advance Ruling as follows : –

(1). 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?

(2) 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 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.

5) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report.

6) The applicant was granted a personal hearing on 04.01.2019. Mr. Narendra Kumar, C.A. and Mr. Manoj Kumar CFO, Authorized representatives on behalf of applicant appeared for hearing. During the personal hearing they submitted/stated that they have already submitted views in their letter dated 29/10/18 and they would like to reiterate the same.

DISCUSSION AND FINDING

7) 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. notification 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.

8) Now we come to the 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? To proceed further, we need to examine the purpose and scope of work for which the applicant has gone into contract with State Urban Development Authorities (SUDA) and Pradhan Mantri Awas Yojna (PMAY).

9) 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 website of SUDA the main objectives of Society shall be- (a) To identify the urban poor in the state. (b) To draw the plans and scheme 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. 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.

9.1) Now, we come to examine the scope of work awarded to the Applicant under different contracts-- The Scope of work awarded to the applicant includes—

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.
- The consultant shall appropriate 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.
- The DPR shall be computer typed and printed and drawing should be in Auto Cad.

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 works 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 and /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 completions report/closure report which shall contain all technical and financial information of the project.

10) Accordingly 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.

11) 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. — K.A.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.

12) We have examined the Contract awarded to the applicant by SUDA,

Government of Uttar Pradesh 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 Sr 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).


Vivek Kumar Jain

Member of Authority for Advance
Ruling


Hari Ram

Member of Authority for Advance
Ruling

To,

M/s Rudhrabhishek Enterprises Ltd.,
A-6, Sector 58, Noida,
Uttar Pradesh, 201301.

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 22

Date: 25/01/2019

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, Noida, Uttar Pradesh.
4. The Deputy Commissioner, CGST & Central Excise, Division-I, Noida, Uttar Pradesh;
5. Through the Additional Commissioner, Commercial Tax, Noida, Uttar Pradesh to jurisdictional tax assessing officers.