

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 28/ 2021

Date : 07-06-2021

Present:

1. Dr. Ravi Prasad M.P.
Additional Commissioner of Commercial Taxes Member (State Tax)
2. Sri. Mashhood Ur Rehman Farooqui,
Joint Commissioner of Central Tax, Member (Central Tax)

1.	Name and address of the applicant	M/s BELLARY NIRMITI KENDRA, Door No.1, RYMEC Campus, Hospet Road, Ballari (Bellary)-583 101
2.	GSTIN or User ID	29AAALB0572C1ZL
3.	Date of filing of Form GST ARA-01	10.06.2020
4.	Represented by	Sri Lokesh Babu, Chartered Accountant and Duly Authorised Representative
5.	Jurisdictional Authority – Centre	The Principal Commissioner of Central Tax, Bellary GST Commissionerate
6.	Jurisdictional Authority – State	LGSTO-490, Bellary
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act through PMT-09 vide reference number AA2906210074200 dated 07.06.2021 and Rs.5,000/- under KGST Act vide CIN IOBA20032900306755 dated 20.03.2020

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

1. M/s Bellary Nirmithi Kendra, Door No.1, RYMEC Campus, Hospet Road, Ballari,-583 101, (called as the 'applicant' hereinafter), having GSTIN number 29AAALB0572C1ZL, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and Section 97 of the KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



2. The applicant is a society and is involved in executing civil works contract. He has sought advance ruling in respect of the following question:

Whether supply of service by a Government controlled Association to State Government, Local Authority or any person specified by State Government, Local Authority against consideration received from State Government, Local Authority, in the form of grants is liable to GST?

3. **Admissibility of the application** : The applicant, filed the instant application, in relation to application of a exemption notification and this question is related to the issue covered under Section 97(2)(a) of the CGST Act 2017 and hence the application is admitted.

4. **Applicant's interpretation of law** : The applicant submits their interpretation of law as under:

4.1 The applicant provides the services of civil works contract and states that the supply of service by a Government controlled Association to State Government, Local Authority or any person specified by the State Government, Local Authority against consideration received from State Government, Local Authority in the form of grants is not liable for GST based on the Notification No.32/2017- CGST (Rate) dated 13.10.2017.

4.2 The applicant states that Bellary Nirmiti Kendra is established under the national network programme of building centres scheme launched by the Government of India under HUDCO, and promoted and implemented by Government of Karnataka by establishing under State Government Grants with assistance of Housing Department. The District Administration of Bellary has established the Organisation under the Chairmanship of Deputy Commissioner / District Collector, Bellary, which is heading Nirmiti Kendra Bellary to take up all the Government related Housing and other development works in the district by way of providing various alternative building technologies and innovative building products to minimise the cost of construction and speedy construction.

4.3 The applicant states that the aims and objectives of the Kendra are as under

- To strive for the advancement in scientific technology in the areas of low cost housing / dwelling and human settlement by legitimate and lawful means by establishing centre at district level and to serve all the taluks of the district.
- Kendra will take the responsibilities of co-ordination and supervising of various works accepted by sub-kendras and act as a technical guidance bureau.
- Nirmiti Kendra acts as a facilitator to bring low cost technology from various sources and transfers to the stakeholders in the society.



- d. To initiate Research and Development and cost-effective technologies and propagate through District and Taluk level Nirmana Kendras.
- e. To organise training programmes on subjects, viz. (1) Low cost housing technologies (2) housing (3) management of housing projects to general public and people in private sector working for society to spread the message of low cost technologies.
- f. To act as a habitat centre to conduct training on capacity building of low cost technologies.
- g. To promote IEC activities across the district.
- h. To collect and disseminate knowledge and other information necessary for the promotion of Housing activity in furtherance of the objectives.
- i. To prepare and publish necessary literature/information for the comprehensive housing development in the State through newspapers, periodicals, other media of mass communication.
- j. To establish and maintain contact with similar and related institutions in and outside India and enter into an arrangements for securing technical information, architecture and engineering, operating data, plans, layout, etc, required for or conducive to housing development and growth in the District.
- k. To provide technical advice, expertise, guidance and know how to all who are working for housing growth and to build industries for manufacturing of building materials in the public and private sector and in particular in the SSI sector.
- l. To conduct soil test in order to arrive major classification of soil in the district so as to advice type design according to the nature of soil for long lasting life of the buildings.
- m. To undertake demonstration housing projects both in Rural and Urban areas.
- n. Income accrued to the Kendra will be utilised for the upliftment of the Kendra.
- o. To promote and do all such things and to perform all such acts as may be necessary or appropriate for the achievement of any or all the above objects subject to the overall control of Government and Governing Council of the centre and in conformity with section 3 of the K.S.R.Act, 1960.

4.4 The applicant states that presently Bellary Nirmiti Kendra is providing services to only the State Government viz.

- (a) towards Housing for economically weaker section people
- (b) towards education buildings like Government Schools, Colleges;
- (c) towards repair and construction of Hospitals under Health Department of State Government of Karnataka
- (d) Hostel Buildings for Social Welfare for Schedule Tribes and Schedule Castes;
- (e) Veterinary Dispensaries for Animal Husbandry Department, etc.



5. The applicant submitted on 20.02.2021 as under:

5.1 That the Government of India is implementing a centrally sponsored scheme of building centres movement in the country by establishing Nirmiti Kendras in all the districts across the country under the National Network of Building Centres programme. The Government of Karnataka felt the necessity to use and adopt Cost Effective Building Materials and Technologies developed by various R&D Institutions across the country.

5.2 The Government of Karnataka took a leading initiative in order to promote, monitor, oversee and guide the Nirmiti Kendra activities in the State and established an apex centre called "Karnataka Rajya Nirmana Kendra (KARNIK)". It was registered on 11.06.1991 under Societies Act, KSR Act of 1960. In this regard, G.O. has been issued vide No. HUD 63 KHB 1991 Bangalore dated 1st January, 1993.

5.3 The objectives of the Karnataka Rajya Nirmana Kendra (KARNIK) are as under:

- (a) To monitor, oversee, supervise, and guide the Building Centres (Nirmiti Kendras)
- (b) To promote cost-effective, environment friendly, alternate building materials and technologies through the network of Nirmiti Kendras in the field of training.
- (c) Co-ordination, monitor and regulating the activities of the Nirmiti Kendras set up in the districts and associated / affiliated agencies.
- (d) Providing guidance to Government on emerging housing concepts and policy options from time to time.
- (e) Developing replicable housing infrastructure models.
- (f) Enabling community to have access to cost-effective building materials and technologies through Nirmiti Kendras and its affiliated self-help affinity groups of construction workers.
- (g) Networking with local level bodies involved in developing and promoting cost effective construction materials and technologies through sustainable approaches
- (h) Promoting quality in the implementation of the programs through continuous improvement in the systems and service.

5.4 The applicant states that the Governing Body of KARNIK is as follows:

- (a) Managing Director, RGRHCL – Chief Executive Officer is an IAS Officer
- (b) Regional Chief, HUDCO, - Member
- (c) Secretary, Vivekananda Girijana Kalyana Kendra - Member
- (d) President, RV-TIFAC, - Member
- (e) Professor, Indian Institute of Science, - Member
- (f) Assistant Professor, B.V.B. College of Engineering, - Member



- (g) The Project Manager, Nirmiti Kendra, Haveri
- (h) The Project Manager, Nirmiti Kendra, Chitradurga

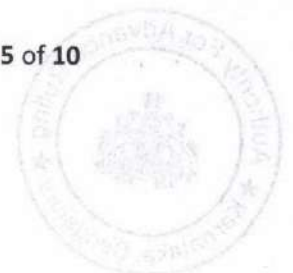
5.5. Bellary Nirmiti Kendra is primarily an organisation to disseminate information on low cost building technologies and materials. The Nirmiti Kendras are established under the Chairmanship of Deputy Commissioner of the District and Vice-Chairmanship of Chief Executive Officer, Zilla Panchayat. Hence, the Nirmiti Kendra is set up by Karnataka Rajya Nirmana Kendra (KARNIK) which is inturn set up by the Government of Karnataka.

5.6 The broad objectives of the Kendra are:

- (a) To serve as seminal agency to generate and propagate innovative ideas in housing.
- (b) A clearing house of information and data bank on housing which would bring the fruits of research from lab to land.
- (c) A production centre to pre-fabricated standard housing materials
- (d) A training house to impart skills to local work men in inevitable housing techniques and create a cadre of trained workers in all the blocks in the districts.
- (e) A chain of retail outlets for low cost housing materials.

5.7 Bellary Nirmiti Kendra, Bellary, is established under the national network programme of building centres scheme launched by the Government of India through HUDCO, and promoted and implemented by Government of Karnataka by establishing a Kendra in each district. The Bellary Nirmiti Kendra is established by the Bellary District Administration as a premier society supported by State Government Grants through Zilla Panchayat, with patronage shown by various departments and agencies of State Government. Bellary Nirmiti Kendra is registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act, 17 of 1860).

5.8 As per the Memorandum of Association of Bellary Nirmiti Kendra, para 9 states that the Deputy Commissioner of Bellary will be the Chairman of the Nirmiti Kendra to exercise the Rights and Powers as provided by the Rules and Regulation of the Society. The Bellary Nirmiti Kendra is controlled by the Chairman and Executive Chairman, being the Deputy Commissioner of Bellary and Chief Executive Officer, Zilla Panchayat respectively. The projects executed by the Bellary Nirmiti Kendra is monitored by the Chairman and Executive Chairman. Further, the payments for the supplies made to the Bellary Nirmiti Kendra by the vendors / suppliers is/ are controlled by both Deputy Commissioner of Bellary and Chief Executive Officer, Zilla Panchayat respectively. Hence, the applicant states that Bellary Nirmiti Kendra is controlled by the Government of Karnataka.



5.9. The applicant states that Bellary Nirmiti Kendra receives grants from various public service departments of Government of Karnataka for executing projects related only to those public service department. Some of the grants received by the Bellary Nirmiti Kendra for executing public service activities are as under

- (a) Veterinary Dispensary Hospital
- (b) Library
- (c) Housing Quarters for Government Employees
- (d) Cultural Bhavan
- (e) Cemetery
- (f) Government Schools
- (g) Health Centre
- (h) Grama Vikas Soudha
- (i) Anganavadi
- (j) Temples managed by Muzrai Department
- (k) Installation of Solar Street Lights on behalf of National Mining Development Corporation of India, which was incorporated in 1958 as a Government of India fully owned public enterprise. NMDC is under the administrative control of the Ministry of Steel, Government of India.

5.10 The applicant states that the process of standard operating procedure prior to execution of work by the Bellary Nirmiti Kendra is as follows:

Step 1: A request for submission of estimate from any Public Service Department of Government of Karnataka for execution of Public activities is received by the Bellary Nirmiti Kendra.

Step 2 : The Project Engineers of the Nirmiti Kendra under the guidance of Project Director collate the details in the form of estimates for the submission to the specific Public Service Departments of Government of Karnataka.

Step 3: Once the estimates are approved by that specific Public Service Department, Bellary Nirmiti Kendra receives grants from such specific Public Service Department for execution of approved projects.

5.11 The Bellary Nirmiti Kendra does not sub-contract to external agencies / individual for execution of the work order of any Public Service Department of Government of Karnataka.

5.12 The Bellary Nirmiti Kendra executes projects related to Government of Karnataka only.



6. Based on the above facts, the applicant submits that Bellary Nirmiti Kendra is a Government Entity. He also submits that the conditions specified under the Central tax rate Notification 32/2017 dated 13-10-2017 of GST is fulfilled by the said Nirmiti Kendra, and hence, Bellary Nirmiti Kendra is exempt from registration of Goods and Service Tax Act, 2017.

PERSONAL HEARING: / PROCEEDINGS HELD ON 15.10.2020

7. Sri. Lokesh Babu, Chartered Accountant & duly authorised representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

8. **DISCUSSION AND FINDINGS**

8.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Lokesh Babu, Chartered Accountant and duly authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

8.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 provisions under the KGST Act.

8.3 The applicant sought advance ruling in respect of the following question with regard to the classification of their service.

Whether supply of service by a Government controlled Association to State Government, Local Authority or any person specified by State Government, Local Authority against consideration received from State Government, Local Authority, in the form of grants is liable to GST?

9. The above issue is related to the application of the entry no. 9C of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended by Notification No.32/2017 – Central Tax (Rate) dated 13.10.2017. The said entry reads as under:

“Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.”



It is clear from the above entry that the following conditions are to be satisfied in order to be covered under this entry:

- a. The supplier should be a Government Entity
- b. The supply should be that of service
- c. The supply should be made by a Government Entity
- d. The recipient must be Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority
- e. The consideration must be received in the form of grants from Central Government, State Government, Union territory or local authority.

10. The analysis of the work orders placed on the applicant are verified and found that the following types of works are covered:

- a. The supply of service where the recipient is a Government Department or local authority where consideration is provided in the form of grants
- b. The supply of service where the recipient is a Government Department where the consideration is provided as grants from District Mineral Fund.
- c. The supply of service where the consideration is received in the form of CSR funds.

11. For the first issue whether the applicant is a "government entity", the following are noted:

11.1 The term "government entity" is defined in clause (zfa) in paragraph 2 of Notification No.12/2017- Central Tax (Rate) dated 29.06.2017 as amended by Notification No.32/2017 - Central Tax (Rate) dated 13.10.2017 and the same reads as under:

"(zfa) "Government Entity" means an authority or a board or any other body including a society, trust, corporation,

- (i) set up by an Act of Parliament or State Legislature; or
- (ii) established by any Government,

With 90 per cent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union territory or a local authority."

11.2 The above definition clearly states that the following conditions needs to be satisfied by the applicant to be covered under the definition of "government entity":

- (a) It must be a body set up by an Act of Parliament or State Legislature or it must be established by any Government.
- (b) The body should have been set up or established, as the case may be, to carry out a function entrusted by the Government or local authority



- (c) The body should have more than 90% participation of the Government or local authority by way of equity or control.

11.3 It is clear from the submissions made that the applicant is a society registered under the Societies Registration Act, 1860 and hence is a society.

11.4 The applicant has not established whether the applicant society has been set up by an Act of State Legislature or established by the Government. He has only stated that the Nirmiti Kendra is promoted, monitored, overseen and guided by Karnataka Rajya Nirmana Kendra (KARNIK) which itself was registered on 11.06.1991 under the Societies Act and the applicant is registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960) from 02.04.2008. Nowhere he has established that it was established by the Government.

11.5 In view of the above, the applicant cannot be covered under the definition of "Government Entity" and hence the entry no. 9C of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended by Notification No.32/2017 - Central Tax (Rate) dated 13.10.2017 is not applicable to the applicant.

12. Further, the applicant has sought to know whether "*supply of service by a Government controlled Association to Government or Local authority or any person specified by State Government or Local Authority against consideration received from State Government, Local Authority, in the form of grants is liable to GST or not*" and in this regard it is clear that the Government controlled Association would be covered under this entry only if they are a Government Entity and mere control of the Government would not make an Association a Government Entity.

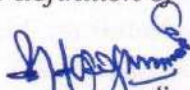
13. Further, the condition that the consideration for the said supply must be received in the form of grants from such State Government or Central Government or Local Authority, should also be satisfied for the claim of exemption under this entry.

14. In view of the foregoing, we pass the rule as follows



RULING

The supply of service by a Government controlled Association to State Government, Local Authority or any person specified by State Government, Local Authority against consideration received from State Government, Local Authority, in the form of grants is not liable to GST only if the Government controlled Association is covered under the definition of "Government Entity" and if not, then the same is liable to tax.



(Dr. M.P. Ravi Prasad)

Member

MEMBER

Karnataka Advance Ruling Authority

Bengaluru - 560 009

Place: Bengaluru,

Date: 07 -06-2021



(Mashhood Ur Rehman Farooqui)

Member

MEMBER

Karnataka Advance Ruling Authority

Bengaluru - 560 009

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bellary GST Commissionerate.
4. The Asst. Commissioner, LGSTO-490, Bellary.
5. Office Folder.

