

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 46/ 2021
Dated :30-07- 2021

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri.Mashhood Ur RehmanFarooqui,
Joint Commissioner of Customs & Indirect TaxesMember (Central)

1.	Name and address of the applicant	M/s. Sadanand Manpower Service, CTS No.10988, Near Anand Apartment, Sadashivnagar, Belagavi-590010.
2.	GSTIN or User ID	29EBAPK5203E2ZZ
3.	Date of filing of Form GST ARA-01	22-04-2021
4.	Represented by	Sri Mahantesh K Hospeth Chartered Accountant and Duly Authorised Representative
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Belagavi GST Commissionerate Belagavi North Range
6.	Jurisdictional Authority - State	ACCT, LGSTO 395, Belagavi
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act & Rs.5,000-00 under SGST Act vide CINSBIN21032900447952 dated:31-03-2021

ORDER UNDER SECTION 98(4) OF CGST ACT, 2017
AND UNDER SECTION 98(4) OF KGST ACT, 2017

M/s.Sadanand Manpower Service, (hereafter referred as 'applicant') CTS No.10988, Near Anand Apartment, Sadashivanagar, Belagavi-590010, having GSTIN 29EBAPK5203E2ZZ, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section



Sadanand Manpower Service

97 of 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 Proprietary concern registered under the provisions of Goods and Services Tax Act, 2017. The applicant has sought advance ruling in respect of the following questions:

- i. *Whether Labour supply to Government Departments from a registered dealer under GST Act like providing Drivers, peons, housekeeping, data Entry operators and other clerical staff attracts exemption from levy of GST as per Notification Nos.11/2017-CT (Rate) and 12/2017 CT (Rate) both dated 28th June 2017.*
- ii. *Whether above said supply of services are covered under "Pure Labour Services" as per Service Accounting Code (SAC) under chapter No.99.*
- iii. *The dealer apply for work as per tender (E-procurement) as a "Contractor to supply labour" and TDS as per Income Tax Act deducted u/s 194C (As a Contractor or Sub-Contractor) @ 1%. So, why not dealer be treated as a Contractor under GST Act, 2017 also?*

3. **Admissibility of the application:** The question is about the "applicability of a Notification issued under the provisions of this Act" and "determination of liability to pay tax on any goods or service or both" and hence is admissible under Section 97(2)(b) & (e) of the CGST Act, 2017.

BRIEF FACTS OF THE CASE:

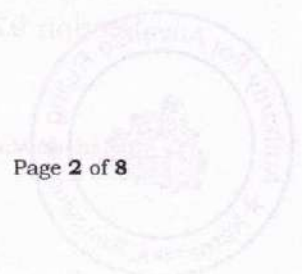
4. The applicant furnishes some facts relevant to the issue.

4.1 The Applicant is providing manpower services like Drivers, peons, Housekeeping, Data entry operators and other clerical staff to various State Government departments.

4.2 The Applicant contended that as per service code 99 and central notification (Tax Rate) No. 11 and 12 of 2017 dated:28.06.2017 'pure Labour service" (or where material contract is not more that 25%) to government, local authority, government authority or government entity relating to constitutional entities is exempt.

4.3 The Applicant states that government departments are registered as TDS authorities instead of having normal GSTIN. It means there is no furtherance of business.

4.4 The Applicant is of the view that Pure labour supply to Government or Government offices is exempted as per Sl.No.3 of Notification No.12/2017-Central Tax (Rate), dated 28th June 2017.



5. This office had addressed a letter to the Commissioner of Central Tax, Belagavi GST Commissionerate to file comments on the application filed by the applicant. In response to this letter, the Assistant Commissioner of Central Tax, Belagavi has furnished comments as below:

Comments of the Range office is respect to Para No.14 of the above application are submitted as under:-

"1. Whether Labour supply to Government Departments from a Registered dealer under GST Act like providing Drivers, Peon, Housekeeping, Data Entry Operators and other clerical staff attracts exemption from levy of GST a per Notification No.11/2017-CT(Rate) and 12/2017 CT(Rate) both dated 28th June 2017.

Comments:- In the case of A.B. Enterprise (GST AAR Gujrat) Advance Ruling Authority of Gujarat (Judgment dated 19-05-2020 has held that :-

"Applicant is eligible to claim exemption benefit under Sl.No.3 of Notification No.12/2017-Central Tax (Rate) dated 28-06-2017 for pure services (supply of manpower; security service) provided to Central Government, State Government, Local Authorities, Governmental Authorities, Government Entities as detailed above subject to the condition that the services provided to these entities mentioned above are provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India."

Hence this office also agrees with the above judgment of the Advance Ruling Authority Gujarat.

2. Whether above said supply of services covered under "Pure Labour Services" as per Service Accounting Code (SAC) under Chapter No 99"-

It appears that there is no term as "Pure Labour Services" defined under Chapter No.99 of the GST Tariff.

3. The dealer apply for work as per tender (E-procurement) as a "Contractor to supply and TDS as per Income Tax Act, deducted under Section 194C (As a Contractor or Sub Contractor @ 1%. So, why not dealer to be treated as a Contractor under GST Act, 2017 also:-

It appears that there is not such term as a Contractor defined in the GST Act, 2017.



PERSONAL HEARING / PROCEEDINGS HELD ON 30-06-2021

5. Sri Mahantesh.K.Hospeth, Chartered Accountant and duly authorised representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

6. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and KGST Act, 2017 are in *pari-materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

7. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by applicant and his authorized representatives during the hearing. We have also considered the issues involved on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law.

8. The Applicant is providing manpower services like Drivers, peons, Housekeeping, Data entry operators and other clerical staff to various State Government departments. The applicant has submitted few documents to this effect. On looking into the same it is observed that the applicant is providing man power services like drivers, data entry operators, Group'D', sweepers to KPTCL, department of forest, taluk panchayat office, department of agriculture and department of food and civil supplies.

8.1 The applicant states that pure labor services provided to government, local authority, government authority or government entity is exempt as per the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017.

8.2 Whether the manpower services provided to various government departments is exempted under entry no.3 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017, is to be examined and the said entry reads as under:

"Pure Services (excluding works contract service or other composite supplies involving 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."

8.3 From the above said entry of the notification it is observed that, in order to claim exemption on supply of man power services two conditions should be



satisfied:

1. *Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority*
2. *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."*

Now we examine whether the applicant satisfies these above two conditions to claim exemption under the said notification.

8.4 243G- Powers, authority and responsibilities of Panchayats subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and 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.

Matters listed in Eleventh schedule are:

1. *Agriculture, including agricultural extension.*
2. *Land improvement, implementation of land reforms, land consolidation and soil conservation.*
3. *Minor irrigation, water management and watershed development.*
4. *Animal husbandry, dairying and poultry.*
5. *Fisheries.*
6. *Social forestry and farm forestry.*
7. *Minor forest produce.*
8. *Small scale industries, including food processing industries.*
9. *Khadi, village and cottage industries.*
10. *Rural housing.*
11. *Drinking water.*
12. *Fuel and fodder.*
13. *Roads, culverts, bridges, ferries, waterways and other means of communication.*
14. *Rural electrification, including distribution of electricity.*
15. *Non-conventional energy sources.*



16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

243W. Powers, authority and responsibilities of Municipalities, etc 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;

There are 18 items in the twelfth schedule of the Constitution which are as below:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.



10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

8.5 The applicant is providing manpower services like Drivers, peons, Housekeeping, Data entry operators and other clerical staff to various State Government departments. But these manpower services are not provided 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. Hence provision of such manpower services is liable to tax at 18% (9% CGST and 9% KGST).


9. The said supply of services provided by the applicant is covered under Service Accounting Code (SAC) under chapter No.9985

10. The applicant states that, the dealer applies for work as per tender (E-procurement) as a "Contractor to supply labour" and TDS as per Income Tax Act is deducted u/s 194C (As a Contractor or Sub-Contractor) @ 1% and wants to know why not dealer be treated as a Contractor under GST Act, 2017. The said question does not fall under the provisions of Section 97(2) of the CGST/KGST Act, 2017.

11. In view of the foregoing, we pass the following

R U L I N G

1. Labour supply/supply of manpower services like Drivers, peons, housekeeping, data entry operators and other clerical staff to Government Departments attracts tax at the rate of 18% (CGST @ 9% and KGST @ 9%).
2. The said supply of service is covered under Service Accounting Code (SAC) 9985.
3. The question sought by the applicant does not fall under the provisions of Section 97(2) of the CGST/KGST Act, 2017.



(Dr. M.P. Ravi Prasad)

Member
MEMBER

Karnataka Advance Ruling Authority

Sada Bengaluru - 560 009



(Mashhood Ur Rehman Farooqui)

Member
MEMBER

Karnataka Advance Ruling Authority

Bengaluru - 560 009

Place : Bengaluru,
Date : 30-07-2021

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 Commissioner of Central Tax, Belagavi GST Commissionarate, Belagavi
4. The Assistant Commissioner of Commercial Taxes, LGSTO-395, Belagavi.
5. Office Folder.