

JHARKHAND AUTHORITY OF ADVANCE RULING

GOODS AND SERVICES TAX

DIVISIONAL OFFICE OF STATE TAX, CIVIL COURT COMPOUND,

NEAR JAIPAL SINGH STADIUM, RANCHI, 834001

Advance Ruling Order No. JHR/AAR/2021-22/01/2, Dated 24th June, 2021

<p>Sri Pradhuman Badri Prasad Meena, Additional Commissioner, Office of the Pr. Commissioner, CGST and CX Audit Commissionerate, Ranchi - Jharkhand.</p>	<p>Member (Central Tax)</p>
<p>Sri Ram Chandra Prasad Barnwal, Joint Commissioner (Administration), Ranchi Division, Ranchi- Jharkhand.</p>	<p>Member (State Tax)</p>
<p>Name and address of the applicant</p>	<p>M/s. Bal Raksha Bharat alias Save the Children, Registered Address: 364/A, Road No. 4B, Ashok Nagar, Ranchi, Jharkhand, India. Correspondence Address: 364/ A, Road No. 4B, Ashok Nagar, Ranchi, Jharkhand, India.</p>
<p>GSTIN of the applicant</p>	<p>20AAAAB5052C1ZP</p>
<p>Application No. and Date</p>	<p>Advance Ruling/ SGST & CGST/2019-20/AR/ AD2010190000319</p>
<p>Clause(s) of Section 97(2) of CGST/SGST/UGST Act, 2017 under which the question(s) raised</p>	<p>(b) applicability of a notification issued under the provisions of this Act;</p>
<p>Date of Personal hearing</p>	<p>09-02-2021.</p>
<p>Present for the applicant</p>	<p>1. Sri Mahadev Hansda- Head- Project Office</p>

		2. Sri. Gorango Mahto- Assistant Manager- Finance
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Note: Under Section 100 of the JGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of JGST Act 2017, within a period of 30 days from the date of service of this order.

PROCEEDINGS

(Under sub-section (4) of Section 98 of **Central Goods and Service Tax Act, 2017** and the **Jharkhand Goods & Service Tax Act, 2017**)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and Jharkhand Goods & Services Tax Act, 2017 (hereinafter also referred to CGST Act and JGST Act respectively) by M/s. Bal Raksha Bharat alias Save The Children (SCI) (hereinafter referred to as 'the Applicant'), registered under the Goods & Services Tax.

2. The provisions of the CGST Act and JGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the JGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or JGST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE:

3.1 M/s. Bal Raksha Bharat alias Save The Children (hereinafter referred to as 'the Applicant'), having their office at 364/A, Road, No. 4B Ashok Nagar, Ranchi, Jharkhand, and are registered with the GSTN holding GSTIN 23AAAAN1769J1ZK.

3.2 The Applicant is engaged by Jharkhand Women Development Society (hereinafter referred to as 'JWDS'), Department of Social Welfare Women & Child Development, Government of Jharkhand to provide certain educational consulting services to JWDS for socio-economic empowerment of adolescent girls and young women in the state of Jharkhand (Tejaswini Project in Jharkhand).

3.3 Thus the Applicant have approached the Authority for limited and specific ruling about applicability of exemption as envisaged under Notification Number 12/2017- Central Tax (Rate), in respect of their activity of providing certain educational consulting services to JWDS for socio-economic empowerment of adolescent girls and young women in the state of Jharkhand.

4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

The questions have been posted before the Authority:-

4.1. Whether Services provided by SCI to JWDS can be considered as services being provided to State Government?

4.2. Whether the scope of work as per the agreement is under Training program?

4.3. Whether the consideration payable by JWDS to SCI under the agreement is paid by the State Government?

4.4. Whether SCI qualifies for exemption under Sr. No. 72 of the **Not. No. 12/2017 Central Tax(Rate), dated 28-06-17** issued by the Central Government under CGST Act, 2017?

5. CONCERNED OFFICER'S VIEW POINT:

The Concerned Officer in his view submitted that the service provided by the applicant doesn't qualify for exemption under 12/2017 Central Tax (Rate), dated 28-06-17 issued by the Central Government under CGST Act, 2017.

6. DISCUSSIONS AND FINDINGS:

6.1 We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing. 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, and the applicant have complied with the all the requirements for filing this application as laid down under the law. We therefore admit the application for consideration on merits.

6.2 The Applicant, vide instant application, has posed the above mentioned questions (para 4.1 - 4.4) before us, seeking ruling on the same.

6.3 We find that the issue to be addressed in all the questions is identical i.e. - "Is JWDS a State Government and the Services provided to JWDS is exempted or not?"

6.4 The matter has been examined in detail-

6.4.1 Definition of Government as per GST:

As per section 2(53) of the CGST Act, 2017, 'Government' means the Central Government. As per clause (23) of section 3 of the General Clauses Act, 1897 the 'Government' includes both the Central Government and any State Government, as per clause (60) of section 3 of the General Clauses Act, 1897, the 'State Government', as respects anything done after the commencement of the Constitution, shall be in a State the Governor, and in an Union Territory the Central Government. As per Article 154 of the Constitution, the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or indirectly through officers subordinate to him in accordance with the Constitution. Further, as per article 166 of the Constitution, all executive actions of the Government of State shall be expressed to be taken in the name of Governor. Therefore, State Government means the Governor or the officers subordinate

to him who exercise the executive powers of the State vested in the Governor and in the name of the Governor.

6.4.2 A statutory body, corporation or an authority created by the Parliament or a State Legislature is neither 'Government' nor a 'local authority'. Such statutory bodies, corporations or authorities are normally created by the Parliament or a State Legislature in exercise of the powers conferred under article 53(3)(b) and article 154(2)(b) of the Constitution respectively. It is a settled position of law (Agarwal Vs. Hindustan Steel AIR 1970 Supreme Court 1150) that the manpower of such statutory authorities or bodies do not become officers subordinate to the President under article 53(1) of the Constitution and similarly to the Governor under article 154(1). Such a statutory body, corporation or an authority as a juridical entity is separate from the State and cannot be regarded as the Central or a State Government and also do not fall in the definition of 'local authority'. Thus, regulatory bodies and other autonomous entities would not be regarded as the government or local authorities for the purposes of the GST Acts.

6.4.3 Also, the corporations formed under the Central or a State Act or various companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by the State Acts will not be covered under the definition of 'Government'.

6.5 As per the Memorandum of Association JWDS is a Society registered under the Jharkhand Societies Registration Act 21,1860, and as per point no. 03 (pg-01) of Memorandum of Association of Jharkhand Women Development Society, Ranchi (JWDS) it is clearly stated that JWDS shall act as an autonomous and independent body. This implicates that JWDS does not fulfill the above stated definition of Government and therefore cannot be treated as 'Government'.

6.6 Also, as per the Memorandum of Association of Jharkhand Women Development Society, Ranchi (JWDS), the staff of the Society will be on contract basis. Thus, the contractual staff of such society shall not become officers subordinate to the Governor.

6.7 Moreover, as per Articles of Association of Jharkhand Women Development Society, Ranchi (JWDS), the society shall ordinarily obtain funds not only from State Government, but also accept donations from public or any other sources as approved by the state govt., grants/subsidies from any other institutions/agency, loans from LIC of India, nationalized banks or any other financing institutions. This confirms that JWDS is funded by other agencies, too. In this case too, the said project 'Tejaswani Project' is funded by International Bank for Reconstruction and Development

6.8 It is, thus, amply clear from the above discussion that JWDS is not a State Government and hence the services provided to JWDS would not qualify for any exemption as envisaged under Sr. No. 72 of the **Notification No. 12/2017-Central Tax (Rate) dtd. 28.06.2017**, issued by the Central Government under CGST Act, 2017.

6.9 To cap it all, we hold that the exemption under Sr.No.72 of the Notification No.12/2017-CT(R) shall be available only if the service is provided to the Central Government, State Government or Union Territory Administration under any training program for which total expenditure is borne by the Government. We thus hold that the said exemption shall not be applicable/available to the applicant.

7. RULING:

In view of the observations stated above, the following rulings are issued:

7.1 The Applicant shall not be entitled to avail benefit of exemption as envisaged under SI.No.72 of **Notification No. 12/2017-Central Tax (Rate) dtd. 28.06.2017** and SI.No.72 of Notification No.FA-3-42/2017/1/ V(53) dtd.30.06.2017, in respect of the services of training provided to JWDS.

7.2 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

Pradhuman Badri Prasad Meena	Sri Ram Chandra Prasad Barnwal
Member	Member
(Central Tax)	(State Tax)

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