

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)**
(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

ARN No	AD271219018846Q	
GSTIN Number, if any/ User-id	27AAECS8719B1ZC	
Legal Name of Applicant	M/s. Sterlite Technologies Limited	
Registered Address/Address provided while obtaining user id	E1, E2, E3, MIDC Waluj, Aurangabad, Maharashtra - 431136	
Details of application	GST-ARA, Application No. 80 Dated 20.12.2019	
Concerned officer	AUR-VAT-E-003, Aurangabad Division	
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service provision
B	Description (in brief)	Applicant manufactures telecom products such as optic fiber, optic fiber cable, etc.; lays these optic fiber cables (either underground or hung overhead) to create a network, sets up control centres, installs equipment necessary to operate the network for desired purpose, commissions network and any other ancillary activity that may be necessary for creation of network infrastructure for its customers in telecom industry. Scope of these activities is contractually stipulated and is typically recognized as a 'turnkey contract' in the industry.
Issue/s on which advance ruling required		<ul style="list-style-type: none"> • Classification of goods and/or services or both • Applicability of a notification issued under the provisions of the Act
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 80/2019-20/B- 25

Mumbai, dt. 18/02/2022

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST



Act and MGST Act" respectively] by M/s. Sterlite Technologies Limited , the applicant, seeking an advance ruling in respect of the following question.

What is the rate of tax applicable to the supplies made under the contract?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by M/s Sterlite Technologies Limited, the applicant are as under:-

- 2.1. *Applicant manufactures telecom products such as optic fiber, optic fiber cable, etc.; lays the optic fiber cables (either underground or hung overhead) to create a network, sets up control centers, installs equipment necessary to operate network for desired purpose, commissions network and any other ancillary activity that may be necessary for creation of network infrastructure for its customers in telecom industry by way of 'turnkey contracts'.*
- 2.2. *To establish countrywide IP/MPLS based multiprotocol converged network, Naval Communication Network (collectively referred as "network"), as core infrastructure for supporting strategic and operational needs, the Indian Navy has entrusted the setting up of these networks to Bharat Sanchar Nigam Limited ("BSNL"), which in-turn has contracted the work to the applicant who has to supply all material and services required; training services to operate the same and supply of satellite connectivity vehicles for ensuring seamless connectivity during breakdown of network.*
- 2.3. *The network to be created includes the following key activities which are narrated below stepwise:*
 - (a) *Construction of buildings and civil structures necessary to house data centres, nearline data centres, disaster recovery station, satellite data centre and connectivity equipment at Naval ports across mainland and coastal region in India*
 - (b) *Installing rack, stack in the buildings and other civil infrastructures necessary to house the equipment and enable operation of all the centres/ports*
 - (c) *Assemble/install all equipment and powering it up by connecting with power supply and back-up generators.*
 - (d) *Interconnecting and configuring all the equipment in all the data centres, nearline data centres, disaster recovery station, satellite data centre, etc. with each other to enable information exchange across the network as desired.*
- 2.4. *Relevant clauses of the contract which stipulate the requirement of an exhaustive civil work to be undertaken by the Applicant to house the said network are reproduced below:*

Network Architecture

Tier I. *Tier I would interconnect 11 major locations of the Indian Navy across the country over defence owned OFC and DWDM network infrastructure.*



Tier II. The remaining 33 locations of the Indian Navy would be connected over defence owned OFC and DWDM network infrastructure

Tier III. Tier III consists of the regional metro aggregation network at Delhi, Mumbai, Vizag, Kochi, Goa, Chennai and Port Blair. The regional metro aggregation network for Tier III shall be present at few locations at various metro cities across the country. These locations would be connected over a DWDM infrastructure that the bidder will have to provide

Civil Infrastructure

1. A central building would be built at the very site to house Type 1/Type 2/Type 3 Infrastructure, Tele presence/Networking/Optic fiber Equipment, Staging area and other operational and administrative buildings. The scope of work includes civil construction, water supply, sanitary and plumbing, electrical installation, landscaping, air conditioning, roads, and firefighting and interior works All buildings should be constructed with RCC (Reinforced Concrete Construction) Partition walls (non-load bearing walls) may be of high quality bricks. The construction would be governed by the latest standards Indian Standards in vogue for construction of buildings. The minimum distance between this complex and the data center building etc should be governed by the TIA 942 standards. The bidder is to ensure that standards followed for construction of buildings, electrical fittings, plumbing etc should also meet the minimum specifications published by BSNL. On completion of construction, the buildings would have to be handed over to the MES/CPWD.

2. Along with the building following additional infrastructure for the complex is also required:-

2.1 Approach road to building within Naval Station, Provision of security lights around the complex, Security Cameras inside and outside building, Guard post including rest room, Automatic Barrier at main/emergency gates. Access Control Mechanism at entrances to the building, Smoke detector, provisioning of small firefighting appliances, PA system.

2.2 Underground electrical wiring will be done as per the requirement. All switches, cutout, CBS and wires, cables are to be supplied and fitted. All electrical fittings including air conditioners, fans, tube lights, CFL, exhaust fans, call bells, lightning arrester etc. is to be provided and fitted. False roofing with 2'X2' meshed tube light fittings and wall paneling with synthetic enamel paints.

3. In addition, a power room to house the silent generators also needs to be constructed. Provisioning of DG sets along with control panel, day tank and other accessories required for operation of the power plant. DG Sets should be in weather proof shelters. Electrical wiring and associated equipment from power house to UPS room.

2.5. The said network comes into existence when the building, civil structures are erected, and all the equipment are installed and interconnected with each other through its data centers, nearline data centres, disaster recovery station, etc. Such network cannot be moved to another place in 'as is' form but it requires the optic fiber cables to be disengaged, existing civil structures to be demolished, all the equipment to be removed and undertake altogether a fresh activity to re-erect the civil structure and re-install all the necessary equipment and re-engage the same with the optic fiber cables at such other place.

Previous Application for Advance Ruling:

2.6. Applicant had earlier approached this Authority to determine following questions:



- i. Whether the supply of goods or services for 'setting up of network' would qualify as 'works contract' as defined in Section 2(119) of the CGST Act?
- ii. If supplies contemplated as per the contract with BSNL are not treated as works contract, can these continue to qualify as composite supply? if yes what is the principle supply?
- iii. What is the rate of tax applicable to the supplies made under the contract?
- 2.7 In pursuance of the said questions, Applicant made submissions and also referred to Notification No. 11/2017 – C.T. (R) dated 28.06.2017, as amended ('rate Notification') stating that the works contract to be undertaken by it was covered under Entry No. 3(vi)(a) of rate Notification and attracted GST at the rate of 12%.
- 2.8. The Authorities vide Order No. GST-ARA-106/2018-19/B-34 dt 28.03.2019 held that the supply of goods or services for 'setting up of network' would qualify as a composite supply of 'works contract' as defined under Section 2(119) of the CGST Act and activities of the Applicant were covered by sub-clause (ii) of Entry No. 3 of rate Notification and attract GST at the rate of 18%.
- 2.9 Post issuance of Order dated 28.03.2019 the rate Notification was amended vide Notification No. 3/2019 C.T.(R) dated 29.03.2019 ("Amendment Notification") whereby Entry No. 3 (ii) as referred in aforesaid Order was omitted with effect from April 01, 2019. Hence, with the said amendment, ratio of Order relating to applicability of tax rate to subject supplies under the contract was rendered redundant with effect from 01.04.2019.
- 2.10. Hence, Applicant's activities necessitate an analysis qua other relevant entries of rate Notification and Entry No. 3(vi)(a) of the rate Notification appears to appropriately cover its activities.

B. Statement containing the Applicant's interpretation of law and /or facts

2.11 The relevant Entry No. 3(vi)(a) of the rate Notification, is reproduced as under:-

SL. NO.	CHAPTER SECTION OR HEADING	DESCRIPTION OF SERVICE	RATE %	CONDITION
3	Heading 9954 (Construction services)	<u>(vi). Composite supply of works contract as defined in clause (119) of Section 2 of the central Goods and Service Tax Act, 2017 other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, provided to the Central Government, State Government, Union Territory, a local authority or a governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -</u> (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b)	6%	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be



2.12 On a bare perusal of above entry, services of works contract are covered by Entry No. 3(vi)(a) of rate Notification if following conditions are fulfilled:

- i. Recipient must be either of Central Government, State Government, Union Territory, a local authority, a governmental authority or a **Government Entity**
- ii. The works contract must result in construction, erection, commissioning, installation, completion fitting out, repair, maintenance, renovation, or alteration of a 'civil structure' or any other Original works
- iii. Resultant civil structure or any other original works must be used predominantly for **other than** commerce, industry, or any other business or profession.

Each of the criteria summarized above is analyzed in ensuing paragraphs qua supply.

THE APPLICANT IS ENGAGED IN MAKING SUPPLY TO 'GOVERNMENT ENTITY'

2.13 Entry No. 3(vi) envisages supplies made to Government Entity. The term Government Entity is defined under clause 4 (x) of the Explanation appended to rate Notification.

Government Entity means an Authority or a board or any other body, -

- (i) Set up by an Act of Parliament or a State Legislature; or
- (ii) Established by any Government

With 90% 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.

2.14 In view of above, anybody established by Government with 90% or more participation qualifies as a Government Entity. In this regard, the network is to be built for BSNL which is set up by Central Government and the Central Government continues to hold 100% equity in BSNL. Hence, BSNL fulfills the necessary criteria set out under clause 4(x) of the Explanation of the said rate Notification and qualifies as a Government Entity. Consequently, applicant's activities fulfill the condition of 'making supply to Government Entity' as in Entry No. 3(vi) of the rate Notification.

ACTIVITIES UNDERTAKEN BY THE APPLICANT RESULT IN CREATION OF 'ORIGINAL WORKS'

2.15 The Applicant submits that the term 'original works' as referred in Entry No. 3(vi)(a) is neither defined under rate Notification nor under the CGST Act. However, Notification No. 12/2017 C.T. (R) dated June 28, 2017 ("Notification No. 12/2017") defines the term 'original works'. Relevant portion of the said exemption notification is reproduced below:

2. Definitions. - For the purposes of this notification, unless the context otherwise requires, -
(zs) "original works" means- all new constructions;

- (i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
- (ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;

2.16 Both, the rate Notification as well as Notification No. 12/2017 are issued by the Central Government in exercise of its powers conferred under CGST Act and as such contents of both these notifications form part of the same statutory framework which further supports the persuasive force of the definition of 'original works' as provided under Notification No. 12/2017 to determine the scope of 'original works' as referred in Entry No. 3(vi)(a) of rate Notification.

2.17 Reference is made to the ruling of the Rajasthan Authority for Advance Ruling in the case of Tata Projects Ltd. - SUCG Consortium wherein the Authorities deliberated applicability of Entry No.



3(vi)(a) of rate Notification to applicant's activities & referred to Notification No. 12/2017 to Rule that recipient of service viz. Jaipur Development Authority qualified as 'Governmental Authority'.

2.18 Without prejudice to the above, in absence of the definition of 'original works' under rate Notification, reference may also be drawn from the definition as provided in the Service Tax (Determination of Value) Rules, 2006 ("Service tax valuation rules") as notified under Finance Act, 1994. Said definition is identically worded as the definition under Notification No. 12/2017 and thus also possesses persuasive force to determine the meaning of 'original works' as referred to in Entry No. 3(vi)(a) of rate Notification.

2.19 Therefore, Applicant submits that the term 'original works' as defined in Notification No. 12/2017 as well as Service tax valuation rules, covers activities in the nature of erection, commissioning or installation of machinery or structure. Applicant also refers to the scope of contract which necessitates the Applicant to build structures in the form of buildings, roads, etc. and undertake the activity of installing the equipment therein. Relevant portion of the contract is as under:-

CLAUSES OF THE CONTRACT

Civil Infrastructure:

1. A central building would need to be built at very site to house Type 1/Type 2/Type 3 Infrastructure, Telepresence equipment, Networking Equipment, Optic fibre Equipment, Staging area and other operational and administrative buildings.

The scope of work includes civil construction, water supply, sanitary and plumbing, electrical installation, landscaping, air conditioning, roads, and firefighting and interior works All the buildings should be constructed with RCC (Reinforced Concrete Construction) Partition walls (non load bearing walls) may be of high-quality bricks.

2. Along with the building the following additional infrastructure for the complex would also be required: -

2.1 Approach road to building within Naval Station

2.5 Underground electrical wiring will be done as per the requirement

3. In addition, a power room to house the silent generators also needs to be constructed.

2.20 Applicant therefore submits that, activities to be undertaken by it are in the nature of erection, commissioning, installation of structure, machinery, construction etc. and therefore duly covered by the term 'original works' as referred to under Entry No. 3(vi)(a) of rate Notification.

2.21 Without prejudice to the above, reference is also drawn to the meaning of the term 'original works' in its common parlance. The 'Oxford Advanced Learner's Dictionary' explains the term 'original' to mean "existing at the beginning" while the term 'works' is explained to mean activities or putting efforts to use materials and achieve a desired result. Relevant portion of the dictionary is reproduced below:

Original, Adj.:

1' [only before a noun] existing at the beginning of a particular period, process or activity

Works,

HAVE RESULT/EFFECT 10 (VN) to cause or produce something as a result of efforts;

USE MATERIAL 11 (VN) sth (in to sth) to make a material into a particular shape of form by pressing, stretching, hitting it, etc.



*EFFORT 6 [U] the use of physical strength or mental power in order to do or make something
PRODUCT OF WORK 7 [U] a thing or things that are produced as a result of work*

- 2.22 *In view of the above, 'original works' together would refer to an activity of creating something i.e. being brought to existence at the first instance. Having derived the meaning of 'original works' in common parlance, Applicant refers to the scope of contract which requires it to perform activities to bring structures in the form of buildings, roads, etc. into existence. The Applicant therefore submits that since its activities result in bringing a new structure into existence, these activities indeed qualify as 'original works' as referred in Entry No. 3(vi)(a) of the rate Notification.*

THE NETWORK IS INTENDED TO BE USED FOR PURPOSE OTHER THAN COMMERCE, INDUSTRY, OR ANY OTHER BUSINESS OR PROFESSION

- 2.23 *The Applicant submits that, the network to be set up by the Applicant is eventually intended to be used for various activities relating to defense. This purpose of is evident from various clauses of the contract itself as per which, the network is intended to be used for war fighting operations of Indian Navy. The works contract required therefore is set up with the predominant purpose of defense, which is other than or commerce, industry, business or profession as excluded under Entry No. 3(vi)(a) of rate Notification. Accordingly, activities of the Applicant fulfill all the conditions stipulated under Entry No. 3(vi)(a) of rate Notification and are duly covered thereunder.*
- 2.24 *The Applicant also submits that as the Entry no. 3(vi)(a) specifically covers activities of Applicant, the said activities ought to assessed at the rate of tax as specified for the said Entry No. 3(vi)(a). Reliance in this regard is placed on the decision of Hon'ble High Court of Gauhati in case of CCE v. Jellalapore Tea Estate, [2011 (268) E.L.T. 14 (Gau.)] wherein the Hon'ble Court held that "what is required to be done in a manner prescribed by law, ought to be done in that manner only or not at all.". Reliance in this regard is also placed on the decision of the larger Bench of Hon'ble Tribunal in the case of M/s. Avis Electronics Pvt. Ltd., [2000 (117) E.L.T. 571 (Tri.-LB)]*

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The jurisdictional officer has not made any submissions in the matter.

04. HEARING

- 4.1 Preliminary hearing in the matter was held on 25.02.2020. Shri. Rohit Jain, Advocate, Shri. Nitin Garg and Shri. Vivek Baj, CA appeared, and requested for admission of the application. Jurisdictional Officer Shri. Sunil Thombare, STO, AUR-VAT-C-013, Aurangabad also appeared.
- 4.2 The application was admitted and online final hearing held on 14.09.2021 was attended by Shri. Rohit Jain, Advocate and Shri Kali (Cost Accountant). Jurisdictional officer remained absent.
- 4.3 We heard the matter.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have gone through the facts of the case, submissions made by the applicant and order of Advance Ruling in appellant's own case vide Order No. GST-ARA-106/2018-19/B-34 dated March, 28th, 2019.



- 5.2 The Applicant, registered under GST Laws is engaged in manufacturing of telecom products such as optic fiber optic fiber cable, etc.; laying of these optic fiber cables to create a network, setting up of control centers, installation of equipment necessary to operate the network for desired purpose, commissioning of network and any other ancillary activity that may be necessary for creation of network infrastructure for its customers in telecom industry.
- 5.3 The Indian Navy has entrusted the setting of a countrywide IP/MPLS based multiprotocol converged network, Naval Communication Network (referred to as "network"), as core infrastructure for supporting strategic and operational needs of Navy, to Bharat Sanchar Nigam Limited ("BSNL") which in turn has contracted with the Applicant to set up the network including the responsibility to supply all the material and services required for setting up of network, training services to operate the same and supply of satellite connectivity vehicles required for ensuring seamless connectivity during breakdown of network. Applicant has further submitted that the entire project as per the contract is bifurcated into different packages and the purchase order is presently raised by BSNL with reference to cost break up of each of the material and services required to be supplied by Applicant under these packages.
- 5.4 As per applicant's submissions, the said network to be so created mainly involves activities like : Construction of holdings and raising of civil structures necessary to house data centers, nearline data centers, disaster recovery station, satellite data center and connectivity equipment at various Naval ports; Installing rack, stack in the buildings and other civil infrastructures necessary to house the equipment and enable operation of all the centers/ports; Assemble /install all equipment and powering it up by connecting with power supply and back-up generators; and Interconnecting and configuring all the equipment in all the data centers, near line data centers, disaster recovery station, satellite data center, etc. with each other to enable information exchange across the network as desired.
- 5.5 The applicant has submitted that it had previously approached for advance ruling in the same matter and that this Authority had ruled that (i). *The supply of goods or services for 'setting up of network' would qualify as a composite supply of 'works contract' as defined under Section 2(119) of the CGST Act and (ii) Activities of the Applicant were covered by sub-clause (ii) of Entry No. 3 of rate Notification and attracted GST at the rate of 18%.*
- 5.6 Since, the activities discussed in above mentioned order and the activities under the present application for which applicant has sought Advance Ruling are one and the same and further, since there is no additional information/submission provided by the applicant in the present application, there is no point to deviate from the finding given in the earlier determination, since neither, any appeal seems to have been filed nor any further order is received in the said earlier matter.
- 5.7 The applicant contends that the Schedule Entry 3(ii) of Notification 11/2017 –CT (Rate) is deleted Vide Notification No 3/2019 CT (Rate) dated 29th March, 2019. Therefore, the applicant prays that its activities as per the Contract now attracts GST at the rate of 12% vide Entry No. 3(vi)(a) of Notification No. 11/2017-CT (Rate) dated June 28, 2017.

5.8 To decide under which Schedule entry, the applicant's activities would get covered, after the deletion of Entry No. 3 (ii) or replacement thereof, for that purpose, we have to understand the



further substitutions made to the said Entry 3 of Notification No. 11/2017-CT (Rate) by way of subsequent amendments.

5.9 Entry No. 3 of Notification No. 11/2017-CT (Rate), as amended till 25.01.2018 is reproduced as under:-

SI No.	Chapter, Section or Heading	Description of Service	Rate (%)	Condition
(1)	(2)	(3)	(4)	(5)
3	Heading 9954 (Construction Services)	(i) Construction of a complex, .....	.....	.....
		(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9	.....
		(iii) .....	....	.....
		(a), (b), (c) .....	....	.....
		(iv) Composite supply of works contract .....	....	.....
		(a), (b), (c), (d), (da), (db) .....	....	.....
		(e), (f), (g) .....	....	.....
		(v) Composite supply of works contract.....	.....	.....
		(vi) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) (c)	6	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be
		(vii) Composite supply of works contract .....	.....	-do--
		(viii) Composite supply of works contract .....	....	....
		(ix) Composite supply of works contract provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity.	6	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.
(x) Composite supply of works contract provided by a sub-contractor to the main contractor providing services specified in item (vii) above.....	.....	--do--		
(xi) Services by way of .....	.....	.....
(xii) Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) and (xi) above.	9	-		



5.10 Vide Notification No 3/2019-CT(Rate), dated 29th March, 2019, Serial number 3, item (ii) was omitted and further amendments were made in Sr. No 3(i), 3 (iv), 3 (v), 3 (vi) and 3 (xii) and therefore, amended Notification no. 11/2017 – CTR dated 28.06.2017 is as under:-

SI No.	Chapter, Section or Heading	Description of Service	Rate (%)	Condition
(1)	(2)	(3)	(4)	(5)
3	Heading 9954 (Construction Services)	(i), (ia), (ib), (ic), (id), (ie), (if) .....	.....	.....
		(ii) DELETED	.....	.....
		(iii) .....	.....	.....
		(a), (b), (c) .....	.....	.....
		(iv) Composite supply of works.....	.....	.....
		(v) Composite supply .....	.....	.....
		(va).....	.....	.....
		(vi) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided to the Central Government, State Government, Union Territory, [a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) (c)	6	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be}
		(vii) Composite supply of works contract .....	.....	.....
		(viii) Composite supply of works contract .....	....	-
		(ix) Composite supply of works contract provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity.	6	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.
		(x) Composite supply of works contract provided by a sub-contractor to the main contractor providing services specified in item (vii) above.....	.....	.....
[(xi) Services by way of house-keeping,.....	.....	.....
(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (iii), (iv), (v), (va), (vi), (vii), (viii), (ix), (x) and (xi) above.	9	-		



- 5.11 It is seen from the amendments made as above, the activities which were earlier covered by the Entry 3(ii), after deletion of said sub-clause (ii), would get covered (said activities) under respective residual entry i.e Sr. No. 3 (xii) of the Notification No. 11/2017 – CTR dated 28.06.2017 as amended by Notification No 03/2019 CGST (Rate) dated 29th March, 2019. The Authority, vide its earlier order (referred by the applicant) had classified the subject activities under the Entry 3(ii) of Notification No. 11/2017 – CTR- dated 28.06.2017, after considering all the headings of the said notification including Sr. No. 3 (vi) (a). The remaining headings are still in existence today and no new headings have been incorporated in the said notification after Notification No 3/2019 Dated 29th March, 2019, which can be considered to be relevant to the applicant's subject activities. Further, at this stage it is crucial to mention that the applicant had accepted the earlier ruling of this Authority. In view of the above, we feel that the subject activity of the applicant will be covered under Since Entry No 3 (xii) of Notification No. 11/2017 –CTR- dated 28.06.2017 as amended till date.
- 5.12 Therefore, activities of the applicant were covered under entry 3(ii) of the Notification No 11/2017 CGST (Rate) dated June 28, 2017 and thereafter with effect from 01.04.2019, the said activities are covered under Sr. No. 3 (xii) as amended by Notification No 03/2019 CGST (Rate) dated 29th March, 2019, taxable at the rate of 18%.
06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus –

Question. What is the rate of tax applicable to the supplies made under the contract?

Answer: - The supplies of the Applicant are covered by sub-clause (xii) of Entry No. 3 of Notification No. 11/2017 – CTR dated 28.06.2017 as amended and taxable @ 18% GST.




RAJIV MAGOO
(MEMBER)


T.R.RAMNANI
(MEMBER)

Copy to:

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint Commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.

