

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF : Dr S. L. Sreeparvathy, IRS &
: Shri Abraham Renn S., IRS

Legal Name of the applicant	SMARTECH ELEVATORS
GSTIN	32ACJFS9238D1Z2
Address	50/1832A, Near Edappally Railway Gate, Ponekkara, Edappally, Ernakulam, Kerala - 682041.
Advance Ruling sought for	i) Classification of service provided ii) Applicability of rate Notification 11/2017 (Rate)
Date of Personal Hearing	03.11.2021
Authorized Representative	Shri. Stanly James

ADVANCE RULING No.KER/129/2021 Dtd.18-02-2022

1. M/s. Smartech Elevators (hereinafter referred to as the applicant) is a partnership firm and its main activity is supply, erection, commissioning and installation of elevators in various multistoried commercial and residential buildings.

2. At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued thereunder.

3. The applicant had requested an advance ruling on the following:

- 3.1. Classification of service provided
- 3.2. Applicability of rate notification 11/2017 Central Tax (Rate)



4. Contentions of the applicant:

4.1. The applicant submits that the supply of elevators is a product tailor-made according to the specification of their customers. The product elevator falls under Heading 8428 and is charged to GST at the rate of 18%. In most cases, the contract involves supply, erection, commissioning and installation of elevators. As this falls under the purview of works contract services falling under Heading 9954; GST at the rate of 18% is charged. Recently there is an increased demand for elevators in independent villas. As per Notification No.11/2017, a GST rate of 12% only is payable for the composite supply of works contract service in such cases when it relates to single residential units. Section 97(2) of the CGST Act, 2017 stipulates the questions on which an advance ruling can be sought and the advance ruling is sought on the issues covered under Section 97(2) (a) relating to the issue of classification.

4.2. The applicant submits the following in connection with the classification of the service. The relevant clause under construction services falling under Heading 9954; Sl No.3(v)(b) of Notification No.11/2017(GST rate amended) read as follows;

“Composite supply of works contract as defined in clause (119) of Section 2 of the CGST Act, 2017, supplied by way of construction, erection, commissioning or installation of original works pertaining to single residential unit otherwise than as a part of a residential complex attracts GST at the rate of 6%.”

4.3. The applicant further submits that the GST rate for elevators is 18% under Heading 8428 with description, Other lifting, handling, loading or unloading machinery (for example - lifts, escalators, conveyors, teleferies). Thus when lifts are sold as goods, the tax rate would be 18% only. As a practice in the applicants business, the work orders are given by clients for erection and commissioning of lifts tailor-made as per customer specifications. This composite supply of lifts is by way of erection/commissioning would be a works contract service as per definition for GST purpose. Therefore, even for supply of lifts/elevators installed in single residential units would qualify for GST at the rate of 12% as works contract services. In other words, even for the supply and erection of lifts/elevators installed in these single residential units, the applicable GST would also be 12%. It is pertinent to note that the reduced rate of GST at the rate of 12% may be on the rationale that the buyers (single residential unit owners) are not eligible for ITC on the above as they are end customers. In many cases, the purchase orders are placed by the contractors as a subcontract. There are also independent direct purchase orders by the building owners. In both cases, the rate of GST would be at the rate of 12% in as much as the main contractor is chargeable to 12% for the whole works contract.



5. Remarks of the Jurisdictional officer

5.1. The application was forwarded to the jurisdictional officer as specified under subsection (1) of Section 98 of the CGST Act, 2017. The jurisdictional officer submitted that as per rate Notification No.11/2017 Central Tax (Rate) dated 28.06.2017 construction services under Heading 9954 was liable to GST at the rate of 18% as per Serial No.3(ii). Subsequently by Notification No. 20/2017 Central Tax (Rate) dated 22.08.2017 the GST rate was reduced from 18% to 12% for the composite supply of works contract as defined in clause (119) of Section 2 of the CGST Act, supplied by way of construction, erection, installation or commissioning, of original works pertaining to a single residential unit otherwise than as a part of a residential complex. Initially, the GST rate for elevators was 28% [Heading 8428 –Other lifting, handling, loading or unloading machinery]. Subsequently, the rate was reduced to 18% by Central Tax Rate Notification No.41/2017 dated 14.11.2017. SAC 995466 of the Scheme of Classification of Services deals with “Lift and escalator installation services” and includes installation services of lifts, escalators, travelators (moving sidewalks) etc. Thus, the service is clearly covered under SAC995466. The rate of GST on the services covered under Heading 995466 is 18%. The said GST rate is applicable irrespective of the place of installation i.e. at the residence or the mall or shopping complex and also irrespective of the intended usage of the lift/ escalators either for domestic use or commercial use. The rate of GST applicable to erection and commissioning of lifts/ escalators installed for domestic use is 18% under SAC 995466.

6. Personal hearing

6.1. The applicant was granted an opportunity for a personal hearing on 03.11.2021. Shri Stanly James represented the applicant in the personal hearing. The counsel reiterated the contentions made in the application and requested to issue a ruling based on the submissions in the application.

7. Discussion and Findings

7.1. The matter was examined in detail. The application is admissible under subsection (2) of section 97 of the CGST Act. The applicant sought an advance ruling in respect of the classification and rate of GST applicable on erection and commissioning of lifts/elevators (escalators) for single residential units.

7.2. The Larger Bench of the Supreme Court in the case of *Kone Elevator India Pvt. Ltd. vs State of Tamil Nadu reported in 2014 (304) E.L.T. 161 (S.C.)* has held that in the case of installation of lift; after the goods are assembled and installed with skill and labour at the site, it becomes a permanent fixture of the building. Therefore, this composite supply of lifts tailor-made as per customer specifications and their erection and commissioning falls



under the composite supply of works contract as defined in clause (119) of Section 2 of the CGST Act, 2017.

7.3. As per the Scheme of Classification of Services notified as Annexure to Notification No.11/2017 Central Tax (Rate) dated 28.06.2017 the Heading 9954 – Group 99541 - 995411 pertains to construction services of single dwelling or multi-dwelling or multi-storied residential buildings and the Heading 9954 – Group 99546 - 995466 pertains to lift and escalator installation services. The explanatory note of Heading 995466 under the Explanatory Notes to Scheme of Classification of Services under GST reads as follows;

“This service code includes installation services of lifts, escalators, travelators (moving sidewalks) etc.”

7.4. Note 3 of the Explanatory Notes to Scheme of Classification of Services under GST reads as follows;

“The explanatory notes indicate the scope and coverage of the heading, groups and service codes of the Scheme of Classification of Services. These may be used by the assessee and the tax administration as a guiding tool for classification of services. However, it may be noted that where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.”

7.5. As per the submissions of the applicant the work orders are given by clients for supply, erection and commissioning of lifts tailor-made as per customer specifications and hence the services are appropriately classifiable under SAC 995466 being the most specific description.

7.6. Having come to the conclusion that the supply, installation and commissioning of the lifts/escalators as detailed by the applicant is appropriately classifiable under SAC 995466; the rate of GST applicable on the service is to be determined. Sl.No.3(xii) of Notification No.11/2017 Central Tax (Rate) dated 28.06.2017 as amended reads as follows:

Sl No.	Chapter, Section or Heading	Description of Service	Rate (%)	Condition
3	Heading 9954 (construction services)	(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	-



7.7. The supply, erection, commissioning and installation of tailor/custom made lifts/elevators undertaken by the applicant falls under SAC 995466 and attracts GST at the rate of 18% [CGST – 9% + SGST – 9%] as per the above entry irrespective of whether it is installed or intended to be used in a single dwelling or multi-dwelling or multi-storied residential or industrial or commercial buildings.

7.8. Given the observations stated above, the following rulings are issued:


RULING


1. Classification of service provided:

Ruling: The service provided by the applicant is appropriately classifiable under SAC 995466 - Installation services of lifts, escalators, travelators (moving sidewalks) etc.

2. Applicability of Rate Notification No.11/2017 Rate.

Ruling: The service provided by the applicant as detailed in the application is liable to GST at the rate of 18% [CGST – 9% + SGST – 9%] as per entry at Sl.No.3(xii) of Notification No.11/2017 Central Tax (Rate) dated 28-06-2017 as amended.


Sreeparvathy S. L.
Joint Commissioner
Member Central Tax


Abraham Renn S.
Additional Commissioner
Member State Tax

To,

M/s. SMARTECH ELEVATORS
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Ponekkara, Edappally,
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Copy to,

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2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The State Tax Officer, Circle – I, Ernakulam [E-mail ID: ctoernakulam1@gmail.com]

