

**AUTHORITY FOR ADVANCE RULING – CHHATTISGARH**  
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**Atal Nagar, District-Raipur (C.G.) 492002**  
**Email ID – gst.aar-cg@gov.in**  
**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING**  
**U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017**

Members Present are

Smt. Sonal K. Mishra  
Joint Commissioner  
O/o Commissioner, State Tax  
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,  
Additional Commissioner,  
O/o Principal Commissioner,  
CGST & Central Excise, Raipur (C.G)

**Subject:** -Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 sought by Application dated 08/12/2021 from M/s Aarav Consultancy Services Pvt. Ltd. (here in after referred to as the applicant) SR.MIG-490, MPH B Colony, D.D. Nagar, Daganiya, Sector-1, Raipur-492001 Chhattisgarh GSTIN- 22AANCA6885D1ZK, regarding GST exemption on the services of survey and preparation of detailed project report (DPR) for water supply schemes for Panchayats/Municipalities under JalJeevan Mission under Notification Number 12/2017-Central Tax (Rate) New Delhi, dated 28<sup>th</sup> June, 2017 and subsequent amendments (SL. No. 3: Pure Services) and applicability of 2% TDS deduction on the payments made with regard to above services.

**Read:** -Application dated 08/12/2021 from M/s Aarav Consultancy Services Pvt. Ltd., SR. MIG-490, MPH B Colony, D.D. Nagar, Daganiya, Sector-1, Raipur-492001 Chhattisgarh GSTIN- 22AANCA6885D1ZK.

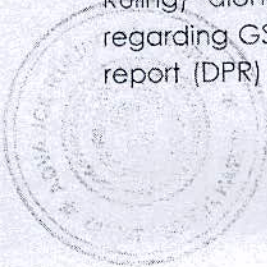
**PROCEEDINGS**

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/10/2021/

Raipur Dated 10-03-2022

M/s Aarav Consultancy Services Pvt. Ltd. , Raipur-492001 Chhattisgarh GSTIN- 22AANCA6885D1ZK [hereinafter also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 for dated 08.12.2021 enclosing duly filled in Form ARA-01 (the application form for Advance Ruling) along with certain annexure and attachments seeking advance ruling regarding GST exemption on the services of survey and preparation of detailed project report (DPR) for water supply schemes for Panchayats/Municipalities under JalJeevan



Mission under Notification Number 12/2017-Central Tax (Rate) New Delhi, dated 28<sup>th</sup> June, 2017 and subsequent amendments (SL. No. 3: Pure Services) and applicability of 2% TDS deduction on the payments made with regard to above services.

**2. Facts of the case: -**

**2.1** M/s. Aarav Consultancy Services Pvt. Ltd., having registered office at SR. MIG. 490, MPH B COLONY, DD NAGAR, DANGNIYA, SECTOR 1, RAIPUR, Raipur, Chhattisgarh, 492001 and having GST No. 22AANCA6885D1ZK; have been working for preparation of Detailed Project Report of water supply schemes of Gram Panchayats in different District of Chhattisgarh State under JalJeevan Mission through PHE Department, Chhattisgarh.

**2.2** The applicant has informed that they are engaged by Public Health Engineering Department (PHED), Chhattisgarh for preparation of detailed project report for various Gram Panchayats in the state of Chhattisgarh under JalJeevan Mission. The scope of service being as under –

- (i) Carrying out topographical survey Total station survey and review of the data available for survey work and planning of the schemes for water supply schemes under and as per the guidelines of JalJeevan Mission and CG PHE
- (ii) Preparation of detailed designs of all the components of the Retrofitting/SVS and preparation of cost estimates based on CG PHE USOR-2020. Calculation of annual maintenance cost and other standard features of the Scheme and formulation of salient features and report for the complete water supply scheme.
- (iii) Preparation of drawings such as Index plan, key plan, flow diagram, plotting and corrections to the L sections of pumping/ Gravity mains. Preparing the BOQ of all the components as per the instructions of Engineer in Charge. Submission of the scheme in soft copy & 5 hard copies
- (iv) Preparation of power point presentation, compliance of the remarks till the final approval

**2.3** It has been applicants' contention that the scope of services as mentioned above is a Pure Services case, since no supply of materials or construction activities involve in our scope of work and hence eligible for exemption vide Notification No. 12/2017- Central Tax (Rate) New Delhi, dated 28<sup>th</sup> June, 2017 and subsequent amendments



**2.4** Further that they are filing this advance ruling application to get the clarification on GST exemption as per the GOI vide Notification No. 12/2017- Central Tax (Rate) New Delhi, dated 28th June, 2017 and subsequent amendments and that as per Sl. No. 3 of the said notification, GST rate is nil on "Pure Services" case, which says -

"Pure services (excluding works contract service or other composite supplies involving supply of 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."

**2.5** Furthermore, the water supply service is listed in 11th and 12th Schedule to the Constitution (Details 243G and 243W) as function pertaining to Panchayats and Municipality respectively.

### **3. Contentions of the applicant: -**

3.1 The applicant is of the opinion that the survey and preparation of Detailed Project Report for water supply systems for Panchayats/ Municipalities is a "Pure Services" case as the services is listed in 11th and 12th Schedule to the Constitution (Details 243G and 243W) as function pertaining to Panchayats and Municipality respectively and as per the definition, it qualifies as "Pure Services" and that their scope of services involve no supply of materials or any construction activities. Hence the same is eligible for GST exemption.

3.2 Since the above-mentioned services come under GST exemption, 2% TDS on GST shall not be applicable, whereas their client (PHED) wants to deduct 2% TDS on GST and accordingly they seek clarification/ruling in the matter.

### **4. Personal Hearing:-**

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant in person, as requested by them and accordingly, Shri Loknath Sahu, Director of the Applicant appeared before us for hearing on 13.01.2022 and reiterated their contention. He also furnished a written submission dated 13.01.2022 along with sample copies of work order which has been taken on record.

### **5. The legal position, analysis and discussion: -**

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CCGST Act"] are similar and thus, 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 CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

6. Section 96 of CGST Act, 2017, Authority for advance ruling, stipulates as under: -

*Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.*

Section 97(2) of CGST Act, 2017 stipulates that: -

*The question, on which the advance ruling is sought under this Act, shall be in respect of—*

- (a) classification of any goods or services or both;*
- (b) applicability of a notification issued under the provisions of this Act;*
- (c) determination of time and value of supply of goods or services or both;*
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

Further 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: *–The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only –*

- a. On the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;*
- b. On the concerned officer or the jurisdictional officer in respect of the applicant.*

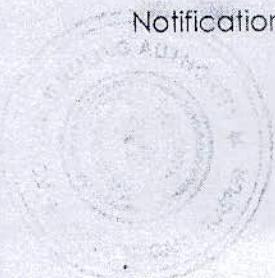
Thus, in view of the above section 103 of CGST Act, 2017, the ruling so sought by the Applicant would be binding only on the Applicant and on the concerned officer or the jurisdictional officer as stipulated above.

7. Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 as amended stipulates at Sl. No. 3 of the notification that GST rate is nil on "Pure Services" case, as under–

Government of India

Ministry of Finance (Department of Revenue)

Notification No. 12/2017- Central Tax (Rate) New Delhi, the 28th June, 2017



In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

TABLE

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	.....			
2	.....			
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of 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.	Nil	Nil
...	.....	.....		

8. We have gone through the submissions made by the applicant and have examined their contentions. 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. We therefore, admit the application for consideration on merits.

9. We observe that the ruling sought by the applicant is whether the survey and preparation of Detailed Project Report for water supply systems for Panchayats/ Municipalities would qualify as an activity in relation to functions entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India, and if so, whether such services provided by the applicant would qualify as Pure services (excluding works contract service or composite supplies involving supply of any goods) as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017.

10. We have also examined the Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017 as amended vide Notification No. 2/2018- Central Tax (Rate) dated 25 January, 2018 issued by the Central Government.

11. As mentioned above, it is observed that Sl. No. 3 of the Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017 exempts pure services (excluding works contract service or other composite supplies involving supply of 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. We observe that the applicant has sought the ruling as to whether the services provided by them would qualify as Pure services (excluding works contract service or composite supplies involving supply of any goods) as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017 where the Project cost includes the cost of service rendered along with reimbursement of cost of procurement of goods for rendering such service, and, thus, be eligible for exemption from levy of CGST and CGGST, respectively.

12. To have a better appreciation of the issues involved, definitions of the above terms as provided under the CGST Act, 2017 are reproduced herein below:

(i) As per Section-2(53) of the CGST, Act, 2017, "Government" means the Central Government.

(ii) As per Section-2(53) of the CGGST, Act, 2017, "Government" means the State Government.

(iii) "local authority" means—

(a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;

(b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;



(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 of the Constitution; or

(g) a Regional Council constituted under article 371A of the Constitution;

(iv) As per clause (zf) of paragraph-2 of **Notification No.12/2017-Central Tax (Rate) dated 28.06.2017**, "governmental authority" has the same meaning as assigned to it in the explanation to clause (16) of section 2 of the Integrated Goods and Services Act, 2017 (13 of 2017). Clause (16) of section 2 of the Integrated Goods and Services Act, 2017 (13 of 2017) reads as under:

Explanation. —For the purposes of this clause, the expression "governmental authority" 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 ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

**Notification No.12/2017-Central Tax (Rate) dated 28.06.2017** was further amended by **Notification No.32/2017-Central Tax (Rate) dated 13.10.2017** wherein it is mentioned as under:

in paragraph 2, for clause (zf), the following shall be substituted, namely: —

(zf) "Governmental Authority" 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 ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

12.1 The other decisive condition to be verified is whether the services provided by the applicant are services 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

For better appreciation, the functions entrusted to the panchayats under Article 243G of the Constitution of India are reproduced herein below:



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.

12.2 The functions entrusted to the municipalities under 243W of the Constitution of India are reproduced hereunder:

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.

12.3 The applicant is of the view that they are exempt from the liability of GST in terms of clause 3 of the Notification No 12/2017 supra, being in the nature of pure service covered under the article 243G and 243W of the Constitution being functions entrusted to the Municipality and Panchayat.

12.4 From the above statutory provision it is evident that to avail the benefit of the aforesaid exemption, three conditions should be satisfied. Firstly, pure services (excluding works contract service or other composite supplies involving any goods) should be provided, secondly, it should be provided to the Central Government, State Government or Union territory or local authority or a Governmental authority and thirdly it should be 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. Supply of man power as discussed above provided by business entities like the applicant, not involving any supply of goods would be treated as supply of pure services also the applicant has submitted that they are providing the same to Central / State Government. Now the decisive part is as to whether the said activity is 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.

13. On the basis of the work order furnished by the applicant, it is evident that the service of preparation of detailed project report for various Gram Panchayats in the State of Chhattisgarh under JalJeevan Mission have been entrusted upon the applicant through the Public Health Engineering Department, Chhattisgarh. The scope of work under work order No. 3130, dated 18.08.2021, issued by Office of The Executive Engineer & Member Secretary, District Water and Sanitation Mission, Mahasamund, Chhattisgarh is for DPR (Detailed Project Report) for preparation of Single Village/ Retrofitting Schemes against EOI No. 01/2021-22 for Survey work of 62 Nos Single Village Schemes of Mahasamund District under JalJeevan Mission.

Thus from the above analysis, with regard to the first question raised by the applicant, it is clear from the documents furnished before us by the applicant that the

provision of services of survey and preparation of Detailed Project Report for water supply systems for Panchayats/ Municipalities by the applicant through Public Health Engineering Department, Chhattisgarh, qualifies as being "Pure Services" as per the definition and the services rendered thereby being listed in article 243G of Constitution as functions pertaining to Panchayat, eligible for exemption as provided under Sr. no. 3 to Notification No. 12/2017- Central Tax (Rate) New Delhi, dated 28th June, 2017 as amended.

14. Further with regard to the second question raised by the applicant on TDS deduction of 2% on the payment made by the PHED, Chhattisgarh to the applicant, Section 51 of CGST Act, 2017 read with Notification no. 50/2018-Central Tax dated 13<sup>th</sup> September 2018 stipulates the provisions regarding TDS under GST. For the sake of brevity, the provisions on Tax Deducted at Source as stipulated under Section 51 of CGST Act, 2017 are reproduced hereunder: -

**Section 51. Tax deduction at source. -**

(1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate, -

(a) a department or establishment of the Central Government or State Government; or

(b) local authority; or

(c) Governmental agencies; or

(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council, (hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

**Provided** that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

**Explanation.** -For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

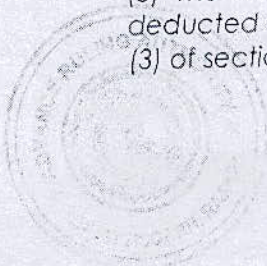
(2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.

<sup>1</sup>[(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.],

(4) <sup>2</sup>[\*\*\*\*]

(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section

(3) of section 39, in such manner as may be prescribed.



(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.

(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

**Provided** that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

14.1 Thus from the above it becomes abundantly clear that TDS under GST under CGST Act, 2017 is applicable only on "taxable goods or services" and not on "all Taxable supplies". "Taxable supply" stands defined under Section 2 (108) of CGST Act, 2017 to mean a supply of goods or services or both which is leviable to tax under this Act, whereas TDS ibid stipulates about "taxable goods and services" and not on "taxable supply". It would not be out of place to mention here that only "taxable supply" covers all supplies that are leviable to tax (even if exempt by Notification under Section 11 of CGST Act, 2017). Hence TDS ibid is not deductible if the underlying transaction is exempt or nontaxable (i.e.) the same is not leviable to GST. It thus follows from the provisions as stipulated under Section 51 ibid that TDS is not leviable on taxable goods or services exempt from levy of GST as is the case here under consideration. Thus, we come to the considered conclusion that no deduction of TDS is warranted in respect of payment received by the applicant against the services rendered by the applicant which are exempted as per principal notification No.12/2017 – Central Tax (Rate) dated 28th June, 2017, as amended.

14.2 The aforesaid conclusion arrived at by this authority gets further reflected in the "Standard Operating Procedure" on "TDS under GST", issued by the Law Committee, GST Council on 28.9.2018 which is also a ready reckoner for DDO's and other Deductors in GST, clarifying therein at Point no. 4(c), Page 9/10 on the issue that: -

"When tax deduction is not required to be made under GST: Tax deduction is not required in following situations:

a) .....

b) .....

c) Receipt of services which are exempted. For example, services exempted under notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 as amended from time to time.

d).....

Similarly in the FAQ's under "TDS in GST", in the very same Standard Operating Procedure above at Page 30 in answer to Qn. 25, it further re-iterates that "No deduction is required in respect of payment against– all services which are exempted

as per principal notification No.12/2017 – Central Tax (Rate) as amended from time to time"

Having regard to the facts and circumstances of the case and discussions as above, we pass the following order: -

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/10/2021

Raipur Dated 10/03/22

The ruling so sought by the Applicant is accordingly answered as under:

RULING

- i. The services of survey and preparation of detailed project report (DPR) for water supply schemes for Panchayats/Municipalities under JalJeevan Mission through Public Health Engineering department Government of Chhattisgarh provided by the applicant, M/s Aarav Consultancy Services Pvt. Ltd. Raipur are eligible for exemption from GST as provided under Sr. 3 of Notification Number 12/2017-Central Tax (Rate) New Delhi, dated 28<sup>th</sup> June,2017 as amended, being pure services as per the definition and the services rendered thereby being listed in article 243G of Constitution as functions pertaining to Panchayat.
- ii. No deduction of TDS is warranted in respect of payment received by M/s Aarav Consultancy Services Pvt. Ltd., Raipur, the applicant against above services rendered by them which are exempted as per principal notification No.12/2017 – Central Tax (Rate) dated 28th June, 2017 as amended.

*sd*  
Sonal K. Mishra  
(Member)

*sd*  
Rajesh Kumar Singh  
(Member)

Place: - Raipur

Date: -

Seal: -

TRUE COPY

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ADVANCE RULING AUTHORITY  
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