

 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR – 302005 (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2022-23/22

Umesh Kumar Garg Joint Commissioner	Member (Central Tax)
Mahendra Singh Kavia Additional Commissioner	Member (State Tax)
Name and address of the applicant	M/s Bhori Lal Mohan Lal,48/105, Rajath Path, Mansarovar, Jaipur 302020 (Rajasthan)
GSTIN of the applicant	08AABFB2993G1ZG
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised.	(a) Classification of any goods or services or both; (b) applicability of a notification issued under the provisions of this Act
Date of Personal Hearing	23.11.2022
Present for the applicant	Adv. Kamlesh Sharma (Authorized Representatives)
Date of Ruling	17.01.2023

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

1. The applicant M/s Bhori Lal Mohan Lal,48/105, Rajath Path, Mansarovar, Jaipur (hereinafter the Applicant) being a registered person (GSTIN is 08AABFB2993G1ZG) as per the declaration given by him in Form (ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017

2. The appellant i.e M/s Bhori Lal Mohan Lal,48/105, Rajath Path, Mansarovar, Jaipur (Rajasthan) has raised the following question for advance ruling in the application for Advance Ruling filed by it.

Whether applicant's tender of work contract under Chief Minister Jan Awas Yojna, is subjected to 9 % CGST and SGST each post 01.01.2022

A. SUBMISSION OF THE APPLICANT :(in brief)

- 1) The Applicant that M/s Bhoori Lal Mohan Lal (hereinafter to be referred as applicant) having GST no. 08AABFB2993G1ZG is engaged in construction services, undertook the work contract tendered by Rajasthan Housing Board on 25.01.2021 and the applicant undertook the work under the scheme of Chief Minister Jan Awas Yojna 2015 programme having nexus with the 'Housing for all' initiative under Pradhan Mantri Awas Yojna of the Government of India.
- 2) The applicant had an agreement with the Rajasthan Housing board to construction for Economic Weaker Section; EWS-256 No's Flats (G+12) under CMJAY dated 25.01.2021. As agreed in the contract RHB was levying and charging the applicable GST rate i.e. 6 % each CGST and SGST on the bill amount passed for the applicant prior to the amendment dated 18.11.2021 in central tax rate.
- 3) The applicant further submitted that-
That post amendment in Central Tax rate vide notification no. 15/2021 dated 18.11.2021, RHB charged GST at 9% CGST and SGST each on post bills passed after 01.01.2022 from the applicant. Till now, three bills passed after 01.01.2022 wherein such tax@9 % has been charged and the remaining of the contract and its execution is still subsisting till its completion dated 31.10.2022. The application of the notification is in dispute.

B Interpolation and understanding of applicant on question rose (in Brief)

1. The applicant submitted that

(1) Central Government vide notification no.11/2017-Central Tax (Rate) dated 28 June 2017 notified GST rates of various services wherein in Serial no. 3 heading 9954 , in column (3) description of service, in the item no. (v), it is categorically mentioned in terms that –

“(v) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act,2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to :-

(d) Low cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority under –

(1) the “Affordable Housing in Partnership” component of the housing for All (Urban) Mission/Pradhan Mantri awas Yojana.

(2) any housing scheme of a State Government;”

Applicable tax rate shall be 6 % CGST and SGST each on such type of works contract.

Thus the applicant pleaded that they are eligible to sought advance ruling on the issues, under subsection © of Section 95 & Section 97(2) of the CGST Act.

(2) That the applicant was charged 6 % CGST and SGST each based on Notification 11/2017 Central Tax Rate under Serial no. 3 heading 9954 , in column (3) description of service, in the item no. (v) (d) (2) till 01.01.2022. Then Central Government released a notification, no. 15/2021 dated 18 Nov. 2021 wherein amendment were brought in Notification no 11/2017 Central Tax Rate. It brought changes Notification no.11/2017 Central Tax Rate only in, as quoted –

As against serial no. (3), for item no. (iii), (vi), (vii), (ix) and (x) the word “ Union Territory, local authority, a Government authority or a Government entity “ the words “ union territory or a local authority”.

3. The applicant contended that despite no changes is brought to Serial no. 3 item no. (v) of 2017 Notification-Central Tax Rate , the RHB charged 9% CGST and SGST each, based on

assumption of notification no. 15/2021 which came into effect from 01.01.2022. Clarification is required as to why RHB charged or is charging 9% CGST and SGST each after 01.01.2022 despite no change is made in Central Tax Rate on item no. (v) Serial no. 3 of Notification 11/2017 by the 2021 amendment.

4. Applicant further stated that since no changes has been brought in tax rates by Notification no. 15/2021 dated 18 Nov. 2021, for composite supply of works contract to construct low cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority under any housing scheme of a State Government i.e.. Chief Minister Jan Awas Yojana , therefore advance ruling is sought so as to avoid any unnecessary charge of tax (if any) in applicant's subsisting contract.

C. Question(s) on which advance ruling is sought

Q.1 whether applicant's tender of work contract under Chief Minister Jan Awas Yojna, is subjected to 9 % CGST and SGST each post 01.01.2022?

D. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 23.11.2022. On behalf of the applicant Adv. Kamlesh Sharma, (Authorized Representatives) appeared for PH. During the PH, he reiterated the submissions already made in the application.

E. COMMENTS OF THE JURISDICTIONAL OFFICER

In the matter, Deputy Commissioner, CGST Division E, Bhilwara has submitted his comments vide letter V(Misc)05/Corres/GST/BHL-E/2022-23/ 408 dated 14.09.2022. Deputy Commissioner submitted that as per the copy of work order submitted by the applicant, the applicant being the service provider is required to pay all GST liability directly to GST department as applicable. Therefore, RHB (Rajasthan Housing Board) cannot levy and charge GST from the applicant (Service provider). The applicant (Service Provider) shall charge GST from RHB (Rajasthan Housing Board) (service recipient).

Further, as per Sr. No. 3 of the Notification No. 11/2021-Central Tax(Rate) as amended:
v) Composite supply of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,

(a) Railways, excluding monorail and metro;

(b) a single residential unit otherwise than as a part of a residential complex;

(c) low-cost houses up to a carpet area of 60 square meters per house in a housing project approved by competent authority empowered under the 'Scheme of Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;

d) low cost houses up to a carpet area of 60 square meters house per in a housing project approved by the competent authority under-

(1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana; (2) any housing scheme of a State Government;

The D.C further observed that the amendments brought vide Notification No. 22/2021-Central Tax (Rate) dated 31.12.2021 are related to items (i),(vi),(ix) (vi) and (x) of the Serial No. 3 of the Notification No. 11/2021-Central Tax (Rate) dated 28.06.2017 as amended. Item (v) of the Serial No. 3 of the Notification No. 11/2021-Central Tax (Rate) dated 28.06.2017 as amended finds no mention in the Notification No. 22/2021- Central Tax (Rate) dated 31.12.2021 and remains unchanged due to Notification No. 22/2021- Central Tax (Rate) dated 31.12.2021; that, vide Notification No. 03/2022- Central Tax (Rate) dated 13.07.2022, following amendments have been made "() against serial number 3, in column (3), (a) items

(ii), (iv), (v), (va), (vi) and (ix) and the corresponding entries relating thereto in columns (4) and (5) shall be omitted; (b) against items (vi) and (x), for the entry in column (4), the entry "6" shall be substituted; (c) in item (xi), for the brackets and figures i), (iv), (v), (va), (vi), (vi), (vi), (ix)", the brackets and figures "vi), (vi), " shall be substituted;"

Thus, items (iii), (iv), (v), (va), (vi) and (ix) and the corresponding entries relating thereto in columns (4) and (5) of Notification No. 11/2021-Central Tax (Rate) dated 28.06.2017 as amended have been omitted with effect from 18.07.2022.

F. FINDINGS, ANALYSIS & CONCLUSION:

- 1) We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of Virtual hearing and the comments of the Central Tax Authority. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts. We would like to discuss the submission made by applicant and will take up the above question for discussion one by one.
- 2) The applicant is engaged in construction services, undertook the work contract tendered by Rajasthan Housing Board and the applicant undertook the work under the scheme of Chief Minister Jan Awas Yogna 2015, programme having nexus with the 'Housing for all' initiative under Pradhan Mantri Awas Yogna of the Government of India. The applicant has sought ruling on the following question: whether applicant's tender of work contract under Chief Minister Jan Awas Yojna, is subjected to 9 % CGST and SGST each post 01.01.2022.
- 3) We are unable to understand the facts mention by applicant that RHB is charging GST. The applicant being the service provider is required to pay all GST liability, and being service recipient RHB (Rajasthan Housing Board) cannot levy and charge GST from the applicant (Service provider). However, we understand that applicant made a mistake while writing facts. Applicant has raised the question on the eligibility of the Notification on tax rate to the service supplied by them. Therefore, the application is admitted and the question for which ruling is sought is taken up for decision.
- 4) We observe that The facts of the case as seen from the records before us is that the applicant is undertook the work under the scheme of Chief Minister Jan Awas Yogna 2015, programme having nexus with the 'Housing for all' initiative under Pradhan Mantri Awas Yogna of the Government of India and supplied services to Rajasthan Housing Board.
- 5) We further observed that GST rates of Works contract involving construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of following rendered to Government or Local authority increased to 18% vide Notification No. 03/2022- Central Tax (Rate) | Dated: 13th July, 2022 which is stated as under-
"in the Table, – (I) against serial number 3, in column (3), – (a) items (iii), (iv), (v), (va), (vi) and (ix) and the corresponding entries relating thereto in columns (4) and (5) shall be omitted;
(b) against items (vii) and (x), for the entry in column (4), the entry "6" shall be substituted;
(c) in item (xii), for the brackets and figures "(iii), (iv), (v), (va), (vi), (vii), (viii), (ix)", the brackets and figures "(vii), (viii)," shall be substituted";
- 6) Moreover, on gone through the facts of the case, we observe that applicant filed their application before the Rajasthan Authority for Advance Ruling (RAAR) on 03.07.2022 i.e. much later from the execution of contract under CMJAY from dated 25.01.2021. We observe

that the applicant is well aware about the type of supply, its notification, circular, discharging his GST tax liability and submitting his GST returns in accordance to them wef execution of contract. Thus we observe that Rajasthan Authority for Advance Ruling should pronounce the decision in light of law situation arise after application come in process.

- 7) We observe that in this case applicant is providing service to Rajasthan Housing Board and in light of above discussion, we observe, applicant will be liable to pay GST @18% in light of Notification No. 03/2022- Central Tax (Rate) | Dated: 13th July, 2022.

In view of the extensive deliberations as hereinabove, we rule as follows: -

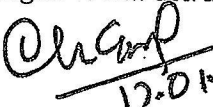
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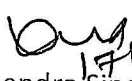
(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Rajasthan Goods and Services Tax Act, 2017)

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

Question - *whether applicant's tender of work contract under Chief Minister Jan Awas Yojna, is subjected to 9 % CGST and SGST each post 01.01.2022?*

Answer-The services provided by applicant to RHB after 13.07.2022 onward until rate not changed it will attract a rate of 18% GST.


12.01.23
(Umesh Kumar Garg)
MEMBER
CENTRAL TAX


17/01/2023
(Mahendra Singh Kavia)
MEMBER
STATE TAX

SPEED POST

M/s Bhoori Lal Mohan Lal, 48/105, Rajath Path, Mansarovar, Jaipur 302020 (Rajasthan)

F. No. AAR/SF/2022-23/281-285

Date:

Copy to: -

1. The Chief Commissioner, CGST and central Excise, (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan 302005
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Commissioner, CGST and Central Excise Commissionerate Udaipur, Rajasthan.
4. The Deputy Commissioner, CGST Division E, Bhilwara Rajasthan.

281-285

O/C