

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 35 / 2022

Dated: 16-09-2022

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. KMV Projects Limited, H.No.1-1166/9D, 4 th Floor, AIWAN-E-SHAHI ROAD, AIWAN-E-SHAHI Colony, Kalaburagi-585102.
2.	GSTIN or User ID	29AADCK0785C1ZL
3.	Date of filing of Form GST ARA-01	13-05-2022
4.	Represented by	Shri A. Bhaskar Reddy, Assistant General Manager
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Taxes, Belagavi GST Commissionerate, Gulbaraga-A Range
6.	Jurisdictional Authority - State	ACCT, LGSTO-525, Gulbarga
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger Reference No.DC2903220295136 Dated 25-03-2022

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. KMV Projects Limited,(hereinafter referred to as 'The applicant'), H.No.1-1166/9D, 4th Floor, AIWAN-E-SHAHI ROAD, AIWAN-E-SHAHI Colony, Kalaburagi-585102 having GSTIN 29AADCK0785C1ZL have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



M/s. KMV Projects Limited

2. The Applicant is a Public Limited Company registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The Applicant is involved in construction activity of government works (buildings) and not with private parties.

3. The applicant has sought advance ruling in respect of the following questions:

- i. *Applicable GST rates with regards to*
 - a. *Government works contract services of Airport Terminal Building at Sogane Village in Shivamogga taluk and District, Karnataka.*
 - b. *Work received from Public Works Department for Development of Greenfield Airport at Vijaypur in Karnataka State.*
 - c. *Work received from Karnataka State Police Housing and Infrastructure Development Corporation Limited for construction of High Security Prison at Central Prison, Parappana Agrahara, Bangalore Karnataka State.*
 - d. *Work received from Commissioner, Kudalasangam Development Board, Kudalasangam for construction of Basava International Center and Museum at Kudalasangam of Hunagunda Taluka in Bagalkot District.*
 - e. *Work received from Karnataka Residential Educational Institutions Society for construction of Government School Buildings and Hostels at various places in Karnataka State.*

4. Admissibility of the application: The question is about the “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2)(e) of the CGST Act 2017.

5. BRIEF FACTS OF THE CASE: The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that they have been awarded following works and wants to know the applicable rate of GST on the same.

- i. Airport Terminal Building at Sogane Village in Shivamogga taluk and District, Karnataka.
- ii. Greenfield Airport at Vijaypur in Karnataka State.
- iii. Construction of High Security Prison at Central Prison, Parappana Agrahara, Bangalore Karnataka State.
- iv. Construction of Basava International Center and Museum at Kudalasangam of Hunagunda Taluka in Bagalkot District.
- v. Construction of Government School Buildings and Hostels at various places in Karnataka State.

5.2 The applicant states that Government of India through Ministry of Finance has issued a Notification No.15/2021 dated 18/11/2021-Central Tax (Rate), where the rate of GST on certain works contract services provided to Government Authority and



Government Entity has been increased from 12% to 18% w.e.f., 01-01-2022. In view of this notification, the applicant seeks ruling on the applicable rate of GST on the works awarded to them.

PERSONAL HEARING / PROCEEDINGS HELD ON 07-07-2022

6. Shri A. Bhaskar Reddy, Assistant General Manager of M/s KMV Projects Ltd and Duly Authorised Representative appeared for personal hearing proceedings held on 07.07.2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the applicant and also their submissions made during the time of hearing.

9. The Applicant is a Public Limited Company, engaged in providing works contract services. The Applicant states that they have been awarded following contracts from the State Government and its various institutions. The Applicant wants to know the applicable rate of GST on the execution of works awarded to him in view of Notification No.15/2021 Central Tax (Rate), dated 18.11.2021.

Sl. No.	Contractee	Contractor	Work awarded by the Contractee
1	Public works Department, Government of Karnataka	M/s. KMV Projects Limited (The Applicant)	Construction of Airport Terminal Building, allied buildings/facilities and associated works at Sogane Village in Shivamogga taluk and District, Karnataka
2	Public works Department, Government of Karnataka	-do-	Development of Greenfield Airport at Vijaypur in Karnataka State
3	Karnataka State Police Housing and Infrastructure Corporation Limited.	-do-	Construction of High Security Prison in the premises of Central Prison, Parappana Agrahara, Bangalore.
4	Kudala Sangama Development Board	-do-	Construction of Basava International Center and Museum at Kudalasangam of Hunagunda Taluka in Bagalkot District



5	Karnataka Residential Educational Institutions Society	-do-	Construction of Residential school complex in chittapur taluq, Kalburgi District.
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10. Now we proceed to examine whether the Karnataka State Police Housing and Infrastructure Corporation Limited, Kudala Sangama Development Board and Karnataka Residential Educational Institutions Society, to whom the applicant is providing the services, constitute a Governmental Authority or Government Entity. Notification No.11/2017-Central Tax (Rate), dated: 28.06.2017 as amended vide Notification No.31/2017-CentralTax (Rate), dated: 13.10.2017 defines *Governmental Authority and Government Entity* as under:

“(ix) “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 90 percent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243 G of the Constitution.

(x) “Government Entity” means an authority or a board or any other body including a society, trust, corporation,

i) set up by an Act of Parliament or State Legislature; or

ii) established by any Government,

with 90 per cent. 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.”

10.1 Karnataka State Police Housing and Infrastructure Corporation Limited is a company of the Government of Karnataka incorporated under the companies Act 1956 and all the shares of the company are held by Government of Karnataka. In view of the definitions mentioned in the para 10 supra, Karnataka State Police Housing and Infrastructure Corporation Limited qualifies to be considered as a Government Entity.

10.2 Kudala Sangama Development Board was established under Kudala Sangama Development Board Act 1994 to develop and maintain kudala sangama kshetra in Bagalkot district. More than 90% of the members of the board are from the State Government and all the administrative expenses of the board are covered by the grants given by the State Government. In view of the definitions mentioned in the para 10 supra, Kudala Sangama Development Board qualifies to be considered as a Government Entity.

10.3 Karnataka Residential Educational Institutions Society (KRIES) is formed under the societies Registration Act to establish, maintain, control and manage residential institutions to the talented and meritorious children belonging to Scheduled caste,

scheduled tribe and other backward classes. As per the rules and regulations of KRIES provided by the applicant, Government of Karnataka may appoint persons to review the progress of the society and to hold inquiries into the affairs of the society and give directions to the society with respect of any matter and the society shall be bound to comply with such directions. After going through the website of KRIES it was observed that it consists of 13 members and all are from the State Government. In view of the definitions mentioned in the para 10 supra, Karnataka Residential Educational Institutions Society qualifies to be considered as a Government Entity.

10.4 The works of construction of Airport Terminal Buildings/facilities & associated works at Sogane village in Shivamogga Taluk & District, Karnataka and the work of Development of Greenfield Airport at Vijaypur in Karnataka State are the works awarded by the Public Works Department of Government of Karnataka. Thus these are works supplied to State Government. However the said works for construction of airport terminal building or greenfield airport are predominantly meant for commerce and hence are not covered under Entry 3 (iii), (vi), (ix) and (x). The said works are covered under entry 3(xii).

11. Notification No.22/2021-Central Tax (Rate), dated 31.12.2021 was issued in supersession of Notification No.15/2021-Central Tax (Rate), dated 18.11.2021 which brought amendment to Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 as below:

In the said notification, in the TABLE, against serial number 3,-

1) in column (3), in the heading "Description of Service", in items (iii), (vi), (ix) and (x), for the words "Union territory, a local authority, a Governmental Authority or a Government Entity" the words "Union territory or a local authority" shall be substituted;

2) in column (3), in the heading "Description of Service", in item (vii), for the words "Union territory, local authority, a Governmental Authority or a Government Entity" the words "Union territory or a local authority" shall be substituted;

3) in column (5), in the heading "Condition", the entries against items (iii), (vi), (vii), (ix) and (x), shall be omitted.

Thus, notification No.22/2021-Central Tax (Rate) dated 31.12.2021 has replaced the words "Union territory, a local authority, a Governmental Authority or a Government Entity" with the words "Union territory or a local authority" and Governmental Authority or a Government Entity were removed from the notification.

12. Further, Notification No.03/2022-Central Tax (Rate), dated 13.07.2022 was issued to bring amendment to Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 as below:

In the said notification, -

(A) 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;

13. In view of the amendments mentioned in para 11 and 12 mentioned supra, the supplies made by the applicant in respect of all the contracts awarded to them as mentioned in para 9 supra are covered under entry 3(xii) of Notification No.11/2017 - Central Tax (Rate), dated 28.06.2017 further amended vide Notification No.03/2022-Central Tax (Rate) dated: 13.07.2022, and attracts GST @ 18% (CGST 9% and KSGST 9%) with effect from 18.07.2022, and the same is reproduced below:

Sl No	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
3	Heading 9954 (Construction services)	(xii). Construction services other than (vii), (viii) above	9	

14. In view of the foregoing, we pass the following

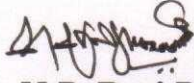
RULING

- Works contract services executed to Public works Department, Government of Karnataka, for Construction of Airport Terminal Building in Shivamogga are liable to tax at 9% CGST as per entry No. 3(xii) of Notification No.11/2017 - Central Tax (Rate) dated 28th June, 2017.
- Works contract services executed to Public works Department, Government of Karnataka, for Development of Greenfield Airport at Vijayapura are liable to tax at 9% CGST as per entry No. 3(xii) of Notification No.11/2017 - Central Tax (Rate) dated 28th June, 2017.
- Works contract services executed to Karnataka State Police Housing and Infrastructure Corporation Limited for Construction of High Security Prison are liable to tax at 9% CGST w.e.f. 01.01.2022 as per entry No. 3(xii) of Notification No.11/2017 - Central Tax (Rate) dated 28th June, 2017, as amended vide Notification No.22/2021-Central Tax (Rate), dated 31.12.2021 and Notification No.03/2022 Central Tax Rate, Dtd:13.07.2022 .
- Works contract services executed to Kudala Sangama Development Board for Construction of Basava International Center and Museum at Kudalasangama are liable to tax at 9% CGST w.e.f. 01.01.2022 as per entry No. 3(xii) of Notification No.11/2017 - Central Tax (Rate) dated 28th June, 2017, as amended vide Notification No.22/2021-



Central Tax (Rate), dated 31.12.2021 and Notification No.03/2022
Central Tax Rate, Dtd:13.07.2022.

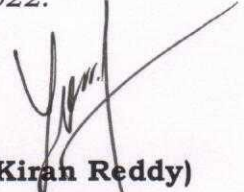
- e. Works contract services executed to Karnataka Residential Educational Institutions Society for Construction of Residential school complex in Chittapur are liable to tax at 9% CGST w.e.f. 01.01.2022 as per entry No. 3(xii) of Notification No.11/2017 - Central Tax (Rate) dated 28th June, 2017, as amended vide Notification No.22/2021-Central Tax (Rate), dated 31.12.2021 and Notification No.03/2022 Central Tax Rate, Dtd:13.07.2022.



(Dr. M.P. Ravi Prasad)

Member
MEMBER

Karnataka Advance Ruling Authority
Place: Bengaluru - 560 009
Date: 16-09-2022



(T. Kiran Reddy)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

To,
The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Taxes, Belagavi GST Commissionerate, North Division-8, Range DND-8, Belagavi.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-525, Gulbarga.
5. Office Folder.

