



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGSAT Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/09/2021

Date:15.07.2022

TSAAR Order No.44/2022

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s. Power Solutions, H NO 5-94/2, Ground Floor, Dwaraka Sai Residency, Chenna Reddy Hospital Lane, Chandanagar, Hyderabad, Telangana - 500050 (36AAHFP2686C1Z7) has filed an application in FORM GST ARA-01 under Section 97(1) of TGSAT Act, 2017 read with Rule 104 of CGST/TGSAT Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGSAT 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 TGSAT Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGSAT Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The concerned jurisdictional officer also raised no objection to the admission of the application. The application is therefore, admitted
4. **Brief facts of the case:**
M/s. Power Solutions is executing works for Hyderabad Metropolitan Water Supply and Sewerage Board is desirous of obtaining clarification regarding the rate of tax on such works. Hence this application
5. **Questions raised:**
 1. GST rate of tax on TS Government, HMWSSB work contracts including material & services and services only.
6. **Personal Hearing:**
The Authorized representatives of the unit namely Sri Maheshwar Reddy, Accountant attended the personal hearing held on 06.04.2022. The authorized representatives reiterated their averments in the application submitted and averred as follows:
 1. The rate of tax applicable on works done to HMWSSB is to be clarified by AAR.

7. Discussion & Findings:

The terms '**Government Authority**' & '**Government entity**' were inserted as definition in notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017 in Notification No. 11/2017 as clauses (ix) & (x) to explanation at Para 4 as follows:

- (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 **243 W 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 90per 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.

HMWSSB is governmental authority when seen in light of these definitions.

The contracts executed by the applicant fall under at S.No. 3(vi) of Notification No. 11/2017 and which reads as follows:

“(vi) [Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services 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, 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) a structure meant predominantly for use as (i) an educational,
- (ii) a clinical, or (iii) an art or cultural establishment; or
- (d) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

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.

Explanation.- For the purposes of this item, the term business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.”

As seen from the Entry, this service is taxable @6% CGST & SGST each.

However this entry was amended in Nov' 2021 vide Notification No. 15/2021 dt. 18.11.2021 and the phrases 'Government Entity' & 'Governmental Authority' were deleted from the Entry at S.No. 3(vi) of Notification No. 11/2017 with effect from 01.01.2022. Thus the works executed for 'Governmental Entity or 'Government Authority' from 01.01.2022 are taxable @9% CGST & SGST each.

A combined reading of the above provisions and amendments reveals the following:

- a. The entry S.No 3(vi) of Notification No. 11/2017 covers the services i.e., works contract provided to Governmental Authority upto 31.12.2021. The rate of tax applicable to this service is 6% CGST & SGST each.
- b. From 01.01.2022, 'Governmental Authority' is excluded from S.No 3(vi) of Notification No. 11/2017 vide Notification No. 15/2021 dt. 18.11.2021. Therefore the work contract

provided to 'Governmental Authority' or a 'Government Entity' from 01.01.2022 is 9% CGST & SGST each as covered under Entry S.No. 3(xii).

- c. Pure services provided governmental authority are exempt from tax under S.No.3 of Notification No.12 of 2017. The entry reads as follows:

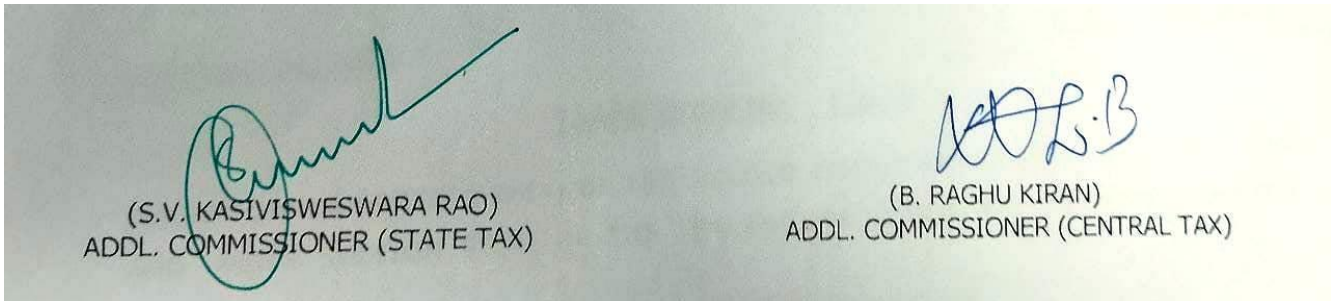
"Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution".

Therefore pure services provided by the applicant to HMWSSB are exempt.

8. The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. GST rate of tax on TS Government, HMWSSB work contracts including material & services and services only.	a. For works contract including material & services the rate of tax applicable upto 31.12.2021 is 6% of CGST & 6% of SGST, and from 01.01.2022 the rate of tax is 9% of CGST & 9% of SGST for the reasons discussed above.
	b. For pure services not involving any material the transaction is exempt for the reasons discussed above.



[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. Power Solutions H NO 5-94/2,
Ground Floor, Dwaraka Sai Residency,
Chenna Reddy Hospital Lane, Chandanagar,
Hyderabad, Telangana – 500 050

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Medchal Commissionerate, III Floor, Medchal GST Bhavan, 11-4-649/B, Lakdikapul, Hyderabad – 500 004

Copy to:

3. The Superintendent (Central Tax) Patancheru Range. Plot No. 328, S.S.R. Arcade, Mathrusri Nagar, Miyapur, Hyderabad - 500 049.