



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

A.R.Com/15/2022

Date:08.12.2022

TSAAR Order No.57/2022

**[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. Shree Constructions, 10-60/E, Shastri Nagar, Near Razvi Chaman, Bommakal, Karimnagar, Telangana – 505 001 (36AJGPD3553L1Z5) 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 Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.

4. BRIEF FACTS OF THE CASE:

- 4.1** Statement of relevant facts as per the applicant having a bearing on the question(s) on which Advance Ruling is required is reproduced below-

The applicant M/s. Shree Constructions are in the business of works contracts wherein they are executing some works on the land provided by the Telangana State Tourism Development Corporation Limited (TSTDCL). The applicant submitted that the TSTDCL is wholly owned by the Government of Telangana and therefore the supply of works contract service to them constitutes a supply to a Government entity. The applicant therefore seeks an advance ruling on the rate of tax applicable to supplies made to such Government entity.

4.2 Company Background:

The applicant M/s Shree Constructions doing works to Telangana State Tourism Development Corporation Limited (TSTDCL) which is a State Government Entity. Telangana State Tourism Development Corporation Limited is a State Govt company, incorporated on 28 Aug, 2014 under the Companies Act. It's a public unlisted company and is classified as 'company limited by shares'.

5. QUESTIONS RAISED:

Q1. The rate applicable for the works contract service provided to the Telangana State Tourism Development Corporation Limited by way of construction of building on their land. Whether it is 12% as the Telangana State Tourism Development Corporation Limited is wholly owned by the Government of Telangana or 18% as the Telangana State Tourism Development Corporation Limited is a business entity and collecting fee from its customers.

6. APPLICANT'S INTERPRETATION OF THE LAW

It was stated that an advance ruling already pronounced by the AAR of similar business it was declared that the service provider has to collect GST@ 18% from the service receiver.

7. PERSONAL HEARING:

The Authorized representatives of the unit namely Sri. D Ramesh Kumar, CA & Authorized Representative attended the personal hearing held on 27.09.2022. The authorized representatives reiterated their averments in the application submitted and requested to dispose the case on merit basis.

8. DISCUSSION & FINDINGS:

The applicant received purchase orders from Telangana State Tourism Development Corporation Limited for executing (4) construction contracts which are abstracted as follows:

S. No	Work order no	Date	Item of work
1	2	3	4
1	TSTDC/Engg/E3/Pedda Chervu-MBNR/2020-21	06.03.2021	Bund beautification of Pedda chervu at Mahaboobnagar Municipality, Mahaboobnagar Dist
2	TSTDC/Engg/E1/Suspension bridge-MBNR/2022-23	27.06.2022	Construction of suspension wood bridge at pedda chervu in Mahaboobnagar town, Mahaboobnagar Dist
3	TSTDC/Engg/E3/Shilparamam-MBNR/2020-21	18.12.2020	Establishing mini shilparamam at Tank bund area in Mahaboobnagar Municipality, Mahaboobnagar Dist
4	TSTDC/Engg/E3/Neera café & Plant/2020-21	04.11.2020	Construction of Neera café and food court (with double deck structure) and supply & installation of plant & machinery for Neera processing and packaging unit at Necklace Road, Hyderabad

As seen from the above, the first (2) contracts are in the nature of activities engaged as public authorities. In the later (2) contracts the Telangana State Tourism Development Corporation Limited will generate revenue by way of commerce/business activities.

The first (2) contracts executed by the applicant to this organizations fall under at S.No. 3(vi) of Notification No. 11/2017 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 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."

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.

In view of the above definitions Telangana State Tourism development corporation limited is a Government entity and the first (2) contracts listed above fall under the Entry at S.No. 3(vi) of Notification No. 11/2017 and therefore attract a concessional rate of tax in the capacity of contracts made to Government entity @6% CGST & SGST upto 31.12.2021 as this entry was amended to exclude Government Entity & Government authority vide Notification No. 15/2021 dt:18.11.2021 so that now the rate of tax for works executed from 01.01.2022 is 9% CGST & SGST each.

However for the next (2) contracts listed above it is seen that the structures constructed by the applicant will be used for the purpose of business and therefore these contracts are not qualified for concessional rate of tax made to Government Entity. Hence the rate of tax applicable on supply of these contract services is 9% CGST & SGST each from the inception of the contracts.

9. In view of the foregoing, we rule as follows:

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

1Q. The rate applicable for the works contract service provided to the Telangana State Tourism Development Corporation Limited by way of construction of building on their land. Whether it is 12% as the Telangana State Tourism Development Corporation Limited is wholly owned by the Government of Telangana or 18% as the Telangana State Tourism Development Corporation Limited is a business entity and collecting fee from its customers.

A. The rate of tax applicable to each contract executed by the applicant in view of the foregoing discussion is abstracted as follows:

S.No	Work order no	Date	Item of work	Rate of tax applicable for CGST (+) SGST	Reason
1	2	3	4	5	6
1	TSTDC/Engg/E3/P edda Chervu-MBNR/2020-21	06.03.2021	Bund beautification of Pedda chervu at Mahaboobnagar Municipality, Mahaboobnagar Dist	12% upto 31.12.2021 18% from 01.01.2022	Execution of works not for commerce, industry or any other business or profession
2	TSTDC/Engg/E1/S uspension bridge-MBNR/2022-23	27.06.2022	Construction of suspension wood bridge at pedda chervu in Mahaboobnagar town, Mahaboobnagar Dist	12% upto 31.12.2021 18% from 01.01.2022	Execution of works not for commerce, industry or any other business or profession
3	TSTDC/Engg/E3/S hilparamam-MBNR/2020-21	18.12.2020	Establishing mini shilparamam at Tank bund area in Mahaboobnagar Municipality, Mahaboobnagar Dist	18%	Execution of works for commerce, industry or any other business or profession
4	TSTDC/Engg/E3/N eera café & Plant/2020-21	04.11.2020	Construction of Neera café and food court (with double deek structure) and supply & installation of plant & machinery for Neera processing and packaging unit at Necklace Road, Hyderabad	18%	Execution of works for commerce, industry or any other business or profession

(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER(STATE TAX)

(SAHIL INAMDAR)
ADDL.COMMISSIONER (CENTRAL TAX)

[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. Shree Constructions,
10-60/E, Shasthri Nagar,
Near Razvi Chaman, Bommakal,
Karimnagar, Telangana – 505 001.

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) Karimnagar Rural Range, H.No.8-7-296/1, Hanumnagar Karimnagar – 505 001.