

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF: Dr S. L. Sreeparvathy, IRS &
: Shri Abraham Renn S, IRS

Legal Name of the applicant	Structures India ANZ Project Management Services Pvt. Ltd.
GSTIN	32AALCS4297F1Z5
Address	"Pragathy", No.31/451(2), New Santhinagar, DPO Road, Palakkad - 678014.
Advance Ruling sought for	<p>i) Supply of geotechnical investigation and preparation of foundation recommendation (soil report preparation) for civil works or infrastructure construction works comes under which scope of service that is whether; (a) pure service or (b) work contract services.</p> <p>ii) Supply of preparation of detailed project report (DPR) related to civil works/infrastructure construction works which scope of service that is whether; (a) pure service or (b) work contract services.</p> <p>iii) Supply of architectural and engineering design for civil works/infrastructure works comes under which scope of service that is, whether; (a) pure service or (b) work contract services.</p> <p>iv) Project management services for civil works or infrastructure construction works come under which scope of service that is, whether; (a) pure service or (b) work contract services.</p>
Date of Personal Hearing	05/11/2021
Authorized Representative	Er O. K. Pramod



ADVANCE RULING No.KER/140/2021 Dtd 25.06.2022

1. M/s. Structures India ANZ Project Management Services Pvt. Ltd **(hereinafter referred to as the applicant)** is engaged in supplying services of geotechnical investigation for civil works or infrastructure construction works, preparation of detailed project reports related to civil works/infrastructure construction works, architectural and engineering design for civil works/infrastructure works and project management services for civil works or infrastructure construction works.
2. At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 **(hereinafter referred to as CGST Act)** and the Kerala State Goods and Services Tax Act, 2017 **(hereinafter referred to as KSGST Act)** are the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued there under.
3. **The applicant requested an advance ruling on the following:**
 - 3.1. Supply of geotechnical investigation and preparation of foundation recommendation (soil report preparation) for civil works or infrastructure construction works comes under which scope of service that is whether; (a) pure service or (b) work contract services.
 - 3.2. Supply of preparation of detailed project report (DPR) related to civil works/infrastructure construction works which scope of service that is whether; (a) pure service or (b) work contract services.
 - 3.3. Supply of architectural and engineering design for civil works/infrastructure works comes under which scope of service that is, whether; (a) pure service or (b) work contract services.



3.4. Project management services for civil works or infrastructure construction works come under which scope of service that is, whether; (a) pure service or (b) work contract services.

4. **Contentions of the Applicant:**

4.1. The applicant submits that M/s Rebuild Kerala (Kerala Government Entity), Kerala Public Work Department (A Government Authority) and HLL Infratech Services Limited (Central Government) do not exempt GST for the services rendered by the applicant and deduct TDS. As per SI No. 3 of Notification No. 12/2017 and SI No. 3A of Notification No: 2/2018 Central Government entity or Government authority should exempt GST for pure services rendered for an activity in relation to function entrusted to a Panchayat under Article 243G of the Constitution or in relation to a Municipality under Article 243 W of the Constitution. For example design and geotechnical investigation or designs for bridges, schools, roads etc. They are not exempting pointing reasons that above services comes under civil works. Whereas Municipalities and Panchayats of Kerala, Kerala State Construction Corporation gives exemption.

4.2. National Industrial Classification is a system used to track activities undertaken by a business and this code has been developed with intent to ascertain and analyse as to how each economic activity is contributing to National Wealth by Ministry of Economics and Statistics. The geotechnical investigation, project management services, architectural and engineering design does not come under division 41 -construction of building or division 42 -civil engineering. As per NIC geotechnical investigation, preparation of detailed project report [DPR], architectural and engineering design and project management services comes under division 711 architectural and engineering activities subdivision 7110 architectural engineering consultancy. All engineering consultancy services come under pure services.



4.3. In Kerala Public Works Department there was empanelment for geotechnical investigation works, preparation of detailed project report and architectural and engineering design under government order for empanelment of consultants. It is evident that the above works are done by consultants and not by contractors. Consultancy work is pure services and comes under service contract and not works contract. They invited reference to Advance Ruling KER 46/2017 dated 12/04/2020 in connection with Kerala State Construction Corporation. It was clarified in the above advance ruling that project management services, geotechnical investigation works and structural engineering design are eligible for exemption under serial number 3 of notification number 12/2017.

4.4. As per Section 2 (119) of the GST Act 2017 works contract involves only those contracts wherein transfer of immovable property is involved. Its outcome involves sales of goods and sales of services. In the above activities geotechnical investigation, preparation of detailed project report (DPR), architectural and engineering design and project management services the outcome is only recommendation and model such as geological findings, safe bearing capacity, recommendation for suitable foundation, construction methodologies engineering design etc. It involves only sale of service and does not involve any kind of immovable property in the execution of contract. Hence above activities does not comes under works contract but they are pure services and eligible for exemption of GST with condition laid by Central Government.

5. Remarks of the Jurisdictional Officer:

5.1. The application was forwarded to the jurisdictional officer as specified under subsection (1) of section 98 of the CGST Act, 2017. The jurisdictional officer submitted that the supplies mentioned in questions 1 to 4 are supply of services in which transfer of goods is not involved and hence can be treated as pure services.



5.2. Rebuild Kerala is a Government Entity under Local self-Government Department. The function of Rebuild Kerala is to create sustainable and resilient roads and allied structures that are scientifically designed as well as ecologically friendly, for improved productivity and economic efficiency of transport that will act as a catalyst to the overall development of the state of Kerala. As such, the functions of Rebuild Kerala are the functions enlisted under Article 243 G under No.13 of the eleventh schedule. Hence, the supply of pure services as mentioned in questions 1 to 4 provided by the applicant to the Kerala PWD Department, a State Government Department are exempted services under GST as per Sl. No.3 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017

5.3. Kerala PWD Department is a State Government Department. The activities of the Kerala Public Works Department are the activities in relation to any function entrusted to a Panchayath under Article 243 G of the constitution or in relation to any function entrusted to a Municipality under Article 243 W of the Constitution. Accordingly, the supply of pure services as mentioned in questions 1 to 4 provided by the applicant to Kerala Public Works Department, State Government Department are exempted services under GST as per Sl. No. 3 of Notification No.12/2017 Central Tax (Rate) dated 28-06-2017.

5.4. M/s HLL Infratech Services Ltd is a Mini Rathna Public Sector Company under the Ministry of Health and Family Welfare, Government of India. As such M/s.HLL Infratech Services Ltd is neither a Central Government nor a Government Entity. Hence the supply of pure services as mentioned in questions 1 to 4 provided by the applicant to M/s HLL Infratech Services Ltd are not eligible for exemption under GST as per Sl. No. 3 of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017.



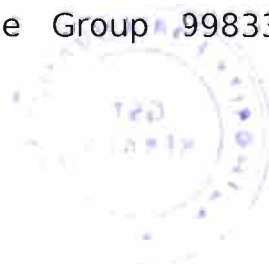
6. Personal Hearing:

6.1. The applicant was granted an opportunity for a personal hearing on 5/11/2021. Shri Pramod K. O. represented the applicant in the personal hearing. He reiterated the contentions made in the application and requested to issue a ruling on the basis of the submissions in the application.

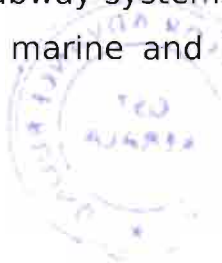
7. Discussion and Finding:

7.1. The issue was examined in detail. The application is admissible under subsection (2) of Section 97 of the CGST Act. The questions raised are whether the activity of geotechnical investigation and preparation of foundation recommendation (soil report preparation), preparation of detailed project report (DPR), architectural and engineering design and project management services for or in connection with civil works or infrastructure construction works come under the scope of service; i.e; pure services or works contract services.

7.2. As per the Scheme of Classification of Services notified as Annexure to Notification No. 11/2017 CT (Rate) dated 28.06.2017 the Heading 9983 pertains to other professional, technical and business services. Group 99832 pertains to Architectural services and Group 99833 pertains to Engineering services. As per the Explanatory Notes to the Classification of Services, the Service Code 998322 under Group 99832 pertains to architectural services for residential building projects which include architectural services for single-family residential projects and multi-family residential projects and the Service Code 998323 pertains to architectural services for non-residential projects which include architectural services for office building projects, retail and restaurant projects, hotels and convention centres, health care projects, entertainment, recreational and cultural building projects, educational building projects, industrial building projects, transportation and distribution facility projects and other non-residential building projects. The Group 99833 - Engineering services includes



application of physical laws and principles in the design, development, and utilization of machines, materials, instruments, structures, processes, and systems. Services of this type involve the provision of designs, plans, and studies related to engineering projects. The Service Code 998332 under Group 99833 pertains to engineering services for building projects which include the application of physical laws and principles of engineering in the design, development and utilization of machines, materials, instruments, structures, processes and systems for building projects like provision of designs, plans, and studies related to residential building projects, such as new and existing homes, row housing, apartments, etc., mixed-use buildings that are predominantly used for residential housing and provision of designs, plans, and studies related to new and existing commercial, public and institutional building projects, including mixed-use buildings that are predominantly used for commercial, public, or institutional purposes, such as office buildings, shopping centres, hotels and restaurants, service stations and warehouses, bus and truck terminals, hospitals, schools, churches, prisons, stadiums and arenas, libraries and museums; engineering advisory services that are related to specific residential, commercial, public or institutional building projects. The Service Code 998334 under Group 99833 pertains to engineering services for transportation projects which includes the application of physical laws and principles of engineering in the design, development and utilization of machines, materials, instruments, structures, processes and systems for transportation infrastructure projects like engineering services (including provision of designs, plans, and studies) related to highways, roads and streets, including elevated highways used for motor vehicle traffic; bridges and tunnels; ancillary road transport facilities such as rest stops, weigh stations, toll booths; mass transit systems, such as light rail or subway systems; railways and related structures; railway bridges and tunnels; marine and inland ports; harbours, locks, canals, and dams



primarily used for transportation purposes; airports, runways, hangars; other aviation facilities; space transportation projects; oil and gas transportation projects; other transportation projects n.e.c. The Service Code 998339 under the Group 99833 pertains to Project management services for construction projects which include services of assuming overall responsibility for the successful completion of a construction project on behalf of a client, including organizing, financing and the design, requesting tenders, and performing management and control functions; project management services provided by engineers or architects.

7.3. From the submission made by the applicant, it is revealed that the services rendered by the applicant are geotechnical investigation and preparation of foundation recommendation (soil report preparation), architectural and engineering design, preparation of detailed project report (DPR), project management services for civil works or infrastructure construction works. The supply made by the applicant does not involve any supply of goods and they are pure services that fall under the different groups/service codes of Heading 9983 - Other professional, technical and business services. Accordingly, we conclude that the activity of geotechnical investigation and preparation of foundation recommendation (soil report preparation), preparation of detailed project report, architectural and engineering design and project management services for civil works or infrastructure construction works undertaken by the applicant are services that are appropriately classifiable under Heading 9983 - Other professional, technical and business services of the Scheme of Classification of Services notified as Annexure to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and is liable to GST at the rate of 18% [9% - CGST + 9% - SGST] as per entry at Sl No. 21 (ii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017.



7.4. The next issue to be determined is whether the services rendered by the applicant to Rebuild Kerala, Kerala State Public Works Department and HLL Infratech Services Ltd are eligible for exemption under entry at Sl. No. 3 of Notification No. 12/2017 Central Tax (Rate) dated 28-06-2017 as claimed by them. The entry at Sl. No. 3 of the said notification reads as follows;

Sl.No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
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 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

7.5. The functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution are as under:

- (a) Urban planning including town planning.
- (b) Regulation of land-use and construction of buildings.
- (c) Planning for economic and social development.
- (d) Roads and bridges.
- (e) Water supply for domestic, industrial and commercial purposes.
- (f) Public health, sanitation conservancy and solid waste management.
- (g) Fire services.
- (h) Urban forestry, protection of the environment and promotion of ecological aspects.



- (i) *Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.*
- (j) *Slum improvement and upgradation.*
- (k) *Urban poverty alleviation.*
- (l) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*
- (m) *Promotion of cultural, educational and aesthetic aspects.*
- (n) *Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.*
- (o) *Cattle pounds; prevention of cruelty to animals.*
- (p) *Vital statistics including registration of births and deaths.*
- (q) *Public amenities including street lighting, parking lots, bus stops and public conveniences.*
- (r) *Regulation of slaughter houses and tanneries.*

7.6. The functions entrusted to a Panchayat under the Eleventh Schedule to Article 243G of the Constitution are as under:

- (i) Agriculture, including agricultural extension.
- (ii) Land improvement, implementation of land reforms, land consolidation and soil conservation.
- (iii) Minor irrigation, water management and watershed development.
- (iv) Animal husbandry, dairying and poultry.
- (v) Fisheries.
- (vi) Social forestry and farm forestry.
- (vii) Minor forest produce.
- (viii) Small scale industries, including food processing industries.
- (ix) Khadi, village and cottage industries.
- (x) Rural housing.
- (xi) Drinking water.
- (xii) Fuel and fodder.
- (xiii) Roads, culverts, bridges, ferries, waterways and other means of communication.
- (xiv) Rural electrification, including distribution of electricity.
- (xv) Non-conventional energy sources.
- (xvi) Poverty alleviation programme.
- (xvii) Education, including primary and secondary schools. (xviii) Technical training and vocational education.
- (xix) Adult and non-formal education.



- (xx) Libraries.
- (xxi) Cultural activities.
- (xxii) Markets and fairs.
- (xxiii) Health and sanitation, including hospitals, primary health centres and dispensaries.
- (xxiv) Family welfare.
- (xxv) Women and child development.
- (xxvi) Social welfare, including welfare of the handicapped and mentally retarded.
- (xxvii) Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
- (xxviii) Public distribution system.
- (xxix) Maintenance of community asset

7.7. The applicant is rendering services to Rebuild Kerala which is an initiative of the Government of Kerala to build sustainable and resilient roads and allied structures that are scientifically designed for efficiency of transport and accordingly the services rendered to Rebuild Kerala are to the Government of Kerala itself. The other organisation to whom services are rendered is the Public Works Department which is a department of the State Government. HLL Infratech Services Ltd is a public sector undertaking of the Government of India. As stated by the applicant the services rendered by them are in relation to the construction of bridges, roads, schools etc. and hence are activities in relation to any function entrusted to a Panchayat under Article 243 G of the Constitution or to a Municipality under Article 243 W of the Constitution.

7.8. Based on the discussion above, we conclude that the services supplied by the applicant to Rebuild Kerala and Public Works Department are eligible for exemption as per the entry at Sl. No. 3 of Notification No. 12/2017 Central Tax (Rate) dated 28-06-2017 being pure services provided to State Government by way of any activity in relation to any function entrusted to a Panchayat or Municipality under Article 243 G or Article 243 W of the Constitution.



7.9. M/s HLL Infratech Services Ltd is a Public Sector Undertaking under the administrative control of the Ministry of Health and Family Welfare, Government of India and as such, they are neither Central Government nor a State Government. Hence the services supplied by the applicant to M/s HLL Infratech Services Ltd are not eligible for exemption under entry at Sl. No. 3 of Notification No.12/2017 Central Tax (Rate) dated 28-06-2017 as exemption under the entry is available only for the specified services provided to the Central Government or State Government or Union territory or local authority.

7.10. Accordingly, the services rendered by the applicant in respect of the projects in question Nos. 3.1 to 3.4 above to Rebuild Kerala and Public Works Department are covered under the exemption under Sl No. 3 of the Notification No.12/2017 Central Tax (Rate) dated 28-06-2017 and the services rendered by the applicant to M/S HLL Infratech Services Ltd are not covered under the said exemption.

Given the observations stated above, the following rulings are issued:

RULING


- 1.** Supply of geotechnical investigation and preparation of foundation recommendation (soil report preparation) for civil works or infrastructure construction works comes under which scope of service that is, whether; (a) pure service or (b) works contract services.
- 2.** Supply of preparation of detailed project report (DPR) related to civil works/infrastructure construction works which scope of service that is, whether; (a) pure service or (b) works contract services.
- 3.** Supply of architectural and engineering design for civil works/infrastructure works comes under which scope of service that is, whether; (a) pure service or (b) work contract services.



4. Project management services for civil works or infrastructure construction works come under which scope of service that is, whether; (a) pure service or (b) work contract services.

Ruling: The above services rendered by the applicant are appropriately classifiable under Heading 9983 – Other professional, technical and business services of the Scheme of Classification of Services notified as Annexure to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and is liable to GST at the rate of 18% [9% - CGST + 9% - SGST] as per entry at Sl No. 21 (ii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017.

The above services provided by the applicant to the Rebuild Kerala Initiative and the Public Works Department of the State Government are exempted as per entry at Sl. No. 3 of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017. The above services provided by the applicant to M/S HLL Infratech Services Ltd are not eligible for exemption under entry at Sl. No. 3 of Notification No.12/2017 Central Tax (Rate) dated 28-06-2017.


Sreeparyathy S.L.
Joint Commissioner of Central Tax
Member


Abraham Renn S.
Additional Commissioner of State Tax
Member

To,

M/s. Structures India ANZ Project Management Services Pvt. Ltd.
"Pragathy", No.31./451(2), New Santhinagar,
DPO Road, Palakkad – 14.



Copy to,

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin-682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
3. The State Tax Officer, First Circle, Palakkad. [E-mail ID: pkdcir1@gmail.com]

