

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF : Shri. Sivaprasad .S, IRS &
: Shri.B.S. Thyagarajababu, B.Sc, LL.M

Legal Name of the applicant	M/s. Ray Constructions Ltd.
GSTIN	32AAACR5277K1Z8
Address	52/3328, Ray Bhavan, 1 st Floor, N.H. Byepass, Thykoodam, Vyttila, Ernakulam – 682019.
Advance Ruling sought for	Tax rate applicable for works contracts awarded by various Government authorities.
Date of Personal Hearing	10-03-2020
Authorized Representative	Mr. Unnikrishnan Achuthan Nair

ADVANCE RULING No.KER/87/2020 Dated 20-05-2020

1. M/s. Ray Constructions Ltd (hereinafter referred to as the “applicant”) is carrying on business in the housing and construction sector. They are engaged in providing services of construction including materials and labour as per the tender requirements. They have received a work order from Vikram Sarabhai Space Centre for the construction of a building for space transportation system. It is a composite contract which includes supply of materials as well as service. They have also received another work order from M/s. Infrastructure Kerala Ltd, a Public Private Partnership Company promoted by Government of Kerala, for the development of Medical College, Thiruvananthapuram which includes construction of road, bridges and other infrastructure. The applicant has requested for advance ruling on the rate of tax applicable for the above works contracts awarded by the Government authorities.

2. The authorized representative of the applicant was heard. It is pointed out that VSSC is the lead Centre of Indian Space Research Organisation under the Department of Space, Government of India. They had awarded the work directly to the applicant. The Department of Health and Family Welfare of the Government of Kerala has nominated M/s. Infrastructure Kerala Ltd as a special purpose vehicle for developing/upgrading the facilities at Government Medical College, Thiruvananthapuram. M/s. Infrastructure Kerala Ltd being the Special Purpose

Vehicle accepted the tender submitted by the applicant, awarded the work and executed agreement in this regard on behalf of the Department of Health and Family Welfare of the Government of Kerala. Therefore, it is argued that, since both these works are awarded by Central/State Government Department, they are eligible for the concessional rate of GST of 12%.

3. The matter was examined meticulously. M/s.Vikram Sarabhai Space Centre, Department of Space, Government of India has awarded the contract for construction of building for Space Transportation System Complex at VSSC, Thumba to the applicant as per Work Order No. VSSC/CMG/CPH/2(1473)/174 dated 01.07.2019. In pursuance of the above work order the applicant has also entered into an agreement dated 12.07.2019 with VSSC, Department of Space, Government of India for execution of the work. From the work order and the agreement it is evident that the recipient of the services provided by the applicant is the Department of Space of the Government of India.

4. The applicant was communicated the acceptance of the tender for the work of development of Medical College, Thiruvananthapuram [Phase – I: Improvement to External Infrastructure – Construction of Road, Bridges and other Infrastructure] by Letter No. INKEL/LOA/Health/2019/CD166 dated 24.04.2019 of M/s INKEL Ltd and pursuant to the above the applicant has entered into an agreement dated 07.05.2019 with M/s INKEL Ltd for execution of the work. On perusal of the communication dated 24.04.2019 intimating the acceptance of the tender and the agreement dated 07.05.2019 it is evident that the tender was accepted and the agreement was entered by M/s INKEL Ltd for and on behalf of the Department of Health and Family Welfare of the Government of Kerala in their capacity as the Special Purpose Vehicle that has been delegated the responsibility by the Government for developing / upgrading the facilities at Government Medical College, Thiruvananthapuram. Therefore, the recipient of the services rendered by the applicant under the agreement is the Department of Health and Family Welfare of the Government of Kerala.

5. As per Section 2 (119) of the CGST Act, 2017; “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable

property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

6. On a perusal of the work orders and the agreements entered by the applicant it is clear that the services rendered by the applicant clearly falls within the definition of works contract under Section 2(119) of the CGST Act, 2017.

7. Sl No. 3 (vi) of Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 20/2017 CT (Rate) dated 22.08.2017; Notification No. 24/2017 CT (Rate) dated 21.09.2017; Notification No. 31/2017 CT (Rate) dated 13.10.2017; Notification No.46/2017 CT (Rate) dated 14.11.2017; Notification No. 17/2018 CT (Rate) dated 26.07.2018 and Notification No. 03/2019 CT (Rate) dated 29.03.2019 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

(c) 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.

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.”

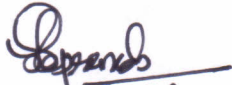
8. The rate of GST applicable under the above entry is 12% [6% CGST and 6% SGST]

9. Since the services provided by the applicant under both the contracts fall under the definition of works contract under Section 2 (119) of the CGST Act, 2017 and the services being provided to the Central Government and State Government as discussed above the applicant is

eligible for the concessional rate of GST of 12% prescribed in Sl No. 3 (vi) (a) of the Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 as amended.

In view of the observations stated above, the following rulings are issued:

The services provided by the applicant under both the contracts being composite supply of works contract as defined in clause (119) of Section 2 of the CGST Act, 2017 provided to the Central Government and State Government by way of construction, erection, commissioning or installation of a civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession is covered under entry at Sl No. 3 (vi) (a) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended and attract GST at the rate of 12% [6% CGST and 6% SGST].



Sivaprasad .S, IRS
Joint Commissioner of Central Tax
Member



B.S. Thyagarajababu, B.Sc, LL.M.
Additional Commissioner of State Tax
Member

To

M/s. Ray Constructions Ltd.
52/3328, Ray Bhavan, 1st Floor, N.H. Bypass,
Thykoodam, Vyttila, Ernakulam – 682019.