	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	KERALA GST <small>State Goods & Services Tax</small>
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BEFORE THE AUTHORITY OF: Dr S.L. Sreeparvathy, IRS &
: Shri Abraham Renn S, IRS

Legal Name of the applicant	M/s COCHIN PORT TRUST
GSTIN	32AAALC1134F1ZZ
ARN	AD321121003071A
Address	Malabar Road, Willingdon Island, Ernakulam, Kerala - 682009.
Advance Ruling sought for	<p>i) Whether, having regard to the background and details including the scope of the Deposit work contained in the MoU entered into between CoPT and IN, what is the nature of the services rendered by CoPT under the MoU? Whether it would be treated as a "Works Contract" as per Section 2 (119) of the CGST Act or as a Composite Supply for services as per Section 2(30) of the CGST Act or as a mixed supply as defined in Section 2(74) of the CGST Act?</p> <p>ii) Whether, CoPT being a Govt entity, as defined in the CGST (Rate) Notification No.32/2017 dated 13.10.2017, can it avail the benefit of exemption notification No.12/2017 dated 28.06.2017 and not levy tax on invoice on Indian Navy?</p>



	<p>iii) If, for any reason, the benefit of exemption Notification No. 12/2017 dated 28.06.2017 cannot be availed, whether, having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether COPT is eligible to take the benefits of reduced rate of 12% GST as per Notification No 24/2017- Central Tax (Rate) dated 21.09.2017, in respect of the services provided by it to IN under the MoU?</p> <p>iv) Whether having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether the contractors engaged by COPT to execute works and sub-contractors engaged by the main contractor also would be eligible to avail the benefits of exemption on Notification No 12/2017- Central Tax (Rate) dated 28.06.2017 and not levy tax on invoice on CoPT?</p> <p>v) Whether having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether the contractors engaged by COPT to execute works would be eligible to avail the benefits of reduced rate of 12% GST as per</p>
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	<p>Notification No 24/2017- Central Tax (Rate) dated 21.09.2017, in respect of the services provided by them to CoPT?</p> <p>vi) If CoPT is eligible to take the benefit of exemption Notification No. 12/2017 dated 28.06.2017 read with CGST (Rate) Notification No. 32/2017 dated 13.10.2017 or the benefits of reduced rate of 12% GST as per Notification No. 24/2017 – Central Tax (Rate) dated 21.09.2017 from the date of inception of the work, whether CoPT is entitled to claim full amount of tax (if exemption notification is applicable) or to claim refund of the excess remittance of GST (6% if 12% is the rate applicable) as the case may be, from the date of inception of the project work?</p>
Date of Personal Hearing	20.07.2022
Authorized Representative	Mr Radhesh L. Bhal

ADVANCE RULING No.KER/08/2023 Dated 03.04.2023

1. M/s. Cochin Port Trust [hereinafter referred to as the applicant] is an entity formed under the Major Ports Act, 1963 and is engaged in providing "Port Services". The Indian Navy, Naval Base, Kochi (hereinafter referred to as IN) and the Board of Trustees of Port of Cochin, a body corporate under the Major Port Trusts Act, 1963 (referred to as CoPT in the MoU) have entered into an MoU dated 22.02.2019 for the reconstruction of North Jetty at NSRY (Kochi) Naval Base, Kochi for Indian Navy by CoPT on Deposit Work terms.



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. Whether, having regard to the background and details including the scope of the Deposit work contained in the MoU entered into between CoPT and IN, what is the nature of the services rendered by CoPT under the MoU? Whether it would be treated as a "Works Contract" as per Section 2 (119) of the CGST Act or as a Composite Supply for services as per Section 2(30) of the CGST Act or as a mixed supply as defined in Section 2(74) of the CGST Act?

3.2. Whether, CoPT being a Govt entity, as defined in the CGST (Rate) Notification No.32/2017 dated 13.10.2017, can it avail the benefit of exemption notification No.12/2017 dated 28.06.2017 and not levy tax on invoice on Indian Navy?

3.3. If, for any reason, the benefit of exemption Notification No. 12/2017 dated 28.06.2017 cannot be availed, whether, having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether COPT is eligible to take the benefits of reduced rate of 12% GST as per Notification No 24/2017- Central Tax (Rate) dated 21.09.2017, in respect of the services provided by it to IN under the MoU?

3.4. Whether having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether the contractors engaged by COPT to execute works and sub-contractors engaged by the main contractor also would be eligible to avail the



benefits of exemption on Notification No 12/2017- Central Tax (Rate) dated 28.06.2017 and not levy tax on invoice on CoPT?

3.5. Whether having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether the contractors engaged by COPT to execute works would be eligible to avail the benefits of reduced rate of 12% GST as per Notification No 24/2017- Central Tax (Rate) dated 21.09.2017, in respect of the services provided by them to CoPT?

3.6. If CoPT is eligible to take the benefit of exemption Notification No. 12/2017 dated 28.06.2017 read with CGST (Rate) Notification No. 32/2017 dated 13.10.2017 or the benefits of reduced rate of 12% GST as per Notification No. 24/2017 – Central Tax (Rate) dated 21.09.2017 from the date of inception of the work, whether CoPT is entitled to claim the full amount of tax (if exemption notification is applicable) or to claim a refund of the excess remittance of GST (6% if 12 % is the rate applicable) as the case may be, from the date of inception of the project work?

4. The contentions of the Applicant:

4.1. The applicant submits that the Indian Navy [IN] and the Board of Trustees of Port of Cochin, a body corporate under the Major Port Trusts Act, 1963 (hereinafter referred to as CoPT) have entered into an MoU for the reconstruction of North Jetty at NSRY (Kochi) Naval Base, Kochi for Indian Navy by CoPT on Deposit Work terms as per MoU dated 22.02.2019. As per this MoU, the President of India, represented by Commodore, CSO (Tech), HQSNC on behalf of Flag Officer Commander-in-Chief, Southern Naval Command, Kochi signs the MoU with CoPT. [The MoU is attached as Annexure I] As per broad terms of the MoU, CoPT has agreed to execute the project of "Reconstruction of North Jetty after the demolition of existing Jetty" for IN on Deposit Work terms. The project cost estimated at the time of signing of the MoU is Rs. 596.43 Crores. The Ministry of Defence, Government of India has accorded sanction for the above



purpose by letter Ref No. DY/8163/North Jetty/D (N-III) /598/2015 dated 21.03.2018.

4.2. As per the broad terms of the MoU;

- a) CoPT has to execute the work on deposit work basis.
- b) The designs and drawings are supplied by the project consultant appointed by IN.
- c) The work has to be completed within 48 months from the date of issue of first work order by CoPT for construction works.
- d) The broad guidelines are as per provisions of CPWD Works Manual, 2014.
- e) Specific terms shall be as per the procedures approved by the Ministry of Shipping, Government of India.

4.3. The sequence of work execution and the payment of consideration thereof are detailed in Para 2 of the MoU. The other relevant terms of the MoU are;

- a) Studies: All relevant studies and assessment that are required shall be undertaken by IN through established agencies.
- b) Approvals and clearances: Environmental / CRZ and wildlife clearances for the project are accorded by the MoEF & CC. IN will liaise with local bodies / agencies (including that of the State Government) for any additional CRZ/Environmental clearance or any approvals required to be obtained. CoPT shall extent all assistance to obtain such approval.
- c) Review of the project are undertaken jointly by the team of both the entities at the frequency specified in the MoU.
- d) IN shall provide CoPT / Contractor LT power supply and drinking water for running office etc as per MES rates.



- e) IN shall provide approximately 10000 sq m of area adjacent to the project site free of cost for using as contractors work area for the purpose of the project work.
- f) CoPT is to provide IN with administrative arrangement such as site discussion room with adequate equipment, provisions and storage for progress monitoring / discussions which may also function as site office of IN.

4.4. The scope of Deposit Work is explained in pages 14 and 15 of the MoU. A statement showing description of various tasks involved in execution of the project and the costs thereof is attached as Annexure -2. IN will pay CoPT engineering and supervision charges at the rate of 7% of actual expenditure for the project along with applicable GST. Pursuant to the MoU as above, the CoPT commenced the work. The said deposit work undertaken by CoPT is carried out by engaging various independent contractors. As per the existing procedure followed, the contractors / suppliers so engaged by the CoPT would raise invoice on the CoPT and CoPT would in turn raise invoices on the IN for the expenditure and also the departmental charge. The suppliers apply GST of 18% on the invoices issued to CoPT. CoPT currently raises monthly invoices on IN towards expenditure and also departmental charge of 7% of such expenditure, together with GST at the rate of 18%, being the said activities undertaken falls within the ambit of works contract. The IN has now represented to CoPT to confirm whether the applicable rate of GST is 12%, relying on the Notification No.24/2017 – Integrated Tax (Rate) dated 21.09.2017.

4.5. The Government has amended the CGST exemption Notification No.12/2017 dated 28.06.2017 by Notification No. 32/2017 dated 13.10.2017 to exempt supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union Territory or local authority against consideration received from Central Government, State Government, Union



territory or local authority, in the form of grants. The notification defines the term 'Government Entity' as under:

"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".

4.6. CoPT is established by the Central Government under Major Port Trusts Act, 1963 and also 100% control of CoPT is with the Central Government. Therefore, CoPT falls under the above definition 'Government Entity' since it complies both the conditions (i) and (ii) above. The expression "grant" has a broad meaning and hence the project funded by the Central Government falls under the expression "grant" for the purpose of the above notification. Accordingly, the supply of works contract service in the instant case squarely falls under the above exemption notification and hence no GST is leviable.

4.7. Alternately, the rate applicable for the instant project work is 12% as per Notification No. 24/2017 CT (Rate) dated 21.09.2017. Originally, the Government had notified the rate of GST applicable for construction services under the heading 9954 at 18% as per Notification No.11/2017-CGST (Rate) dated 28.06.2017. Subsequently, government reduced the GST rate to 12% as per Notification No.24/2017-CGST (Rate) dated 21.09.2017 in respect of certain supplies as stated therein. As per the said Notification dated 21.09.2017, for services provided - to the Central Government, State Government, Union Territory or a Government Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a civil structure or any other original works meant predominantly for the use other than for commerce, industry or any other



business or profession, the rate applicable would be 12%. In order to fall within the purview of the Notification No.24/2017 dated 21.09.2017 the contract should be for construction, erection, commissioning, installation, completion, fitting out, repair, maintenance etc of a civil structure or any other original works. The activities undertaken by it, as per the MoU with IN satisfies all the conditions required to be satisfied in order to qualify as a works contract as defined under Section 2(119) of CGST Act and hence is in the nature of supply of services. Therefore, the construction of jetty for IN squarely falls under the above said category of services provided to the Central Government or a Government authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of a civil structure or any other original works meant predominantly for the use other than for commerce, industry or any other business or profession and hence the rate applicable for the services rendered by applicant to IN would be the reduced rate of 12%.

5. Contentions of Jurisdictional Officer:

The application was forwarded to the jurisdictional officer as per provisions of subsection (1) of Section 98 of the CGST/SGST Act. The jurisdictional officer has not offered any comments and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that there are no proceedings pending on the issue against the applicant

6. Personal Hearing:

The applicant was granted an opportunity for a personal hearing on 20.07.2022 via virtual mode. Shri. Radhesh L. Bhat, Chartered Accountant attended the personal hearing. The representative reiterated the contentions made in the application.

7. Discussion and Findings



7.1. The issue was examined in detail. At the outset, it has to be examined whether the questions on which advance ruling is sought are admissible as per the provisions of the CGST Act 2017 governing advance ruling.

7.2. Section 95(a) of the CGST Act defines 'advance ruling' as follows: -

(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority or the National Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of Section 97 or sub-section (1) of section 100 or of Section 101C, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

7.3. From the above definition, it is evident that an applicant can seek an advance ruling in relation to the supply of goods or services or both undertaken or proposed to be undertaken by them. Further, as per Section 103(1) of the CGST Act such an Advance Ruling is binding only on the applicant and on the officer concerned or the jurisdictional officer in respect of the applicant.

7.4. Section 97 of the CGST / SGST Act specifies the subjects on which an application for advance ruling can be made. Section 97 of the CGST/ SGST Act reads as follows: -

(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought under this Act shall be in respect of, —

- (a) classification of any goods or services or both;*
- (b) applicability of a notification issued under the provisions of this Act;*
- (c) determination of time and value of supply of goods or services or both;*
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*



(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

7.5. Section 103 of the CGST Act governs the applicability of Advance ruling wherein it is specified that;

(1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—

(a) on the applicant who had sought it in respect of any matter referred to in subsection (2) of section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

7.6. On a combined reading of the above provisions governing advance ruling under the CGST Act it is evident that an applicant can make an application for advance ruling if the following conditions are satisfied; (1) the applicant is either registered under GST law or is desirous of obtaining registration; (2) the matter or question pertains to any issue specified in Section 97 (2); (3) such a transaction is being undertaken or proposed to be undertaken by the applicant and the advance ruling is binding only on the applicant and the jurisdictional officer of the applicant.

7.7. On perusal of the fourth and fifth questions raised by the applicant it is seen that the applicant has sought the taxability of the services provided by the contractors / sub-contractors to the applicant / contractors and hence the applicant is the recipient of the services. Therefore, the questions do not pertain to a transaction that is being undertaken or proposed to be undertaken by the applicant and hence do not fall within the purview of the definition of advance ruling. Further, it is categorically stated in Section 103 of the CGST Act that the ruling pronounced is binding only on the applicant and the jurisdictional authority of the applicant. Hence, if a recipient obtains a ruling on the taxability



of his inward supply of goods or services or both the supplier of such goods or services and their jurisdictional authority is not bound by that ruling and the supplier and their jurisdictional authority is free to assess the supply according to their own determination and the ruling has no relevance or applicability. Therefore, the above questions are not admissible.

7.8. The sixth question raised by the applicant relates to the eligibility to claim refund of excess tax paid; if any. This issue is not covered by any of the matters enumerated in sub-section (2) of Section 97 of the CGST Act, 2017 and hence not admissible.

7.9. The first question raised by the applicant is regarding the classification of the activity undertaken by applicant as per the MoU dated 03.04.2017. The second and third questions are about the applicability of a notification issued under the provisions of the CGST Act 2017. The above questions are covered under clause (a) and (b) respectively of sub section (2) of section 97 of the CGST Act 2017 and hence admissible.

7.10. The first question is regarding the nature of the services provided as per the MoU. As per the MOU dated 22.02.2019 the applicant has to execute the project for the "Reconstruction of North Jetty after Demolition of existing Jetty" at Naval Base, Kochi for Indian Navy on "Deposit Work Terms".

7.11. 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. From the terms and conditions of the MoU dated 22.02.2019; it is evident that the activity undertaken by the applicant for the Construction of Jetty for Indian Navy squarely falls within the ambit of "Works Contract" as defined in Section 2 (119) of the CGST Act, 2017. As per Sl. No. 6 (a) of Schedule II of the CGST Act, 2017; the composite supply of works



contracts as defined in clause (119) of Section 2 shall be treated as a supply of services.

7.12. The second question raised by the applicant is whether they are entitled to the exemption as per Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 32/2017- Central Tax (Rate) dated 13.10. 2017.

7.13. The Notification No. 32/2017- Central Tax (Rate) dated 13.10. 2017 inserted a new entry as Sl. No. 9C in Notification No.12/2017- Central Tax (Rate) dated 28.06. 2017; which reads as follows;

Sl. No	Chapter, Section or Heading	Description of Service	Rate (%)	Condition
9C	Chapter 99	Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.	Nil	Nil

7.14. The conditions to be satisfied for exemption under the above entry are;

- The supply should be a supply of service;
- The supplier should be a Government Entity;



- c) The recipient must be Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority; and
- d) The consideration must be received in the form of grants from Central Government, State Government, Union territory or local authority.

7.15. We have already concluded that the subject supply is "Work Contract" as defined in Section 2 (119) of the CGST Act, 2017 and as per Sl. No. 6 (a) of Schedule II of the CGST Act; it is treated as a supply of services. Hence the first condition is satisfied.

7.16. Now it is to be examined whether the supplier of service is a government entity. The term "Government entity" is defined in clause (zfa) of Paragraph 2 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 as amended as follows;

"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."

7.17. The applicant is established by the Central Government under the Major Port Trusts Act, 1963. The statement of objects and reasons of the Major Port Trusts Act, 1963 and sub-section (3) of Section 1 – Short title, commencement and application reads as follows;

"An Act to make provision for the constitution of port authorities for certain major ports in India and to vest the administration, control and management of such ports in such authorities and for matters connected therewith"



“1(3) It applies in the first instance to the major ports of Cochin, Kandla and Vishakhapatnam and the Central Government may, by notification in the Official Gazette, apply the provisions of this Act to such other major port and with effect from such date, as may be specified in the notification.”

7.18. Further as per Section 3 of the Major Port Trusts Act, 1963 which governs the constitution of board of trustees it is seen that 100% control of applicant is with the Central Government. Hence the applicant falls within the definition of ‘Government Entity’ and accordingly the second condition is satisfied. The recipient of the services is the Indian Navy, which is the Central Government and hence the third condition is also satisfied. However, there is nothing in the MOU dated 22.02.2019 or in any other document submitted with the application to show that the consideration for the services are received by the applicant in the form of grants from the Central Government. Therefore, the 4th condition is not satisfied and accordingly the service provided by the applicant to the Indian Navy as per MoU dated 22.02.2019 is not eligible for exemption under the entry at Sl No. 9C of Notification No. 12/2017 CT (Rate) dated 28.06.2017 as inserted by Notification No. 32/2017 CT (Rate) dated 13.10.2017.

7.19. The third question raised by the applicant is whether they are eligible to take the benefit of the reduced rate of 12% GST as per Notification No 24/2017-Central Tax (Rate) dated 21.09.2017, in respect of the services provided by it to Indian Navy under the MoU.

7.20. Sl. No. 3 (vi) of Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 as substituted by Notification Nos. 24/2017 Central Tax (Rate) dated 21.09.2017 reads as follows;

“(vi) Services provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority 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. - Rate - 6 % - Condition - Nil"

7.21. Subsequently, the above entry was amended by Notification Nos. 31/2017 Central Tax (Rate) dated 13.10.2017; 46/2017 Central Tax (Rate) dated 14.11.2017; 17/2018 Central Tax (Rate) dated 26.07.2018 and 03/2019 Central Tax (Rate) dated 29.03.2019 and the amended entry 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. - Rate - 6 % - Condition - 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.”

7.22. We have already discussed and concluded that the services provided by the applicant is works contract services as defined in section 2 (119) of the CGST Act, 2017 and it is provided to the Indian Navy, the Central Government for the purpose of reconstruction of North Jetty after demolition of existing Jetty at Naval Base, Kochi. Therefore, the works contract services are provided to the Central Government for construction and commissioning of jetty meant for use for undertaking activities of the Indian Navy as a public authority. Hence the services provided by the applicant as per the MoU dated 22.02.2019 are eligible for the concessional rate of GST of 12% [6% - CGST + 6% SGST] as per the entry at Item (vi) of Sl No.3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended. However, it is seen that the entry at Item (vi) of Sl No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended has been omitted by Notification No. 03/2022 Central Tax (Rate) dated 13.07.2022 with effect from 18.07.2022. Therefore, the concessional rate of GST of 12% is applicable only in respect of the services supplied as per the said MoU for which the time of supply as determined in terms of Sections 13 and 14 of the CGST Act, 2017 falls between 21.09.2017 and 17.07.2022. The services supplied as per the said MoU for which the time of supply as determined in terms of Sections 13 and 14 of the CGST Act, 2017 falls on or after 18.07.2022 will be liable to GST at the rate of 18% [9% - CGST + 9% SGST] as per entry at Item No. (xii) of Sl. No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017.

Given the foregoing observations and findings, the following rulings are issued:



RULING

Question 1: Whether, having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and Indian Navy, what is the nature of the services rendered by CoPT under the MoU? Whether it would be treated as a "Works Contract" as per section 2(119) of the CGST Act or as a Composite Supply for services as per Section 2(30) of the CGST Act or a mixed supply as defined in Section 2(74) of the CGST Act?

Ruling: The activity undertaken by the applicant for the Construction of Jetty for Indian Navy as per MoU dated 22.02.2019 squarely falls within the ambit of "Works Contract" as defined in Section 2 (119) of the CGST Act, 2017.

Question 2: Whether, CoPT being a Govt entity, as defined in the CGST (Rate) Notification No. 32/2017 dated 13.10.2017, can it avail the benefit of exemption notification no. 12/2017 – Central Tax (Rate) dated 28.06.2017, as amended and not levy tax on invoice on IN?

Ruling: No. The service provided by the applicant to the Indian Navy as per MoU dated 22.02.2019 is not eligible for exemption under the entry at Sl. No. 9C of Notification No. 12/2017 CT (Rate) dated 28.06.2017 as inserted by Notification No. 32/2017 CT (Rate) dated 13.10.2017.

Question 3: If, for any reason, the benefit of exemption notification 12/2017 dated 28.06.2017 cannot be availed, whether, having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether CoPT is eligible to take the benefits of reduced rate of 12% GST as per Notification No. 24/2017- Central Tax (Rate) dated 21.09.2017, in respect of the services provided by it to IN under the MoU?

Ruling: The applicant is eligible for the concessional rate of GST of 12% [6% - CGST + 6% SGST] as per the entry at Item (vi) of Sl. No.3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended in respect of the services supplied as per the MoU dated 22.02.2019 for which the time of supply



as determined in terms of Sections 13 and 14 of the CGST Act, 2017 falls between 21.09.2017 and 17.07.2022.

Question 4: Whether having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether the contractors engaged by COPT to execute works and sub-contractors engaged by the main contractor also would be eligible to avail the benefits of exemption on Notification No 12/2017- Central Tax (Rate) dated 28.06.2017 and not levy tax on invoice on CoPT?

Ruling: No ruling can be given since the question is not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

Question 5: Whether having regard to the background and details including the scope of work of the Deposit work contained in the MoU entered into between CoPT and IN, whether the contractors engaged by COPT to execute works would be eligible to avail the benefits of reduced rate of 12% GST as per Notification No 24/2017- Central Tax (Rate) dated 21.09.2017, in respect of the services provided by them to CoPT?


Ruling: No ruling can be given since the question is not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

Question 6: If CoPT is eligible to take the benefit of exemption Notification No. 12/2017 dated 28.06.2017 read with CGST (Rate) Notification No. 32/2017 dated 13.10.2017 or the benefits of reduced rate of 12% GST as per Notification No. 24/2017 – Central Tax (Rate) dated 21.09.2017 from the date of inception of the work, whether CoPT is entitled to claim full amount of tax (if exemption notification is applicable) or to claim refund of the excess remittance of GST (6% if 12 % is the rate applicable) as the case may be, from the date of inception of the project work?



Ruling: No ruling can be given since the question is not covered by any of the matters enumerated in sub-section (2) of Section 97 of the CGST Act, 2017.

~~Sreeparvathy S. L.
Additional Commissioner of Central Tax
Member~~


Abraham Renn S.
Additional Commissioner of State Tax
Member

To,

The Cochin Port Trust,
Malabar Road,
Willingdon island, Ernakulam- 682009.

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: ccochin@nic.in; ccu-cexcok@nic.in]
- 2) The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
- 3) The Assistant / Deputy Commissioner of Central GST and Central Excise, Ernakulam Division. [E-mail ID: cgst.ti04@gov.in]
- 4) The Superintendent of Central GST and Central Excise, Ernakulam I Range [E-mail ID: cgst.ti0401@gov.in]

