
	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWERS, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF: Smt. Gayathri P.G., IRS &
: Shri. Abdul Latheef K

Legal Name of the applicant	The Kerala Land Development Corporation Limited
GSTIN	32AABCT9319H1ZD
ARN	AD321222006515R
Address	No.28/725, Opposite Ramanilayam, Chembukkavu, Thrissur.
Advance Ruling sought for	Clarification is sought on the matter that whether GST at 12% is applicable for the works executed by the company for the period from 01/01/2022 to 17/07/2022, as per notification from State Goods and Services Tax Department, Government of Kerala vide Circular No. 01/2022, No.CT/3/2021-C1 dated 19/01/2022.
Date of Personal Hearing	01.12.2023
Authorized Representative	Sri. Goutham, Authorised Representative of the Company.

ADVANCE RULING No. KER/37/2023 Dated 29/12/2023

1. The Kerala Land Development Corporation Limited, No.28/725, Opposite Ramanilayam, Chembukkavu, Thrissur (herein after referred to as the applicant or Corporation or KLDC) is a fully owned Kerala Government undertaking under the administrative control of the Agriculture Department. The purpose of formation of the entity is to promote, undertake and execute land development and allied schemes in the State for the integral development of Agriculture.



2. At the outset it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 (*herein after referred to as CGST Act*) and the Kerala State Goods and Services Tax Act, 2017 (*herein after referred to as KSGST Act*) are same except for certain provisions. Accordingly, a reference herein after to the provisions of the CGST Act, Rules and 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 advance ruling on the following:

Clarification is sought on the matter that whether GST at 12% is applicable for the works executed by the company for the period from 01/01/2022 to 17/07/2022, as per notification from State Goods and Services Tax Department, Government of Kerala vide Circular No. 01/2022, No.CT/3/2021-C1 dated 19/01/2022.

4. Contentions of the Applicant:

4.1. The applicant submits that it is a Government entity, incorporated in the year 1972 under the Companies Act 1956. Both Central Government and State Government jointly holds the stake of the company, out of which more than 95% of stake hold by the State Government. The corporation is incorporated under the administrative control of the State agricultural Department to improve the development of agriculture in the State. The applicant engaged in various functions such as to promote, undertake and execute land development and allied schemes for the integral development of agriculture.

4.2. The term "Government entity" defined under Notification No. 12/2017-C.T.(Rate) dated 28.6.2017 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
- 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.



4.3. The applicant is accorded with accreditation from State Government to undertake, execute general civil construction works and land development works as PMC of any departments or agencies in the State. The affairs of the corporation are being managed by the Managing Director subject to direction and control of its Board of Directors comprising members of State Government and Central Government.

4.4. State Goods and Services Tax Department has been discontinued the benefit of reduced tax rate of 12% on works contract services supplied to a Governmental authority/ Government entity vide Circular No. 01/2022, dated 19/01/2022 and the rate revised to 18% with effect from 01.01.2022. However, the reduced rate of 12% continues to apply for services provided to the Central Government, State Government, Union territory or a local authority.

4.5. Meanwhile, the Government have unified the GST rates to 18% for works contract services implemented for all institutions Vide GO(P) No. 82/2022/Taxes dated 18/07/2022. Hence the applicant follows such rate of tax from 18/07/2022 on wards.

4.6. In the circumstances, the Government of Kerala have directed to the applicant to take up the procedures for getting a conclusion on the tax rate applicable on contracts undertaken by the Company on behalf of Government of Kerala during the period 01/01/2022 to 17/07/2022.

4.7. The applicant is a Government Entity and acting as a pure agent for all works executed are solely for and on behalf of the Government of Kerala. Works undertaken by the Company comprises of civil construction works which are performed by the contractors engaged by KLDC. The funds for these projects/ contracts are allotted and provided to KLDC by Government through the Kerala Financial Budgetary System through Chief Controlling Officer (CCO) and Drawing and Distribution Officer (DDO) of the Heads of Account i.e, Director, Department of Soil Survey & Soil Conservation.



4.8. The applicant receives only centage charges For the implementation or execution of these works awarded by Government of Kerala at prescribed slab rates as per order No.GO(P) No. 95/2017/Fin DATED 25/07/2017 and GO(P)No.77/2019/Fin dated 04/07/2019.

4.9. The applicant finally concluded that All invoices/claims raised by the contractors for the works undertaken by them are submitted to the Government of Kerala by KLDC and upon sanction and release of funds from Government of Kerala, the same is transferred to the contractors. All works executed by KLDC are the works of Government of Kerala and the funds for implementation of such works are of the Government itself. Hence here the revision of GST rate for Government Entity from 12% to 18% as per above circular is directly enhancing the tax liability of the Government itself.

5. Comments of the Jurisdictional Officer:

The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The Jurisdictional Officer reported that there are no pending or decided proceedings against the applicant regarding the subject matter under any provisions of CGST Act and KSGST Act 2017.

6. Personal Hearing:

The applicant was granted opportunity for personal hearing on 01.12.2023 through Virtual Mode. Sri. Goutham, Authorised Representative of the Company represented the applicant. The applicant filed detailed statement of facts along with the application. He requested to issue the ruling on the basis of the submissions made by them in the application and during the personal hearing.

7. Discussion and Conclusion:

7.1. We have carefully examined the Advance ruling application, statement of facts, oral submissions made at the time of virtual hearing. The advance ruling to be issued is on the clarification of the rate of tax of the works executed by the applicant for the period from 01.01.2022 to 17.07.2022. The questions on which



advance ruling sought by the applicant falls under the purview of section 97(2)(b) of the CGST/KSGST Act, 2017, "applicability of a notification issued under the provisions of this Act ", hence admitted.

7.2. The applicant M/s. Kerala Land Development Corporation Ltd. (M/s. KLDC) was incorporated in 1972 under the Companies Act, 1956 as a fully owned Government Undertaking with 4.77% of the shares of the company are in possession with the Central Government and 95.23% of the shares are with the Government of Kerala. M/s. KLDC is established with more than 90% or more participation of the Govt. and falls under the definition of "Governmental Entity" as the same is established and controlled by the State Government.

7.3. The term "Governmental entity" is defined in Para 2 (zfa) of Notification No. 12/2017 CT (Rate) dated 28.06.2017, amended vide Notification No. 32/2017-Central Tax (Rate) dated 13th October, 2017, 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."

7.4. M/s. KLDC has been notified as an accredited agency for general civil construction works and land development works as Project Management Consultant (PMC) vide G.O(P) No. 95/2017/Fin. Dated 25.07.2017, G.O(P) No. 77/2019/Fin. Dated 04.07.2019 and G.O(P) No. 104/2022/Fin. Dated 02.09.2022 of the Finance (Industries & Public Works-B) Department, Govt. of Kerala.

7.5. The applicant submits that being a govt. entity, the works executed by them are solely for and on behalf of the Government of Kerala. Works undertaken by the applicant comprises of civil construction works which are performed by the contractors engaged by them and the funds for these projects are allotted and



provided to the KLDC by the Government of Kerala. For the implementation of the contract awarded, the applicant receives only centage charges at the prescribed rates from the Govt. of Kerala. Further the applicant submits that the invoices/claims raised by the contractors for the works undertaken by them are submitted to the Government of Kerala by KLDC, and funds released from the Govt. transferred to the contractors.

7.6. In this regard, the applicant furnished an old 'Memorandum of Understanding' executed on 30.03.2013 between the applicant and the Scheduled Caste Development Board, for establishing self-sufficient villages in the Scheduled castes dominant areas having 50 or more families. The Scheme intended to provide internal roads, water supply, sanitation, drainage, electrification, maintenance of houses, skill development programs, etc. The applicant has not furnished further details regarding the execution and implementation of the said MOU.

7.7. We have gone through the Circular No. 01/2022 dated 19.01.2022 of the Commissioner of State Tax which was referred in the application for advance ruling. The Circular is prescribed on the basis of the notifications issued by the CGST/SGST for amendment in the rate of tax of the supply of certain services. Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 amended vide Notification No. 22/2021-Central Tax (Rate) dated 31.12.2021, revised the rate of tax of some services w .e. f 01.01.2022, which is reproduced below:-

In the said notification, in the TABLE, against serial number 3, -

1) in column (3), in the heading "Description of Service", in items (iii), (vi), (ix) and (x), for the words "Union territory, a local authority, a Governmental Authority or a Government Entity" the words "Union territory or a local authority" shall be substituted;

2) in column (3), in the heading "Description of Service", in item (vii), for the words

"Union territory, local authority, a Governmental Authority or a Government Entity" the words "Union territory or a local authority" shall be substituted;



3) in column (5), in the heading "Condition", the entries against items (iii),(vi),(vii),(ix) and (x), shall be omitted.

7.8. As per the aforementioned amendments, w.e.f, 01.01.2022, the entries in items (iii), (vi), (ix) and (xii) against serial number 3 in the TABLE of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and G.O(P) No. 72/2017/TAXES dated 30.06.2017 in S.R.O. No. 370/2017 read as follows;

I. No.	Chapter , Section or Headin g	Description of service	Rate (Perc ent)	Con ditio n
1	2	3	4	5
3	9954 (Constr uction service s)	(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Central Government, State Government, Union Territory or a local authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, - 1. a historical monument , archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); 2. canal, dam or other irrigation works; 3. pipeline , conduit or plant for (i) water supply (ii) water treatment,	6	



	<p>or (iii) sewerage treatment or disposal.</p>		
	<p>(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 or a local authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -</p> <ol style="list-style-type: none"> 1. a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; 2. a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or 3. 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. <p><i>Explanation. — For the purposes of this item, the term business shall not include any activity or transaction undertaken by the State Government, the Central Government or any local authority in which they are engaged as public authorities.</i></p>	6	



	<i>(ix) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority</i>	6	
	<i>(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (iii), (iv), (v), (va), (vi), (vii), (viii), (ix), (x) and (xi) above and serial number 38 below.</i>	9	

From the above, it is seen that, w.e.f 01.01.2022, the rate of tax for services specified under Sl. Nos. 3 (iii), 3 (vi) and 3 (ix) will be 12% and for Sl. No. 3 (xii), it will be 18%.

7.9. The applicant has sought clarification on the matter that whether GST @12% is applicable for the works executed by them for the period 01.01.2022 to 17.07.2022 as per SGST Cir. No. 01/2022 dated 19.01.2022. As per Clause 4 of the said circular, it is clarified that w.e.f 01.01.2022, the benefit of the reduced tax rate, i.e., 12% instead of 18% on works contract supplied to a Governmental Authority or a Government Entity regarding the works contract services mentioned in the corresponding entry, stands discontinued. It is evident that the works contract services supplied to the applicant being a Govt. entity are liable for the taxable rate of 18% w.e.f 01.01.2022. Further, the services rendered by the applicant do not fall under Sl. Nos. 3 in column (3) - (iii), (vi) & (ix) above, the rate of tax 12% is not applicable in this case and the proper entry to the services provided may be the entry at column (3) (xii), i.e., @ 18 % w.e.f 01.01.2022.

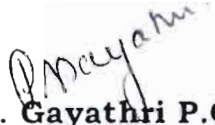
In view of the observations stated above, the following ruling is issued.



RULING

Question : Whether GST @ 12% is applicable for the period from 01.01.2022 to 17.07.2022 for the works executed by the applicant as per notification from SGST Kerala vide Circular No.01/2022, No. CT/3/2021-C1 dated 19.01.2022?

Ruling: No. Liable to pay GST @ 18% for the period 01.01.22 to 17.07.2022.



Smt. Gayathri P.G.

**Joint Commissioner of Central Tax
Member**



Abdul Latheef K

**Joint Commissioner of State Tax
Member**

To

M/s. The Kerala Land Development Corporation Limited,
No.28/725, Opposite Ramanilayam, Chembukkavu, Thrissur

Copy submitted 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: cccocoin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Commissioner of Central Tax & Central Excise, Thiruvanthapuram Commr.'te, GST Bhavan, Statue, Thiruvanthapuram -. (E-mail id : commr-tvmhqrs@gov.in)

Copy to:

1. The Additional Commissioner, TPS, HQ.
2. The Joint Commissioner, TPS, Thrissur
3. The Deputy Commissioner, ITMD, Thiruvananthapuram for uploading in the website.
4. Central Tax, Chembukkavu Range, Thrissur Division.
5. The State Tax Officer, Tax payer services Circle, Thrissur City.

