



**KERALA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX DEPARTMENT
TAX TOWER, THIRUVANANTHAPURAM**



**BEFORE THE AUTHORITY OF: Smt. Gayathri P.G, I.R.S. &
: Shri. Abdul Latheef. K**

Legal Name of the applicant	M/s. Sreedhanya Construction Company
GSTIN	32AAIFS8478A1Z5
ARN	AD320622001433T
Address	31/747, Sreedhanya, Sasthamangalam.P.O, Thiruvananthapuram, Kerala, 695010.
Advance Ruling sought for	1. What is the status of Kerala State Transport Project (KSTP) in GST viz, Government Authority or Government Entity or Government Department? 2. What is the GST rate on the works contract services provided by a Government Contractor to KSTP ie., construction of Roads and bridges for public use?
Date of Personal Hearing	16.01.2024
Authorized Representative	Shri. Shinu Sasidharan, Assistant General Manager

ADVANCE RULING No.KER/11/2024 Dated 14/02/2024

1. M/s. Sreedhanya Construction Company, 31/747, Sreedhanya, Sasthamangalam.P.O, Thiruvananthapuram (hereinafter referred to as the applicant), is a contractor engaged in construction of roads and bridges. The applicant executes works awarded by various Government Departments including Kerala State Transport Project (KSTP).

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 same except for certain provisions. Accordingly, a reference herein after to the provisions of the CGST Act, Rules and Notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the Notifications issued thereunder.

3. The applicant requested advance ruling on the following.

3.1. What is the status of Kerala State Transport Project (KSTP) in GST viz, Government Authority or Government Entity or Government Department?

3.2. What is the GST rate on the works contract services provided by a Government Contractor to KSTP i.e., construction of Roads and bridges for public use?

4. Contentions of the Applicant:

4.1. The applicant submits that they provide composite supply of works contract services to the Government Departments and Public Works Department for constructing roads and bridges. The particular issue leading to apply for advance ruling is for the clarification on the tax rate of works contract services provided to one of their recipients, Kerala State Transport Project (KSTP). The KSTP is an entity, which is engaged in executing works for the Kerala PWD. For the selection process, KSTP invites online bids for the construction of specific works, and then selection of bids intimated through letter of acceptance and after selection, works contract agreement is executed with the service provider.

4.2. The applicant is a registered taxpayer under GST Act. As per the Central Tax Notification No. 13/2021, Dated.18.11.2021, the rate of tax on works contract service rendered to Governmental Authorities and entities was increased from 12% to 18% with effect from 01.01.2022. The applicant is uncertain on the status of the awarder of work, i.e, KSTP, whether it is a part of the Government Department or a separate Government entity. The applicant submits that, if the status of the awarder falls under the category of Government entity, then the tax rate on works contract services provided to them will be applicable to 18%, as per



the above Notification. The matter of uncertainty on collection of tax has been brought to the notice of KSTP, but it was informed that KSTP is a part or sub division of Kerala State Public Works Department and therefore the change in tax rate is not applicable to them. Hence the applicant is to be informed whether the position stated by KSTP regarding rate of tax applicable is correct. Also the clarification from the advance ruling authority would help the applicant to avoid future consequences from the tax authorities and unnecessary litigation with KSTP.

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 has not responded about the pending or decided proceedings, if any, against the applicant in connection with the subject matter.

6. Personal hearing

The applicant was granted an opportunity for personal hearing on 16.01.2024 through Virtual Mode. Shri. Shinu Sasidharan, Assistant General Manager attended the personal hearing. He reiterated the contentions made in the application and 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. Before proceeding to answer the questions raised in the application, it is necessary to decide the admissibility of the application for Advance ruling.

7.2. Coming to the scope of advance ruling, Section 95(a) of the CGST Act is reproduced below:-

(a) "advance ruling" means a decision provided by the Authority or the 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, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

7.3. Sub-section (2) of section 97 of the CGST Act specifically mentioned that the questions covered in the application shall be in respect of the following;

- (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.*

7.4. The first question of the applicant, i.e., “What is the status of KSTP in GST viz, Government Authority or Government Entity or Government Department?” is not covered in any of the matters enumerated under sub-section (2) of Section 97 of the CGST Act. Hence, we are of the opinion that there is no need to pronounce ruling on the same.

7.5. The next issue to be decided is “*What is the GST rate on the works contract services provided by a Government contractor to KSTP, ie., construction of roads and bridges for public use?*”. This question is covered under clause (b) of sub section (2) of section 97 of the CGST Act “*applicability of a notification issued under the provisions of this Act*” and hence admitted the application on merits.

7.6. As per entry no. 3(iv) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 of the Department of Revenue, Ministry of Finance, as amended vide notification No. 20/2017- Central Tax (Rate) dated. 22.08.2017 of the Department of Revenue, Ministry of Finance the rate of tax for some of the works contract services has been notified as 12% (CGST @ 6% and SGST @ 6%). The said entry is reproduced below;



Sl. No.	Chapter , Section or Heading	Description of service	Rate (Percent)	Condition
1	2	3	4	5
3	9954 (Construction services)	<p>(iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-</p> <p>(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;</p> <p>(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;</p> <p>(c) a civil structure or any other original works pertaining to the "In-situ rehabilitation of existing slum dwellers using land as a resource through private participation" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;</p> <p>(d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission/Pradhan</p>	6	



		<p><i>Mantri Awas Yojana;</i></p> <p><i>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or</i></p> <p><i>(f) a structure meant for funeral, burial or cremation of deceased.</i></p>		
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7.7. From the aforementioned entry, as per sl. no. 3(iv)(a), it is obvious that the works contract services by way of construction of roads or bridges for general public use will be taxable @ 12% (CGST @ 6% and SGST @ 6%). There is no need to examine the status of recipients whether they fall under the category of Government or Local Authority or Governmental Authority or Government entity.

7.8. In the instant case, the recipient of the applicant i.e., Kerala State Transport Project (KSTP) is a wing constituted under the Kerala Public Works Department to execute externally aided projects and specialized projects. The main aim of this wing is the upgradation of the State highway roads. The strategic option study made for the upgradation of State highways and major district roads conducted by M/s. Rail India Technical and Economic Service Limited led to the formation of KSTP under the Kerala Public Works Department. The Government had accepted the study report and accorded administrative sanction for the upgradation of 1719.46 kilometers of roads vide GO (MS). 142/97/PWD Dated 22.12.1997 of the Public Works (D) Department, Government of Kerala through KSTP with the aid of World Bank. Hence, the works contract services provided by the applicant to KSTP by way of construction of roads and bridges is for the use of the general public. As such, the rate of tax for works contract services provided by the applicant to KSTP by way of construction of roads and bridges for public use will be taxable @ 12% (CGST @ 6% and SGST @ 6%).

7.9. Further, the Central Government, on the recommendation of the Council, issued notification vide Notification No. 03/2022-Central Tax (Rate) dated 13.07.2022 to amend the rate of tax of services in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The amendments in Sl. No. 3 of the



Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 notified w.e.f 18.07.2022 is reproduced under;

(A) in the Table, -

(I) against **serial number 3**, in column (3), -

(a) items (iii), **(iv)**, (v), (va), (vi) and (ix) and the corresponding entries relating thereto in columns (4) and (5) **shall be omitted**;

(b) against items (vii) and (x), for the entry in column (4), the entry "6" shall be substituted;

(c) in item (xii), for the brackets and figures "(iii), (iv), (v), (va), (vi), (vii), (viii), (ix)", the brackets and figures "(vii), (viii)," shall be substituted;

7.10. As per the aforementioned amendment w.e.f 18.07.2022, sl.no. 3(iv) of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 has been omitted and thereby the reduced rate of tax @ 12% (CGST @ 6% and SGST @ 6%) for construction of roads and bridges for general public use is enhanced to 18% (CGST @ 9% and SGST @ 9%).

7.11. Consequently, from the discussions made in para 7.6 to 7.10, it is evident that till 17.07.2022 the rate of tax for works contract services by way of construction of roads and bridges for public use was 12% (CGST @ 6% and SGST @ 6%) and thereafter, i.e, w.e.f 18.07.2022 it is 18% (CGST @ 9% and SGST @ 9%).

7.12. As per sub-section (1) of section 13 of the CGST Act, the liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of the said section. However, where there is a change in the rate of tax in respect of goods or services or both, the time of supply shall be determined in accordance with section 14 of the CGST Act, 2017.

7.13. Section 14 of the CGST Act, 2017 reads as follows;

Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:-



(a) in case the goods or services or both have been supplied before the change in rate of tax,-

(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

(b) in case the goods or services or both have been supplied after the change in rate of tax,-

(i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

(ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Explanation.-For the purposes of this section, "the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.



7.14. Thus, we conclude that the services provided by the applicant by way of construction of roads and bridges for public use will be taxable @ 12% (CGST @ 6% and SGST @ 6%) if the time of supply as determined in accordance with section 14 of the CGST Act falls any date prior to 18.07.2022, otherwise it will be taxable @ 18% (CGST @ 9% and SGST @ 9%).

In the light of the facts and legal position as stated above, the following ruling is issued:

RULING

Question No.1. What is the status of KSTP in GST viz, Government Authority or Government Entity or Government Department?

RULING: No ruling as the question is not in respect of any of the subject matters enlisted under sub-section (2) of section 97 of the CGST Act.

Question No.2. What is the GST rate on the works contract services provided by a Government Contractor to KSTP ie., construction of Roads and bridges for public use?

RULING: The works contract services provided by the applicant by way of construction of roads and bridges for public use will be taxable @ 12% (CGST @ 6% and SGST @ 6%) if the time of supply as determined in accordance with section 14 of the CGST Act falls any date prior to 18.07.2022, otherwise it will be taxable @ 18% (CGST @ 9% and SGST @ 9%).

Gayathri P.G.
Gayathri P.G

**Joint Commissioner of Central Tax
Member**

Abdul Latheef. K
Abdul Latheef. K

**Joint Commissioner of State Tax
Member**

To,

M/s. Sreedhanya Construction Company
31/747, Sreedhanya, Sasthamangalam.P.O,
Thiruvananthapuram, Kerala, 695010.



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: cccochoin@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-tvmhqs@gov.in)

Copy to:

1. The Additional Commissioner, TPS, HQ.
2. The Deputy Commissioner, ITMD, Thiruvananthapuram. for uploading in the website of the Department
3. The State Tax Officer, Taxpayer Services Circle, Kowadiar.

