
 सत्यमेव जयते	JHARKHAND AUTHORITY OF ADVANCE RULING GOODS AND SERVICES TAX DIVISIONAL OFFICE OF STATE TAX, CIVIL COURT COMPOUND, NEAR JAIPAL SINGH STADIUM, RANCHI, 834001	
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Advance Ruling Order No- JHR/AAR/2018-19/01

Sri Pradhuman Badri Prasad Meena Joint Commissioner		Member (Central Tax)
Sri Ram Chandra Prasad Barnwal Joint Commissioner		Member (State Tax)
Name and address of the applicant		M/s. P.K. AGARWALA, (Partnership Firm) Registered Address: AT-MATIGORA, P.O.-RAKHA COOPER PROJECT, EAST SINGHBHUM
GSTIN of the applicant		20AABFM9005A1Z6
Application No. and Date		
Clause(s) of Section 97(2) of CGST/SGST/UGST Act, 2017 under which the question(s) raised		(ii) Applicability of a notification issued under the provisions of the Act (notification no.39/2017 dated 13.10.2017) (iii) determination of the liability to pay tax on any goods or services or both under the provision of the Act
Date of Personal hearing		02-08-2018
Present for the applicant		Mr. Pradeep Kumar Agarwal (Authorized Signatory)

Note: Under Section 100 of the JGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of JGST Act 2017, within a period of 30 days from the date of service of this order.

The applicant M/s P. K. AGARWALA (herein after referred to P.K.Agarwala) having GSTN No- 220AABFM9005A1Z6 is a partnership firm. The firm M/s P. K. AGARWALA is a contractor carrying of contract work of M/s Uranium Corporation of India Ltd., Jadugoda and made the following submission:-

1. the applicant has been rewarded works contract for raising of western site tailing dam at Turamdih vide work order no.-T-964 dated 20.06.2017. In the aforesaid work order more than 75% of the work is the nature of Earth work.
2. In the notification no. 39/2017 integrated tax rate against serial no.-3 states as under:

Composite supply of works contract as defined in clause 119] of sec-2 of the CGST Act, 2017, involving pre dominantly earth work) i.e constiguting more than 75% of the value of work in contract) provided to Central Government, State government, Union Territory, Local authority, a government authority or a Government Entity GST will be applicable on 5%.

3. Further a "Government Entity" shall be defined as an authority or a board or any other body including a society, trust, corporation which is –
 - i) Set up by an act of parliament or State legislative, or
 - ii) Established by any government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central government, State Government or Local Authority.
4. In the present instance 100% of the equity share is held by the President of India M/s Uranium Corporation of India Ltd., Jadugoda.

5. **The applicant sought Advance Ruling on the following questions/issues:**

- (i) Whether M/s Uranium Corporation of India Ltd. –Comes under the Purview of Government Entity.
 - (ii) What will be the rate of GST on the above attached work order.
6. **As per Section 97(2) of the Central Goods and Services Tax Act, 2017(herein after referred to as the 'CGST ACT, 2017) and Jharkhand Goods and Services Tax Act, 2017** empowers the Advance Ruling authority to decide the following issues:-
- (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. From the aforesaid provisions of Advance Ruling it is observed that the Applicant is eligible to seek Advance Ruling under sub-para (b) i.e, **applicability of a notification issued under the provisions of this Act;** and sub-para (c) i.e, **determination of time and value of supply of goods or services or both;** of Section 97(2) of the CGST/SGST Act,2017.

8. The Applicant has submitted a copy of Work order (work order no.T-964 dt. 20.06.2017) and a copy of notification no. 39/2017 integrated tax dt.13.10.2017 with regard to above raised questions:-

a. A "Government Entity" shall be defined as an authority or a board or any other body including a society, trust, corporation which is – Set up by an act of parliament or State legislative, or Established by any government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central government, State Government or Local Authority.

b. In the present instance 100% of the equity share is held by the President of India M/s Uranium Corporation of India Ltd., Jadugoda.

c. Serial No 3 of notification 39/2017 dated 13.10.2017 was issued under the GST Act, Composite supply of works contract as defined in clause 119

of sec-2 of the CGST Act, 2017, involving pre dominantly earth work) i.e. constituting more than 75% of the value of work in contract) provided to Central Government, State government, Union Territory, Local authority, a government authority or a Government Entity, GST will be applicable on 5%.

d. Details and description of attached work order:

Description	Quantities/ units	Rate in figures in Rupees	Amount in Rupees
Clearing of site of all permanent construction, roads, pipelines etc. including removal of bushes, shrubs, rubbish and other objectionable materials including removal and disposal and preparation of base embankments by stripping/ filing/leveling/compacting to a depth of 300mm removal and disposal of unsuitable materials, such as loose rock, debris, top soil, vegetable matter and other perishable and objectionable materials as decided by Engineer with all lead and lift	84500 SqM	10.00	8,45,000/-
Earth work in excavation in the following types of soils up to any depth, for all lifts, including bailing/pumping out any water accumulating inside the excavation adequate protection during excavation, drilling, blasting and transporting the excavated spoil/materials after stripping of top soil as per specification to the designated area/places stacking of usable and disposal of excess of unusable material all complete as per drawing specification and direction of Engineer for any lead within acquired area for lead of 100M	500 Cu. M	150	75,000/-
Supply and transport of earth of specified quality (as per specification and drawing) from any source including all taxes, any filing the same in embankment in random fill zone in layers not exceeding 250mm measured loose in proper profile to various heights above existing ground level after stripping of top soil as per specification, watering of each layer in the stipulated manner as per specification and / or direction of Engineer and compaction by mechanical means (Dozer Static & Vibratory roller) to achieve required degree of compaction as per specification, disposal of excess of unusable material all complete as per drawing specification and direction of Engineer including cost of all machinery tools & tackles for any lead (Sectional measurement for compacted filing will only be paid)	478500 Cu M	300	14,35,50,000/-
Supply and transport impervious clay of specified quality (as per specification and drawing) from any source including all taxes, any filing the same in embankment in impervious fill zone in layers not exceeding 250mm measured loose in proper profile to various heights above existing ground level after stripping of top soil as per specification, watering of each layer in the stipulated manner as per specification and / or direction of Engineer and compaction by mechanical means (Dozer Static & Vibratory roller) to achieve required degree of compaction as per specification, disposal of excess of unusable material all complete as per drawing specification and direction of Engineer including cost of all machinery tools & tackles for any lead (Sectional measurement for compacted filing will only be paid)	18000 CuM	325	58,50,000/-
Supplying laying and compacting uniformly graded filters of crushed stone aggregate 50 mm to 10 mm as per drawing specification and direction of Engineer (Stone aggregate Conforming to IS : 383)including cost of all lead, lift, taxes and royalty.	3400 cum	1400	47,60,000/-
Supplying laying and compacting uniform graded coarse and filters as per drawing	5100 cum	751	38,30,100/-

specification and direction of Engineer (Sand Conforming to IS : 383) including cost of all lead, lift, taxes and royalty.			
Providing and laying stone pitching 225 cm thick laid in courses and required profile with hard stone boulder including preparing the bedding surface filling the joints with sand including all taxes, royalty and all lead	5200 cum	1300	67,60,000/-

9. Personal Hearing Proceedings:

The Personal hearing of the applicant's Representatives was conducted and concluded on 30/08/18 & 06/09/18 Wherein the the points submitted in the written submission were reiterated.

10. Discussions & Findings :

10.1 We have considered the submissions made by the Applicant in their application for Advance Ruling as well as the submissions made during the Personal Hearing. We also considered the questions/issues on which Advance Rulings have been sought for by the applicant, relevant facts having bearing on the question/issue raised, the applicant's understanding/interpretation of law in respect of the issue.

11. In view of the above, we proceed to deliver Advance Ruling on the two questions, i.e.

- (i) Whether M/s Uranium Corporation of India Ltd. – Comes under the Purview of Government Entity; and
- (ii) What will be the rate of GST on the above said work order.

11.1 By going through the definition, government entity means- (i) set up by an Act of Parliament or State Legislature, or. (ii) established by any government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government or a local authority. In the instant case, the 100% equity of M/s Uranium Corporation of India Ltd is held by the President of India. Accordingly, M/s Uranium Corporation of India Ltd. is a government entity.

11.2 The second issue is-what will be the rate of GST on the said work order? -We find that the work order awarded is for the "Raising of western side Tailings dam from RL 195 M to RL 198 M at TURAMDIH". We also find that the total value of the work order for 'raising tailing dam' is Rs. 16,48,41,750/-.

11.3 Under the GST, the works contract has been defined in Section 2(119) of the CGST Act, 2017 as "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." In the instant case the applicant applicant has been awarded works contract for raising a Dam as per the requirement/specifications provided by the recipient.

11.4 In the instant case the applicant is carrying works contract service for M/s Uranium Corporation of India, which is a Government Body. The rate of GST for Works Contract service has been prescribed in serial number 3 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017 & notification no.24/2017-Central Tax (Rate) dated 21.09.2017 as :

"..... 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

Government, 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 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); (b) canal, dam or other irrigation works; (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or Disposal" Would be 6% (CGST) + 6% (SGST)=12%.

12. Now the question which remains is whether the benefit of the notification no. 39/2017 will be available in the present case ? For this the nature of work needs to be examined.

12.1 The term "Earth Work " has not been defined under any GST provisions. The Webster Dictionary defines Earth Work as " an embankment or construction made of earth specially one used as a field fortification. The Collins dictionary defines Earth Work as "excavation of earth as in engineering construction; a fortification made of earth. The Wikipedia defines Earth Work as "Earth work are engineering works through the processing of parts of earth surface involving quantities of soil or unformed rocks. After going through different definitions of earth work, we find that Bulk earthworks include the removal, moving or adding of large quantities of soil or rock from a particular area to another. They are done in order to make an area of suitable height and level for a specific purpose.

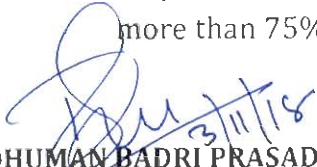
12.2 It is evident that the work order is for supply of services with material. It is also seen from the work order that the first four part of the work order is related with clearing of earth, excavation, supplying & laying of earth and impervious clay. The major part of the contract involves earth work i.e., more than 75% of the work involves earth work, we hold the same.

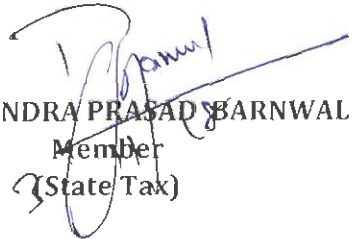
12.3 Since the major part of the work order, i.e., about 96%, is 'Earth Work', we find that the said work order qualifies for the benefit of Serial No 3 of notification 39/2017 dated 13.10.2017 issued under the GST Act, being Composite supply of works contract as defined in clause 119 of sec-2 of the CGST Act, 2017, involving pre dominantly earth work i.e. constituting more than 75% of the value of work in contract) provided to Central Government, State government, Union Territory, Local authority, a government authority or a Government Entity. GST will be applicable at the rate of 5%.

In view of the foregoing, we pass the following:

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- I. M/s Uranium Corporation of India Ltd has 100% of equity held by the President of India, hence, M/s Uranium Corporation of India Ltd is a government entity.
- II. The work order no. T-964 dt. 20.06.2017 awarded by M/s Uranium corporation of India Ltd, to applicant M/s P. K. AGARWALA constitute of more than 75% of 'Earth Work', the rate of GST would be 5%.


PRADHUMAN BADRI PRASAD MEENA
Member
(Central Tax)


RAM CHANDRA PRASAD BARNWAL
Member
(State Tax)