



**TELANGANA STATE AUTHORITY FOR ADVANCE RULING**

**CT Complex, M.J Road, Nampally, Hyderabad-500001.**

**(Constituted under Section 96(1) of TGST Act, 2017)**

**Present:**

**Sri B. Raghu Kiran, IRS, Joint Commissioner (Central Tax)**

**Sri S. Kasi Visweshwar Rao, Additional Commissioner (State Tax)**

**A.R.Com/18/2018**

**Date: 05.08.2021**

**TSAAR Order No.05/2021**

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017]**

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1. M/s. Sri Avantika Contracts (I) Limited, 3<sup>rd</sup> Floor, HSR Summit, Road No.10, Banjara Hills, Telangana, Hyderabad – 500 034, (GSTIN No. 36AAJCS5046C1ZG) have filed an application in **FORM GST ARA-01** under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules, seeking Advance Ruling seeking clarification.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs.5,000/- for SGST and Rs.5000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The concerned jurisdictional officer also raised no objection to the admission of the application. The application is therefore, admitted.

**4. Facts of the Case:**

M/s. Sri Avantika Contractors (I) Limited are engaged in construction services providing works contract services. They have secured contract from National Buildings Construction Corporation Limited (NBCCL) Delhi for constructing a building at Addu City, Maldives.

It is the understanding of the applicant that recipient of construction service is the Government of Maldives as the institute is being constructed as part of assistance from Government of India to Government of Maldives. Further as per the GST Act, 2017, the supply of services are taxable only within the territory of India. And therefore the supply of this service outside India does not constitute taxable supply.

They further contend in the application that the recipient of the service is Government of Maldives as they would be ultimate owners of the constructed building and hence the place of supply would be Maldives in terms of Section 13(4) of IGST Act, 2017.

**5. Clarification Sought:**

Based on the facts mentioned hereinafter, the applicant sought Advance Ruling on the following issues:

1. Whether the construction of Institute of Security and Law Enforcement Studies at Addu City in Maldives, constructed for Government of Maldives under an Memorandum of Understanding between India and Maldives falls within the GST net?
2. Who is the recipient of service in the instant case?
3. What is the place of supply in respect of the works contract for setting up of setting up of the Institute of Security and Law Enforcement Studies at ADDU City in Maldives?

**6. Contention of the tax payer:**

1. It was contended by the applicant that in the above activities, i.e., a company engaged in providing services in relation to construction activities and fall under the category - "Work Contract Service" In terms of Sl. No. 6 to schedule -II of the Goods and Services Act, 2017, the composite supply of Work Contract Service is treated as supply of service and accordingly, the same is subject to levy under GST.
2. Further, in terms of Section 1(2) of the Central Goods & Services Tax Act, 2017/The Integrated Goods & Services Tax Act, 2017, these acts extends to the whole of India except the State of Jammu and Kashmir. Therefore, the supply should be within the territory of India for charging CST/IGST on the said supplies. In other words, the place of supply shall be with in the taxable territory of India.

3. In the instant case, though the contract has been awarded by M/s. National Building Construction Company Limited, as per the MOU, the Institute is being constructed on behalf of Government of India as a part of assistance by the Government of India to Government of Maldives towards Social and economic development of Maldives. Therefore, the recipient of service in this case is Government of Maldives. Though the Contract is awarded by NBCC, they are the executing body, sub - contracted the subject work to the Applicant.
4. In the light of the above, the supply is rendered by the Applicant in respect of immovable property located in Maldives to Maldives Government.

**7. Personal Hearing:**

The Authorised representatives of the unit namely Sri. R. Narasimha murty (Tax Consultant) and Sri. Ch. Srinivas (Advocate), attended the personal hearing held on 09-11-2018 and 20-12-2019. However, orders were not passed due to the retirement of State Member. Government of Telangana vide G.O. Rt. No. 216, Rev(CT-II) Dept, Dt.16.06.2021 have nominated Sri S.V. Kasi Visweswara Rao, Additional Commissioner (ST) as member to The Authority for Advance Ruling and hence the case was re-posted a fresh on 29.06.2021. Heard the case. They reiterated the facts mentioned supra and sought for clarifications in respect of the queries raised in their application.

**8. Discussion & Findings:**

We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by R. Narasimha Murthy, Tax Consultant. During the personal hearing, we also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. At the outset, we would like to state that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the TGST Act.

1. The Government of Republic of India & Government of Maldives entered into a memorandum of understanding for construction of a Police Academy. As per this MOU the Government of India has awarded the work relating to planning, designing and execution of the project to National Buildings Construction Corporation Ltd., New Delhi. Sri Avantika Contractors Ltd., are in turn awarded the sub-contract to construct the said building by National Buildings Construction Corporation Ltd., New Delhi.

2. Evidently Sri Avantika Contractor Ltd., have not entered into any contract with Government of Maldives for carrying out the said construction. Further they do not have any privity with respect to the MOU between the Government of Republic of India & Government of Maldives. Therefore the applicant does not have any mutual or successive relationship with the Government of Maldives. Hence Government of Maldives is not the recipient of any service from the applicant.
3. Further an agreement is reached by National Buildings Construction Corporation Ltd., (NBCCL) New Delhi & Sri Avantika Contractor Ltd to construct the building at Addu City in Maldives. Hence Sri Avantika Contractor Ltd., is supplier of the service of the works contract and National Buildings Construction Corporation Ltd., New Delhi is the recipient of the Service.
4. Both the applicant who is the supplier of service & NBCCL who is recipient of service are located in India and therefore the place of supply is to be determined under Section 12 of the IGST Act. The proviso to Sub-Section (3) of Section 12 of IGST Act clearly mention that if the location of immovable property is intended to be located outside India, the place of supply shall be the location of the recipient

**Advance Ruling**

9. In view of the observations stated above, the following rulings are issued with regard to the applicability of Not. No. 11/2017-CT(R), dated 28.06.2017 (as amended) to the below mentioned activities:

Question Raised	Ruling
1. Whether the construction of Institute of Security and Law Enforcement studies at Addu City in Maldives, constructed for Government of Maldives under an Memorandum of Understanding between India and Maldives falls within the GST net?	The applicant who is the supplier of service & NBCCL who is recipient of service are located in India and therefore the place of supply is to be determined under Section 12 of the IGST Act. The proviso to Sub-Section (3) of Section 12 of IGST Act clearly mention that if the location of immovable property is intended to be located outside India, the place of supply shall be the location of the recipient. Therefore the supply by the applicant to the NBCCL is within the ambit of GST
2. Who is the recipient of service in the instant case?	National Buildings Construction Corporation Limited is recipient of service from the applicant

<p>3. What is the place of supply in respect of the works contract for setting up of the Institute of Security and Law Enforcement Studies at ADDU City in Maldives?</p>	<p>The applicant who is the supplier of service &amp; NBCCL who is recipient of service are located in India and therefore the place of supply is to be determined under Section 12 of the IGST Act. The proviso to Sub-Section (3) of Section 12 of IGST Act clearly mention that if the location of immovable property is intended to be located outside India, the place of supply shall be the location of the recipient i.e., NBCCL</p>
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(S. KASI VISWESHWAR RAO)  
ADDL. COMMISSIONER (State Tax)

  
(B. RAGHU KIRAN)  
ADDL. COMMISSIONER (Central Tax)

To  
M/s. Sri Avantika Contractors (I) Limited  
3<sup>rd</sup> floor, HSR Summit, Road No. 10,  
Banjara Hills, Hyderabad-500 034

Copy submitted to:  
1. The Commissioner (State Tax) for information

Copy to:  
1. The Joint Commissioner (State Tax), Abids,  
2. The Superintendent(Central Tax & GST, Ameerpet-II, Range.