Arihant Dredging Developers Private Limited

Authority for Advance Ruling — West Bengal

04/WBAAR/2019-20 dated 10/06/2019 (Case No. 16 of 2019; ARN AD1904… Dated **10.06.2019**

Q Questions Before the Authority

- Whether the Applicant's supply to the Irrigation and Waterways Directorate, Government of West Bengal, for resectioning of river Jamuna is exempt from GST under Sl No. 3 or 3A of Notification No. 9/2017-Integrated Tax (Rate) dated 28/06/2017, as amended.

F Facts

The Irrigation and Waterways Directorate, Government of West Bengal, awarded the Applicant a contract to resection the river Jamuna from upstream of Charghat Bridge to downstream of Ghonja Haspur Bridge in Swarupnagar, Habra-1 and Gaighata, North 24 Parganas. The work involves excavating and re-excavating drainage channels and the riverbed and depositing the excavated material outside government land. The contract price includes loading and unloading, transportation and the arrangement of land, and the price schedule does not separately value any goods.

H Ruling

Whether the Applicant's supply to the Irrigation and Waterways Directorate, Govt of West Bengal, for resectioning of river Jamuna is exempt from GST	**Exempt from GST under Sl No. 3A of Notification No. 9/2017-IT (Rate) dated 28/06/2017, as amended**	The ruling is valid subject to Section 103 and unless declared void under Section 104(1) of the GST Act. The scan does not contain a numbered Q1/Ans format; this row reflects the single operative ruling.

The Authority held that the Applicant's supply to the Irrigation and Waterways Directorate is **exempt from GST under Sl No. 3A** of Notification No. 9/2017-IT (Rate). It found the recipient to be the State Government, treated the work as a composite supply whose principal element is excavation, and treated any goods as purely incidental. It also held that the work relates to a function entrusted to a panchayat under Article 243G (Eleventh Schedule, item 5), so the exemption applies.

R Reasoning

The Authority read Sl No. 3 and 3A of the exemption notification together with Circular No. 51/25/2018-GST dated 31/07/2018, which treats the earlier service tax exemption under Sl No. 25(a) of Notification No. 25/2012-ST as substantially continued. It examined three conditions: a pure service or composite supply with goods not exceeding 25% of value, a government recipient, and a supply in relation to a function entrusted to a panchayat or municipality under Article 243G or 243W. It found excavation to be the principal supply and goods to be incidental, and relied on Article 243G and item 5 of the Eleventh Schedule (minor irrigation, water management and watershed development) for the function. It also relied on the recipient's certification in its memo dated

22/04/2019 that the project is in relation to such a function.

P Provisions Relied On

- Notification No. 9/2017-Integrated Tax (Rate) dated 28/06/2017, Sl No. 3 and Sl No. 3A
- Circular No. 51/25/2018-GST dated 31/07/2018
- Notification No. 25/2012-Service Tax dated 20/06/2012, Sl No. 25(a) (as referred to in the Circular)
- Article 243G and Eleventh Schedule, item 5 of the Constitution
- Article 243W of the Constitution
- Section 97(2)(b) of the CGST Act 2017 / WBGST Act 2017 (admissibility)
- Section 20, clause (xviii), of the IGST Act 2017
- Section 103 and Section 104(1) of the GST Act (validity of ruling)
- Section 100 (appeal period reference in preamble)

! For the Practitioner

A contractor doing government river, drainage or waterway works can cite this ruling for the proposition that such works may fall within Sl No. 3A when the recipient is a government body and the work is tied to an Eleventh Schedule function. It is especially useful where excavation is the main component and the goods element is incidental. The ruling does not bind other applicants, and it does not quantify the 25% goods threshold, since the Bench treated the goods as incidental without figures. Its finding also rests partly on the recipient's own certification, so a practitioner should check that the same certification is available in comparable cases.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> 04_wbaar_2019-20-addpl.pdf

Prepared 04-11-2026.

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