# Arihant Dredging Developers Private Limited

Authority for Advance Ruling — West Bengal

**11/WBAAR/2019-20** Dated **27.06.2019**

## Q Questions Before the Authority

- Whether the recipient, Orissa Construction Corporation Ltd, is a government entity under clause 2(zfa) of Notification No. 9/2017 - Integrated Tax (Rate) dated 28/06/2017.
- What is the taxability of the applicant's works contract supply under Sl No. 3(vii) of Notification No. 8/2017 - Integrated Tax (Rate) dated 28/06/2017 and under the Exemption Notification (Notification No. 9/2017), as amended from time to time.

## F Facts

The applicant holds a contract from Orissa Construction Corporation Ltd, a State Government company (the State owns 99.98% of equity), for desilting and dredging the Sunamuhin Drainage Channel and a pond near Harachandi mouth in Odisha. The work forms part of an irrigation project under the Department of Water Resources, Government of Odisha. The contract is a composite works contract, with about 98% of the work relating to dredging and about 5% of the value being materials transferred.

## H Ruling

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|---|---|---|
| **Is the recipient a government entity under cl. 2(zfa) of Notification 9/2017-IGST (Rate)?** | **Yes** | Based on the balance sheet as on 31/03/2017 and MGT-7 showing a State Government company with 99.98% State ownership. |
| **Rate for supply up to 12/10/2017** | **18% under Sl No. 3(vii) of Notification 8/2017-IGST (Rate)** | Rate applicable before the 13/10/2017 amendment. |
| **Rate for supply from 13/10/2017 to 24/01/2018** | **5% under Sl No. 3(vii) of Notification 8/2017-IGST (Rate), as amended by Notification 39/2017** | Applies because the work is a works contract with more than 75% earthwork for an irrigation project of a government entity. |
| **Exemption from 25/01/2018** | **Exempt under Sl No. 3A of Notification 9/2017-IGST (Rate), as amended by Notification 2/2018** | Requires a composite supply where goods are not more than 25% of value, supplied to a government entity for a function entrusted to a Panchayat under Article 243G. The Authority treated minor irrigation and water management (Eleventh Schedule, item 5) as such a function. |

The Authority ruled that the recipient is a government entity under clause 2(zfa) of Notification 9/2017-IGST (Rate). The supply was taxable at **18%** up to 12/10/2017, then at **5%** from 13/10/2017 to 24/01/2018 under Sl No. 3(vii) of Notification 8/2017 as amended by Notification 39/2017. From 25/01/2018 the supply is **exempt** under Sl No. 3A of Notification 9/2017 as amended by Notification 2/2018.


Prepared as a reading aid. Where this summary and the original order differ, the order governs.

## R Reasoning

The Authority found the recipient to be a government entity from its RoC filings and ownership. It treated the work as predominantly earthwork (dredging, dumping and dyke-building), which placed it in the 5% slab under Sl No. 3(vii) from 13/10/2017. For the period from 25/01/2018, it held that the composite supply qualified for Sl No. 3A, relying on Circular No. 51/25/2018-GST dated 31/07/2018 and the earlier service tax exemption at Sl No. 25(a) of Notification 25/2012-ST. It linked the works to item 5 of the Eleventh Schedule under Article 243G because the dredging improves navigability and irrigation.

## P Provisions Relied On

- Notification No. 8/2017 - Integrated Tax (Rate) dated 28/06/2017, Sl No. 3(vii), as amended by Notification No. 39/2017 dated…
- Notification No. 9/2017 - Integrated Tax (Rate) dated 28/06/2017, clause 2(zfa) and Sl No. 3A, as amended by Notification No…
- Circular No. 51/25/2018-GST dated 31/07/2018
- Notification No. 25/2012-Service Tax dated 20/06/2012, Sl No. 25(a) (referred to)
- Article 243G and Eleventh Schedule (item 5) of the Constitution of India
- Article 243W of the Constitution of India (referred to in Sl No. 3A)
- Section 97(2)(b) of the GST Act read with clause (xviii) of section 20 of the IGST Act, 2017 (admissibility)
- Sections 103 and 104(1) of the GST Act (binding effect and voidness of ruling)

## ! For the Practitioner

This ruling helps contractors doing dredging, desilting or irrigation works for State government entities, showing how the 5% rate and the Sl No. 3A exemption can apply. It settles the Sl No. 3A route for works linked to Panchayat functions under the Eleventh Schedule. It does not decide whether other State entities or other infrastructure works qualify, and it binds only the applicant and the recipient under section 103. Practitioners should check the 25% goods threshold and the function link against their own facts.

### 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 -> 11_wbaar_2019-20-arihant_ddpl.pdf

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