M/s Ashok Kumar Choudhary, 21/175, MLA Quarters, Kaveri Path, Mansarovar, Jaipur, Rajasthan 302020 (GSTIN 08ADDPC0346F1Z5)

Authority for Advance Ruling — Rajasthan

Advance Ruling No. RAJ/AAR/2019-20/20, Date of Ruling 03.09.2019 (dis… Dated **03.09.2019**

Q Questions Before the Authority

- What shall be rate of GST on activity of sub-contract for earthwork in relation to construction of access controlled Nagpur-Mumbai Super Communication Expressway (Maharashtra Samruddhi Mahamarg)?

F Facts

The applicant, a proprietorship engaged in works contract services, has been sub-contracted by M/s Potaliya Enterprises for earthwork (chainage Km 234+000 to Km 239+000) on the Nagpur-Mumbai Super Communication Expressway. Potaliya had received that sub-contract from Sadbhav Engineering Ltd, the principal contractor, which in turn holds the main construction contract from the MSRDC special purpose vehicle. The applicant takes the scope of work on the same terms as the Sadbhav-Potaliya letter of intent, and the agreement requires the applicant to deploy its own machinery and manpower.

H Ruling

Rate of GST on sub-contracted earthwork for the Nagpur-Mumbai Super Communication Expressway	**18% (CGST 9% + SGST 9%)**	The applicant had argued for 12% under entry 3(iv) of Notification 11/2017-CT(Rate); the authority rejected that classification. The order describes the service as SAC 995432 (site formation and clearance services).

The authority held that the applicant's activity is a supply of construction service for earthwork and related work, not construction of a road under entry 3(iv) of Notification 11/2017-CT(Rate). It is neither a composite supply, a mixed supply nor a works contract, since no goods are supplied and there is no transfer of property in goods. It is a site preparation service classifiable under SAC 995432, taxable at 18% (CGST 9% plus SGST 9%).

R Reasoning

The authority read the sub-contract agreement's scope (excavation, hard rock excavation, embankment, sub-grade, shoulder and median fill) and its clauses on the sub-contractor's own resources and liability as showing an independent earthwork service. It found no supply of goods, so the activity was neither a composite nor a mixed supply under Section 8 read with Sections 2(30) and 2(90). It also found no transfer of property in goods, so it was not a works contract under Section 2(119). Treating the work as a site preparation service, it classified it under SAC 995432 of the Annexure to Notification 11/2017-CT(Rate) and applied 18%.

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

P Provisions Relied On

- Section 97(2)(a) and (e) of the CGST/SGST Act, 2017 (admissibility of the question)
- Section 8 of the CGST/SGST Act, 2017 (tax liability on composite or mixed supply)
- Section 2(30) of the CGST/SGST Act, 2017 (composite supply)
- Section 2(90) of the CGST/SGST Act, 2017 (principal supply)
- Section 2(119) of the CGST/SGST Act, 2017 (works contract)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, entry 3(iv) (considered and rejected by the authority)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, heading 9954 entry 3(xii), 9% CGST
- Annexure to Notification No. 11/2017-CT(Rate): Scheme of Classification of Services, SAC 995432

! For the Practitioner

This ruling helps earthwork sub-contractors on highway and expressway projects by treating pure excavation, embankment and sub-grade work as a site preparation service at 18%, not as road construction at 12%. The authority relied on the absence of goods supply and transfer of property in goods, which keeps the work outside the composite and works contract categories. The ruling does not decide the rate for road construction work that includes supply of materials such as bitumen or aggregate. The jurisdictional officer's comments described the activity as a composite supply of services, which the authority did not adopt.

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 -> raj_aar_20_2019-20_ak_choudhary_03.09.19.pdf

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