Dredging and Desiltation Company Private Limited

Authority for Advance Ruling — West Bengal

03/WBAAR/2019-20 Dated **10.06.2019**

Q Questions Before the Authority

- Whether the exemption under Sl No. 3A of Notification No. 9/2017-Integrated Tax (Rate) dated 28/06/2017, as amended by Notification No. 2/2018 dated 25/01/2018, applies to the Applicant's works contract supply to the West Bengal Fisheries Corporation Ltd. for up-gradation of the Jalda Kuti Landing Centre by protection and up-gradation of navigability by dredging of the Mandarmani River.

F Facts

The West Bengal Fisheries Corporation Ltd., a State Government company in which the State holds about 92.5% of equity, awarded the Applicant a works contract to protect the Jalda Kuti Landing Centre against land erosion and to improve navigability of the Mandarmani River by dredging. The contract involves building spurs with supplied goods such as granite, boulders and gabions, along with dredging, loading and transport services. The price schedule shows goods at about 11% of the contract value and dredging and earthwork at about 89%.

H Ruling

Whether exemption under Sl No. 3A of Notification 9/2017-IT (Rate), as amended by Notification 2/2018, applies to the works contract supply to West Bengal Fisheries Corporation Ltd.	****Yes. The exemption applies to the Applicant's supply.****	The conditions were that the supply is a composite supply with goods not exceeding 25% of value, the recipient is a government entity, and the work relates to a function entrusted to a panchayat or municipality under the Constitution. The ruling is valid subject to section 103 until declared void under section 104(1).

The Bench held that the exemption under Sl No. 3A of Notification No. 9/2017-IT (Rate), as amended by Notification No. 2/2018, applies to the Applicant's supply to the West Bengal Fisheries Corporation Ltd. It found the supply to be a composite supply where goods are not more than 25% of value, the recipient to be a government entity, and the work to relate to fisheries development, a function listed in the Eleventh Schedule and entrusted to panchayats under Article 243G.

R Reasoning

The Bench relied on Circular No. 51/25/2018-GST dated 31/07/2018, which treated the service tax exemption at Sl No. 25(a) of Notification No. 25/2012-ST as substantially continued under Sl Nos. 3 and 3A of the GST exemption notification. It then tested eligibility on three limbs: a composite supply with goods at or below 25% of value (about 11% here), a government entity recipient under clause 2(zfa), and a supply in relation to a function under Article 243G. It treated fisheries as item 4 of the Eleventh Schedule, finding a direct nexus between the landing centre work and fisheries development. The Bench also relied on the Applicant's submissions on the recipient's shareholding and the price schedule.

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

P Provisions Relied On

- Notification No. 9/2017-Integrated Tax (Rate) dated 28/06/2017, Sl No. 3 and Sl No. 3A
- Notification No. 2/2018-Integrated Tax (Rate) dated 25/01/2018
- Clause 2(zfa) of the Exemption Notification (definition of government entity)
- Circular No. 51/25/2018-GST dated 31/07/2018
- Notification No. 25/2012-Service Tax dated 20/06/2012, Sl No. 25(a)
- Article 243G and Article 243W of the Constitution of India
- Eleventh Schedule to the Constitution, item 4 (Fisheries)
- Section 97(2)(b) of the CGST Act / WBGST Act, 2017
- Clause (xviii) of section 20 of the IGST Act, 2017
- Section 100 of the GST Act (appeal provisions in preamble)
- Section 103 and section 104(1) of the GST Act

! For the Practitioner

The ruling helps contractors doing government works in fisheries, waterways or similar public-welfare areas. It shows how the Circular-based bridge from the service tax exemption is applied, and how a state-owned company is treated as a government entity. It does not decide the 25% goods-value test on other contracts, and under section 103 it binds only the Applicant and the recipient. The fisheries-nexus reasoning is fact-driven, so it should be checked against the specific scope of any new contract.

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 -> 03_wbaar_2019-20-ddcpl.pdf

Prepared 04-11-2026.

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