M/s Hi Tech Builder (Deepak Kumar Nigam), Banda, Uttar Pradesh, GSTIN 09ABIPN6007D1ZT

Authority for Advance Ruling — Uttar Pradesh

Order No. 49, dated 15-01-2020 (Authority for Advance Ruling, Uttar Pra… Dated **15.01.2020**

Q Questions Before the Authority

- Whether the Project Development Service (Detailed Project Report service) and Project Management Consultancy services provided by the applicant to SUDA, and the Project Management Consultancy services under PMAY, qualify as an activity in relation to a function entrusted to a Panchayat or Municipality under Article 243G or Article 243W of the Constitution.
- If the answer to the first question is yes, whether such services qualify as pure services (excluding works contract or composite supplies involving supply of goods) under Serial No. 3 of Notification No. 12/2017-Central Tax (Rate), as amended by Notification No. 2/2018-Central Tax (Rate), and the corresponding UPGST notification, so as to be exempt from CGST and UPGST.

F Facts

The applicant is a consultancy firm providing infrastructure, housing, survey and project management services, and was assigned work by the State Urban Development Agency (SUDA), Uttar Pradesh, under the Pradhan Mantri Awas Yojana (Urban) scheme, covering preparation of a Detailed Project Report (DPR) and Project Management Consultancy (PMC). The contract scope includes beneficiary surveys, DPR preparation, supervision of construction of dwelling units, and related MIS and progress reporting. The applicant contended that the project cost includes reimbursement of the cost of goods procured for the services.

H Ruling

Whether DPR and PMC services under SUDA/PMAY relate to functions entrusted to Municipalities (Art. 243W) or Panchayats (Art. 243G)	**Yes. The consultancy services are in relation to functions entrusted to Municipalities under Article 243W and to Panchayats under Article 243G.**	The finding rests on the scope of work in the SUDA and PMAY contracts and on the Eleventh and Twelfth Schedule functions listed in the order. The jurisdictional officer's report describes the project as falling under 'Article 234W', which appears to be a typographical error for 243W.
Whether such services are pure services exempt under Sl. No. 3 of Notification 12/2017-CT(Rate) as amended by 2/2018, and the corresponding UPGST notification	**Yes. The services are pure services (excluding works contract or composite supplies involving supply of goods) and are exempt from CGST and UPGST.**	The exemption applies where the project cost includes the cost of service along with reimbursement of the cost of procurement of goods for rendering the service. The order cites the same exemption for CGST and UPGST.

The consultancy services rendered under the SUDA and PMAY contracts are in relation to functions

entrusted to Municipalities under Article 243W and to Panchayats under Article 243G. The authority further held that these services qualify as **pure services exempt from tax** under Serial No. 3 of Notification No. 12/2017-Central Tax (Rate), as amended, and the corresponding UPGST notification, where the project cost includes reimbursement of goods procured for the service. The ruling is binding on the applicant, subject to Section 103(2) and until declared void under Section 104(1).

R Reasoning

The authority admitted the application under Section 97(2)(b) of the CGST Act, as it concerns the applicability of a notification. It examined the SUDA memorandum of association, the PMAY scheme as described on the Ministry's website, and the scope of work under the DPR and PMC contracts. It found that PMAY is a scheme of central assistance to urban local bodies for slum rehabilitation, and that the functions in the Eleventh and Twelfth Schedules (including urban planning, slum improvement, poverty alleviation and safe water) are engaged by the work. On that basis it held the services fall within Articles 243G and 243W. For the second question it examined the contract terms and held the services qualify as pure services within Serial No. 3 of Notification 12/2017-CT(Rate), as amended by Notification 2/2018-CT(Rate), and the corresponding UP notification dated 30.06.2017.

P Provisions Relied On

- Section 97(2)(b) of the CGST Act, 2017
- Section 103(2) of the CGST Act, 2017
- Section 104(1) of the CGST Act, 2017
- Article 243G of the Constitution of India
- Article 243W of the Constitution of India
- Eleventh Schedule and Twelfth Schedule to the Constitution of India
- Notification No. 12/2017-Central Tax (Rate), dated 28.06.2017, Serial No. 3
- Notification No. 2/2018-Central Tax (Rate), dated 25.01.2018 (Serial No. 3A)
- Corresponding UP notification No. KA.N.I.-2-843/X1-9(47)/17-UP.Act-1-2017-Order-(10)-2017, dated 30.06.2017

! For the Practitioner

A practitioner advising consultants engaged by SUDA or urban local bodies on PMAY (Urban) DPR and PMC work can cite this order for the **exemption on pure consultancy services in relation to Article 243W and 243G functions** . The order is binding only on the applicant, and its conclusion depends on the contract scope and the cost structure described in the order. It does not decide the position for other urban schemes, for works contracts, or for supplies where goods are not reimbursed at cost. Any appeal lies to the UP Appellate Authority within 30 days of service.

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 -> up_aar_49_15.01.2020_htb.pdf

Prepared 16-11-2026.

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