Neo Built Corporation

Authority for Advance Ruling — West Bengal

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

Q Questions Before the Authority

- Whether the applicant's supply of services to the Irrigation and Waterways Directorate, Govt of West Bengal, for resuscitation of river Palaspai by re-excavation, with raising and strengthening of embankment, is exempt from GST under Sl No. 3 or 3A of Notification No. 9/2017 - Integrated Tax (Rate) dated 28/06/2017.

F Facts

The Irrigation and Waterways Directorate, Govt of West Bengal awarded the applicant a contract for resuscitation of river Palaspai from Banskhal to Mahishghata, by re-excavation, along with raising and strengthening of embankments on both sides, in Block Daspur 1 and 2, PS Daspur, Paschim Medinipur. The work includes pumping out water, excavation and re-excavation of drainage channels, disposal of excavated material, and compacting earthwork in the embankment. The compacting component, for which some materials are supplied, is about 2% of the contract value, and the recipient reportedly deducted no GST, believing the exemption applies.

H Ruling

Exemption for resuscitation of river Palaspai and embankment work supplied to the Irrigation and Waterways Directorate, Govt of West Bengal	**Exempt from GST under Sl No. 3A of Notification No. 9/2017 - Integrated Tax (Rate) dated 28/06/2017**	Applies because the recipient is a State Government department, the supply is a composite supply where goods are not more than 25% of value (here about 2%), and the activity is relatable to Eleventh Schedule item 5 (minor irrigation, water management and watershed development). The ruling is subject to Section 103 and remains valid until declared void under Section 104(1).

The authority held that the applicant's supply to the Irrigation and Waterways Directorate is exempt from GST. The supply is a composite supply primarily of services, where the goods element is well below the threshold, and it is in relation to a function entrusted to a panchayat under Article 243G, namely item 5 of the Eleventh Schedule. The exemption falls under **Sl No. 3A** of Notification No. 9/2017 - Integrated Tax (Rate).

R Reasoning

The Bench first read the circular on the earlier service tax exemption (Sl No. 25(a) of Notification 25/2012-ST) and Circular 51/25/2018-GST dated 31/07/2018, which treat the GST exemption as continuing and broadened to 'any activity in relation to any function' entrusted to a panchayat or municipality. It then tested three conditions: the supply is pure service or a composite supply with goods not exceeding 25% of value, the recipient is a government or governmental entity, and the work relates to a function under Article 243G or 243W. The Bench found the goods element was negligible and that the principal supply was service, so the composite limb was met. It treated river resuscitation as reviving water flow and therefore relatable to Eleventh Schedule item 5, especially

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

when undertaken by a State irrigation department. The Revenue's contrary view, that the exemption covers pure services only and the price schedule refers to materials, was not accepted.

P Provisions Relied On

- Section 97(2)(b) of the CGST Act, 2017 / WBGST Act, 2017
- Section 20 read with clause (xviii) of the IGST Act, 2017
- Section 96, Section 99 and Section 100 of the WBGST Act, 2017 (authority, appellate authority and appeal provisions, as reci…
- Section 103 and Section 104(1) of the GST Act (binding effect and voiding of rulings)
- Notification No. 9/2017 - Integrated Tax (Rate) dated 28/06/2017, Sl No. 3 and Sl No. 3A
- Notification No. 25/2012 - Service Tax dated 20/06/2012, Sl No. 25(a)
- Circular No. 51/25/2018-GST dated 31/07/2018
- Article 243G of the Constitution and Eleventh Schedule, item 5
- Article 243W of the Constitution

! For the Practitioner

This ruling helps contractors doing river, drainage or embankment work for State irrigation departments. It applies the Sl No. 3A composite-supply exemption, with the goods element capped at 25% of value, and links river resuscitation to Eleventh Schedule item 5. It does not decide how to treat works contracts where goods form a larger share, nor whether every river or drainage project qualifies. As an advance ruling, it binds only the applicant and the recipient on these facts. The reasoning on Sl No. 3 versus 3A and the Revenue's objection should be checked against the full order before relying on it.

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 -> 05_wbaar_2019-20-neo_built.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com