M/s Shimsha Infrastructures

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 94/2019, dated 27th September 2019 Dated **27.09.2019**

Q Questions Before the Authority

- What is the GST rate applicable for sub-contract (works contract) for construction of independent residential units for weaker sections of society under 'Pradhan Mantri Awas Yojana', given that Notification No. 1/2018-Central Tax (Rate) prescribes 12% for the main works contract but says nothing about sub-contracts?

F Facts

The applicant, a partnership firm registered under the GST law, is in the business of executing civil works contracts. The work order for constructing houses under Pradhan Mantri Awas Yojana was awarded to a main contractor, and the applicant received part of that work on a sub-contract basis. The main work order, issued by the Karnataka Slum Development Board, covers construction of 829 dwelling units with infrastructure at six selected slums in Belagavi (printed as Belgaum) under the in-situ scheme.

H Ruling

Rate of GST on sub-contract for construction of independent houses under PMAY (in-situ slum scheme), as a sub-contract to a main PMAY works contract	**CGST 6% and KGST 6% (12% in total)**	The ruling rests on the sub-contract being back-to-back with a main contract that is a composite works contract under clause (119) of section 2 of the CGST Act and falls under sub-item (c) of item (iv) of serial 3. The order treats the sub-contract as covered by sub-item (c) because it is back-to-back with the main contract.

The authority held that the applicant's sub-contract for construction of independent houses is **covered under sub-item (c) of item (iv) of serial number 3 of Notification No. 11/2017-Central Tax (Rate)** , as amended by Notification No. 1/2018-Central Tax (Rate). It is **liable to CGST at 6%** , and the same rate applies under the KGST Act, 2017.

R Reasoning

The authority examined the main work order and found it to be a construction of 829 dwelling units under PMAY, which it placed within item (iv) of serial 3 of Notification No. 11/2017-Central Tax (Rate) as amended by Notification No. 1/2018-Central Tax (Rate). It read sub-item (c) as requiring a composite supply of works contract within clause (119) of section 2 of the CGST Act, and a civil structure or original works for in-situ rehabilitation of existing slum dwellers under PMAY. Because the applicant's sub-contract was back-to-back with that main contract, the authority held it covered by the same sub-item. The applicant had argued for 18% under clause 5(b) of Schedule II and cited other advance rulings, but the order does not expressly discuss those arguments in its findings. The order gives the date of the amending notification as 28.01.2018 at one point and 25.01.2018 elsewhere.

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

P Provisions Relied On

Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, serial no. 3, item (iv), sub-item (c)

Notification No. 1/2018-Central Tax (Rate) dated 25.01.2018 (amending notification; date also printed as 28.01.2018 in one pl…

Section 2(119) of the CGST Act, 2017 (definition of composite supply of works contract)

Section 97 and Section 98(4) of the CGST Act, 2017 and the KGST Act, 2017 (advance ruling)

Schedule II, clause 5(b) of the CGST Act, 2017 (cited by the applicant, not applied by the authority)

! For the Practitioner

Sub-contractors executing PMAY houses under a main contract for in-situ slum rehabilitation can rely on this ruling for the 6% CGST and 6% KGST rate, provided the main contract matches sub-item (c). It does not decide the rate for sub-contracts under the other PMAY sub-items, such as beneficiary-led construction or credit-linked subsidy housing, which fall under different entries. The ruling binds only the applicant and the revenue authorities in respect of this applicant, so other parties should check the main contract's wording against the entry 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 -> kar_aar_94_2019_27.09.2019_si.pdf

Prepared 11-11-2026.

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