Sri Roopesh Kumar (GSTIN 29AMAPK0069R1ZK), proprietary concern, represented by Sri Shankar P, GSTP

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 101/2019 Dated **27.09.2019**

Q Questions Before the Authority

- Whether the applicant has to charge GST for providing hydraulic excavator and ten wheeler tippers to transport RDF (inerts) from the KCDC processing plant, Bommanahalli, to the Bellahalli landfill site near Yelahanka, done for a government organisation, and if so at what rate.
- Whether this service is exempt under Entry No. 3 of Notification No. 12/2017 (Central Tax (Rate)), which covers pure services provided to the Central or State Government, a local authority or a Government Entity in relation to a function entrusted to a Panchayat under Article 243G or a Municipality under Article 243W.
- Whether the activity is in relation to a function entrusted to a municipality under Article 243W, and whether any exemption is available for service rendered to KRIDL. (Withdrawn by the applicant.)
- Whether exemption is available under GST in respect of service rendered to KRIDL, a Government Organisation.

F Facts

The applicant is a proprietary concern engaged in excavating and transporting refuse-derived fuel using earth-moving equipment and tippers. BBMP appointed Karnataka Rural Infrastructure Development Limited (KRIDL), a 100% Government of Karnataka undertaking, to shift waste from the KCDC plant to the Yelahanka landfill, and KRIDL subcontracted the haulage and levelling work to the applicant on a per-load basis, using hired tippers under the applicant's effective control.

H Ruling

GST liability and rate on haulage and levelling service to KRIDL (Q1)	****Exempt from payment of tax; no GST rate applies****	Exemption is under Entry No. 3 of Notification No. 12/2017-CT(Rate), as amended by Notification No. 2/2018-CT(Rate), effective from 25.01.2018.
Exemption under Entry No. 3 for services to KRIDL (Q2 and Q4)	****Yes, exempt under Entry No. 3****	Conditions met: pure service, recipient is a Government Entity, and the work relates to a function of a Municipality under Article 243W. The authority held that Entry 3A (composite supply, 25% goods limit) does not apply because no goods are supplied.

The authority held that the activity is exempt from tax under Entry No. 3 of Notification No. 12/2017 as amended by Notification No. 2/2018, with effect from 25.01.2018. It found that the work is a pure service involving no supply of goods, that solid waste management is a Municipality function under Article 243W, and that KRIDL is a Government Entity even though it is not a Governmental Authority. The ruling therefore answers the rate question by treating the supply as exempt.

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

R Reasoning

The authority applied the three conditions of Entry No. 3. The activity involves only services and no goods, satisfying the first condition. Solid waste management is a function under Article 243W, satisfying the third condition. KRIDL is not a Governmental Authority under the IGST Act definition, since it is a company, but it is a Government Entity under clause (zfa) of paragraph 2 of the notification, as amended by Notification No. 32/2017, because the State Government holds full control, satisfying the second condition. The authority also held that the work is not a composite supply of goods and services, so Entry 3A is not attracted.

P Provisions Relied On

- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Entry No. 3
- Notification No. 2/2018-Central Tax (Rate) dated 25.01.2018 (amendment to Entry No. 3)
- Notification No. 12/2017-CT(Rate), Entry No. 3A (considered and held not applicable)
- Notification No. 12/2017-CT(Rate), para 2 clause (zf) (governmental authority) and clause (zfa) (Government Entity), as amen…
- Explanation to clause (16) of section 2, Integrated Goods and Services Tax Act, 2017
- Section 2(30), CGST Act, 2017 (composite supply)
- Article 243W and Article 243G of the Constitution

! For the Practitioner

This ruling is useful for subcontractors doing BBMP solid-waste haulage through a government undertaking such as KRIDL, since it sets out how the Entry 3 conditions and the Government Entity definition apply. It binds only the applicant and the named jurisdiction. It does not decide the position for recipients that are not government entities, for contracts involving supply of goods, or for work not linked to a Panchayat or Municipality function. The third question was withdrawn and is not decided.

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_101_2019_27.09.2019_srk.pdf

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