M/s URC Construction (P) Ltd.

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 73/ 2019, Dated: 23-09-2019 Dated **23.09.2019**

Q Questions Before the Authority

- What is the applicable rate of tax for the provision of construction service rendered to NCBS?

F Facts

The applicant entered into a works contract with the National Centre for Biological Sciences (NCBS) for construction of laboratories and associated facilities on NCBS's Bengaluru campus. NCBS began as a separate centre of the Tata Institute of Fundamental Research (TIFR) and receives grants from the Department of Atomic Energy. The applicant, as contractor, took the view that the residual rate of 18% applies, while NCBS argued that the 12% concessional rate applies under entry (vi) of Serial No. 3 of Notification 11/2017-CT(Rate), as amended.

H Ruling

Rate of tax on works contract service provided to NCBS	**9% CGST and 9% KGST (18% in total)**	Under item (xii) of Serial No. 3 of Notification 11/2017-CT(Rate) dated 28.06.2017 and the corresponding KGST notification. NCBS is not a Government Entity, so the 12% entry (vi) rate does not apply.

The works contract service is liable to **9% CGST and 9% KGST** , under item (xii) of Serial No. 3 of the relevant notifications. The authority held that NCBS is **neither a Governmental Authority nor a Government Entity** , so the 12% rate under entry (vi) is not available.

R Reasoning

The authority accepted that the contract is a works contract under clause (119) of section 2 of the CGST Act, 2017, so the only issue was the rate. It held that NCBS is not a Central or State Government, UT, local authority or Governmental Authority under clause (ix) of para 4 of Notification 11/2017. It then held that NCBS is not a Government Entity under clause (x). NCBS was not set up by an Act of Parliament or State Legislature, was not established by any Government, and its council has only four government-appointed members, so government control is below 90 per cent. Further, the institute was not set up to carry out a function entrusted by the Government. Since the proviso to entry (vi) also requires procurement in relation to work entrusted by the Government, which was not shown, the service fell to the residual item (xii) at 9% plus 9%.

P Provisions Relied On

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

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

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

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

Rule 104 of the CGST Rules, 2017 and Rule 104 of the KGST Rules, 2017

Notification 11/2017-Central Tax (Rate) dated 28.06.2017, para 4 clauses (ix) and (x), and Serial No. 3 entry (vi) with its provi…

Notification 24/2017-Central Tax (Rate) dated 21.09.2017 (amendment to entry (vi))

Notification 31/2017-Central Tax (Rate) dated 13.10.2017 (amendment to definitions in para 4)

KGST notification No. FD 48 CSL 2017 dated 29.06.2017, as amended

! For the Practitioner

This ruling is useful for contractors working for research institutes funded by government bodies, where the 12% works contract rate is claimed on the basis of government funding. It settles that an institute funded by a Department of the Government but governed by a council with fewer than 90 per cent government appointees, and not created by statute or to carry out an entrusted government function, is not a Government Entity. It does not decide the position for other institutions with different governance structures or for works entrusted by the government. The ruling binds only the applicant and the revenue authorities in this case.

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_73_2019_urccpl_23.09.19.pdf

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