M/s V.K. Building Service Private Limited (printed as M/s V.K .Building Service Pvt. Ltd. in the cover table)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 39/2019, Date: 16-09-2019 Dated **16.09.2019**

Q Questions Before the Authority

- Whether the activity undertaken by the applicant is covered under section 2(119) of the CGST Act, 2018 [sic] read with point 6 of Schedule II of the CGST Act, 2017, read with the Karnataka GST Act, 2017 and the IGST Act, 2017?
- Whether Bangalore Development Authority is a Government Authority as per the provisions of GST Law?
- Whether the transaction covered under point 3(ii) of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 as amended?
- Whether the transaction covered under point 3(ix) of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 as amended?

F Facts

The applicant is a civil construction and works contract company that sub-contracted construction of residential complexes and houses at two Bengaluru sites to the main contractor, Gowri Infra Engineers Private Limited (GIPL). GIPL had received the work from the Bangalore Development Authority (BDA) through tender, under work orders dated 18-07-2014 and 29-07-2014. The applicant's sub-contract was dated 06-06-2014 and the work was in progress for about three years.

H Ruling

Whether the applicant's activity is covered under section 2(119) CGST Act (works contract)	**Yes. The activity is covered under section 2(119) and is works contract services.**	The order's ruling does not separately address the Schedule II point 6 or the IGST Act limb of the question.
Whether BDA is a Government Authority under GST law	**Yes. BDA is a Government Authority.**	In the body, the authority reasons that BDA is a Government Entity: it was set up by the State Act and is controlled by the Government of Karnataka.

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

Whether the transaction is covered under entry 3(ii) and entry 3(ix) of Notification 11/2017-CT(Rate) as amended	**Covered under entry 3(ix), as amended by Notification 1/2018-CT(Rate): **6% CGST and 6% KGST from 25.01.2018**. For the period earlier than 25.01.2018, entry 3(ii) applies at 9% CGST and 9% KGST.**	The order's ruling treats the entry 3(ii) rate as applying only to the period before 25.01.2018. The scan of the ruling is legible on this point.

The authority held that the applicant's activity is a works contract service under section 2(119) of the CGST Act. It held that BDA is a Government Authority (Government Entity) under GST law. It further held that the sub-contract is taxable under entry 3(ix) of Notification 11/2017 at **6% CGST and 6% KGST from 25.01.2018** , and under entry 3(ii) at **9% CGST and 9% KGST for the period before 25.01.2018** .

R Reasoning

The authority found that BDA is a Government Entity because it was set up under a State Act and is controlled by the State Government, which satisfies the 90 per cent participation test in paragraph 4(x) of the notification. It held that the main contractor's services to BDA are works contract services for a civil structure predominantly used for residential purposes, and so fall within entry 3(vi)(a). It then treated the applicant's sub-contract as a composite supply by a sub-contractor under entry 3(ix), which was inserted by Notification 1/2018 with effect from 25.01.2018. For the earlier period the authority applied the 9 per cent rate under entry 3(ii), and it noted that parallel Karnataka notifications apply.

P Provisions Relied On

- Section 2(119) of the CGST Act, 2017 (works contract)
- Section 9(1) of the CGST Act, 2017 (as reproduced in the application)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, entries 3(ii), 3(vi) and 3(ix), and paragraph 4(x) (Government…
- Notification No. 24/2017-Central Tax (Rate) dated 21.09.2017 (amendment to entry 3(vi))
- Notification No. 1/2018-Central Tax (Rate) dated 25.01.2018 (amendment inserting entry 3(ix))
- Bangalore Development Authority Act, 1976, section 3(3)
- Corresponding Karnataka GST notifications (KGST Act, 2017)

! For the Practitioner

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

A sub-contractor to a main contractor executing work for a development authority such as BDA can use this ruling to support the 6 per cent (CGST and KGST) rate for supplies made from 25.01.2018, and the 9 per cent rate for earlier supplies. The ruling settles the Government Entity status of BDA for these notifications. It does not decide the position for other statutory bodies, for works that are for commerce or sale, or for any post-2018 change in the rates.

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_39_2019_vkbuildingservice.pdf

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