

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 107/2019

Dated: 30th September, 2019

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State
Tax)

1.	Name and address of the applicant	Sri. N.C.PRAKASH, M/s WISDOM SECURITY SERVICES, No.106, 1 st Floor, Manjunathanagar, 40 feet Road, West of Chord Road, Bengaluru 560 010
2.	GSTIN or User ID	29ACIPP7156N1ZQ
3.	Date of filing of Form GST ARA-01	19.07.2019
4.	Represented by	Sri Basavaraju.T.M., Finance Manager
5.	Jurisdictional Authority - Centre	Pr. Commissioner of Central tax, Bangalore West
6.	Jurisdictional Authority - State	LGSTO-140, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of 1. Rs.5,000-00 under CGST Act vide CIN CORP19072900202335 dated 18.07.2019 2. Rs.5,000-00 under KGST Act vide CIN CORP19072900202335 dated 18.07.2019

**ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND
SERVICE TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE
KARNATAKA GOODS AND SERVICES TAX ACT, 2017**

1. M/s Wisdom Security Services, (called as the 'Applicant' hereinafter), , having GSTIN number 29ACIPP7156N1ZQ, has filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the KGST Act, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.



2. The Applicant is a Proprietary concern and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

Is GST Applicable on man power services provided to Karnataka Rural Road Development Agency?

3. The applicant furnishes some facts relevant to the stated activity:

- a. The applicant states that he is in the business of providing manpower services. He is providing man power services of Data Entry Operator, Field Engineer, Diploma Field Engineer, Senior Software Professional (Team Leader), Software Engineers for IT Cell, Graduate Assistant, Office Assistant, Peon, Watchmen, etc. to Karnataka Rural Road Development Agency which is under Department of Rural Development and Panchayat Raj Engineering, Government of Karnataka.
- b. He states that he is providing manpower services to M/s Karnataka Rural Road Development Agency, (KRRDA) throughout Karnataka State for their various locations as per their work orders against e-Tender. The recipient of service, i.e. KRRDA are informing the applicant that their Audit team is saying that GST is not applicable on manpower services provided to them saying it is pure services and the notification referred by them is Notification No.12/2017 – Central Tax (Rate).
- c. The applicant states that as per Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017, Serial No. 3, which reads “Pure Services (excluding works contract services or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union Territory or local authority or a Government Authority by way of any activin relation to any function entrusted to a Panchayat under article 243G of the constitution or in relation to any function entrusted to a Municipality under article 243W of the constitution, the rate of tax applicable is – NIL. Since the services provided to M/s Karnataka Rural Road Development Agency, to their various officers in Karnataka, from their company is Manpower Services, they feel that the above referred Notification can be applied and GST is not chargeable.

4. FINDINGS & DISCUSSION:

4.1 The entry no. 3 of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 is verified the same reads as under:

“Pure Services (excluding works contract service or other composite

supplies involving supply of goods) provided to the Central Government, State Government or Union Territory or local authority or a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution."

4.2 The contract of the applicant is examined and it is seen that the contract is for providing services which does not involve supply of goods and hence is pure services.

4.3 The second issue to be examined is whether the recipient is a Government or local authority or a Governmental Authority. Admittedly the recipient of services i.e. Karnataka Rural Road Development Agency is not Central Government or State Government or a local authority.

4.3.1 The Karnataka Rural Road Development Agency is a Society registered under the Societies Registration Act, 1960 and is a compact, professional and multi-disciplinary body and the personnel will be obtained or engaged on deputation from PRED or hired on contract basis. There will be no permanent appointment to KRRDA. It draws Monitors from different Disciplines, and other Organizations (Public Sector or Private Sector), on part-time basis, to serve as independent Monitors.

4.3.2 The KRRDA will execute all such other acts and things, either alone or in conjunction with other organizations or persons, as the Karnataka Rural Roads Development Agency may consider necessary, incidental or conducive to the attainment of the objectives mentioned above.

4.3.3 The clause 2(zf) of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 defines the Governmental Authority as under:

"governmental authority" has the same meaning as assigned to it in the Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017);"

4.3.4 Explanation to Section 2(16) of the Integrated Goods and Services Tax Act, 2017 defines "governmental authority" as under:

"governmental authority" means an authority or board or any other body, -

(i) set up by an Act of Parliament or a State Legislature;
or

(ii) established by any Government,

with ninety per cent. or more participation by way of equity or



control, to carry out any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution."

4.3.5 The objectives of the recipient as available in the website of the recipient are as under:

- To provide state-of-the art technical support to the department in co-ordination with the technical academic institutions and evolving low cost construction technology using locally available materials to a greater extent.
- To create the qualitative and sustainable rural infrastructures within the time bound manner which meets the needs of the end users and delivers value to money invested.
- To produce the knowledgeable and experienced field engineers through the evaluation of performance by tapping their potential.
- To impart training and education to upgrade the knowledge continuously to gain competitive edge and then employing capacity building.
- To adopt cutting edge technologies and to provide excellent service to society.
- To inculcate moral and ethical values in the personnel and thereby increasing the agency's role towards social responsibility. Providing incentives and motivate the human resources to produce 'deliverables'.
- To establish strategic partnership with all the stakeholders by taking confidence building measures and working together.
- To maintain the assets created in the most serviceable conditions. To maintain highest transparency
- To evolve effective quality mechanism and complain response mechanism and to take redressal measures.

The goal of the organisation is "Providing basic infrastructures in rural areas to make them self reliable and self sufficient by 2020."

4.3.6 The list of functions entrusted to a Panchayat under Article 243G of the Constitution are as under:

- (i) Agriculture, including agricultural extension. (ii) Land improvement, implementation of land reforms, land consolidation and soil conservation.
- (iii) Minor irrigation, water management and watershed development. (iv) Animal husbandry, dairying and poultry. (v) Fisheries. (vi) Social forestry and farm forestry. (vii) Minor forest produce. (viii) Small scale industries, including food processing industries. (ix) Khadi, village and cottage industries. (x) Rural housing. (xi) Drinking water. (xii) Fuel and fodder.

(xiii) Roads, culverts, bridges, ferries, waterways and other means of communication. (xiv) Rural electrification, including distribution of electricity. (xv) Non-conventional energy sources. (xvi) Poverty alleviation programme. (xvii) Education, including primary and secondary schools. (xviii) Technical training and vocational education. (xix) Adult and non-formal education. (xx) Libraries. (xxi) Cultural activities. (xxii) Markets and fairs. (xxiii) Health and sanitation, including hospitals, primary health centres and dispensaries. (xxiv) Family welfare. (xxv) Women and child development. (xxvi) Social welfare, including welfare of the handicapped and mentally retarded. (xxvii) Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes. (xxviii) Public distribution system. (xxix) Maintenance of community assets.

4.4 The main question is whether the KRRDA is a Governmental Authority and whether the contract given by KRRDA to the applicant is in relation to the function entrusted to a Panchayat under article 243G of the Constitution or in relation to the function entrusted to a Municipality under article 243W of the constitution.

4.5 It is very clear from the above, the KRRDA is a Governmental Authority as it is involved in the creation of rural infrastructures like Roads in the villages which is a function entrusted to a Panchayat under Article 243W of the Constitution and is established by the Government.

4.6 The words "in relation to" is defined in the Oxford Dictionary as to mean "in the context of" or "in connection with". When two activities are directly linked to each other, then they are said to be in connection with or in the context of.

4.7 The activity of providing manpower like Data Entry Operators, Field Engineers, Diploma Field Engineers, Senior Software Professionals, Software Engineers for IT Cell, Graduate Assistant, Office Assistant, Peon and Watchman are to manage the back end work and managing the offices of the KRRDA and hence are not involved directly in the activity of maintaining or construction of roads. This activity is not directly connected to the work entrusted to a Panchayat under Article 243G of the Constitution, is only for a support service which is not project specific and hence cannot be considered to be "by way of an activity in relation to a function entrusted".



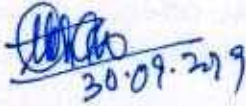
5. In view of the above, the contract of the applicant with KRRDA cannot be covered under the entry no. 3 of the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017.

6. In view of the foregoing, we rule as follows

RULING

The activity of providing manpower services like Data Entry Operators, Field Engineers, Diploma Field Engineers, Senior Software Professionals, Software Engineers for IT Cell, Graduate Assistant, Office Assistant, Peon and Watchman to Karnataka Rural Road Development Agency is not covered under entry no. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 and hence is not exempted from GST.




30.09.2019
(Harish Dharnia)
Member


(Dr.Ravi Prasad.M.P.)
Member

Place: Bengaluru
Date: 30.09.2019

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Pr. Commissioner of Central Tax, Bangalore-west
4. The Asst. Commissioner, LGSTO-140, Bengaluru
5. Office Folder