



SGST

 सत्यमेव जयते	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN) KAR BHAWAN, AMBEDKAR CIRCLE, JAIPUR (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2018-19/01

(IN APPLICATION NO. Advance Ruling/CGST & SGST/2017-18/AR/01)

Name and address of the applicant	:	TATA PROJECTS LIMITED – SUCG CONSORTIUM SUN TOWER, 2 nd FLOOR, SB-158A, GANDHI NAGAR TURN, TONK ROAD, JAIPUR - 302004
GSTIN of the applicant	:	08AAEAT6639F1Z8
Clause(s) of Section 97(2) of CGST / SGST Act, 2017, under which the question(s) raised	:	(b) applicability of a notification issued under the provisions of this Act; (e) determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing	:	23.03.2018, 06.04.2014
Present for the applicant	:	Shri K. Rama Mohana Rao (Senior Manager, F&A) Shri Rajesh Tripathi (AGM)
Date Of Ruling	:	27.04.2018

(A) SUBMISSION OF APPLICANT

1.1. M/s TPL – SUCG Consortium (herein after referred as the applicant also) submitted that, Jaipur Development Authority awarded a Contract to them vide their LOA No. JDA/EE-07/2016/D-662 dated: 04.03.2016 for Rejuvenation of Amanishah Nallah (Dravyavati River), Jaipur (Rajasthan) Including Area Development on Turnkey Basis, and its Operation & Maintenance (O&M) for a period of 10 Years.

Under the said Contract, the Major works proposed for the Project are as follows.

- Course Correction/ Strengthening of Amanishah Nallah - River rehabilitation includes ground preparations, lining, embankment works, protection & prevention, and development of other peripheral structures, landscaping, etc.



b) Sewerage Interception, treatment and disposal -

Local residents discharge untreated sewage in to the Nallah. This is proposed to be checked by intercepting the sewage from existing drains/sewer lines lying within 0.5 km of the center of the Nallah, providing limited collection main (along the banks of the Nallah only) and putting up the treatment plant as detailed in later sections for treating such intercepted sewage and discharging treated effluent in to the Nallah.

c) Value Creation and Monetization -

It is also proposed to prepare a comprehensive Business Plan along with land use plan and detailed Master Plan of the precious land areas reclaimed from Nallah sections and other existing land parcels in and around the Nallah. Primary objective of this exercise will be to highlight to the government significant value addition for the city in direct monetary terms and other intrinsic benefits that will accrue from the Nallah improvement works. This plan will act as road map for the Employer to use newly developed assets as per the market needs and value creation through Nallah improvement.

1.2 Scope of the works in Contract:

The basic essence of the project is an enhancement of utility of the Dravyavati River (Amanishah Nallah) which is already existing and operating in its present state. The project scope is primarily the course correction and strengthening the channel for better performance. The present structures on the river, i.e. the dams, reservoirs are also operational, and cleaning is being done to restore the storage capacities for which they were designed and constructed. In addition, since the river and its existing dams are already operational as the present sewage from the catchment is being collected and carried by the river and the dams are used for water storage and supplying water to irrigation of nearby agricultural lands.

The Sewage Treatment Plants (STPs) which are to be constructed as part of the sewage treatment. As mentioned above the project focuses on enhancing the workability of the river and its better performance, hence, the need of having clean water in the river was necessary. This required treating the raw sewage, which is presently being deposited in the river. In line with that, laying of pipelines, construction of interception chambers and construction of STPs are the engineering solutions to have the desired clean water in the river.

Project scope is to prepare a Master Plan of the Reclaimed Lands which will indicate the ways through which the commercial value of the land parcels surrounding the Nallah can be increased. The master plan is only a proposal for the development of the lands surrounded the nallah. The actual development of the lands is not the part of this Contract. In accordance, the contractual requirements a detailed Master Plan of Reclaimed Lands of the project has been prepared submitted by us. This plan will act as value creation through Nallah improvement.



2. They further submitted that, Jaipur Development Authority is a body constituted under Jaipur Development Authority Act 1982 (Act. 25) as a statutory vehicle to implement the urban development of Jaipur as envisaged by the Department of Urban Development and Housing, Government of Rajasthan.

The major undertaking of JDA includes the following:

- Infrastructural development of Jaipur region by construction of flyovers, bridges, parking places.
- Development of commercial projects and residential schemes, etc.
- Development of basic amenities like community centres, parks, ring roads.
- Development and rehabilitation of kacchibastis etc.
- Preparation and implementation of master plan.
- Preparation and implementation of guidelines for colonisation.
- Environmental development by planning and implementing roadside plantations and by developing eco-friendly schemes.
- Development of rural area around Jaipur.
- Development of transport facilities like Mass Rapid
- Transport System (MRTS), Transport Nagar, and major sector roads.

3. **The applicant's contention is that the Jaipur Development Authority is covered under the status of Government Entity:**

Definition of Government Entity: As per the notification no.32/2017-Central Tax (Rate) dated 13.10.2017, Government Entity means an authority or a board or any other body Including a Society, Trust, Corporation,

- Set up by an Act of Parliament or State Legislature*
- Established by any Government with 90per cent or more participation by way of equity or control,*

to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

Since, Jaipur Development Authority set up by an act of State Legislature vide Act No. 25 of 1982, Received the assent of the President on the 12th day of October, 1982 to carry out functions entrusted by Government of Rajasthan, it is covered under the definition of Government Entity.

4.1. **The applicant also submitted that the GST Rate applicable for the nature of works is @ 12% (i.e., CGST-6% + SGST – 6%):**

As per description of the services mentioned at Sl. no.3 (vi) (a) of the notification no. 11/2017 - Central Tax (Rate) dt.28th June 2017 amended with notification no.24/2017-Central Tax (Rate) dt. 21.09.2017 and further amended vide notification no. 31/2017 – Central Tax (Rate) dt. 13.10.2017, GST Rate applicable for the following service is @12%.



Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided]6 to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

4.2 The scope of works covered in the project is the following.

Enhancement of utility of the Dravyawati River (Amanishah Nallah) which is already existing and operating in its present state. The project scope is primarily the course correction and strengthening the channel for better performance.

The Sewage Treatment Plants (STPs) which are to be constructed as part of the sewage treatment, laying of pipelines, construction of interception chambers and construction of STPs are the engineering solutions to have the desired clean water in the river.

Project scope is to prepare a Master Plan of the Reclaimed Lands which will indicate the ways through which the commercial value of the land parcels surrounding the Nallah can be increased. The master plan is only a proposal for the development of the lands surrounded the nallah. The actual development of the lands is not the part of this Contract.

Since the scope of works covered in the project is primarily in the nature of construction of Civil structures, Sewage treatment and other development works, the project is covered Sl. no.3 (vi) (a) of the notification no. 11/2017 - Central Tax (Rate) dt.28th June 2017 amended with notification no.24/2017-Central Tax (Rate) dt 21.09.2017 and further amended vide notification no. 31/2017 – Central Tax (Rate) dt 13.10.2017 and applicable GST Rate for the same is @12%.

5. Applicant's Questions(s) on which Advance Ruling is sought:

- (i) The nature of Services whether covered under Sl.no.3(vi)(a) of notification no. 11/2017 - Central Tax (Rate) dt.28th June 2017 amended with notification no.24/2017-Central Tax (Rate) dated 21.09.2017 and further amended with notification no. 31/2017-Central Tax (Rate) dated13.10.2017?
- (ii) What is the Rate of GST applicable for the Project?
- (iii)If applicable rate of GST @12%, what is the rate of GST applicable on subcontractor leg?

Personal Hearing (PH)

6.1. In the matter personal hearing was given to applicant, Shri Rama Mohan Rao, (Senior Manager, F&A) and Shri Rajesh Tripathi (AGM) appeared as representative of applicant for personal hearing on 23.03.2018. During the PH they have submitted copy of contract agreement and relevant notification along with billing breakup. As they have sought 2 weeks' time to submit relevant case laws on the issue, a next hearing date was given to them.

Further Shri Rajesh Tripathi (AGM) appeared **for** personal hearing on 06.04.2018. he has shown his inability to produce any case laws or citation regarding "Original Works". He has requested that the case may be decided on the basis of submission made earlier.



6.2. They have also submitted a copy of letter dated 10.10.17 and 08.11.17 issued by the Additional Director (R & DP), JDA, Jaipur under their letter, address to the Project Director, M/s TPL-SUCG Consortium (copy submitted by the applicant), in which it is submitted that the Rejuvenation of Amanishah Nallah project is covered under the definition of ORIGINAL WORKS and covered under the Notification no. 24/2017-Central tax (rate) dated 21.09.2017. As per the said notification, the work awarded is duly covered under clause (vi) and applicable rate of GST is 12% (CGST 6% + SGST 6%).

As per definitions given under notification No. 12/2017-Central Excise (Rate) dated 28.06.2017

(zs) "original works" means- all new constructions;

(i) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;

(ii) erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise;

6.3 . They have also submitted a copy of letter dated 13.12.17of Executive Engineer(Dravyawati River-I), JDA, Jaipur, addressed to the Project Director, M/s TPL-SUCG Consortium (copy submitted by the applicant) in which it is submitted that the JDA has awarded the turn key contract as per the scope of the work duly defined in the work orders and it is apparently clear that all works area original works and duly covered under the Notification no. 24/2017-Central tax (rate) dated 21.09.2017 and

The Jaipur Development Authority is covered under Governmental Authority as also defined in Notification no. 32/2017-Central tax (Rate) wherein

"Governmental Authority" means an authority or a board or any other body, -

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

(ii) established by any Government, with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution.

Issues to be decided :

7. The issue involved in this case is, whether Jaipur Development Authority is covered under the status of Government Authority/ Entity or not? and the nature of Services provided under the contract are covered under Sl.no.3(vi)(a) of notification no. 11/2017 - Central Tax (Rate) dt.28th June 2017 amended with notification no.24/2017-Central Tax (Rate) dated 21.09.2017 and further amended with notification no. 31/2017-Central Tax (Rate) dated 13.10.2017 or not? What is the GST rate applicable on subcontractor leg ?



Findings:

8.1. As per definitions given under notification No. 12/2017-Central Excise (Rate) dated 28.06.2017 as amended vide notification No. 32/2017-Central tax (rate) dated 13.10.2017,

“(zf) “Governmental Authority” means an authority or a board or any other body, -

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

(ii) established by any Government, with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

8.2. Jaipur Development Authority is a body constituted under Jaipur Development Authority Act 1982(Act.25) as a statutory vehicle to implement the urban development of Jaipur as envisaged by the Department of Urban Development and Housing, Government of Rajasthan and to carry out function entrusted under Article 243G of the Constitution.

8.3 As per notification No. 11/2017-Central Excise (Rate) dated 28.06.2017 as amended vide notification No. 24/2017-Central tax (rate) dated 21.09.2017 and further amended vide notification no. 31/2017 – Central Tax (Rate) dt 13.10.2017, **Central tax at the rate of 6% is applicable on the following,**

In the said notification, in the Table, as per serial number 3, for item (vi) in column (3) and the entries relating thereto,

“(vi) **Services provided to the Central Government, State Government, Union Territory, a local authority or a governmental authority** by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or

(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

8.4 JDA established vide JAIPUR DEVELOPMENT AUTHORITY ACT, 1982 as an Authority for the purpose of planning, co-ordinating and supervising the proper, orderly and rapid development of the Jaipur Region and of executing plans, projects and schemes for such development, enacted by the Rajasthan State Legislature in the Thirty-third Year of the Republic of India.

As per Section 4 of the said Act, the Jaipur Development Authority consist of the following members, namely: -

(i) A Chairman, who shall be the Minister-in-charge of Urban Development of the State of Rajasthan, or a nominee of the Governor during President's Rule;



- (ii) a Vice-Chairman, who shall be the State Minister of Urban Development of the State of Rajasthan, or a nominee of the Governor during President's Rule;
- (iii) Secretary to the Government, Urban Development and Housing Department;
- (iv) Jaipur Development Commissioner (appointed under this Act);
- (v) Chairman, Rajasthan Housing Board;
- (vi) Chief Engineer, Public Health Engineering Department;
- (vii) Chief Engineer, Public Works Department;
- (viii) District Collector, Jaipur;
- (ix) Chief Engineer, Rajasthan State Electricity Board;
- (x) Chairman/Administrator, Municipal Council, Jaipur;
- (xi) ZilaPramukh of Zila Parishad, Jaipur District;
- (xii) Chief Town Planner, Rajasthan; and
- (xiii) Non-official members, not exceeding seven, to be nominated by the State Government];

As per Section 90 of the said Act. Control by State Government.—

(1) The Authority shall exercise its powers and perform its duties under this Act in accordance with the policy framed and the guidelines laid down, from time to time by the State Government for development of the areas in the Jaipur Region.

(2) The Authority shall be bound to comply with such directions which may be issued, from time to time, by the State Government for efficient administration of this Act.

(3) If, in connection with the exercise of the powers and the performance of the duties of the Authority under this Act, any dispute arises between the Authority and the State Government, the matter shall be decided by the State Government and its decision shall be final.

As per Section 90A. Power to transfer.—

The officers and employees of the Authority may, in accordance with the rules made under section 95, be transferred, by the State Government, to any Urban Improvement Trust in the State.

8.5 The Jurisdictional Officer in his/her comments has also stated that nature of work is to be covered under “**services**” as mentioned in Sl. No. 3(IV) (a) of Notification no. 11/2017 - Central Tax (Rate) dt.28th June 2017 amended with notification no.24/2017-Central Tax (Rate) dated 21.09.2017 and further amended with notification no. 31/2017-Central Tax (Rate) dated 13.10.2017 with 12% GST applicable on contractor as well as on subcontractor.

8.6 Therefore, as per the findings in above paras the Jaipur Development Authority is found to be covered under the **Government Authority** and Services provided by M/s TPL – SUCG Consortium found to be covered under **services** mentioned at Sl. no.3 (vi) (a) of the notification no. 11/2017 - Central Tax (Rate) dt.28th June 2017 amended with notification no.24/2017-Central Tax (Rate) dated 21.09.2017 and further amended vide notification no. 31/2017 – Central Tax (Rate) dated 13.10.2017.




8.7 Regarding the liability of GST on sub-contractor, as per Decisions taken in the 25th meeting of GST Council held at New Delhi on 18.01.2018 Works Contract Services (WCS) provided by the sub-contractor to the main contractor; providing WCS to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity; will also attract GST at the rate as applicable to the main contractor.

9. In view of the foregoing, we rule as under:-

RULING

The Services provided by M/s TPL – SUCG Consortium to Jaipur Development Authority under Contract awarded to them vide their LOA No. JDA/EE-07/2016/D-662 dated: 04.03.2016 are covered under Notification no. 11/2017 - Central Tax (Rate) dt.28th June 2017 (Notification no. F.12(56)FD/Tax/2017-Pt-1-49(S.T.) dt. 29th June 2017), amended with Notification no.24/2017-Central Tax (Rate) dt. 21st Sept. 2017 (Notification no. F.12(56)FD/Tax/2017-90(S.T.) dt. 21st Sept. 2017) and further amended vide Notification no. 31/2017 – Central Tax (Rate) dt. 13th Oct. 2017 (Notification no. F.12(56)FD/Tax/2017-Pt-111-106(S.T.) dt. 13th Oct. 2017) and GST @12% (i.e. CGST 6% + SGST 6%) is applicable on the services provided under the said contract. This rate is also applicable to the sub-contractor leg under the said contract as inserted in the Notification no. 01/2018 dt. 25th January 2018 (Notification no. F.12(56)FD/Tax/2017-Pt-11-166(S.T.) dt. 25th January 2018).


(NITIN WAPA)
Member


(SUDHIR SHARMA)
Member

To,
M/s TATA Projects Limited-SUCG,
Consortium, Sun Tower, 2nd Floor,
SB-158A, Gandhi Nagar Turn,
Tonk Road, Jaipur-302004



F.No.-AAR/RAJ/2018-19/01 /01 to 05
Copy to:-

Dated:-27/04/2018

- o/c
1. The Chief Commissioner of CGST & Central Excise, (Jaipur Zone) & Member, Appellate Authority for Advance Ruling.
 2. The Commissioner of SGST & Commercial Taxes Rajasthan & Member, Appellate Authority for Advance Ruling.
 3. The Joint Commissioner, CGST & Central Excise, Jaipur Commissionerate, Jaipur.
 4. The State Tax Officer, Circle-J, Jaipur-Ward-II.

