
Updates/GST/Advance Ruling/Legal-04/2022
Dt. 27/04/2022

(Advance Rulings in Gujarat from 1st April to 27st April, 2022)

Advance Ruling Branch
Gujarat State Tax Department



Rulings given by Authority of Advance Rulings (AAR)

M/s Suzlon Energy Limited

Advance Ruling sought for	Ruling
<p>The specially designed Transformers for Wind Operated Electricity Generators which are meant to perform dual function of Step Down and Step Up manufactured by Suzlon and supplied to the customers of Suzlon as a part of Wind Operated Electricity Generator be treated as part of Wind Operated Electricity Generator and falls under Sr. No. 234 in Schedule-I to Notification No. 01/2017-Central Tax (Rate) dated 28th June, 2017 read with Notification No. 1/2017- State Tax(Rate) dated 30th June, 2017 and liable to Central GST at the rate of 2.5% along with Gujarat State GST at the rate of 2.5% up to 30th September, 2021 and 6% each towards CGST and SGST with effect from 1st October, 2021 by virtue of omission of the said entry and addition of Entry No. 201A to Notification No. 01/2017-Central Tax (Rate) dated 28th June, 2017 vide Notification No. 08/2021-Central Tax (Rate) dated 30th September, 2021 read with Notification No. 08/2021-State Tax(Rate) dated 30th September, 2021?</p>	<p>Transformers are not part of WOEG and are leviable to CGST @ 9% vide Sr. No. 375 of Schedule-III of Notification No. 1/2017-CT(Rate) dated 28-6-2017.</p>

M/s. Surat Smart City Development Ltd.

Sr. no	Advance Ruling sought for	Ruling
1	<p>Whether the supply made by NEC under the AFC project would qualify as a:</p> <p>(a) 'Works Contract' as defined under Section 2 (119) of the CGST, 2017; or</p> <p>(b) "Composite Supply" as defined under Section 2(30) of the CGST Act, 2017;</p>	<p>1. We find the application non-maintainable as per the Section 95(a) CGST Act.</p> <p>2. We find any Ruling issued will not be binding on the Supplier of Service M/s NEC Technologies Pvt. Ltd., a Delhi registered person with GSTIN07AACCN3496J1Z4 who has to raise invoice in this case with details of Service description and GST tax rate in the invoices raised by it. Thereby the very thought for Issuance of Ruling in this case by us, would frustrate Section 103(1) CGST Act and thereby glaringly mock the provision of Laws.</p> <p>3. The Application is hereby rejected in pursuance to Section 95(a) and Section 103(1) CGST Act as SSDCL has no locus standi in said matter.</p>
2	<p>Whether the supply made by NEC under the AFC project would qualify as an original works meant predominantly for use other than for commerce, industry, or any other business or profession, thereby attracting GST rate of 12% provided in the Not. No. 24/2017-CT (Rate) dtd. 21-9-17.</p>	
3	<p>Whether the classification of supply made by NEC would fall under 8470 or SAC 9954?</p>	
4	<p>Whether the maintenance and management services post service would qualify as Composite Supply as defined under Section 2(30) of the CGST Act, 2017? Further, whether such supply would be eligible for exemption under Notification No. 12/2017-CT (rate) dtd. 28-6-17 in case value of supply of goods constitutes not more than 25% of the value of the said Composite supply?</p>	

M/s. Royal Techno Projects (India) Pvt. Ltd.

Advance Ruling sought for	Ruling
Whether tax is to be calculated on tender price or inclusive of tender price.	We hold that the Question raised by M/s Royal does not fall under the gamut of said Section 95(a) CGST Act. The subject Application is thereby non- maintainable as per Section 95(a) CGST Act and hereby rejected.

M/s. Cadila Healthcare Limited

Advance Ruling sought for	Ruling
<p>Whether the subsidized deduction made by the Applicant from the employees who are availing food in the factory/corporate office would be considered as a supply by the Applicant under the provisions of Section 7 of Central Goods and Service Tax Act, 2017 and Gujarat Goods and Service Tax Act, 2017.</p> <p>a. In case answer to above is yes, whether GST is applicable on the amount deducted from the salaries of its employees?</p> <p>b. In case answer to above is no; GST is applicable on which portion i.e. amount paid by the Applicant to the Canteen Service Provider or only on the amount recovered from the employees?</p>	<p>GST, at the hands of the M/s Cadila, is not leviable on the amount representing the employees portion of canteen charges, which is collected by M/s Cadila and paid to the Canteen service provider.</p>

M/s. Cadmach Machinery Pvt. Ltd.

Advance Ruling sought for	Ruling
Whether recovery of amount from employee on account of third party canteen service provided by assessee, which is obligatory under section 46 of Factories Act, 1948, would come under definition of 'outward supply' and, therefore, taxable as a 'supply' under GST	GST, at the hands of the Cadmach, is <u>not</u> leviable on the amount representing the employees portion of canteen charges, which is collected by Cadmach and paid to the Canteen service provider.

JK Paper Ltd.

Advance Ruling sought for	Ruling
<p>1. Due to change in the Government policy, Applicant desires to surrender the GSTIN (24AAACT6305N2Z9) and merge it with existing GSTIN (24AAACT6305N1ZA) of JKPL CPM by transferring all business assets and liabilities to the said existing GST registration. In view of merger of two GSTIN of JKPL CPM, whether the applicant can transfer closing balance of ITC from its GSTIN (24AAACT6305N2Z9) to existing GSTIN (24AAACT6305N1ZA) of JKPL CPM by filing Form ITC-02?"</p> <p>2. If answer to the above question is in affirmative, whether any additional liability towards payment of Tax or reversal of ITC will arise on the Applicant on account of merger of its GSTIN with GSTIN of existing unit of JKPL CPM in the form of transfer of all business assets and liabilities and on account of filing of Form ITC-02 for transferring ITC from its GSTIN to GSTIN of existing unit?</p>	<p>For reasons enunciated at I, II, III of findings, we hold the subject Application non maintainable and hereby rejected.</p>

M/s. Emcure Pharmaceuticals Limited

Advance Ruling sought for	Ruling
<ol style="list-style-type: none">1. Whether the recoveries made by the Applicant from the employees for providing canteen facility to its employees are taxable under the GST laws?2. Whether the free of cost bus transport facilities provided by the Applicant to its employees is taxable under the GST laws?3. Without prejudice, even if GST is applicable in respect of employee recovery towards bus transportation facility, whether the Applicant would be exempted under the Sl. No. 15 of Notification No. 12/2017 – Central Tax (Rate) dated 28 June 2017?4. Whether input tax credit is admissible to the Applicant for the GST charged/paid to the vendors on procurement of such services in terms of Sec 16 of CGST Act, as the same are used in relation to furtherance of business? If yes, would the same be restricted to the portion of cost borne by the Applicant?	<ol style="list-style-type: none">1. GST, at the hands of M/s Emcure, is not leviable on the amount representing the employees portion of canteen charges, which is collected by M/s Emcure and paid to the Canteen service provider2. GST, at the hands of M/s Emcure, is not leviable on free bus transportation facility provided to its employees.3. ITC on GST paid on canteen facility is blocked credit under Section 17 (5)(b)(i) CGST Act and inadmissible to M/s Emcure.4. ITC on GST paid on hiring of Bus, having approved seating capacity of more than 13 persons used for transportation of passengers, is admissible.

M/s. Vasant Fabricators Pvt. Ltd

Advance Ruling sought for	Ruling																			
<p>1. Whether the activity of fabricating and mounting Tankers, Tippers, etc. on the chassis provided by the owner of such chassis i.e. bus body building would be covered under the category of Supply of Services?</p> <p>2. If yes, the applicable accounting code of such services as per the Scheme of Classification of Services and the applicable rate of GST thereon.</p>	<p>1. Supply of Bus body building on the chassis owned by customer is supply of Service.</p> <p>2. GST rate:</p> <table border="1" data-bbox="784 511 2288 1225"> <thead> <tr> <th data-bbox="792 515 963 786">S. No</th> <th data-bbox="963 515 1582 786">Service Description</th> <th data-bbox="1582 515 1913 786">Notification 11/2017-CT(R) dated 28-6-17.</th> <th data-bbox="1913 515 2122 786">Service Code</th> <th data-bbox="2122 515 2288 786">GST Rate</th> </tr> </thead> <tbody> <tr> <td data-bbox="792 786 963 1005">i</td> <td data-bbox="963 786 1582 1005">Bus body building on chassis owned by GST registered customer.</td> <td data-bbox="1582 786 1913 1005">Sr. no. 26(ic)</td> <td data-bbox="1913 786 2122 1005">998882</td> <td data-bbox="2122 786 2288 1005">18%</td> </tr> <tr> <td data-bbox="792 1005 963 1225">ii.</td> <td data-bbox="963 1005 1582 1225">Bus body building on chassis owned by unregistered customer</td> <td data-bbox="1582 1005 1913 1225">Sr. no. 26(iv)</td> <td data-bbox="1913 1005 2122 1225">998882</td> <td data-bbox="2122 1005 2288 1225">18%</td> </tr> </tbody> </table>					S. No	Service Description	Notification 11/2017-CT(R) dated 28-6-17.	Service Code	GST Rate	i	Bus body building on chassis owned by GST registered customer.	Sr. no. 26(ic)	998882	18%	ii.	Bus body building on chassis owned by unregistered customer	Sr. no. 26(iv)	998882	18%
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M/s. Tirupati Construction

Advance Ruling sought for	Ruling
<p>Whether the activity of composite supply of works contract service by way of construction of “ “Construction of New Adarsh Nivashi Shala (Kumar) / School Hostel (324 Bed) / Staff Quarters and Kumar Chhatralay (300 Bed) at Village : Baben , Taluka : Bardoli, District : Surat ”, for the Road and Building Department in the Government of Gujarat and as detailed in Work Order Number : AB/TC/B-2/3/1181 dated : 01.06.2020 entered in to by the applicant supplier and the said State Government, merits classification at Serial Number 3(vi)(a) and (b) of Notification Number 11/2017 – Central Tax(Rate) dated : 28.06.2017 , as amended from time to time and last amended by Notification Number : 21/2012-Central Tax(Rate) dated : 31.12.2021 w.e.f. 01.01.2022?</p>	<p>The subject Supply merits entry at Sr. No. 3(vi) of said NT.</p>

M/s. Tirupati Construction

Advance Ruling sought for	Ruling
<p>Whether the activity of composite supply of works contract service by way of construction of Construction of Fire Station And Staff Quarters at T.P.S NO - 42 (BHIMRAD),F.P NO-65, in SWZ(A) at Bhimrad, Surat, for the Surat Municipal Corporation and as detailed in Work Order-North Zone/Out/879 dated 26.02.2019 entered in to by the applicant supplier and the said local authority recipient i.e. Surat Municipal Corporation, merits classification at Serial Number 3(vi)(a) of Notification Number 11/2017 – Central Tax(Rate) dated : 28.06.2017 (hereinafter referred to as the said NT) , as amended from time to time and last amended by Notification Number 21/2012-Central Tax(Rate) dated 31.12.2021 w.e.f. 01.01.2022?</p>	<p>The subject Supply merits entry at Sr No. 3(vi)(a) of said NT.</p>

Thanks

Note:

- a) **The above rulings are available on the department's website for reference.**
- b) **Please contact the Advance Ruling Branch in case of any ambiguity in the above rulings.**