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# **Updates/GST/Advance Ruling/Legal-06/2022**

## **Dt. 31/05/2022**

**(Advance Rulings in Gujarat from 28<sup>th</sup> April to 31<sup>st</sup> May, 2022)**

**Advance Ruling Branch  
Gujarat State Tax Department**



Rulings given by Authority of Advance Rulings (AAR)

# M/s Shell Energy India Pvt. Ltd

| Advance Ruling sought for  | Ruling   |
|--|--|
| <p>Whether value attributable to SUG stipulated in the Agreement between the Applicant and Customers is subject to the levy of GST and therefore, liable to be included in the consideration for re-gasification services determined as per Section 15 of the CGST Act ?</p> | <ol style="list-style-type: none"><li data-bbox="504 287 2423 551">1. The scope of Re-gasification Services covers not only the services related to re-gasification of LNG into RLNG on behalf of M/s Shells customers but includes allied, incidental and ancillary services such as receipt of LNG Carriers at the Port, unloading of LNG from LNG carriers and its receipt at Terminal receipt point, temporary storage of LNG in storage tanks and delivery of RLNG to the customers, as detailed at para 2.</li><li data-bbox="504 565 2423 1108">2. Thus this SUG [(a) gas used as fuel by Shell in GTG/ SCV; (b) gas used by M/s Shell for safety procedures by flaring/ venting out, even in cases of shutdown/ breakdown/ power failure when gas is vented out for safety reasons in the process of draining, purging and cooling down; (c) gas used by M/s Shell in maintenance of re-gasification equipment; (d) gas vented out by M/s Shell for cooling of BOG compressor; (e) gas flared out by M/s Shell to maintain tank pressure; (f) gas used by M/s Shell on account of unloading arms purging and warming, so gas is vent out into the atmosphere without flare] is a cost for Supplier of Service M/s Shell and thereby to be allocated into cost of provision of Re-gasification Service Supply. Vide this business contract, M/s Shell translates the cost of SUG required into SUG value by raising GST Tax invoices to its customers under item description- value of SUG.</li><li data-bbox="504 1122 2423 1279">3. Further, in cases where measurement uncertainties are in negative as discussed at para 93 (C), in such cases, this translates that System use gas provided by its customers, as per contract is retained by M/s Shell, as negative measurement means excess of Gas and not shortage of gas.</li><li data-bbox="504 1293 2423 1379">4. Thus value of SUG is an indispensable part of taxable value, for Re-gasification service supply by M/s Shell and liable to GST.</li></ol> |

# M/s. Tata Advanced Systems Ltd.

| Sr. No | Advance Ruling sought for   | Ruling   |
|--------|---|--|
| 1      | What is the nature of supply under the contract between the Applicant and Airbus (i.e., whether the same will qualify as 'supply of goods' or 'supply of service')? | 1. The Application is rejected as non-maintainable under Section 95(a) CGST Act. |
| 2      | Given the nature of the activities undertaken by the Applicant under the contract, what will be the appropriate classification and rate of tax of the said supply?  |  |
| 3      | What is the value to be adopted for the purpose of payment of GST?  |  |
| 4      | What will be the time of supply for payment of GST?   |  |

# *M/s. Indian Society of Critical Care Medicine*

| <b>Advance Ruling sought for</b>  | <b>Ruling</b>  |
|---|--|
| <p>1. What shall be the nature of service and classification in accordance with Notification No. 11/2017- CT R, dated 28.06.17 read with annexure attached to it in relation the following services:</p> <p>a. Service provided by ISCCM to the delegates;</p> <p>b. Service provided by ISCCM to the exhibitors.</p> <p>2. In relation to the brand promotion packages offered by ISCCM in the course of the event,</p> <p>a. What shall be the nature of service and classification in accordance with Notification No. 11/2017-CT R, dated 28.06.17 read with annexure attached to it?</p> <p>b. Whether ISCCM is liable to pay tax on services provided to the brand promoters or the liability to pay tax on such services falls on recipient under reverse charge according to Notification No. 13/2017 Central Tax Rate ?</p> <p>3. Whether Input Tax Credit is admissible for ISCCM in respect of tax paid on the following,</p> <p>a. Services provided by the hotel including accommodation, food &amp; beverages</p> <p>b. Supply of food and beverages by outside caterers</p> <p>c. Services provided by event manager like pickup &amp; drop, exhibition stall set up, tenting, etc</p> | <p>1.(a) ISCCM supplies Composite Supply to its delegates, the principal supply being Professional Service supply. SAC is 998399.</p> <p>1.(b) ISCCM supplies 'Exhibition, Trade show organization and assistance services' to the exhibitors. SAC is 9985 96.</p> <p>2.(a) ISCCM supplies Sponsorship Services to its sponsors. SAC is 9983 97.</p> <p>2.(b) GST liability on sponsorship service is on the service recipient (if the recipient is a body corporate or partnership firm) if the recipient is in taxable territory. If the service recipient is not a body corporate/ firm, then GST is liable to be paid by ISCCM on forward charge.</p> <p>3. ITC, as per Question 3 of the Application, is admissible to ISCCM.</p> |

# M/s. Swadeshi Empresa Pvt. Ltd.

| <b>Advance Ruling sought for</b>  | <b>Ruling</b>   |
|---|---|
| HSN Tariff of ‘fire safety product assembled on trolley’, consisting of engine operated pump, water tank, hose reel, pipe and gun, operated through electric panel on trolley | We classify the said Fire safety product trolley at HSN 84131990. |

# M/s. Adani Green Energy Ltd.

| <b>Advance Ruling sought for</b>  | <b>Ruling</b>   |
|---|---|
| Whether the Applicant is liable to discharge GST under the reverse charge mechanism in respect of the services of arranging for subscription supplied to the Applicant, by the Managers located in the non-taxable territory? | GST is not leviable on subject transaction under RCM by AGEL. |

# M/s. Gujarat Rural Industries Marketing

| <b>Advance Ruling sought for</b>        | <b>Ruling</b>  |
|---|--|
| What is the GST Rate on Tailoring Kit ? | The Application is hereby rejected as non-maintainable under Section 95(a) CGST Act. |

# M/s. Star Enterprise

| <b>Advance Ruling sought for</b>   | <b>Ruling</b>  |
|--|--|
| Which Tax rate shall be applicable on Fans (HSN-84145930) used in Poultry House for the purpose of Air circulation ? | 1. GST rate of said Industrial fans is 18%. (CGST9% & SGST9%). |

Rulings given by Appellate Authority of Advance  
Rulings (AAAR)

# M/s. Swan LNG Pvt. Ltd.

| <b>Advance Ruling sought for</b>  | <b>Ruling</b>  |
|---|--|
| <ol style="list-style-type: none"><li>1. Whether in terms of Section 17 of the CGST Act, 2017 read with GGST Act, 2017, the LNG jetties proposed to be built by the applicant can be said to be covered within expression ‘plant and machinery’ as foundation to equipment, apparatus, machinery to be installed on it?</li><li>2. Whether as per Section 16 read with Section 17 of the said Acts, the applicant can accordingly avail ‘input tax credit’ of GST paid on inputs, input services as well as capital goods procured for the purpose of building the LNG jetties?</li></ol> | <p>We reject the appeal filed by M/s. Swan LNG Pvt. Ltd., and confirm the Advance Ruling No. GUJ/GAAR/R/46/2020 dated 30.07.2020 by holding that (1) LNG Jetties being built by the appellant are not covered within the expression ‘plant and machinery’ as foundation to equipment, apparatus, machinery to be installed on it in terms of Section 17 of the CGST Act, 2017 and (2) the appellant cannot avail input tax credit of GST paid on inputs, input services and capital goods procured for the purpose of building the LNG Jetties in terms of Section 16 of the CGST Act, 2017.</p> |

# M/s. Gujarat Industrial Development Corporation

| <b>Advance Ruling sought for</b>   | <b>Ruling</b>  |
|--|--|
| <p>“Whether various activities carried out by the appellant to the plot holders in terms of provisions of GIDC Act, 1962 and charges collected for the same as may be notified from time to time amounts to supply under Section 7 of the CGST Act, 2017?”</p> | <p>We reject the appeal filed by the appellant M/s. Gujarat Industrial Development Corporation. We uphold the Advance Ruling No. GUJ/GAAR/R/88/2020 dated 17.09.2020 of the Gujarat Authority for Advance Ruling, with modification in their findings to the effect that the appellant does not fall under the category of ‘State Government’ but is covered under the category ‘Government Entity’, in the case of M/s. Gujarat Industrial Development Corporation.</p> |

# M/s. Baroda Medicare Pvt. Ltd.

| Advance Ruling sought for   | Ruling   |
|---|--|
| Whether the supply of Occupational Health Check-up (OHC) service by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll, working in different corporate for providing health check-up service, ambulance facility, and allied medical services to their employees and also the camps conducted for health check-up outside the hospitals, to be treated as Health Care service and hence not taxable under CGST / SGST? | We modify the Advance Ruling No. GUJ/GAAR/R/106/2020 dated 30.12.2020 of the Gujarat Authority for Advance Ruling in the case of M/s. Baroda Medicare Pvt. Ltd, Sunshine Global Hospital with respect to Question No. 2 and hold that supply of Occupation Health Check-up Service by the hospital i.e. nursing staff, Doctors, Paramedical staff on hospital's payroll working in different corporate for providing health check-up services, ambulance facility and allied medical services to their employees and also the camps conducted for health check-up outside the hospitals to be treated as Health Care Service and exempted under GST in terms of Entry at Sr.No.74 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 and Notification No. 12/2017-State Tax (Rate) dated 30.06.2017, as amended. |

# M/s. State Examination Board

| Advance Ruling sought for   | Ruling   |
|---|--|
| <p>Whether the applicant is eligible to claim exemption benefit under Sr.No.5 and Sr. No. 66(a) &amp; (aa) of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017?</p> | <p>We modify the Advance Ruling No. GUJ/GAAR/R/105/2020 dated 05.11.2020 of the Gujarat Authority for Advance Ruling in the case of M/s. State Examination Board, and hold that –</p> <p>I. The appellant is eligible to claim exemption benefit under Sl. No. 66 (aa) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time), in respect of services supplied for the exams mentioned at Sr. No. 1 to 12 of the list of exams (mentioned at para-26 above).</p> <p>II. The appellant is not eligible to claim exemption benefit under Sl.No.5 of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time), in respect of services supplied for the exams mentioned at Sr.No. 13 and 14 of the list of exams (mentioned at para-26 above) for the reasons discussed hereinabove. In addition, the appellant is also not eligible to claim exemption benefit either under Sl. No. 5 or Sl. No. 66 (a) &amp; (aa) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time), in respect of services supplied for the exams mentioned at Sr. No. 15 of the list of exams (mentioned at para-26 above) for the reasons discussed hereinabove.</p> |

# Thanks

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**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.**