

## ADVANCE RULING – AUGUST 2019 TO DECEMBER 2019 (ONLY FOR MAHARASHTRA & WEST BENGAL)

**TEAM TRD**

| <b>Name of Applicant</b>              | <b>Industry</b>                                                               | <b>Order No. &amp; Date</b>                      | <b>Case History</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| M/s Children Of The World India Trust | Charitable Trust<br>(Maharashtra AAR)                                         | GST-ARA-15/2019-20/B-110 Mumbai dated 04.10.2019 | <p>The applicant is a charitable trust engaged in proving charitable activities such as social welfare activities for the benefit of Children and Women , particularly for abandoned babies and infants and also to arrange for adoption of the abandoned babies . <b>The question has been raised –</b><br/><i>Whether the activities conducted by The Children of the World (India) Trust are the "Charitable Activities" exempted under the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended and consequently, the receipt of the Adoption Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax</i></p> <p><b>Answer –</b> The Activities conducted by the applicant are charitable activities which are exempted under Notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 as amended. The receipt of adoption fees paid under regulation 46 of the adoption regulations 2017 by the prospective adoptive parents too the trust is exempted from GST under Notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 as amended</p>                                                                                                                                                                                                                                                                         |
| M/s Jotun India Pvt Ltd               | Manufacturer, and exporter of paints and powder coatings<br>(Maharashtra AAR) | GST-ARA-19/2019-20/B-108 Mumbai dated 04.10.2019 | <ul style="list-style-type: none"> <li>• The Applicant engaged in supplying of paints and coatings</li> <li>• The Applicant has introduced parental insurance scheme for employees' parents as an optional scheme</li> <li>• As per this scheme, the Applicant initially pays the entire premium along with taxes to the insurance company. The insurance company issues the premium receipt in the name of the Applicant.</li> <li>• In case of the employees who opt for the parental insurance scheme, the Applicant recovers 50% of the premium in one to three installments from the salaries and the balance 50% amount is borne by the Applicant. <b>The question has been raised –</b><br/><i>Whether recovery of 50% of Parental Health Insurance Premium from employees amounts to "supply of service" under Section 7 of the Central Goods and Services Tax Act, 2017?</i></li> </ul> <p><b>Answer –</b> Applicant M/s Jotun India Pvt. Ltd has paid the entire premium to the insurance company and further recovered 50% of the insurance premium amount from the employees and balance 50% premium cost is borne by himself. The said service was given in the course of or in relation to his employment and are not in the course of or furtherance of business. So recovery of 50% of Parental Health Insurance Premium from employees does not amount to "supply of service" under Section 7 of the Central Goods and Services Tax Act, 2017.</p> |
| M/s Vertiv Energy Private Limited     | Manufacturer of UPS<br>(Maharashtra AAR)                                      | GST-ARA-17/2019-20/B-107 Mumbai dated 04.10.2019 | <ul style="list-style-type: none"> <li>• Vertiv Energy Private Limited is engaged in the manufacture of various types of UPS systems, which serve as an alternate source of power for a specific period of time in the event of power failure.</li> <li>• The applicant also supplies installation commissioning and maintenance and other services to its customers.</li> <li>• Some components like battery and cables are either manufactured by the applicant or purchased by the applicant from third party vendors.</li> <li>• The applicant has obtained GST registration in the state of Maharashtra. Further, the applicant has also obtained GST registration in other states where the applicant is rendering supply of Goods and services to its customers.</li> <li>• The applicant entered into a contract with Delhi Metro Railway Corporation ("DMRC") for Supply, installation, testing, and commissioning of UPS systems on 20.1.2014. The said contract, though entered in the pre-GST regime, is an on-going contract and the applicant has been making supplies to DMRC in the GST regime as well. <b>The questions have been raised –</b><br/><i>Whether the contract entered into with DMRC for supply, erection, installation, commissioning and testing of UPS system qualifies as a supply of works</i></li> </ul>                                                                                                                        |

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|                                                |                                                           |                                                  | <p><i>contract under Section 2(119) of the CGST Act?</i></p> <p><b>Answer</b> – The term “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of <b>any immovable property</b> wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract”</p> <p>In the subject case UPS is not as immovable property as it can be dismantled and moved to a different location without any damage.</p> <p>UPS is delivered to the client along with the service of installation, testing and commissioning of the substations. Without these goods the services cannot be supplied by the applicant and therefore this is a composite supply in the subject case.</p> <p>So this is not in nature of “Works Contract”</p> <p><i>If yes, whether such supply made to DMRC would be taxable at the rate of 12% in terms of Sr. no. 3(v) of Notification No. 11/2017 - C.T. (Rate), as amended w.e.f. 25.1.2018?</i></p> <p><b>Answer</b> – Not answered as the answer to the first question is in the negative.</p> |
| M/s VFS Global Services Private Limited        | Administrative and Non Judicial Service (Maharashtra AAR) | GST-ARA-16/2019-20/B-109 Mumbai dated 04.10.2019 | <ul style="list-style-type: none"> <li>The applicant is engaged in the business of providing of Administrative and Non Judicial Service to various diplomatic missions / consular section related to the entire lifecycle of visa application process, Identity management and other citizen service for its client government</li> <li>The applicant offers innovative solution such as “Doorstep Citizen Service etc. <b>The questions have been raised</b> –</li> </ul> <p><i>Whether the work for "Operating Citizen Facilitation Centre (CFC) at various Locations of MCGM on per transaction/ receipt basis" involving the aforesaid Scope of Work would be exempt from GST vide Sr. No.3 &amp; 3A of amended Notification No. 12/2017 - Central (Rate) as on 31st Dec, 2018.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Rotary Club of Mumbai Western Elite            | Social Service Provider (Maharashtra AAR)                 | GST-ARA-09/2019-20/B-105 Mumbai dated 04.10.2019 | <ul style="list-style-type: none"> <li>Rotary Club is an association of persons, joined together to undertake social activities without any profit motive.</li> <li>Funds collected as fees are pooled together to be expended for meeting expenses &amp; administrative expenses. Surplus, if any, is used for Charitable activities. <b>The question has been raised</b> –</li> </ul> <p><i>The amount collected by Rotary club is towards convenience of members and pooled together for paying meeting expenses, communication expenses, RI per capita dues, subscription fees to the Rotarian or Rotary regional magazine, district per capita assessment and the same is deposited in single bank account. As there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded, whether the above transaction can be considered as supply of goods or services to its Members under GST?</i></p> <p><b>Answer</b> – The said transaction by the applicant to its members is a supply of goods/services and is liable to GST.</p>                                                                                                                                      |
| M/s Vijay Baburao Shirke                       | Horse Race (Maharashtra AAR)                              | GST-ARA-12/2019-20/B-106 Mumbai dated 04.10.2019 | <ul style="list-style-type: none"> <li>The applicant owns horses which participate in races organized at different clubs.</li> <li>The applicant also participates in Horse Race held in various cities</li> <li>Upon winning such horse races the applicant is awarded with prize money in respect of horses which win the race. <b>The question has been raised</b> –</li> </ul> <p><i>Whether receipt of prize money from horse race conducting entities, in the event horse owned by the applicant wins the race, would amount to 'supply under section 7 of the Central Goods and Service Tax Act, 2017 or not and consequently, liable to GST or not?</i></p> <p><b>Answer</b> –The amount of prize money received from the events conducting entities would be covered under “Supply under section 7” of the CGST Act 2017 and consequently it is held as taxable supply of services and liable to GST @18%</p>                                                                                                                                                                                                                                                                                                               |
| The Bangalore Printing and Publishing Co.Ltd., | Printing Industry (Maharashtra AAR)                       | KAR/AAR/45/2019-20 dated 17.09.2019              | <ul style="list-style-type: none"> <li>The applicant is engaged in activity of printing of books , journals , question paper , calendars etc.</li> <li>The applicant received an order from State Government for printing question paper for state level Higher Secondary Exam. <b>The question has been raised</b> –</li> </ul> <p><i>Whether the activity of printing of Question Paperbooks is to be covered under HSN 4901 under the description “Printed books, including Braille books” in</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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|                                                      |                                           |                                                  | <p><i>Serial Number 119 of Notification No.2/2017 Central Tax (Rate) or under the sub-clause (vi) of clause (b) in serial Number 66 with SAC 9992 of Notification No.12/2017</i></p> <p><b>Answer</b> –The activity of printing of question paper by the applicant with content supplied by educational institutions constitutes a supply of service under heading 9989 of the scheme of classification of services and the services would be covered under SI No. 66 of Notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 and corresponding notification issued under KGST Act 2017</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Alligo Agrovet Private Limited                       | Fertilizer Manufacturer (Maharashtra AAR) | GST-ARA-02/2019-20/B-101 Mumbai dated 26.08.2019 | <ul style="list-style-type: none"> <li>The applicant is engaged in manufacturing of organic fertilizers. <b>The question has been raised –</b><br/><i>Classification of goods and GST rate applicability in the case of goods manufactured the applicant?</i></li> </ul> <p><b>Answer</b> – Products namely AUTUS, SJ-NINJ A, SJ-ERASER, OPRAX, TELNAR, VK’s NEMO AND STRESSOUT are classifiable under HSN Code-3808 and liable to GST @18% (SGST CGST 9% as per Notification-1 of 2017-CT (Rate) dated 28.06.2017 each respectively. The product SHYAM SAMRUDDHI is an organic fertilizer classifiable under HSN-3105 and liable to GST @5% as per Sr. No.182D of Schedule-I of Notification-1 of 2017-CT (Rate) dated 28.06.2017</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Yash Nirman Engineers & Contractor                   | Works Contract Service (Maharashtra AAR)  | GST-ARA-143/2018-19/B-95 Mumbai dated 23.08.2019 | <ul style="list-style-type: none"> <li>M/s. Yash Nirman Engineers &amp; contractors engaged in the business of providing Works Contract Services specially in construction services.</li> <li>At present M/s. Ya0 Nirman Engineers &amp; contractors provides Works Contract Service by means Construction of a Residential Project.” La-Riveria” located at Plot No. 491., Market Yard, Panvel, Raigad for M/s. Lakhani Builders Pvt. Ltd having their office at 1801, 18th floor, Satara Plaza, Plot No. 20, Sector-19D, Vashi, Navi Mumbai-400705.</li> <li>M/s. Lakhani Builders: Pvt.Ltd. has been undertaking development of Residential project ” La-Riveria” in Panvel having its “RERA No. P52000001858” with the intension of sale to the prospective apartment buyers wholly or partly.</li> <li>M/s. Lakhani Builders Pvt. Ltd awarded a contract to Ws. Yash Nirman Engineers &amp; Contractors for construction of La-Riveria. <b>The question has been raised –</b><br/><i>Whether the construction service provided by M/s. Yash Nirman Engineers and Contractors to M/s. Lakhani Builders Pvt. Ltd under the project " La-Riveria" qualifies for application of lower rate of CGST@6% and SGST @ 6% as provided in Sl. No: 3- Item (V) - sub item (da) vide notification no: 01/2018-CT (Rate) dated 25-01-2018?</i></li> </ul> <p><b>Answer</b> – Yes.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Tejas Constructions & Infrastructure Private Limited | Civil Contractor (Maharashtra AAR)        | GST-ARA-03/2019-20/B-90 Mumbai dated 20.08.2019  | <ul style="list-style-type: none"> <li>Applicant is a civil contractor working for Government, Semi-government, Private &amp; Co-operative Sectors in various states. <b>The question has been raised –</b><br/><i>Whether the contractor can charge GST on the value of material supplied by the recipient of service?</i></li> </ul> <p><b>Answer</b> – As per clause 2 (b) of Section 15, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both. It has been found that materials are essential components for supply of construction service by the applicant to the contractee. Section 15 (2) (b) very clearly states that the supplier i.e the applicant in this case, is liable to pay in relation to such supply (supply of concerned materials by the contractee in this case) if the cost of the same has been incurred by the recipient of the supply (the contractee in this case) and the cost is not included in the price actually paid or payable for the goods or services or both. The cost the materials supplied by the contractee is included in the value of the entire contract and GST is being paid on the entire value of contract and hence the applicant is discharging GST on the value of materials supplied by the contractee.</p> <p>In this case the material is supplied by the contractee and therefore the question raised by the applicant as to whether they can charge GST on the same is irrelevant. The applicant, on this issue of supply of concerned materials, is not a supplier of goods/services and as per the provisions of Section 95 of the CGST Act, they cannot raise this question. Hence the question is not answered.</p> <p>2. What should be the mechanism to calculate the taxable value as per section</p> |

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|                                     |                                            |                                                  | <p><i>15 of the Act?</i></p> <p><b>Answer</b> – As per the provisions of section of GST Act, tax is payable on the entire contract value as per certificate issued by the Architect i.e. R A Bill without deducting the value of Cement, Mild Steel, Tor Steel and Structural Steel provided by the contractee.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Soma-Mohite Joint Venture           | Construction Industry<br>(Maharashtra AAR) | GST-ARA-08/2019-20/B-100 Mumbai dated 23.08.2019 | <ul style="list-style-type: none"> <li>The applicant is engaged in business of construction of Infrastructure Project.</li> <li>The applicant entered into a Joint Venture to undertake construction of Tunnel and its allied works.</li> <li>The dealer has made online application of advance ruling on applicability of GST Rate for works contract where the earth works is more than 75% of total work. <b>The question has been raised –</b></li> </ul> <p>1. Whether the said Contract is covered under SI NO -3A , Chapter No 99 as per Notification No 2/2018 -Central Tax (Rate) dated 25/01/2018, w.e.f 25/01/2018 ?</p> <p><b>Answer</b> – No</p> <p>2. Whether the said contract is covered under the term “Earth Work” and therefore covered under SI No – Chapter No. 9954 as per Notification NO. 31/2017 – Central Tax (Rate) dated 13/10/2017?</p> <p><b>Answer</b> – No</p> <p>3. If we are covered under SL No.3 chapter No. 9954 as per Notification No.31/2017 - Central Tax (Rate) dated 13/10/2017, w.e.f. 13/10/2017 then what is the meaning of “Earthwork”?</p> <p><b>Answer</b> – In view of answer to question no. 2, the question is not answered.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Rotary Club of Mumbai Nariman Point | Charitable Activity<br>(Maharashtra AAR)   | GST-ARA-142/2018-19/B-88 Mumbai dated 13.08.2019 | <ul style="list-style-type: none"> <li>Rotary" is an International organization having clubs in 216 countries engaged in humanitarian and charitable services. These services are executed through various districts comprising of many Clubs.</li> <li>In order to facilitate the meetings and administration, reimbursements are collected from members. These amounts are then used for administration and meetings.</li> <li>In some cases, the amount so collected is likely to exceed Rs.20 lacs, being the threshold for registration under GST Act, 2017</li> <li>A separate Administration Account is also being run which is being managed by yearly elected members. The expenses incurred for the weekly meetings include the expenses for the location and light refreshments.</li> <li>The contributions collected are spent by the end of the year and consistently there is a deficit which is generally borne by the Office Bearers for the said year in question or Members from their pockets for the weekly meetings or a meagre surplus. <b>The question has been raised –</b></li> </ul> <p>1. Whether contributions from the members in the Administration Account, recovered for expending the same for the weekly and other meetings and other petty administrative expenses incurred including the expenses for the location and light refreshments, amounts to or results in a supply, within the meaning of supply ?</p> <p><b>Answer</b> - Yes</p> <p>2. If answer to question no. 1 is affirmative, whether it will be classified as supply of goods or services?</p> <p><b>Answer</b> - It will be classified as supply of services.</p> <p>3. Whether the applicant would be a taxable person under the provisions of the Act?</p> <p><b>Answer</b> – Yes the applicant would be a taxable person subject to provisions of Section 22 of the GST Act.</p> <p>4. If answer to question no. 3 is affirmative, who shall be person responsible under GST, as office bearers keep on changing every year?</p> <p><b>Answer</b> - The applicant is liable to pay GST and not the office bearers.</p> <p>5. Whether the said collection of funds under common pool and spending back the same on said contributors, would entail 'supply' as defined in the law?</p> <p><b>Answer</b> -Yes.</p> <p>6. If answer to Question No. 5 is affirmative, whether the same would be supply of goods or services?</p> <p><b>Answer</b> - It will be classified as supply of services</p> |
| Nipro India                         | Manufacturer of                            | GST-ARA-                                         | <ul style="list-style-type: none"> <li>The applicant is engaged in the manufacture of various medical</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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| Corporation Private Limited         | Medical Apparatus (Maharashtra AAR)          | 141/2018-19/B-94 Mumbai dated 23.08.2019           | <p>apparatus like Dialyzer, Cannula, Syringe, Blood Tubing Sets, Artificial Venous Fistula Needles, Diapers, etc. <b>The questions have been raised –</b></p> <p>1. "Whether the product "Dialyzer" can be treated as 'Disposable sterilized dialyzer or micro barrier of artificial kidney' as mentioned under Entry No. 255 of Schedule I to Notification Number 1/2017-Central Tax (Rate), dated 28 June 2017 and Notification Number 1/2017-Integrated Tax (Rate), dated 28 June 2017 (collectively referred to as the 'Rate Notifications')<br/><b>Answer – Yes</b></p> <p>2. If the said product "Dialyzer" falls under Entry No. 255 of Schedule I to the Rate Notifications, whether it would be classified under Chapter 90 (i.e. Tariff item 9018 90 31) or Chapter 84 (i.e. Tariff item 8421 29 00).<br/><b>Answer – The product is classifiable in the tariff item 9018 90 31</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Maansmarine Cargo International Llp | BPO Services (Maharashtra AAR)               | GST-ARA- 04 /2019-20/B- 97 Mumbai dated 23.08.2019 | <ul style="list-style-type: none"> <li>The applicant has been offered a Business process outsourcing (BPO) work from Hong Kong based shipping Co. MSS Marine Ltd. MSS Marine involved in worldwide shipping consultancy and logistics arrangement of cargoes.</li> <li>The applicant would incur the expenses like salaries, rent, office expenses, travelling cost and these expenses shall be reimbursed by PRINCIPAL to Agent on actual basis with prior approval of PRINCIPAL <b>The questions have been raised –</b></li> </ul> <p>1. Whether GST is applicable on the reimbursement of expenses such as salaries, rent, office expenses, travelling cost etc.?<br/><b>Answer – Yes</b></p> <p>2. Whether GST will be applicable on the management fees charged by us to the Company for managing the job outsourced to us?<br/><b>Answer – Yes</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Fluid Power Pvt Ltd                 | Engineering Industry (Maharashtra AAR)       | GST-ARA-05/2019-20/B-98 Mumbai dated 23.08.2019    | <ul style="list-style-type: none"> <li>The applicant is engaged in designing &amp; manufacture of customized hydraulic equipment</li> </ul> <p>1. Applicability of GST @ 5% (CGST of 2.5% and SGST of 2.5%) or IGST @ 5% for the above mentioned Marine Duty hydraulic equipment, which is being designed and custom built by us for being fitted on a Barge falling under Serial No 246 of Schedule. I of GST Notification No 1/2017 dated 28th June 2017, and its Parts falling under Serial No. 252 of Schedule I of GST Notification No. 1/2017, which are essentially required for the functioning of barge.<br/><b>Answer – Yes</b></p> <p>2. Whether applicant can claim input tax credit in respect of indigenous and imported inputs which are being used for manufacture of the above equipment, if GST on the equipment manufactured by us is determined as 5% in terms of Notification No 1/2017 dated 28th June 2017.<br/><b>Answer – Yes</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Attest Testing Services Limited     | Education Service Provider (Maharashtra AAR) | GST-ARA-07/2019-20/B-99 Mumbai dated 23.08.2019    | <ul style="list-style-type: none"> <li>Applicant is engaged in the business of providing exam, certification and other allied services including various types of surveys, assessments, and exam services to various clients including individuals, educational institutions, firms, corporate bodies, government undertakings etc.</li> <li>Applicant has entered into various contracts with customers to provide services including ancillary services which are, conducting online examinations along with pre exam management processes, post exam management processes across different cities &amp; examination centers.</li> </ul> <p><b>The questions have been raised –</b></p> <p>1. Whether the services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the CGST Act, 2017 or a mixed supply defined under section 2(74) of the CGST Act, 2017?<br/><b>Answer – The subject services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the CGST Act, 2017</b></p> <p>2. If the services provided by Applicants are considered as composite supply, whether conduct of examination can be considered as principal supply?<br/><b>Answer – Yes</b></p> <p>3. If the above services are considered as composite supply and conduct of examination is considered as principal supply, whether the exemption provided under Entry 66 of Notfn 12/2017-Central Tax (Rate) as amended vide Notfn. No 02/2018 - Central Tax (Rate) w.e.f. 25.01.2018 shall be granted?<br/><b>Answer – The exemption under Entry No. 66 will be available to the applicant</b></p> |

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|                           |                                                                                                                                              |                                          | <p>only when the provisions mentioned therein are satisfied by them.</p> <p>4. <i>In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to services provided to educational institution?</i></p> <p><b>Answer</b> – The exemption under Entry No. 66 will be available to them only in respect of the Work Order issued by the University of Delhi, as discussed above.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Ambo Agritec Pvt Ltd      | <p>Manufacturer Of Vanaspati, Refined Oil And Biscuits</p> <p><b>(West Bengal Authority of Advance Ruling)</b></p>                           | <p>39/WBAAR/2019-20 dated 24.12.2019</p> | <p><b>Question on which Advance Ruling Sought</b></p> <p><b>Classification of a non edible dough of flour and sugar used as an intermediate preparation in confectionary business</b></p> <ul style="list-style-type: none"> <li>The applicant is a manufacturer of vanaspati, refined oil and biscuits along with non-edible intermediary product for confectionery prepared from a dough of wheat flour, sugar, food-grade sodium bicarbonate and water, cut into tiny Kaju shaped pellet.</li> <li>As the Applicant is not supplying its Kaju-shaped products under any brand name.</li> </ul> <p>1. <i>The West Bengal Authority of Advance Ruling ( AAR ) in an application filed by Ambo Agritec Pvt Ltd held that supply of mixture and dough of wheat flour, sugar and water, cut into a specific shape, which is dried and hardened by heating is classifiable under tariff item 1901 20 00 which will attract 28% GST.</i></p> <p><b>Answer:</b>– The Bench constituting of members Ms Susmita Bhattacharya and Ms Parthasarathi Dey held that supply of mixture and dough of wheat flour, sugar and water, cut into a specific shape, which is dried and hardened by heating is classifiable under tariff item 1901 20 00.</p> <p>As the Applicant is not supplying its Kaju-shaped products under any brand name, it is not classifiable under HSN 1103.</p> <p>The applicant is supplying mixes and dough for preparation of biscuits and other bakers’ wares, whether or not the preparation of the final edible item involves further baking or frying. It is, therefore, classifiable under tariff item 1901 20 00 and attract 28% GST.</p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p> |
| Infobase Services Pvt Ltd | <p>Printing Service And Intermediary Service For Selling Space For Advertisement</p> <p><b>(West Bengal Authority of Advance Ruling)</b></p> | <p>38/WBAAR/2019-20 dated 24.12.2019</p> | <p><b>Question on which Advance Ruling Sought</b></p> <p><b>Classification of the services of printing and selling advertisement space as an agent when supplied as a bundle</b></p> <ul style="list-style-type: none"> <li>The Applicant is supplying of a bundle of services to the Tollygunge Club Ltd. at a single price. The applicant is supplying selling space for Advertisement in the Directory and printing Services.</li> <li>The cost of printing the Directory is covered by the sales of the advertisement space. Any profit generated from the sale of space would be divided among the parties with the applicant receiving 75% of the profit.</li> </ul> <p>1. <i>Whether Mixed supplied within the meaning of Section 2(74) of the GST Act is applied when supply of a bundle of services at a single price if it does not constitute a composite supply</i></p> <p><b>Answer:</b> – The ruling was made by a bench of the Authority of Advance Ruling consisting of Ms Susmita Bhattacharya, Joint Commissioner, CGST &amp; CX and Mr Parthasarathi Dey, Senior Joint Commissioner, SGST on an application made by Infobase Services Pvt Ltd.</p> <p>Supply of services goes beyond the sale of space for advertisements. As per press release dated 23/08/2017 of the Ministry of Finance, Government of India pointing that if the supplier sells space for advertisement as an agent of the print media as a part of any composite supply, the rate applicable for the principal supply shall apply. The court further elaborated that such a supply should be treated as supply of that service which attracts the highest rate of tax [section 8 (b) of the GST Act].</p> <p>The Authority noted that the “<i>Applicant is making a bundled supply to the</i></p>              |

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|                     |                                                                                                                  |                                   | <p><b>Club of printing service and intermediary service for selling space for advertisement on behalf of the Club and charging a single price for the bundle as the project cost for printing. The two services are not naturally bundled or supplied in conjunction with each other in the ordinary course of business".</b> The Authority further pointed out that they are bound by an obligation specified in the agreement between the Applicant and the Club and therefore, not a composite supply.</p> <p>The Authority hence ruled that the applicant is making a mixed supply to the Tollygunge Club of printing service and intermediary service for selling space for advertisement on behalf of the club.</p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Switz Foods Pvt Ltd | Manufacturer Of Confectionery Products Like Cakes, Rusks etc<br><b>(West Bengal Authority of Advance Ruling)</b> | 37/WBAAR/2019-20 dated 09.12.2019 | <p><b><u>Question on which Advance Ruling Sought</u></b><br/><b><i>Whether baked food having more than 20 per cent by weight meat is classifiable under HSN 1601</i></b></p> <ul style="list-style-type: none"> <li>• The Applicant is stated to be a manufacturer of confectionery products like cakes, rusks etc. Some of its products contain portions of cooked chicken, fish or egg.</li> <li>• The Applicant submits in the light of decisions of CESTAT in Venky's Fast Food [2000 (124) ELT 939 (Tri-Del), that it has so far been classifying the products under HSN 2106. The products contain more than 20% by weight of chicken meat. The products are preparations of meat instead of raw meat. They emerge as distinct food preparations through cooking when other ingredients are added and are separately identifiable as Chicken Kebab, Chicken Burger etc. The Applicant, therefore, argues that the products are classifiable under HSN 1601 instead of HSN 2106.</li> <li>• The Applicant also submits a report A few of the products would not survive as food preparation if the chicken meat were removed. Such products may be classified under HSN 1601, provided they contain more than 20% by weight of meat.</li> </ul> <p><b><i>1. Whether baked food having more than 20 per cent by weight meat is classifiable under HSN 1601</i></b></p> <p><b>Answer:</b> – The division bench comprising of Ms Susmita Bhattacharya, Joint Commissioner, CGST &amp; CX and Mr Parthasarathi Dey, Senior Joint Commissioner, SGST held that the Application is admitted for the products that belong to the category of baked food preparations made of flour and contain chicken.</p> <p>The products that survive as bakers' wares if the chicken meat is removed cannot be labelled food preparations based on meat</p> <p>Chicken meat is used as a filling in most of the products where bread or baked flour is used as the base.</p> <p>The baked products as distinct food preparations will survive even if the chicken meat is excluded from the filling. They are, therefore, not food preparations based on chicken meat. Such bakers' wares cannot, therefore, be classified under HSN 1601.</p> <p>A few of the Applicant's products would not survive as food preparation if the chicken meat were removed. Such products may be classified under HSN 1601, provided they contain more than 20% by weight of the meat.</p> <p><b><i>The Authority of Advance Ruling ( AAR ) in West Bengal ruled that baked food having more than 20% meat is classifiable under HSN 1601.</i></b></p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p> |
| M/s Ex-servicemen   | Registered Society Providing                                                                                     | 35/WBAAR/2019-20 dated            | <p><b><u>Question on which Advance Ruling Sought</u></b><br/><b><i>Whether it is liable to pay GST on the portion of the payment received on</i></b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| Resettlement Society | Security Services (West Bengal Authority of Advance Ruling)                               | 29.11.2019                        | <p><b>amount of the bonus paid or payable</b></p> <ul style="list-style-type: none"> <li>The Applicant, stated to be a registered society providing security services and scavenging services to various hospitals under the State Government.</li> <li>The Applicant submits that it supplies security and scavenging services to the Government hospitals, classifying the service under the act and the Applicant also provides a few copies of the bills raised on Dr R Ahmed Dental College &amp; Hospital of its service.</li> <li>The finance audit department clarifies that the monthly charges payable to the private security agencies deployed in govt. Establishments have two parts (1) service charge and (2) security charge. The security charge is the minimum wages for the security personnel their entitlements to ESI, EPF, and bonus as applicable</li> <li>The applicant claims the minimum wages employee's portion of EPF, ESI, etc. on its bill for monthly charges and charges GST on the gross amount including the security charges. The health and family welfare department directs that the contractual security personnel be paid bonus @8.33% once in a year.</li> <li>The applicant makes a separate bill for claiming the bonus amount. No GST is charged on such bills.</li> </ul> <p>1. The application for Advance Ruling is filed under Section 97(2) (c) &amp; (e) of the GST Act for seeking a ruling on <b>whether it is liable to pay GST on the portion of the payment received on account of the bonus paid or payable to the persons it deploys as security personnel</b></p> <p><b>Answer:-</b> The division bench comprising of members Ms Susmita Bhattacharya, Joint Commissioner, CGST &amp; CX Mr. Parthasarathi Dey, Senior Joint Commissioner, SGST observed that the security personnel engaged are at no point employees of the state government.</p> <p>The applicant can recruit, deploy, withdraw or replace any security personnel, provided the recipient kept informed. <b>It is not a manpower recruit agency.</b></p> <p>It is entitled to pass the liability to the recipient who, in terms of the agreement, apparently ready to bear that liability. <b>Such an agreement does not create a master and servant relationship between the recipient of the service and security personnel.</b></p> <p><b>Therefore, liable to pay GST on the portion of the payment received on account of the bonus paid or payable to the persons it deploys as security personnel.</b></p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p> |
| M/s Dipeet Agarwal   | Liable To Pay GST On Supply Of Goods Through PD (West Bengal Authority of Advance Ruling) | 31/WBAAR/2019-20 dated 11.11.2019 | <p><b>Supply of goods through PDS is not exempt and hence is liable to pay GST.</b></p> <ul style="list-style-type: none"> <li>The Applicant, Dipeet Agarwal, supplies consumer goods like biscuits, soaps etc. earmarked 'FOR PDS SUPPLY ONLY' to fair price shops/PDS distributors.</li> <li>The applicant argued that by supplying consumer goods earmarked 'FOR PDS SUPPLY ONLY' to fair price shops/PDS distributor</li> <li>He acts as an associate of the West Bengal Essential Commodities Supply Corporation Ltd</li> <li>The Applicant further argued that he bears all cost and charges, including packaging, loading, railway freight, demurrage etc., and</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |



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|                            |                                                                                                |                                   | <p>bears all the risk associated with transportation, warehousing and quality of the products.</p> <ul style="list-style-type: none"> <li>• He also pointed that he Supplies the goods at the price and to the recipients fixed by the Government.</li> </ul> <p><b><i>1. whether Applicant is liable to pay GST on supply of goods through PDS (Public Distribution Center)</i></b></p> <p><b>Answer:-</b> The Authority ruled that the Supply of goods through PDS is not exempt under Notification No.212017 – CT (Rate) dated 28/06/2017, as amended from time to time or any other notification and <b><i>activities or transactions of the Applicant are not included in Schedule III either.</i></b></p> <p>The Applicant is, therefore, <b><i>liable to pay GST at the applicable rate</i></b> on his supplies of goods through PDS.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| M/s Shewratan Co Pvt Ltd   | Supply Of Stores To Foreign Going Vessels<br><b>(West Bengal Authority of Advance Ruling)</b>  | 30/WBAAR/2019-20 dated 21.10.2019 | <p><b><u>Supply of stores to foreign going vessels, as defined under section 2(21) of the Customs Act, 1962 Act, is not export or zero-rated supply</u></b></p> <ul style="list-style-type: none"> <li>• The Applicant supplies foreign going vessels stores like paint, rope, spare parts, electronic equipment etc</li> <li>• The Applicant argues that supply of stores in a foreign going vessel is <b><i>export and a zero-rated supply</i></b> in terms of section 16 of the IGST Act.</li> </ul> <p><b><i>1. Whether supply of stores in foreign going vessels is export</i></b></p> <p><b>Answer:-</b> Supplying warehoused goods as stores to the merchant ships on the foreign run where the goods are not to be consumed until the vessel crosses the territorial waters of India. In other words, the foreign going vessel is merely transporting the stores until it reaches a location outside India. Facts of the Applicant's case are not similar or that specific reference to the ruling of the <b><i>AAR, Andhra Pradesh.</i></b></p> <p>The Authority also held that, <b><i>“A foreign going vessel anchored within the territory of India is not a place outside India and taking the stores on board such a vessel does not amount to supply to a location outside India”</i></b></p> <p>The Applicant is, therefore, <b><i>liable to pay tax</i></b> on such supplies under the GST Act or the IGST Act, as the case may be.</p> |
| M/s Singh Transport Agency | Conservancy/Solid Waste Management Service<br><b>(West Bengal Authority of Advance Ruling)</b> | 29/WBAAR/2019-20 dated 21.10.2019 | <p><b><u>Conservancy/solid waste management service for local government is exempt from the payment of GST</u></b></p> <ul style="list-style-type: none"> <li>• The Applicant provides conservancy/solid waste management service to the Conservancy Department of the Howrah Municipal Corporation (HMC). The HMC, was <b><i>deducting TDS</i></b> while paying consideration for the above supply in accordance with the TDS Notifications.</li> <li>• The applicant argued that since he supplies pure service he is exempted under SI No. 3 of the Exemption Notification.</li> </ul> <p><b><i>1. Whether TDS is deductible on supply of solid waste conservancy service to a municipality</i></b></p> <p><b>Answer:-</b> The eligibility under Exemption Notification was examined by the Authority from three aspects:<br/> (1) whether the supply being made is pure service or a composite supply, where supply of goods does not exceed more than 25% of the value of the supply,<br/> (2) whether the recipient is government, local authority, governmental authority or a government entity, and<br/> (3) Whether the supply is being made in relation to any function entrusted to a panchayat or a municipality under the constitution.<br/> The Authority noted that the services were pure services, the recipients are a local authority and the supply is in relation to a function of the local authority.</p>                       |

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|                                        |                                                            |                                   | <p><i>The West Bengal Authority for Advance Ruling has ruled that the Conservancy/solid waste management service for local government is exempt from the payment of GST and since the Applicant is making an exempt supply, the mechanism of TDS, do not apply to the Supply.</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| M/s Golden Vacations Tours and Travels | Support Services (West Bengal Authority of Advance Ruling) | 26/WBAAR/2019-20 dated 23.09.2019 | <p><b><u>Engaged in providing the standalone service of arranging client's accommodation is classifiable as 'Support Service' and not as 'Tour Operator'.</u></b></p> <ul style="list-style-type: none"> <li>• The Applicant by referring to the definition of a <b>"tour operator"</b> stated under Explanation to Sl. No. 23(i) of Notification No. 11/2017 dated 28/06/2017 which means a person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation) along with others.</li> <li>• Applicant's opinion, it <b>is not to be classified as tour operating service because it only provides client accommodation</b></li> <li>• The Applicant argues that accommodation service is classified under SAC 996311 and covered under several clauses of Sl No. 7 of the Rate Notification.</li> <li>• The Applicant further argues that <b>support services</b> covered under Sl No. 23(iii) of the Rate Notification include services classified under SAC 998552. Services covered under SAC 998552 includes arranging <b>reservations for accommodation services</b> for domestic accommodation, accommodation abroad etc</li> </ul> <p><b><i>1. What is the classification of the standalone service of arranging accommodation in a hotel</i></b></p> <p><b>Answer:-</b> The Authority constituting of the Bench of Hon'ble Members Mr. Parthasarathi Dey and Ms. Susmita Bhattacharya emphasized that the applicant is merely engaged in arranging the client's accommodation in hotels and held that such a service of <b>arranging accommodation as a standalone business cannot be classified as tour operating under</b> Sl No. 23(i) of the Rate Notification wherein the definition of tour operator prescribes that the arrangement of accommodation might be provided as add-ons, but that is not the essence of the tour operating service.</p> <p>Further, while analyzing competing entries to classify the service, the Authority referred to the entry of 'Accommodation Service' under SAC 996311 which is limited to the one provided by the hotels, guest house,... and to that of 'Support Services' under SAC 998552 which include arranging reservations for accommodation services for domestic accommodation, accommodation abroad etc.</p> <p>The West Bengal Authority for Advance Ruling in an application filed by Golden Vacations Tours and Travels held that the applicant engaged in providing the standalone service of arranging client's accommodation is classifiable as <b>'Support Service' and not as 'Tour Operator'</b>. <b>Also, ITC shall be available on the same.</b></p> |

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