

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 18/2020

Date : 31-03-2020

Present:

1. **Dr. Ravi Prasad M.P.**
Additional Commissioner of Commercial Taxes Member (State Tax)
2. **Sri. Mashhood Ur Rehman Farooqui,**
Joint Commissioner of Central Tax Member (Central Tax)

1.	Name and address of the applicant	M/s T & D Electricals, S-1/8, RIICO Shopping Complex, Road No.1, VKIA, Jaipur Rajasthan, PIN – 302013.
2.	GSTIN or User ID	291900000213ART
3.	Date of filing of Form GST ARA-01	06-11-2019
4.	Represented by	--NA--
5.	Jurisdictional Authority – Centre	--NA--
6.	Jurisdictional Authority – State	--NA--
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act vide CIN SBIN19112900006513 dated 11-11-2019 and Rs.5,000/- under KGST Act vide CIN SBIN19112900006464 dated 02-11-2019.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 &
UNDER SECTION 98(4) OF THE KGST ACT, 2017**

1. M/s T & D Electricals, S-1/8, RIICO Shopping Complex, Road No.1, VKIA, Jaipur –302013 Rajasthan, having User ID 291900000213ART, have filed an application for Advance Ruling under Section 97 of CGST Act,2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is registered under the Goods and Services Act, 2017 as works contractor and wholesale supplier in Jaipur, Rajasthan, having GSTIN



08AADFT8381Q1Z9. They have been awarded a contract by M/s Shree Cement Limited, Rajasthan for electrical, instrumentation and IT jobs (works contract) at township, Karnataka Cement Project (a unit of Shree Cement Ltd.). The applicant had sought advance ruling, on the same questions & same issues that have been raised in the instant application, before the Authority for Advance Ruling, Rajasthan, Jaipur, who have not passed any ruling on the grounds that the questions pertain to GST registration in Karnataka which are beyond the purview of the said authority. In view of this, the applicant filed the instant application, as an unregistered person, seeking advance ruling in respect of the following questions:

1. *Whether separate registration is required in Karnataka state ? If yes, whether agreement would suffice as address proof since nothing else is with the assessee and service recipient will not provide any other proof?*
2. *If registration is not required in Karnataka state and if we purchase goods from dealer of Rajasthan and want to ship goods directly from the premises of dealer of Rajasthan to township at Karnataka then whether CGST & SGST would be charged from us or IGST by the dealer of Rajasthan ?*

If registration is not required in Karnataka state and if we purchase goods from dealer of Karnataka to use the goods at township at Karnataka then whether IGST would be charged from us or CGST & SGST by the dealer of Karnataka?

3. *What documents would be required with transporter to transit/ship material at Karnataka site from dealer/supplier of Rajasthan and in case of dealer/supplier is of Karnataka. Advance ruling may kindly be issued in case of registration is required or not required in both the situation?*

3. **Admissibility of the application** : The applicant filed the instant application as an unregistered person, in relation to the contract awarded by M/s Shree Cement Ltd., & supply of goods or services or both proposed to be undertaken by the applicant, in Karnataka. Further the applicant claims that they have sought advance ruling in respect of the questions on the issues covered under Section 97(2)(d) & (f) of the CGST Act 2017. But it is observed that only one question is covered under Section 97(2)(f) of the CGST Act 2017. Therefore the application is partially admitted.

4. **Applicant's statement of relevant facts**: The applicant furnishes the following facts which have a bearing on the questions raised by them in the instant application:

- a) They are registered under GST Act having GSTIN 08AADFT8381Q1Z9 as works contractor and wholesale supplier in Jaipur, Rajasthan. They have been awarded a contract by M/s Shree Cement Ltd., Rajasthan for electrical, instrumentation and IT jobs (works contract) at township, Karnataka Cement Project (a unit of Shree Cement Ltd.,) in the state of Karnataka.
- b) The scope of work of the contract include complete electrical & instrumentation jobs; installation, testing and commissioning at township. The job involves supply of material and installation, testing and commissioning of the same. The basic value of the contract is Rs.297.85 lacs.
- c) The contractor i.e. applicant herein have to arrange all required tools and tackles with manpower/electrician/technician with required material as per Annexure A of the contract.
- d) The invoices have to be addressed to Karnataka Cement Project (a unit of Shree Cement Ltd.), P.B. No.1, Kodla village, Benkanahalli Taluk, Kalaburagi District, Karnataka, PIN-585222 and the GSTIN of the Shree Cement Ltd.,(Karnataka) is required to be mentioned in the invoices.
- e) The contractor i.e. applicant herein does not have any premises in Karnataka as M/s Shree Cement Ltd., will only provide temporary small space for office & store in their premises without any written documents, as per para 1.17.1 of the contract.

5. Applicant's interpretation of law :

- a) Section 22 of the CGST Act 2017 provides requirement for registration according to which every supplier shall be liable to be registered under this Act in the state or union territory, other than special category of states, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees.
- b) Section 2(71) defines location of supplier and in the instant case location of supplier (applicant) is Rajasthan, as the supply is made from Rajasthan. Further Section 2(71) also defines 'location of supplier of services' and in the instant case the location of the applicant (works contractor) will be the state where his principal place of business is registered (unless he has established office / establishment in the place where the services are supplied)

- c) The place of supply, in case of works contract services, shall be the location at which the immovable property (construction site) is located, as per Section 12(3)(a) of IGST Act 2017.
- d) Therefore we understand that we are not required to have any separate GST registration in Karnataka State. Further according to the Advance Ruling of AAR, Rajasthan, the jurisdictional officer also opined that registration is not required.
- e) Documents required for proof of principal place of business, as per GST Act are Legal Ownership Document, Consent Letter, Electricity Bill, Municipal Khata Copy, Property Tax Receipt, Rent / Lease agreement & Rent receipt with NOC (in case of expired agreement); we do not have any of these documents as M/s Shree Cement Ltd., have not agreed to provide said documents and hence we do not have any permanent establishment in Karnataka State.
- f) Section 10(1) of the IGST Act 2017 determines the place of supply of goods, other than supply of goods imported into, or exported from India, which has two clauses i.e. (a) and (b). We understand that clause (b) is applicable to the instant case and hence CGST & SGST should be charged in case when registration is not required and goods are purchased from Rajasthan and shipped directly from dealer of Rajasthan to township at Karnataka. Further if the goods are purchased from a dealer of Karnataka and shipped to the site of Karnataka, then IGST should be charged in terms of Section 10(1)(b) of the IGST Act 2017.

PERSONAL HEARING

6. A hearing opportunity was given to the applicant, which has not been availed by either applicant or the authorized representative. However, Sri. Ravi Gupta, Advocate & the authorized representative, vide letter dated 17.12.2019, sent through e-mail, requested to issue advance ruling on the basis of written submission in the application on consideration of the same as their oral submissions and hence personal hearing may not be granted.

7. DISCUSSION & FINDINGS:

7.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the issues involved & relevant facts having a bearing on the questions in respect of which advance ruling is sought by the applicant.

7.2 At the outset, we would like to state that the provisions of both the CGST Act, 2017 and the KGST Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the corresponding similar provisions under the KGST Act.

7.3 The applicant herein has got the contract from M/s Shree Cement Ltd., Rajasthan for execution of the same at the location situated in Kalaburagi district of Karnataka State. The applicant is a registered person in Rajasthan and with this background has sought advance ruling in respect of the questions mentioned at para 2 supra. We take up each question at a time for discussion.

7.4 The first question is whether separate registration is required to execute the aforesaid contract in Karnataka State or not. Section 22 of the CGST Act 2017 is relevant to registration and stipulates that every supplier shall be liable to be registered in the state from where the said supplier makes the taxable supply of goods or services or both, subject to the threshold limit of the aggregate turnover in a financial year.

7.5 In the instant case, the applicant intends to supply goods or services or both from their principle place of business, which is located in Rajasthan. The applicant has only one principle place of business, for which registration has been obtained and does not have any other fixed establishment other than the principle place of business, as admitted by the applicant. Therefore the location of the supplier is nothing but the principle place of business which is in Rajasthan. Thus there is no requirement for a separate registration in Karnataka for execution of the contract referred supra.

7.6 The second question consists of two parts i.e. a & b. The first part of the said question (part a) is related to the situation where the goods are purchased by the applicant from the dealer of Rajasthan and shipped directly to the township (location of the project) in Karnataka, if separate registration is not required in Karnataka. In this situation whether the dealer in Rajasthan has to charge CGST & SGST or the IGST?

In this situation the supplier i.e. dealer in Rajasthan and the recipient of goods i.e. the applicant, both are situated in the same state of Rajasthan and hence the impugned supply becomes intra-state supply, in terms of Section 8 of the IGST Act 2017 and the said supply gets covered under **Bill to - Ship to** transaction, in terms of Section 10(1)(b) of IGST Act 2017. Thus CGST & SGST has to be charged by the dealer in the relevant invoice. However, the applicant has to charge IGST in their invoice addressed to M/s Karnataka Cement Project (a unit of Shree Cement Ltd.)



7.7 The second portion (part b) of the said question is related to the situation where the goods are purchased by the applicant from the dealer of Karnataka and shipped directly to the township (location of the project) in Karnataka, if separate registration is not required in Karnataka. In this situation whether the dealer in Karnataka has to charge CGST & SGST or the IGST?

In this situation the supplier i.e. dealer is situated in Karnataka & the recipient of goods i.e. the applicant, is situated in the state of Rajasthan and hence the impugned supply becomes inter-state supply, in terms of Section 7(1) of the IGST Act 2017. Further the said supply gets covered under **Bill to - Ship to** transaction, in terms of Section 10(1)(b) of the IGST Act 2017. Thus IGST has to be charged by the dealer in the relevant invoice. However, the applicant also has to charge IGST in their invoice addressed to M/s Karnataka Cement Project (a unit of Shree Cement Ltd.,).

7.8 The third question is related to the documents required to be carried by the transporter of goods, when purchased from (a) the dealer in Rajasthan and (b) the dealer in Karnataka and shipped to Karnataka Cement Project (a unit of Shree Cement Ltd.,) in Karnataka.

The impugned question does not gets covered under the issue/s on which the advance ruling can be sought under CGST Act 2017, in terms of Section 97(2) of the said Act. Therefore no ruling is given to this question.

8. In view of the foregoing, we pass the following

R U L I N G

- 1) The applicant need not obtain a separate registration in Karnataka, to execute the project in Karnataka. However, they are at liberty to obtain the said registration, if they are able & intend to have a fixed establishment at the project site in Karnataka.
- 2) (a) The dealer in Rajasthan has to charge CGST & SGST when the goods, purchased by the applicant, are shipped to project site in Karnataka, under bill to ship to transaction in terms of Section 10(1)(b) of the IGST Act 2017.

(b) The dealer in Karnataka has to charge IGST when the goods, purchased by the applicant, are shipped to project site in Karnataka, under bill to ship to transaction in terms of Section 10(1)(b) of the IGST Act 2017.

- 3) No ruling is given on this question as it does not cover under Section 97(2) of the CGST Act 2017.



(Dr.M.P.Ravi Prasad)

Member

Karnataka Advance Ruling Authority
Place : Bengaluru, Bengaluru - 560 009

Date : 31-03-2020



(Mashhood ur Rehman Farooqui)

Member

Karnataka Advance Ruling Authority
Bengaluru - 560 009

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru..
3. Office Folder

