

GST @ 18% payable on services provided by sub-sub-contractor to sub-contractor to main contractor pertaining to irrigation, construction

The AAR, Gujarat in the matter of *M/S. Kababhai Popatbhai Savalia (Shreeji Earth Movers) [Advance Ruling No. GUJ/GAAR/R/43/2021 dated August 11, 2021]* held that, GST is payable on services provided by sub-sub-contractor to sub-contractor pertaining to irrigation, construction, maintenance works to irrigation department @ 18%.

Facts:

M/S. Kababhai Popatbhai Savalia (Shreeji Earth Movers) (“**the Applicant**”) is engaged in providing works contract service directly to sub-contractors who execute the contract with the main contractor for original contract work with the Irrigation Department (State of Gujarat).

The Government Irrigation Division awarded work contract to main Contractor M/s JSIW for EPC of a pumping station. Subsequently, the main contractor awarded the work to sub-contractor M/s Radhe Construction, who awarded the said work to the Applicant, who is now a sub-sub-contractor.

Issue:

What is the applicable rate of tax the liability on services provided by the Applicant to the main contractor pertaining to the irrigation, construction and maintenance works to the Irrigation Department, State of Gujarat?

Held:

The AAR, Gujarat in *Advance Ruling No. GUJ/GAAR/R/43/2021 dated August 11, 2021* held as under:

- Noted that, to be eligible for being covered under *Sl. No. 3(iii) of Notification No. 11/2017 - Central Tax (Rate) dated June 28, 2017* (“**the Services Rate Notification**”), the Applicant shall satisfy the condition of composite supply of works contract to be supplied by main contractor to government and supply by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of canal, dam or other irrigation works. The Applicant satisfies the second condition only.
- Further noted that, to be eligible for being covered under SI No. 3(ix) of Services Rate Notification the condition of being a main contractor or sub-contractor has to be satisfied but the Applicant is not a sub-contractor but a sub-sub-contractor. Further, the services have to be supplied by main contractor to government or by a sub-contractor to the main contractor providing services to government.

- Opined that, it is only the main contractor supplying subject service to government and the sub-contractor of the main contractor who will merit under the Service Rate Notification.
- However, the Applicant and supplies service to sub-contractor and not to main contractor, the conditions of entry under 3(iii)/ 3(ix) to the Services Rate Notification is not satisfied.
- Held that, GST @ 18% is applicable for services supplied by the sub-sub-contractor to sub-contractor and supply merits entry at Heading 9954, Entry No 3(ii) of Services Rate Notification.

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