

Body

Advance Ruling No. KAR ADRG 22/2022, Dated 12th August, 2022

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

**Present:**

1. Dr. M.P.Ravi Prasad

Additional Commissioner of Commercial Taxes ..... Member (State)

2. Sri. T. Kiran Reddy,

Additional Commissioner of Customs & Indirect Taxes ..... Member(Central )

1.	Name and address of the applicant	M/s. INDIAN SECURITY AND PERSONNEL ARRANGEMENTS, No.79/14-5, 3rd Floor, 17th Main Road, JC Nagar, Geleyara Balaga Layout, Bengaluru-560086.
2.	GSTIN or User ID	29BHRPK5161R2Z9
3.	Date of filing of Form GST ARA-01	28-06-2022
4.	Represented by	Ms. Shankari, Advocate and Duly Authorised Representative
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Bengaluru West GST Commissionerate, Bengaluru West Division-3, Range-BWD3
6.	Jurisdictional Authority -State	ACCT, LGSTO-50A, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger Reference NO.DC2906220283533 Dated 27-06-2022

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

M/s. Indian Security and Personnel Arrangements, No.79/14-5, 3rd Floor, 17th Main Road, JC Nagar, Geleyara Balaga Layout, Bengaluru-560086 (hereinafter referred to as The applicant5), having GSTIN 29BHRPK5161R2Z9 have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of 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 a Proprietorship concern registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The Applicant is engaged in providing manpower services. They are proposing to submit a bid in response to the tender floated by the Department of Horticulture, Government of Karnataka for certain services.

3. The applicant has sought advance ruling in respect of the following questions:-

- i. Whether the services proposed to be provided by it to the Department of Horticulture for cleaning and sweeping of lawns and garden path areas and segregation and transport of the garbage are liable for GST, and if yes, then at what rate?
- ii. Whether the services proposed to be provided by it to the Department of Horticulture for supply of manpower for garden maintenance on outsource basis to the Department of Horticulture are liable for GST, and if yes, then at what rate?

#### 4. Admissibility of the application:

The question is about the "determination of the liability to pay tax on any goods or services or both" and hence is admissible under Section 97(2) (e) of the CGST Act 2017.

#### 5. BRIEF FACTS OF THE CASE:

The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that their proposed activities that is, cleaning and sweeping of lawns and garden path areas, segregation and transport of the garbage and supply of manpower for garden maintenance are intended to be provided to the Government Department of the State of Karnataka i.e., the Department of Horticulture.

5.2 The applicant states that Horticulture is the art and science of growing plants and includes landscaping, soil management, designing, construction and maintenance of gardens. The purpose of the work undertaken by the Horticulture Department is to ensure that the gardens are aesthetically beautiful, provide excellent ambience and provide an authentic environment for visitors and public.

5.3 The applicant states that the Department of Horticulture would fall within the definition of "Government" for the purposes of GST and as such, pure service received by it would be exempt from GST in accordance with the following provisions / notifications.

5.4 The applicant states that as per Notification 12/2017 Central Tax (Rate) dated 28-06-2017 as amended. SI.No.3 reads as follows:

SI.No.	Heading	Description	Rate	Condition
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government, Union territory, local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243 G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	Nil

5.5 The applicant states that the services in question, to be provided to the Department of Horticulture, involve essentially the services of sweeping and segregating collected garbage; and supply of manpower for garden maintenance. In the case of services of sweeping, and collection of garbage, the requirements stipulated as per the tender documents include workers, auto tippers and garbage compactor. There is no transfer of property in goods involved in this contract. Invitation for tenders for the performance of this work is issued by the Office of the Deputy Director of Horticulture, Sri Chamarajendra (Cubbon) Park, Bangalore. In the case of supply of manpower for maintenance also, the requirement is only to deploy a certain number of contract personnel for the work. Invitation for tenders for the performance of this work is issued by the Office of the Assistant Director of Horticulture, Karnataka Siri Horticulture Garden, Ooty.

5.6 The applicant states that there is no supply of or transfer of property in goods involved whatsoever in both cases. That being the case, the supply is comprised purely of services and therefore would be a "pure service".

5.7 The applicant states that the Department of Horticulture, is a Government Department of the State of Karnataka, and therefore falls within the definition of "government" as per Section 2(53) of the Karnataka Goods and Services Tax Act, 2017.

5.8 The services provided are in relation to the maintenance of parks, which falls within the ambit of "provision of urban amenities and facilities such as parks, gardens, playgrounds", which is an activity covered under the Twelfth Schedule, falling within the purview of Article 243W of the Constitution of India.

5.9 The applicant has submitted the text of Article 243W and the Twelfth Schedule as under:-  
243W. Powers, authority and responsibilities of Municipalities, etc.

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

(a) The Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified

therein, with respect to,-

- (i) the preparation of plans for economic development and social justice;
- (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

The functions entrusted to a Municipality under the Twelfth Schedule to Article 243W of the Constitution are as under:-

- (a) Urban planning including town planning.
- (b) Regulation of land-use and construction of buildings.
- (c) Planning for economic and social development.
- (d) Roads and bridges.
- (e) Water supply for domestic, industrial and commercial purposes.
- (f) Public health, sanitation conservancy and solid waste management.
- (g) Fire services.
- (h) Urban forestry, protection of the environment and promotion of ecological aspects.
- (i) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
- (j) Slum improvement and upgradation.
- (k) Urban poverty alleviation.
- (l) Provision of urban amenities and facilities such as parks, gardens, playgrounds.
- (m) Promotion of cultural, educational and aesthetic aspects.
- (n) Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
- (o) Cattle pounds; prevention of cruelty to animals.
- (p) Vital statistics including registration of births and deaths.
- (q) Public amenities including street lighting, parking lots, bus stops and public conveniences.
- (r) Regulation of slaughter houses and tanneries.

5.10 The applicant submits that the activity of maintenance of parks and gardens, in respect of which the services are provided to the Department of Horticulture, are therefore within the ambit of "function entrusted to a Municipality under article 243W of the Constitution".

5.11 The applicant further submits that in the advance ruling provided to The Nursery Men Cooperative Society in Advance Ruling No.KAR.ADRG. 18/2018, dated 06-08-2017, on a similar factual matrix, the Ld. Authority for Advance Ruling (Karnataka) has held that the service of maintenance of parks provided by the applicant in that case to the State Government, Central Government or local authority, not involving a transfer of property in goods either as a component of works contract or a composite supply is covered under Entry No.3 of the Notification No. 12/2017 Central Tax (Rate) dated 28-06-2017 and hence exempt.

#### **PERSONAL HEARING / PROCEEDINGS HELD ON 07-07-2022**

7. Ms. Shankari, Advocate and Duly Authorised Representative appeared for personal hearing proceedings held on 07-07-2022 and reiterated the facts narrated in their application.

#### **FINDINGS & DISCUSSION**

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.
9. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the authorized representative and also their submissions made during the time of hearing.
10. The Applicant wishes to know the GST liability on the activities proposed to be undertaken by him, which is, cleaning and sweeping of lawns and garden path areas, segregation and transport of the garbage and supply of manpower for garden maintenance. The tenders for the proposed activities are floated by the Department of Horticulture, Government of Karnataka.
11. The applicant states that the proposed services involve sweeping and segregating collected garbage; and supply of manpower for garden maintenance. In the case of services of sweeping, and collection of garbage, the requirements stipulated as per the tender documents include workers, auto tippers and garbage compactor. The Applicant also states that there is no transfer of property in goods involved in this contract. This proposed service is to be provided in Cubbon park, Bangalore, as per the letter of invitation for Tenders.
12. The applicant states that the proposed services also involve supply of manpower for maintenance of garden and this involves only deployment of certain number of personnel for work. This proposed service is to be provided in Karnataka Siri Horticulture Garden, Ooty, Tamilnadu, as per the letter of invitation for Tenders. The Applicant states that both the proposed activities are exempted as per entry 3 of Notification No. 12 of 2017

(Central Tax Rate), dated: 28.06.2017. Now we verify the same.

13. Entry No. 3 of Notification No. 12 of 2017 (Central Tax Rate), dated: 28.06.2017 is reproduced below:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution	Nil	Nil

13.1 From the above said entry of the notification it is observed that, in order to claim exemption on supply of services two conditions should be satisfied:-

1. Pure Services (excluding works contract service or other composite supplies Involving any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority
2. by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution"

Now we examine whether the applicant satisfies these above two conditions to claim exemption under the said notification.

13.2 243G- Powers, authority and responsibilities of Panchayats subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to-

- (a) The preparation of plans for economic development and social justice;
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Matters listed in Eleventh schedule are:-

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.

10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

243W. Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow,-

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law, may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to,-

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

There are 18 items in the twelfth schedule of the Constitution which are as below:-

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

13 .3 The applicant is providing manpower services for cleaning and sweeping of lawns and garden path areas, segregation and transport of the

garbage in Cubbon Park and for maintenance of garden in Siri Horticulture Garden, Ooty, Tamilnadu. This is in relation to function entrusted to a municipality under article 243W of the constitution which is covered by 12th entry of twelfth schedule which says 'Provision of urban amenities and facilities such as parks, gardens, playgrounds'. This manpower services are provided to Horticulture Department, Government of Karnataka.

14. The Applicant is providing services to the state government which is covered by 12th entry of twelfth schedule of the constitution which says 'Provision of urban amenities and facilities such as parks, gardens, playgrounds'. Thus the applicant satisfies the above two conditions mentioned supra to claim exemption under Entry No. 3 of Notification No. 12 of 2017 (Central Tax Rate), dated: 28.06.2017.

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

**RULING**

i. The services proposed to be provided by the Applicant to the Department of Horticulture for cleaning and sweeping of lawns and garden path areas and segregation and transport of the garbage are liable for GST at NIL rate as per Entry No. 3 of Notification No. 12 of 2017 (Central Tax Rate), dated: 28.06.2017.

ii. The services proposed to be provided by the Applicant to the Department of Horticulture for supply of manpower for garden maintenance on outsource basis to the Department of Horticulture are liable for GST at NIL rate as per Entry No. 3 of Notification No. 12 of 2017 (Central Tax Rate). dated: 28.06.2017. .

(Dr.M.P.Ravi Prasad)

(T. Kiran Reddy)

Member

Member

Place: Bengaluru-560 009

Date: 12-08-2022

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