

The rate applicable for the works contract service provided to the Telangana State Industrial Infrastructure Corporation Limited (TSIICL) which is wholly owned by the Government of Telangana State by way of construction of building on their land. Whether it is 12% as the for Telangana State Industrial Infrastructure Corporation Limited (TSIICL) is wholly owned by the Government of Telangana or 18% as the for Telangana State Industrial Infrastructure Corporation Limited is a business entity and collecting rent for letting our Godown/Building from its customers. HELD The applicant is executing contract of construction of ware houses & cold storages godowns for TSIICL who inturn are letting out these facilities on rent. Therefore, the rate of tax applicable on these contracts is 18% GST

**AUTHORITY FOR ADVANCE RULING TSAAR Order No. 56/2022, A.R.Com/10/2022, Dated 08th December, 2022**

## **TELANGANA STATE AUTHORITY FOR ADVANCE RULING**

**CT Complex, M.J Road, Nampally, Hyderabad-500001.**

**(Constituted under Section 96(1) of TGST Act, 2017)**

### **Present:**

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

Sri Sahil Inamdar, Additional Commissioner (Central Tax)

### **[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]**

1. M/s. Shree Constructions, 10-60/E, Shastri Nagar, Near Razvi Chaman, Bommakal, Karimnagar, Telangana - 505 001 (36AJGPD3553L1Z5) has filed an application in FORM GST ARA-01 under Section 97 (1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.

2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.

3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.

### **4. BRIEF FACTS OF THE CASE:**

4.1 Statement of relevant facts as per the applicant having a bearing on the question(s) on which Advance Ruling is required is reproduced below-

The applicant M/s. Shree Constructions are in the business of works contracts wherein they are executing construction of building on the land provided by the Telangana State Industrial Infrastructure Corporation Limited (TSIICL). The applicant is constructing ware houses and cold storage at primary processing centre in Jillela Village of Rajanna Siricilla District. The applicant also submitted that TSIICL will be letting out godowns for rent and that this amounts to business activity. The applicant submitted that the TSIICL is wholly owned by the Government of Telangana and therefore the supply of works contract service by them is to a Government entity. The applicant therefore seeks an advance ruling on the rate of tax applicable to supplies made to such Government entity.

### **4.2 Company Background:**

The applicant M/s Shree Constructions doing works to Telangana State Industrial Infrastructure Corporation Limited (TSIICL) which is a State Government Entity. Telangana State Industrial Infrastructure Corporation Limited (TSIICL) is also known as TSIIC is a Telangana State Government Initiative for providing infrastructure through Development of Industrial area.

TSIICL was established in the year 2014 for identifying and developing potential growth centers in the Telangana State fully equipped with developed plots/sheds, roads, drainage, water, power and other infrastructural facilities; providing social infrastructure, like housing for workers near industrial zones, co-ordinating with the agencies concerned for providing communication, transport and other facilities. The corporation also has active projects in the Public-Private Partnership Mode.

## 5. QUESTIONS RAISED:

Q1. 1. The rate applicable for the works contract service provided to the Telangana State Industrial Infrastructure Corporation Limited (TSIICL) which is wholly owned by the Government of Telangana State by way of construction of building on their land. Whether it is 12% as the for Telangana State Industrial Infrastructure Corporation Limited (TSIICL) is wholly owned by the Government of Telangana or 18% as the for Telangana State Industrial Infrastructure Corporation Limited is a business entity and collecting rent for letting our Godown/Building from its customers.

## 6. APPLICANT'S INTERPRETATION OF THE LAW

It was stated that an advance ruling already pronounced by the AAR of similar business it was declared that the service provider has to collect GST @ 18% from the service receiver.

## 7. PERSONAL HEARING:

The Authorized representatives of the unit namely Sri. D Ramesh Kumar, CA & Authorized Representative attended the personal hearing held on 27.09.2022. The authorized representatives reiterated their averments in the application submitted and requested to dispose the case on merit basis.

## 8. DISCUSSION & FINDINGS:

The applicant entered into agreements with Telangana State Industrial Infrastructure Corporation Limited (TSIICL) for execution of contracts of buildings, warehouses, godowns since 2020. The TSIICL intum letting out the godowns for its customers on rent. This amounts to use of the constructed premises for the purpose of business.

The contracts executed by TSIICL is a Government entity and to this organisations overtly fall under at S.No. 3 (vi) of Notification No. 11/2017 which reads as follows:

"(vi) [Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, {other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above provided to the Central Government, State Government, Union Territory, a local authority, a Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b) a structure meant predominantly for use as (i) an educational,

(ii) a clinical, or (iii) an art or cultural establishment; or

(d) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.

Explanation.- For the purposes of this item, the term business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities."

The terms 'Government Authority' & 'Government entity' were inserted as definition in notification No. 31/2017 - Central Tax (Rate) dt 13.10.2017 in Notification No. 11/2017 as clauses (ix) & (x) to explanation at Para 4 as follows:-^

(ix) Governmental Authority means an authority or a board or any other body, -

(i) Set up by an Act of Parliament or a State Legislature; or

(ii) Established by any Government, with 90 percent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

(x) Government Entity means an authority or a board or any other body including a society, trust, corporation,-

(i) Set up by an Act of Parliament or State Legislature; or

(ii) Established by any Government, with 90per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.~

In view of the above definitions Telangana State Tourism development corporation limited is a Government entity. However the original notification No.11/2017 applied concessional rate of tax to Government Entities & Governmental Authorities @6% of CGST & SGST each only if such construction is predominantly for use other than for commerce, industry or any other business or profession.

As seen from the agreement contract, the contract is for "construction of ware house & cold storage at primary processing centre in Jillela Village, Tangalapally Mandal of Rajanna Sircilla District. Further, the applicant has also averred that these godowns will be given on rent by TSIICL. Therefore, the concessional rate of tax is not applicable to this transaction and tax payable will be 9% CGST & SGST each. Further, this entry was amended in Nov' 2021 vide Notification No. 15/2021 dt. 18.11.2021 and the phrases 'Government Entity' & 'Governmental Authority' were deleted from the Entry at S.No. 3(vi) of Notification No. 11/2017 with effect from 01.01.2022. Thus the works executed even for the 'Governmental Entity or 'Government Authority' will be taxable @9% CGST & SGST each.

9. In view of the foregoing, we rule as follows:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Q.The rate applicable for the works contract service provided to the Telangana State Industrial Infrastructure Corporation Limited (TSIICL) which is wholly owned by the Government of Telangana State by way of construction of building on their land. Whether it is 12% as the for Telangana State Industrial Infrastructure Corporation Limited (TSIICL) is wholly owned by the Government of Telangana or 18% as the for Telangana State Industrial Infrastructure Corporation Limited is a business entity and collecting rent for letting our Godown/Building from its customers.	A. The applicant is executing contract of construction of ware houses & cold storages godowns for TSIICL who inturn are letting out these facilities on rent. Therefore, the rate of tax applicable on these contracts is 9% CGST & SGST each as discussed in detail above

(S. V. Kasi Visweshwar Rao)

ADDL. COMMISSIONER (State Tax )

(Sahil Inamdar)

ADDL. COMMISSIONER (Central Tax)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]