

**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 32/2021
Dated : 09-07-2021**

Present:

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

1.	Name and address of the Applicant	M/s. NARAYANAPPA RAMESH, No 308, N.R Oletty Nilaya, GF,3 rd Cross,3 rd 'A'Phase , UAS GKVK,Bengaluru 560064.
2.	GSTIN or User ID	29ABYPR9899R1ZG
3.	Date of filing of Form GST ARA-01	23.03.2021
4.	Represented by	Sri Vishwanath Bhat, Cost Accountant and DAR
5.	Jurisdictional Authority - Centre	The Principle Commissioner of Indirect Taxes, Bangalore-North GST Commissionerate
6.	Jurisdictional Authority - State	ACCT,LGSTO-150 A, 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 UTIB No. 21012900102325, dated. 11-01-2021

**ORDER UNDER SECTION 98(4) OF CENTRAL GOODS AND SERVICES TAX
ACT, 2017 AND UNDER SECTION 98(4) OF KARNATAKA GOODS AND
SERVICES TAX ACT, 2017**

1. M/s NARAYANAPPA RAMESH, No 308, N.R Oletty Nilaya, GF, 3rd Cross,3rd 'A'Phase, UAS GKVK, Bengaluru 560064, (called as the 'applicant' hereinafter), having GSTIN number 29ABYPR9899R1ZG, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017, read with Rule 104 of the CGST Rules and Section 97 of the 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 registered person under the provisions of the Central Goods and Services Tax Act, 2017 as well as the Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act" and the "KGST Act/SGST Act" respectively) engaged in the landscaping and gardening work and maintenance of community assets provided to the government departments

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

1. *Whether the landscaping and gardening work provided to government departments like Nagarasabha Karyalaya Chintamani, Nagarasabha Karyalaya Bhadravathi, Tumakuru Mahanagara Palike, Nagarasabha Raichur, Purasabha Karyalaya Devanahalli, Mahanagara Palike Shivamogga etc., attract GST?*

4. **Admissibility of the application:** The question is about "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. The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that he is engaged in the landscaping and gardening work provided to government departments like Nagarasabha Karyalaya Chintamani, Nagarasabha Karyalaya Bhadravathi, Tumakuru Mahanagara Palike, Nagarasabha Raichur, Purasabha Karyalaya Devanahalli, Mahanagara Palike Shivamogga.

5.2 The applicant submitted that nature of work executed and awarded by the government departments are:

a) Procurement of plant and planting at municipal jurisdiction area of Devanahalli for the purpose of afforestation and incorporation of tree guard for plants which were planted.

b) Maintenance of Park at jurisdictional area of Tumakuru Mahanagara Palike and Increasing the height of the compound at Azad park.



c) Development of Park with incorporation of children friendly components at (Balanagamma Colony Park) in Raichur City.

d) Development of Park at Ward number 32 of Jayanagar East, Tumakuru.

5.3 The applicant is executing Cleaning, Lower area Soil filling, and land levelling, designing and creating soil moulds, supply and spreading of red soil and sand at required place of the park. They are also installing children's playing equipment at required area of the park. They are planting herbal and medicinal plants, performing maintenance and watering and weed remover activities.

5.4 The applicant has also claiming exemption as per the entry 3A of the Notification No. 12/2017 – Central Tax (Rate) dated 28th June 2017 as Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union Territory or local authority or a Governmental authority or a Government Entity 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.

5.5 They submitted that the activity of maintenance of community assets mentioned in entry no 29 to Schedule II of Article 243G of the Constitution is covered for exemption under GST as per entry No 3 of Notification No 12/2017 CT (R) dated 28-06-2017; that the provision of urban amenities and facilities such as parks, gardens, playgrounds mentioned in entry No 12 of Schedule 12 of Article 243W of the constitution is covered for exemption under GST as per entry No 3 of Notification No 12/2017 CT (R) dated 28-06-2017; that the above mentioned services are amenities provided to aforesaid Government departments and organizations .

PERSONAL HEARING: / PROCEEDINGS HELD ON 15-04-2021

6. Sri Vishwanath Bhat, Cost Accountant and Duly Authorized Representative of the applicant appeared for personal hearing proceedings held on 15.04.2021 and reiterated the facts narrated in their application.



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FINDINGS & DISCUSSION

7. 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.

8. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by the applicant and his authorized representatives during the hearing.

9. The transaction in question is examined and it is found that the applicant is executing two types of works, wherein in one set of cases the applicant is making supply of pure services without it being a works contract services or composite supply and in the second category of supply, the applicant is providing composite supply of both goods and services. The first set of activities is covered under entry no.3 of the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 and the same is clarified as exempt in the advance ruling in KAR ADRG 18/2018 dated 06.08.2018.

10. The second activity of the applicant is examined. As per entry no. 3A of the Notification No.12/2018 -Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 02/2018 – Central Tax (Rate) dated 25-01-2018 which reads as under:

Sl.No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Service	Rate (per cent)	Condition
1	2	3	4	5
3A	Chapter 99	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union Territory or	Nil	Nil



		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		
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10.1 The activity of the applicant in relation to the supplies which are involving goods either as a works contract or as a composite supply involving supplies of goods also, the activity gets exempted as per entry 3A above subject to the following conditions:

- (a) That the value of supply of goods should not constitute more than 25% of the value of the said composite supply
- (b) The supply is to the Central Government, State Government or Union Territory or a local authority or a Governmental Authority or a Government Entity
- (c) The activity entrusted must be 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.

10.2 The applicant states that he is effecting landscape development and maintenance of gardens. The applicant has not provided any details of the quantum of the involvement of goods in each of these contracts and for the sake of argument, it is assumed that the value of such supply of goods is less than 25% in order to satisfy the conditions provided in the Notification.

10.3 Secondly, the supply of such services must be for the Central or State Government Departments or a local authority or the recipient of such services must be a Government Entity or Authority as per the definitions provided in the concerned notifications. It is also assumed for the time being that the recipient of services from the applicant is covered under these categories.

10.4 Then the third condition must be satisfied that the activity must be in relation to the function entrusted to a Municipality or Panchayat under Article 243W or Article 243G of the constitution respectively. Maintenance of parks is an activity entrusted under Article 243W of the Constitution and hence the



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same is covered, but not private gardens.

10.5 Subject to the facts that all the above conditions are said to be satisfied, the activity of the applicant is exempted under entry 3A of the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 as amended by Notification No.2/2018 – Central Tax (Rate) dated 25.01.2018.

10.6 The activity of maintenance of community assets carried out by the applicant is falls under entry no 29 of Schedule eleven of Article 243G of the Constitution; that the provision of urban amenities and facilities such as parks, gardens, playgrounds falls under entry No 12 of Schedule Twelve of Article 243W of the constitution; that the above mentioned services satisfy para 10.1(c) above.

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

R U L I N G

The landscaping and gardening work provided to Nagarasabha Karyalaya Chintamani, Nagarasabha Karyalaya Bhadravathi, Tumakuru Mahanagara Palike, Nagarasabha Raichur, Purasabha Karyalaya Devanahalli, Mahanagara Palike Shivamogga, is exempted under entry 3A of the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 as amended by Notification No.2/2018 – Central Tax (Rate) dated 25.01.2018 provided that the value of goods supplied is not more than 25% of the total contract value and the recipients of services are Central or State Government Departments or a local authority or a Government Entity or Authority as per the definitions provided in the concerned notifications.



(Dr.M.P.Ravi Prasad.)

MEMBER

Karnataka Advance Ruling Authority

Place: Bengaluru, 560 009

Date : 09-07-2021


(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. The Principal Commissioner of Indirect Taxes, North GST Commissionerate
4. ACCT, LGSTO-150A ,Bengaluru
5. Office Folder.