



RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX, KAR BHAWAN, AMBEDKAR
CIRCLE, NEAR RAJASTHAN HIGHCOURT
JAIPUR – 302005 (RAJASTHAN)



ADVANCE RULING NO. RAJ/AAR/2025-26/07

| | | |
|---|---|---|
| Utkarsh Joint Commissioner | : | Member (Central Tax) |
| Dr. Akhedan Charan Additional Commissioner | : | Member (State Tax) |
| Name and address of the applicant | : | M/s BUILD LAYER CONSTRUCTIONS, 1-B-5B, VINAYAK SADAN, GROUND FLOOR, HOUSING BOARD, PALI - 306401, Rajasthan. |
| GSTIN of the applicant | : | 08AATFB8617M1ZO |
| Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised | : | (a) Classification of any goods or services or both (b) Applicability of a notification issued under the provisions of this Act |
| Date of Personal Hearing | : | 30.04.2025 |
| Present for the applicant | : | Mr. Ranjan Mehta (Adv.) |
| Date of Ruling | : | 23.05.2025 |

Note 1: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling, constituted under Section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

Note 2: At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST Act 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 same provision under the SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s M/s BUILD LAYER CONSTRUCTIONS, 1B58, VINAYAK SADAN, GROUND FLOOR, HOUSING BOARD, PALI - 306401, Rajasthan, (hereinafter "*the applicant*") is fit to pronounce advance ruling as they have deposited prescribed Fee under CGST Act and it falls under the ambit of the Section 97(2) given as under:

- (a) Classification of any goods or services or both
- (b) Applicability of a notification issued under the provisions of this Act

A. SUBMISSION OF THE APPLICANT(in brief):-

Brief facts of the case:

M/S BUILD LAYER CONSTRUCTIONS (hereinafter referred to as "applicant"), 1-B- 5B, Kamla Nehru Nagar, Housing Board, Pali (Rajasthan) is looking forward to provide pure labor services in relation to Construction. The applicant is registered under GST having GST registration No. 08AATFB8617M1ZO in the State of Rajasthan.

o/c

• The Applicant entered into an Agreement to provide the pure labor Construction Services to M/s BCM BUILDERS LLP (Agreement attached). M/S BCM Builders LLP has entered into a contract with Rajasthan Government to construct 380 flats under "Affordable Housing Scheme under Pradhan Mantri Awas Yojna" (including Material and Labor). Henceforth, BCM Builders LLP has entered into sub contract with the Applicant to receive "Pure Labor Services" for the said project.

Scope of Work for the Applicant includes all the Labor related work for construction of flats. The applicant will have all the control over Labor and will be responsible for their dues and concerns. As per the agreement, the Applicant will not be responsible for any material related work and all the material is to be directly provided by BCM Builders LLP to the Applicant.

•B. INTERPRETATION AND UNDERSTANDING OF APPLICANT ON QUESTION RAISED (IN BRIEF)

In Entry no. 10 of notification No. 12/2017-Central Tax (rate) dated 28th June, 2017. "In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

| Sl. NO | Chapter, Section, Heading, Group or service code (Tariff) | Description of Services | Rate (percent) | Condition |
|--------|---|---|----------------|-----------|
| 10 | Heading 9954 | Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri AwasYojana. | Nil | Nil |

In view of the abovementioned facts, He would like to humbly submit that the providing services of "Pure Labor" for construction of flats under "Affordable Housing Scheme under Pradhan Mantri AwasYojna". Government has given the contract of constructing the flats under "Affordable Housing Scheme under Pradhan Mantri AwasYojna" to M/s BCM Builders LLP including material and labor. M/s BCM Builders LLP has further sublet the work to other sub-contractors having different work specialties and sub-letting the "Pure Labor Services" to the Applicant. In our opinion, the abovementioned notification is "activity based" and accordingly should be applicable for sub-contractors as well. "

As per the relevant entry of the notification mentioned above, He find following main requirements:

- Services provided by way of pure labor contracts
- Pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri AwasYojana

He would like to submit that in our opinion the Applicant is fulfilling both the conditions for falling under the entry 10 of the Notification No. 12/2017-Central Tax (rate) dated 28th June, 2017.

Additional Submission:-

The applicant has submitted Advance Ruling of some cases in regarding to this case along with the agreement copy between M/s buildlayer construction and M/s BCM builders LLP.

C. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:

Question1: Whether the entry number 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is applicable on the services of "Pure Labor" provided by the applicant?

Question2: If the entry number 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is not applicable, then what will be classification and HSN for these services of "Pure Labor" provided by the applicant?

D. COMMENTS OF THE JURISDICTIONAL OFFICER: -

Comments received from Assistant Commissioner, CGST DIVISION-PAL Ground Floor, TDM Office Campus, BSNL Building, Mahavir Nagar, PALI-306401 vide letter C. No. GEXCOM/Tech/Misc/2212/2024/ 2250 dated 09.05.2025 are as under:

In this context, it is submitted that the application has been examined in light of Notification No. 12/2017-CT(Rate) dated 28-06-2017. The observations are as under :-

1. M/s BCM Builders LLP has entered into sub contract with M/s Build Layer Constructions (applicant) for providing labour services to project for construction of 380 flats under "affordable housing scheme under Pradhan Mantri Yojna".

2(a). Here applicants wants to know that entry no. 10 of the Notification no. 12/2017 dated 28-06-2017 of Central Tax Rate is applicable on the services of "pure labour" provided by the applicant.

(b) If the entry no. 10 of the Notification No. 12/2017-CT(Rate) dated 28-06-2017 is not applicable then what will be classification the HSN/SAC code for the pure labour service provided by the applicant.

3. As per entry no. 10 of Notification No. 12/2017 dated 28-06-2017 of Central tax rate Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for all (Urban) Mission or Pradhan Mantri Awas Yojana is exempt from intra-state supply of services under GST Law.

4. Although Contractor and sub-contractor are not defined in CGST Act 2017 but as per general definition.

A sub-Contractor means a person hired by a general contractor to perform a specific task. As part of overall project or the total project at a specified price for services provided to the project by originating employer.

And when the contractor awards either wholly or partially the contractual obligation to a sub-contractor the contract remains the same and the identity of a contract doesn't change also when the contractor awards either wholly or partially the work to the subcontractor the work to be performed by the contractor as well as subcontractor remains same and identical to what is specify in the contract between the main contractor and the employer.

5. From Above discussion Prima Facie it appears that Sub contract made by contractor does not change the basic nature of nature of original contract with the employer therefore it appears that exemption available by way of above notification of intra-state supply of services under PMAY should be available to sub-contractor i.e. M/s Build Layer Constructions.

6. Moreover, in the Advance Ruling No. RAJ/AAR/2019-20/28 dated 18.12.2019, the AAR Rajasthan has pronounced in similar and identical matter that "The Services provided by way of pure labour contract supplied by the applicant for the construction of flats under Pradhan Mantri Awas Yojana (PMAY) is covered under Entry 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (as amended).

E. PERSONAL HEARING:

In the matter, personal hearing was granted to the applicant on 30.04.2025. Mr. Ranjan Mehta (Adv.) Authorized Representative appeared for personal hearing. They reiterated the submission already made by them. He also submitted the copy of agreement between M/s Build Layer Construction (applicant) and M/s B.C.M. Builders LLP (who sublets the work contract to applicant) during personal hearing. He further submitted that he will submit the proof of M/s B.C.M. Builders LLP is working under Pradhan Mantri Awas Yojana, within 7 days.

F. DISCUSSIONS AND FINDINGS

- 1) We have carefully examined the statement of facts, contents of the application filed by the applicant, submissions made at the time of hearing and the comments of the jurisdictional Tax Authority. We also considered the issue involved, on which advance ruling is sought by the applicant and other relevant facts.
- 2) The issue raised by M/S BUILD LAYER CONSTRUCTIONS, 1-B- 5B, Kamla Nehru Nagar, Housing Board, Pali (Rajasthan) is fit to pronounce advance ruling as it falls under the ambit of the section 97(2)(b) given as under:-
 - b. Applicability of a notification issued under the provisions of this act.
- 3) We observe that the applicant is said to provide pure labour services in relation to Construction. The applicant is registered under GST with registration No. 08AATFB8617M1ZO in the State of Rajasthan.
- 4) The applicant submitted that they entered into an Agreement to provide the pure labour Construction Services to M/s B.C.M. BUILDERS LLP and produce the copy of agreement. Applicant also submitted that M/s B.C.M. BUILDERS LLP has entered into a contract with Rajasthan Government to construct 380 flats under "Affordable Housing Scheme under Pradhan Mantri Awas Yojna" (including Material and Labor). As per the agreement submitted by the applicant it is observed that the BCM Builders LLP has entered into sub contract with the Applicant for the said project.
- 5) Before proceeding, it is imperative to go through the provision and notification. The relevant portion of the said notification is as below:-

| Sr. No | Chapter,Section, Heading,Group or service code (Tarrif) | Description of Services | Rate (per cent) | Condition |
|--------|---|---|------------------|-----------|
| 10 | Heading 9954 | Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri AwasYojana. | Nil | Nil |

From the above, we found that the pure labour contract services has been exempted from levy of duty vide entry No.10 of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017(as amended). While going through the above entry of the notification, it is clearly stipulates that whosoever is supplying the pure

labour contract services for the construction of a civil structure or any other original works under Pradhan Mantri AwasYojana is exempted from GST.

- 6) As per the above entry of the notification we found the following main requirements to get the benefit of the above notification:-
 - (a) Services provided by way of pure labor contracts.
 - (b) Applicable only to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.
- 7) On going through the submission of the taxpayer, we found that the taxpayer is entered in a sub-contract with M/s B.C.M. BUILDERS LLP for providing labour service. On going through the agreement at point no. 9 and no.11, we found the applicant is under obligation to provide machine and other material besides labour supply, for construction in the project under Pradhan Mantri AwasYojana.
- 8) Therefore, in view above facts, we hold that agreement between the applicant and M/s B.C.M. BUILDERS LLP is not a pure labour contract service supplied for construction of 380 flats in BCM Asiyana at Marwad Junction, Pali (Rajasthan).
- 9) Further, benefit of the relevant entry of the notification is applicable only to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana. Here, we found that the applicant during the personal hearing has submitted that they will provide the proof or agreement of M/s BCM Builders LLP is working under Pradhan Mantri Awas Yojana within 7 days. However, no such proof or agreement has been provided by the applicant.
- 10) In view of above, it cannot be stabilized that the applicant is working for Pradhan Mantri AwasYojana. Therefore, on this ground alone, the service provides by the applicant for construction of flats is not covered under entry No 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (as amended).
- 11) Further taxpayer also raised question as, if the entry number 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is not applicable, then what will be classification and HSN for these services of "Pure Labor" provided by the applicant?
- 12) For brevity of the case, the relevant description mentioned in Notification No. 11/2017-Central Tax (Rate) is as under: -

| Table Sl No. | Chapter, Section or Heading | Description of Service | Rate (per cent.) | Condition |
|-----------------|---|--|------------------------|-----------|
| (1) | (2) | (3) | (4) | (5) |
| 1 | Chapter 99 | All Services | | |
| 2 | Section 5 | Construction Services | | |
| 3 | Heading 9954 (Construction services) | [[xii] Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), [(vii), (viii)] 30, (x) and (xi) above. | 9 | - |

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|--|--|--|--|--|
| | | Explanation. - For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.] ³¹ | | |
|--|--|--|--|--|

On going through the Notification No. 11/2017-Central Tax (Rate) we found that the construction services fall under section 5 of Chapter 99, wherein descriptions of construction service has further been elaborated in items from (i) to (xii). When we go through the description mentioned against item no.(i) to (xi), the nature of work do not found place in item no. (1) to (xi). As such, it shall fall under the residuary sub-head i.e. (xii) attracting GST at the rate of 18%. Hence, we hold that the service provided by the taxpayer fall under HSN code 9954 (xii) with GST rate 18%.

G. In view of the foregoing facts, circumstances and provisions of the GST law, we pass the following ruling:

RULING

Question 1 : Whether the entry number 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is applicable on the services of "Pure Labor" provided by the applicant?

Ans-1: No, as discussed above.

Question 2: If the entry number 10 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is not applicable, then what will be classification and HSN for these services of "Pure Labor" provided by the applicant?

Ans-2: As discussed above, Labour service provide by the taxpayer fall under HSN code 9954 attracting GST rate of 18%.

31/05/2025
(Utkarsha)
MEMBER
CENTRAL TAX



23/05/2025
(Dr. Akhedan Charan)
MEMBER
STATE TAX

F. No. AAR/SF/2025-26/53-58

Date: 23/05/2025

SPEED POST

M/s BUILD LAYER CONSTRUCTIONS, 1B58,
VINAYAK SADAN, GROUND FLOOR, HOUSING BOARD,
PALI - 306401, Rajasthan,

0/C

Copy to: -

1. The Chief Commissioner, CGST and Central Excise (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan-302005.
2. The Chief Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur-302005.
3. The Commissioner, CGST OFFICE, JODHPUR, Rajasthan.
4. The Deputy/Assistant Commissioner, Assistant Commissioner, CGST DIVISION-PALI Ground Floor, TDM Office Campus, BSNL Building, Mahavir Nagar, PALI-306401, Rajasthan.
5. The Deputy/Assistant Commissioner, State Tax, Circle-A, Zone- PALI, Rajasthan.