

**18% GST is payable on works contract service of constructing warehouse and cold storage godown for Govt. entity which will be rented out**

The Telangana State Authority of Advance Ruling (“**the TSAAR**”) in *M/s Shree Constructions [TSAAR Order No.56/2022 dated December 8, 2022]* held that rate of the Goods and Services Tax (“**GST**”) payable on works contract services for constructing warehouses, cold storage and godowns for Telangana State Industrial Infrastructure Corporation Limited (“**TSIICL**”), would be 18%.

**Facts:**

M/s Shree Constructions (“**the Applicant**”) is engaged in the business of works contracts. The Applicant entered into a contract with TSIICL for constructing warehouses and cold storage godowns for TSIICL, which would later be let out by TSIICL.

TSIICL is wholly owned by the Government of Telangana and therefore, the supply of works contract service would be to Government entity. In this regard, the Applicant sought advance ruling under Section 97 of the Central Goods and Services Tax Act, 2017 (“**the CGST Act**”) on the rate of tax applicable to supplies made to such Government entity.

**Issue:**

What would be the rate of tax on the supply of works contract to the government entity?

**Held:**

The TSAAR discussed and held as under:

- The contracts involved in the case overtly fall under Sr. No. 3(vi) of Notification No. 11/2017-Central Tax Rate dated June 28, 2017 (“**Notification**”) as the same is related to composite supply of works contracts. The said Notification was further amended by

Notification No. 31/2017-Central Tax (Rate) dated October 13, 2017, through which the terms “Government Authority’ & ‘Government entity’ were inserted. Hence, making the TSIICL a government entity for the purpose of GST. The Notification provided concessional rate of 6% of CGST & SGST each to Government entities and Governmental Authorities.

- However, the concessional rate of 6% of CGST & SGST under the Notification was provided to Government entities and Governmental Authorities only if such construction is predominantly for use other than for commerce, industry or any other business or profession.
- In the present case, the contract is for construction of warehouse & cold storage and godowns, which would further be given on rent by TSCIL. Therefore, concessional rate of tax is not applicable to the services provided by the Applicant. Also, vide Notification No. 15/2021 dated November 18, 2021 the phrase ‘Government Entity’ & ‘Government Authority’ were deleted from the Entry at Sr. No. 3(vi) of Notification.
- Thus, the works executed even for Government Entity or Government Authority will be taxable at rate of 9% CGST & SGST each.

**Relevant Provisions:**

**Central Goods and Service Tax Act, 2017**

***Section 97: Application for advance ruling***

*(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

*(2) The question on which the advance ruling is sought under this Act, shall be in respect of,—*

*(a) classification of any goods or services or both;*

*(b) applicability of a notification issued under the provisions of this Act;*

*(c) determination of time and value of supply of goods or services or both;*

*(d) admissibility of input tax credit of tax paid or deemed to have been paid;*

*(e) determination of the liability to pay tax on any goods or services or both;*

*(f) whether applicant is required to be registered;*

*(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

#### **Central Goods and Service Tax Rules, 2017**

##### ***Rule 104: Form and manner of application to the Authority for Advance Ruling-***

*(1) An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in FORM GST ARA-01 and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.*

*(2) The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26*

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