

GIB/AP/DEC Infrastructure/17.02.2020/AAR-377

Advance Ruling Category : Rate

State : Andhra Pradesh

Order No.: GIB/AP/DEC Infrastructure/17.02.2020/AAR-377

Name of Entry :

DEC Infrastructure and Projects (I) Pvt. Ltd.

Date : 17-02-2020

Breif Issue :

Facts & Issue Of The Case :

The applicant M/s DEC Infrastructure and Projects (I) Pvt., Ltd. states that the APIIC had paid them 18% of Goods and Service Tax for the bill numbers 11 & 12 from 06.09.2017 to 16.10.2017 i.e., after implementation of Goods and Service Tax regime by thinking that above construction activity falls under commercial in nature.

The applicant, seeking an advance ruling in respect of :

- 1) Whether the above work of APIIC executed by the applicant after 22.08.2017 falls under the 18% rate of tax or 12% rate of tax?
- 2) If the work falls under 18% Rate of tax, then can the advance ruling authority guide the APIIC authority to reimburse the GST amount to the construction agency?
- 3) If the work falls under 12% Rate of Tax, then can we claim the refund of the GST amount which was paid excess while filing the GST returns from the CGST and SGST authority? (While filing the GST returns Tax paid @18%)

The activities of M/s APIIC are business activities and not otherwise. Moreover, the applicant did not provide any information or documentary proof evidencing that the construction/ building is for use other than for commerce, industry, or any other business or profession to be eligible for concessional rate of 12% (6% CGST + 6% SGST) available under [Notification N0. 24/2017 – CT \(Rate\) dated 21.09.2017](#).

Decision of Advance Ruling Authority :

Decision :

The contract entered by the applicant is classifiable under SAC Heading No. 9954 under construction services, and it falls under entry no (ii) of serial No.3 of [notification no. 11/2017 Central Tax \(Rate\) dated 28.06.2017](#) i.e., Composite Supply of Works Contract as defined in clause 119 of Section 2 of Central Goods and Services Act, 2017 and the applicable rate of tax is 18% (9% under Central tax and 9% State tax).

1. The activities of the transaction referred by the applicant are classifiable under SAC Heading No. 9954 under construction services, which fall under entry no (ii) of serial No.3 of [Notification No. 11/2017 Central Tax \(Rate\) dated 28.06.2017](#) and the applicable rate of tax is 18% (9% Central Tax + 9% State Tax).
2. It is not under the purview of Section 97(2) of CGST Act, 2017.
3. It is not under the purview of Section 97(2) of CGST Act, 2017.