

**GIB/HR/KSC BUILDCON/17.01.2020/AAR-443**

**Advance Ruling Category :** WORKS CONTRACT

**State :** Haryana

**Order No.:** GIB/HR/KSC BUILDCON/17.01.2020/AAR-443

**Name of Entry :**

M/S KSC BUILDCON PRIVATE LIMITED

**Date :** 17-01-2020

**Breif Issue :**

**FACTS OF THE CASE:**

In this case the applicant M/s. KSC Buildcon Private Limited ("the Applicant") is engaged in the business of providing composite supply of work contract including sale of goods and also indulged in the mining of various stones and minerals, etc., in the state of Haryana. The Applicant also transfers the property in goods so produced during the process of works contract to various government entities engaged in the business of mining and private firms in trading of the said goods.

A works contract was allotted to the Applicant by Haryana State Industrial & Infrastructure Development Corporation Limited ("HSI IDC") involving predominantly earth work viz drilling, excavation, removal, and dumping of waste material along with supply of skilled & unskilled manpower, special purpose vehicles & equipment, supply of stones, construction including haul roads/ramp/benches on the mining site and transportation of the excavated goods. Such type of work is related to mining development and generally is done on earth surface to excavate stones as per requirement of contract.

The Applicant stated that he was providing composite supply of works contract as defined in Section 2(119) of the CGST Act, involving predominantly earth work (more than 75% of the value of works in contract) to HSI IDC which is a Government entity. Further stated that, the consideration provided by HSI IDC would be subject to tax deduction at source ("TDS") under Section 194C (i.e. TDS on payment to contractor) of Income Tax Act, 1961 ("IT Act")

**ISSUE OF THE CASE:**

Whether the services provided by the Applicant will be taxable @5% GST under the benefit of Serial No. 3(vii) of the Services Rate Notification as amended by NN 31/2017- CTR.

**Decision of Advance Ruling Authority :**

**DECISION:**

The applicability of the notification no. 31/2017 on the present contract of the applicant, the nature of work needs to be examined. The term “Earth Work” has not been defined under any GST provisions and referred to various dictionaries to state that bulk earthworks include removal, moving or adding of large quantities of soil or rock from a particular area to another. It is done in order to make an area of suitable height and level for a specific purpose.

- Observed that, the nature of the work awarded to the Applicant is related to mining development and is done on earth surface to excavate stones as per requirement of contract. It can be said that more than 75% of the works involves earth work.

- Further observed that, the Applicant has provided a composition of various inseparable services and goods which are naturally bundled whose consideration has been received through undistributed bills. Hence, the Applicant has provided composite supply of works contract as per Section 2(119) of the CGST Act.