

GIB/GJ/KUNAL STRUCTURE/20.01.2021/AAR-445

Advance Ruling Category : Classification of Services

State : Gujarat

Order No.: GIB/GJ/KUNAL STRUCTURE/20.01.2021/AAR-445

Name of Entry :

M/S. KUNAL STRUCTURE INDIA PRIVATE LIMITED

Date : 20-01-2021

Breif Issue :

FACTS OF THE CASE:

In the above case, the applicant M/s. Kunal Structure (India) Pvt. Ltd. entered into a contract for the construction of Deendayal Upadhyay Govt. Medical College, Rajkot with M/s. HLL Infra Tech Service (HITES) Ltd. which is a Govt. of India Enterprise. M/s. HITES as the Executive Agency of Ministry of Health & Welfare, Govt. of India, New Delhi floated a tender for the said work under the Pradhan Mantri Swasthya Suraksha Yojna, Phase-III (PMSSY-III)

The applicant further submitted that it was accorded the Letter of Award on 08.06.2016. The nature of the job included construction of the multi-storied building that included water supply, Internal & External Electrification, HVAC works, comprehensive Fire Fighting/ Protection System, sanitary and plumbing, Lifts, STP, WTP, ETP, Solar Panel, PA System, CCTV, and Security System, LAN System, EPABX/ Communication System, sewer, site development works such as Internal Road + Path & site levelling, drainage work and so on.

ISSUE OF THE CASE:

Whether the Service of Work Contract provided by the applicant in the capacity of sub-contractor to the main contractor - taxable at the rate of 12% for the period prior to 25.01.2018 or not?

Decision of Advance Ruling Authority :

DECISION:

Notification No. 01/2018-CT (Rate) dated 25.01.2018 a new entry no. 3(ix) was inserted in the principal rate Notification No. 11/2017-CT (Rate) dated 28.06.2017 vide which **“Composite supply of works contract as defined in Clause (119) of Section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the**

main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity” was made taxable @12% . The said amended Notification came into effect from the date of issue of the Notification.

The said Notification is also published on the date of Notification in the Gazette of India. Further, an amendment in the Notification is prospective in nature, unless clearly specified to be clarificatory. Also the effective date of a Notification is always date of issue of Notification unless it is specified date of effect of the Notification. The Notification always came into effect from the date it was published in the Gazette of India and the subject Notification was issued in the Gazette of India on 25.01.2018 i.e. on the date it was issued. Therefore, Notification No. 01/2018-CT (Rate) dated 25.01.2018 is applicable/ came into effect prospectively and from the date of issue i.e. from 25.01.2018.

The GST rate 12% prescribed under Sr. No. (ix) vide Notification No. 01/2018-CT (Rate) dated 25.01.2018 is effective from the date of issue of said Notification i.e. 25.01.2018