

**GIB/RJ/CLAY CRAFT/20.02.2020/AAR-239****Advance Ruling Category :** REVERSE CHARGE MECHANISM**State :** Rajasthan**Order No.:** GIB/RJ/CLAY CRAFT/20.02.2020/AAR-239**Name of Entry :**  
Clay Craft India Pvt. Ltd**Date :** 20-02-2020**Breif Issue :****Facts & Issue of the Ruling**

M/s Clay Craft India Pvt. Ltd. is a private limited company incorporated under the Companies Act, 1956 having Certificate of Incorporation, has sought advance ruling for whether GST is payable under Reverse Charge Mechanism (RCM) on the salary paid to Director of the company who is paid salary as per contract and also whether the situation would change from above if the Director also is a part time Director in other company. The applicant is engaged in the manufacture of bone China Crockery, Transfer Sheet Decalcomania, other Utensils Item and Moulds and Die. Applicant is registered with Goods and Service Tax department, availing Input credit on inputs as well as input services used in or in relation to manufacture of final product as per the provisions of GST Act, 2017.

The applicant has stated that the Directors are working in the company at different level of management and each one of them is holding charge of procurement of raw material, production, quality checks, dispatch, accounting etc. In other words, they are also working as an employee of the company for which they are being compensated by the company by way of regular salary and other allowances as per the company policy and as per their employment contract. In fact these Directors are treated at par with any other employee of the company as far as their employment is concerned. The company is deducting TDS on their salary and PF laws are also applicable to their service. Therefore, in all practical purposes these directors are the employees of the company and are working as such besides being Director of the company. The applicant is of the view that the Directors who are working as whole time directors are de facto employees of the company and thus the payments made to them as salary plus benefits are not liable to GST and consequently the company is not liable to pay any GST on such payments by way of Reverse Charged Mechanism. Applicant submits the reference of Section 7 of the GST Act, 2017 and entry No. I of Schedule III to the CGST Act, 2017.

**Decision of Advance Ruling Authority :****Decision:****The consideration paid to the Directors by the applicant company will attract GST under**

**reverse charge mechanism as it is covered under entry No. 6 of Notification No. 13/2017 Central Tax (Rate) dated 28.06.2017 issued under Section 9(3) of the CGST Act, 2017.**

The consideration paid to the Directors is against the supply of services provided by them to the applicant company and are not covered under clause (1) of the Schedule III to the CGST Act, 2017 as the Directors are not the employee of the Company. So it is very clear that the services rendered by the Director to the company for which consideration is paid to them in any head is liable to pay GST under RCM. Following AAR can be referred in context of decision made in the advance ruling authority, Karnataka in case of "Anil Kumar Agrawal, AAR-Karnataka" and "Alcon Consulting Engineers(India) Pvt. Ltd., AAR-Karnataka".