

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 05/ 2023
Dated: 23.01.2023**

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. Kiran Reddy T
Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. S K Swamy and Company, No.30/9, 9 th A Main Road, RMV Extension, Bengaluru-560 080.
2.	GSTIN or User ID	29AAPFS7533P1Z4
3.	Date of filing of Form GST ARA-01	17.11.2022
4.	Represented by	Sri B.K. Srinivas, Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Bengaluru North GST Commissionerate, North Division-4, RANGE-DND4
6.	Jurisdictional Authority - State	ACCT, LGSTO-130, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger Reference No. DC2911220067520 Dated 14.11.2022

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. S.K. Swamy and Company, No.30/9, 9th A Main Road, RMV Extension, Bengaluru-560 080 (hereinafter referred to as 'The applicant'), having GSTIN 29AAPFS7533P1Z4 have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a Partnership firm registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017

M/s. S K Swamy and Company



(hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The applicant is engaged in executing works contract to Indian Railways such as construction of Rail under bridge, construction of tunnels and supplying and stacking of ballast, earth work and also sub contract of all the mentioned works.

3. The applicant has sought advance ruling in respect of the following questions:

- i. *What percentage of GST output tax should be charged for our nature of works contract executed to Indian Railways.*
 - a) *On Railway under Bridge works*
 - b) *Construction of Tunnels for Railways*
 - c) *Supply and stacking of ballast*
 - d) *Execution of Earth Works Contract*
 - e) *Subcontract works for the above mentioned contract works*

4. **Admissibility of the application:** The question is about the “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2) (e) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant has stated that they are engaged in executing works contract to Indian Railways such as construction of Rail under bridge works, construction of tunnels and supplying and stacking of ballast, earth work and also sub contract of all the mentioned works. They have submitted contract agreement where in the Applicant has entered into a contract with Konkan Railway Corporation Limited for supplying and stacking of ballast at Thokur ballast depot, loading into KRCL hoppers for CTR (P) works under AEN / Udupi in the jurisdiction of Senior Regional Engineer, Karwar.

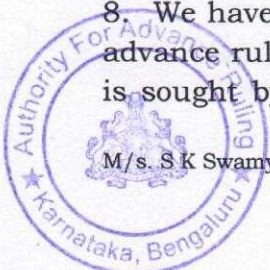
PERSONAL HEARING / PROCEEDINGS HELD ON 12.12.2022

6. Shri B.K. Srinivas, Advocate and Duly Authorised Representative appeared for personal hearing proceedings held on 12.12.2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in *pari-materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by



their authorized representative and also their submissions made during the time of hearing.

9. The applicant has stated that they are engaged in supply of works contract services to Indian Railways such as construction of Rail under bridge, construction of tunnels, execution of Earth Works Contract, supply and stacking of ballast and sub-contract of the above-mentioned contract works and wants to know the rate of GST on the same. In this regard we invite reference to entry No. 3 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017, which was amended vide Notification No. 3/2022-Central Tax (Rate) dated 13.07.2022 as below:

(A) in the Table, -

(I) against serial number 3, in column (3), -

(a) items (iii), (iv), (v), (va), (vi) and (ix) and the corresponding entries relating thereto in columns (4) and (5) shall be omitted;

(b) against items (vii) and (x), for the entry in column (4), the entry "6" shall be substituted;

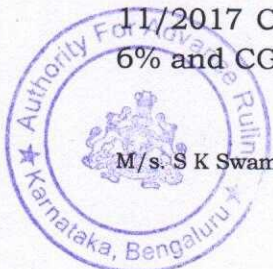
(c) in item (xii), for the brackets and figures "(iii), (iv), (v), (va), (vi), (vii), (viii), (ix)", the brackets and figures "(vii), (viii)," shall be substituted;

In view of the above amendment, works contract services supplied by the Applicant to Indian Railways such as construction of Rail under bridge and construction of tunnels are covered under entry No. 3(xii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and is exigible to GST at 18%(SGST @ 9% and CGST @ 9%). The same is reproduced below:

Sl No	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
3	Heading 9954 (Construction services)	(xii) Construction services other than (vii), (viii) above.	9	

If the Applicant is engaged in the supply of works contract services to Indian Railways such as construction of Rail under bridge and construction of tunnels as a sub-contractor to the main contractor, then also the same is covered under entry No. 3(xii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and is exigible to GST at 18%(SGST @ 9% and CGST @ 9%).

10. If the Applicant is engaged in supply of works contract services involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) to Indian Railways which is one of the departments of Central Government, then the same is covered under entry No. 3(vii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and is exigible to GST at 12% (SGST @ 6% and CGST @ 6%). The same is reproduced below:



Sl No	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
3	Heading 9954 (Construction services)	(vii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority..	6	

11. If the Applicant is engaged in supply of works contract services involving predominantly earth work, which is covered under entry No. 3(vii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017, as a sub-contractor to the main contractor who is covered under entry No.3(vii), the same is covered under entry No. 3(x) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and is exigible to GST at 12% (SGST @ 6% and CGST @ 6%). The same is reproduced below:

Sl No	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
3	Heading 9954 (Construction services)	(x) 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 (vii) above to the Central Government, State Government, Union territory, a local authority.	6	

12. The Applicant has entered into a contract with Konkan Railway Corporation Limited for supplying and stacking of ballast at Thokur ballast depot, loading into KRCL hoppers for CTR (P) works under AEN / Udupi. That is the applicant is supplying ballast to the Konkan Railway Corporation Limited and the supply of ballast to railways is exigible to GST at 5% (CGST @ 2.5% and SGST @2.5%) (HSN 2517) as per entry No. 126 of Schedule I of Notification No.1/2017-Central Tax (Rate), dated: 28.06.2017 and the same is reproduced below:



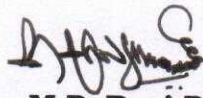
Schedule I-2.5%

Sl. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
126	2517	<i>Pebbles, gravel, broken or crushed stone, of a kind commonly used for concrete aggregates, for road metalling or for railway or other ballast, shingle and flint, whether or not heat-treated; macadam of slag, dross or similar industrial waste, whether or not incorporating the materials cited in the first part of the heading; tarred macadam; granules cheeping and powder of stones heading 2515 or 2516 whether or not heat treated</i>

13. In view of the foregoing, we pass the following

RULING

- i. *Works contract services like*
 - a) *construction of Railway under Bridge executed to Indian Railways by the Applicant is exigible to GST at 18% (SGST @ 9% and CGST @ 9%) if the Applicant is providing the services either as a main contractor or as a sub-contractor to main contractor.*
 - b) *construction of Tunnels executed to Indian Railways by the Applicant is exigible to GST at 18% (SGST @ 9% and CGST @ 9%) if the Applicant is providing the services either as a main contractor or as a sub-contractor to main contractor.*
- ii. *Works contract services involving predominantly earth work (that is, constituting more than 75per cent. of the value of the works contract) executed to Indian Railways (Central Government) by the Applicant is exigible to GST at 12%(SGST @ 6% and CGST @ 6%) if the Applicant is providing the services either as a main contractor or as a sub-contractor to main contractor.*
- iii. *Supply of ballast to railways is exigible to GST at 5%(CGST @ 2.5% and SGST @2.5%) (HSN 2517) as per entry No. 126 of Schedule I of Notification No.1/2017-Central Tax (Rate), dated: 28.06.2017*

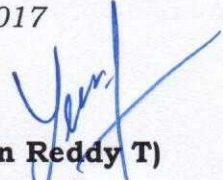


(Dr. M.P. Ravi Prasad)
Member

MEMBER

Place: Bengaluru
Date: 23.01.2023

M/s. S K Swamy and Company



(Kiran Reddy T)
Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009



To,
The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Taxes, Bengaluru North GST Commissionerate, North Division-4, RANGE-DND4, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-130, Bengaluru.
5. Office Folder.

