

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2022/50

(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/37)

Date: 30 /12/2022

Name and address of the applicant	:	M/s. Vikas Centre For Development, "ISHAVASYAM", Opp. Lajpatnagar Society, Eeshita Towers Road, Navjivan Post, Navrangpura, Ahmedabad - 380014
GSTIN/ User Id of the applicant	:	242200000534AR6 (User-id and Un-registered)
Date of application	:	20-07-2022
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(b) and (f)
Date of Personal Hearing	:	21-09-22
Present for the applicant	:	Rajesh I. Shah, Managing Trustee

Brief facts:

M/s. Vikas Centre For Development is a charitable trust registered under Section 12AA of the Income Tax Act, 1961 carrying out charitable activities. The objects of the Trust are to undertake, promote and support such activities leading to promotion of human development and welfare among general public and to render all types of services for the amelioration, relief, betterment and advancement of the community and for carrying out any programme for the benefit of the fellow beings and for any other object of public utility. Objects of the Trust covered u/s 2(15) of the Income Tax Act.

1.1. The following activities are carried out by the applicant -

- Natural resource development linked with livelihood enhancement of marginalized coastal communities including agriculture labourers, small and marginal farmers, fishermen, salt and charcoal makers belonging to schedule class and tribe. The activities include plantation of mangroves and other salt tolerant varieties of plants along the coastal belt and terrestrial regions of Gujarat.
- Empowerment of women from economically and socially marginalized communities through organizing self-help groups and providing legal services to address domestic issues



- Sanitation (Construction of toilets) and organizing solid waste management programmes by collecting and managing domestic waste.

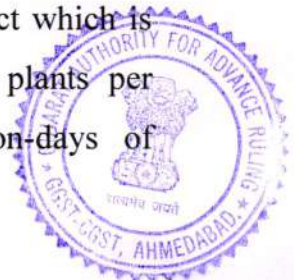
1.2. The applicant has submitted the details of main objectives of the trust and the activities being carried out as under:

Name of the Trust	VIKAS Centre for Development
Regd. Address	'Ishavasyam', Opp. Lajpatnagar Society, Eeshita Towers Road, Navjeevan P.O., Navrangpura, Ahmedabad 380 014
Status	<ul style="list-style-type: none"> • Public Charitable Trust registered under Bombay Public Trusts Act, 1950. • Charity Commissioner :Trust Registration no. E3183, Ahmedabad dated 04/01/1978. • 12A Registration No.AAATV2880KE20214. • 80G Approval No. AAATV2880KF20214. • PAN No. AAATV2880K.
Object of the Trust	<ol style="list-style-type: none"> 1. To undertake, promote and support such activities leading to promotion of human development and welfare among general public (Refer: clause (h) of Objectives of Trust) 2. To render all types of services for the amelioration, relief, betterment and advancement of the community and for carrying out any programme for the benefit of the fellow beings and for any other object of public utility. (Refer: clause (r) of Objectives of Trust). 3. Objects of the Trust covered u/s 2(15) of the Income Tax Act.
The Main Activities	<ul style="list-style-type: none"> • Natural resource development linked with livelihood enhancement of marginalized coastal communities including agriculture labourers, small and marginal farmers, fishermen, salt and charcoal makers belonging to schedule class and tribe. The activities include afforestation, which includes mangroves and other salt tolerant varieties of plants along the coastal belt and terrestrial regions of Gujarat. • Empowerment of women from economically and socially marginalized communities through organizing self-help groups and providing legal services to address domestic issues • Sanitation (Construction of toilets) and organizing solid waste management programmes by collecting and managing domestic waste.
Incidental/ Ancillary Activities	<ul style="list-style-type: none"> • Support to switch over to solar pumps in place of diesel pumps in salt production activity being carried out in Little Rann of Kutch, Gujarat, by small salt producers (Agariyas). • Conducting baseline survey in villages to plan CSR & CER activities by the industries and Government.
How the object of Trust achieved through plantation	The Afforestation Project, which includes mangrove plantation covering 200 hectares of area along coastal belt of Jambusar taluka, Bharuch district, Gujarat would result in:



of mangroves	<p>Economic benefits to poor:</p> <ul style="list-style-type: none"> • Since 80% of the project costs is for labour, under the proposed project, 32,600 person days of wage employment over three years period would be generated. This would provide 200 days of employment to 270 rural poor families in a year. • The plantation would enhance fish catch (mudskeeper& crabs) leading to better economic life for families engaged in fisheries. • Similarly, increased availability of fodder will help people engaged in animal husbandry. • The green wall created along 12 km long coastal belt would help in reducing salinity in the farm land along the coastal belt leading to better productivity in agriculture. <p>Environmental benefits:</p> <ul style="list-style-type: none"> • The mangrove plantation will lead to reduction of soil erosion and salinity ingress. • Absorption of the impurities including heavy metals improving the quality of the seawater. • Plantation leads to increase in green cover across the region improving the air quality. • The mangrove plantation would absorb 06 MT of Co2 annually per hectare of land area. i.e. 1200 MT of Co2 annually for 30 years. • The plantation would provide protection to life and domestic and industrial assets against natural calamities including cyclone, Tsunami, floods etc. <p>Social benefits:</p> <ul style="list-style-type: none"> • VIKAS CFD promotes marginalized community led planation. This increases awareness about the climate change and its impact. • This helps in reducing the vulnerability of the local community and enhances their socio-economic status. • They get skilled in plantation process from seed collection to full establishment of plantation. • The local leadership gets nurtured and acquires skills in managing projects. • Furthermore, the entire plantation process by VIKAS CFD is driven largely by women from marginalized communities which aim to reduce the gender divide in this region.
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2. The applicant has entered into an agreement to carry out a Pilot Project which is designed to explore various plantation densities from 2500 up to 10,000 plants per hectare. This Pilot Project is expected to generate about 38,500 person-days of



employment by planting 12,50,000 plants over a period of 03 years. The learning from the Pilot project will lead to the development of a *socially relevant & environmentally resilient* afforestation project along the coast of Gujarat, that takes into account developmental needs & sensibilities of local communities and ensures their sense of ownership & participation to preserve such green cover and prevent any deforestation.

3. The applicant submits that the activity above mentioned is exempted vide Notification No.12/2017-Central Tax (Rate), dated 28-6-2017 (Sr. No. 1) which clearly provides exemption to Services by an entity registered under Section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities. Identical entries are contained in the exemption notifications issued under the Gujarat Goods and Services Tax Act, 2017 as well as under the Integrated Goods and Services Tax Act, 2017. Entry No. 1 of the Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, which is relevant for the present purpose, reads as under :

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil

3.1 Further, the phrase “charitable activities” has been defined in clause 2(r) of the said exemption notification. The relevant extract of the definition is reproduced herein below:

- (r) “charitable activities” means activities relating to -
- (i) public health by way of,-
- (A) care or counseling of
- (I) terminally ill persons or persons with severe physical or mental disability;
- (II) persons afflicted with HIV or AIDS;
- (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
- (B) public awareness of preventive health, family planning or prevention of HIV infection;
- (ii) advancement of religion, spirituality or yoga;
- (iii) advancement of educational programmes or skill development relating to,-
- (A) abandoned, orphaned or homeless children;



- (B) *physically or mentally abused and traumatized persons;*
- (C) *prisoners; or*
- (D) *persons over the age of 65 years residing in a rural area;*

(iv) **preservation of environment including watershed, forests and wildlife;**

3.2 The applicant submits that the activities of the applicant relating to Afforestation, which includes plantation of mangroves are activities relating to “preservation of environment”.

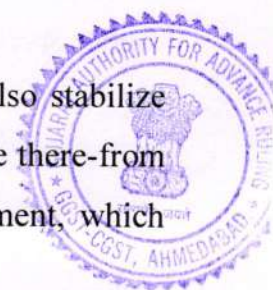
4. The applicant submits that a significant percent of global greenhouse gas (GHG) emissions is caused by forest destruction and poor agricultural practices. Boosting carbon sequestration in forestry sector is an effective approach to reduce and remove emissions from the atmosphere. Through afforestation and reforestation of degraded mangrove habitat the applicant aim to establish and maintain a sustainably managed mangrove ecosystem for carbon sequestration, natural disaster risk reduction, poverty reduction with sustainable livelihoods in the coastal communities.

4.1 Mangroves are one of the earth’s most important ecosystems and serve many critical functions: buffering coasts from storm surges, preventing coastal erosion, filtering water, storing carbon, serving as a vital habitat for a great number of species, and providing food and livelihoods for local communities. According to UNESCO, fifty percent of the world’s mangroves have disappeared in the last 40 years, and continue to be destroyed and degraded by about 1% per year. At this rate, scientists predict that mangroves may be completely gone by the year 2100 unless action is taken now to protect and restore them.

4.2 Coastal afforestation with mangrove and non-mangrove species provides variety of useful ecological and bio-physical functions, like increasing forest cover of the country, alleviating environmental degradation, acting as highly efficient carbon sink, offering habitat and breeding ground for wildlife and fisheries.

4.3 Mangroves are unique and ecologically important halophytes that grow in the coastal wetland of tropical belts. Urbanization, industrialization, unsustainable mode of aquaculture etc. has resulted in the shrinkage of mangrove to considerable extent. The remaining mangrove should be protected. Mangroves also physically protect coastlines by breaking the sea waves during storm surges and help shield seagrass beds and coral reefs from the effects of siltation.

4.4 Mangroves provide essential habitat for thousands of species. They also stabilize shorelines, preventing erosion and protecting the land-and the people who live there-from waves and storms. The roots of the trees filter the water by trapping sediment, which



slows coastal erosion, stabilises the shore, and stops sediment from damaging coral reefs and seagrass meadows. Mangroves provide a formidable defence too against events such as storms and tsunamis.

4.5 It is submitted that the activities are preservation of environment and the same is covered under the definition of **charitable activities** as defined in **clause 2(r) of the Notification No.12/2017-CT (Rate)**. The applicant is of the view that it being registered under Section 12AA of the Income-tax Act, 1961, become exempt from tax under the GST Acts, by virtue of Entry No. 1 of the Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 as mentioned above.

4.6 The applicant submits that the case is squarely covered under the Advance Ruling given by Authority for Advance Ruling under GST, Gujarat in the case of **All India Disaster Mitigation Institute** as reported at **2020 (36) GSTL.104 (A.A.R-GST-Guj)(Annexure-B)** wherein it is held that activities related to ‘disaster prevention’, ‘disaster mitigation’ and ‘disaster management’ are activities relating to ‘preservation of environment’ as defined in clause 2(r) of Notification No.12/2017-C.T (Rate) and considered as charitable activities. In the present case, the activities being carried out by the applicant viz. plantation of mangroves are directly related to ‘disaster prevention’ as it protects the environment from erosion by sea. It also protects the coastal areas from Tsunami and other kind of natural disasters.

4.7 The applicant submits herewith published articles by Planning Commission of India (NitiAyog) about the benefit and role of growing ‘mangroves’ in protecting environment and some other articles as per **Annexure-C**.

5. The applicant submits that a person who is a supplier is liable for registration as per Section 22(1) of the GST Acts if his aggregate turnover in a financial year exceeds Rs. 20 lakhs. The phrase “aggregate turnover” has been defined under Section 2(6) of the GST Acts as under :

“2(6) “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess”.

5.1 Thus the primary requirement for inclusion in “aggregate turnover” is that the transaction should qualify as “supply” transaction. The term “supply” has been defined under Section 7(1) of the GST Acts. Relevant extract of the definition reads as under :

“7. (1) For the purposes of this Act, the expression “supply” includes -



(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business."

5.2 One of the essential ingredients for a transaction to qualify as a supply transaction is that it should be in the course or furtherance of "business". The term business has been defined under Section 2(17) of the GST Acts as under :

"Business" includes -

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;*
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);*
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;*
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;*
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;*
- (f) admission, for a consideration, of persons to any premises;*
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;*
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club; and*
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;"*

5.3 Thus while the term "business" has been elaborately defined, except for a few activities which have been specifically incorporated, the activity should be in the nature of trade, commerce, manufacture, profession, vocation, adventure or similar activity in order to qualify as "business".

5.4 It is submitted that since the applicant is not engaged in "business", the transactions of the applicant are not "supply" transactions as defined under the GST Acts. Hence the applicant does not have any "turnover" and therefore it is not required to take registration under the GST Acts. From a plain reading of the above Clause (a) of Section 7(1) it is clear that supply will be liable to GST only when it is made for a consideration in the course or furtherance of business. As submitted above, since in the present case, the Appellant is not carrying out any business, there can be no supplies liable to GST at the hands of the Appellant.



5.5 Since the aggregate of taxable supplies of goods and services does not exceed Twenty Lakh Rupees, the Appellant is not liable for registration under Section 22(1) of the CGST Act, 2017.

5.6 The Appellant submits that Section 22(1) of the CGST Act, 2017, provides for registration under the CGST Act, 2017. The said Section 22(1) is extracted below for ready reference :

Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees :

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

5.7 In the present case, the Applicant submits that, they do not make any taxable supplies so as to be liable for registration under the provisions of Section 22(1) of the CGST Act, 2017.

5.8 The Applicant submit that it is not engaged in carrying out business as defined under Section 2(17) of the CGST Act, 2017, the other provisions and rigors of the CGST Act shall not be applicable to the Appellant.

Additional Submission letter dated 27-9-22

6. The applicant vide letter dated 27-9-2022 has submitted the following :
- (i) Pilot Afforestation Project : Activity and fund Flow details.
 - (ii) Pilot Afforestation Project : Service Agreement Copy
 - (iii) Vikas CFD : Copy of last 3 years Audited Balance Sheet and P&L along with ITR acknowledgment
 - (iv) Vikas CFD : Organisation Profile

6.1 The applicant has submitted "Pilot Project Implementation Agreement" held between the applicant and Goodcarbon Impact GmBh.

6.2 The applicant has submitted the details of key activities and flow of fund received from Goodcarbon Impact GmBh for carrying out the Pilot Afforestation Project. The details submitted by the applicant is as under :

The Flow of Funds is based on achieving the Key Milestones:

1. An Advance amount is given to start the Project Work against Milestone-1.
2. When Milestone-1 is achieved, VIKAS CFD gives the Narrative Report and Financial Report of the Project.
3. The Milestone-2 money is then released. In case, there are surplus funds available after M-1, then M-2 Fund is released after deduction of the surplus funds on hand. In case, there is deficit of Funds, then explanation for the deficit to be given and the M-2 Fund is released.



Then the same method of submission of narrative report for M-2 and the Financial Report is also presented

Sr. No.	Activity	Action
1	Proposal of the Pilot Project sent to Funder. The Proposal includes the Financial Budget also.	The Funder goes through the Project and understands the financials and then approves of the Pilot Project on actual expense basis.
2	VIKAS CFD signs a Service Agreement with the Funder (Goodcarbon Impact, GmbH, Germany)	VIKAS CFD will implement the Pilot Project of Afforestation of Mangroves in 200 Hectare area in the Jambusar Taluka villages of Malpur and Devla. The Fund disbursement will happen on achievement of three(03) Milestones: a. M-1 (Milestone-1): July 2022 On signing of agreement by both parties. (Release of Euros 31,050) b. M-2 (Milestone-2): August 2022. On identification of Land and Nursery Setup.(Release of Euros 91,695) c. M-3 (Milestone-3): January 2023. Obtaining all approvals for the Pilot Project, sufficient plants available for plantation from the nursery, and finalization of the Plan for the Plantation work. (Release of Euros 76,194) A total of Euros 1,98,939 for the 1st year of the Plantation Cycle. In INR the figure is Rs.169,09,815/- (@ Conversion rate of 1 Euro = Rs.85).
3	VIKAS CFD sends the Fund Request for the M-1 Payment	Goodcarbon Impact GmbH, Germany releases the Fund into the Bank account of VIKAS CFD.
3	The Nursery Plantation Work (July 2022 to October 2022) <ul style="list-style-type: none"> • Identification of location for nursery. • Collection of seeds. • Punching of bags. • Seeds to be placed in the bags filled with mud. • The bags to be organized in the Nursery Beds. 	All Payments are done digitally from the Bank account.
4	VIKAS CFD sends the Narrative Report and Financial Utilization Statement to Goodcarbon Impact GmbH, Germany. VIKAS CFD also sends the Proforma Invoice requesting for M-2 payment.	Goodcarbon Impact evaluates the narrative report and the expenses incurred and the balance available. Based on the same, the M-2 Funds are released after deducting the balance funds from M-1 available with VIKAS CFD.
5	The same procedure will be followed for M-3 Fund release	The Final Payment will be released based on the actual expenses carried out, based on the Final Utilization Statement submitted by VIKAS CFD.

It is submitted by the applicant that although this being a Service Agreement the working is similar to a Grant Agreement. There is no surplus being generated from the Project. All the Funds are being utilized for the Project activities and for Administrative expenses.



7. Question on which Advance Ruling sought:

- (i) Whether the activity of Afforestation, which includes the plantation of mangroves is exempted from GST under Sr. No.1 of Notification No.12/2017-CT (Rate)?
- (ii) Whether the applicant is required to be get registered under GST?

Personal Hearing:

8. Personal hearing granted on 26-09-22 was attended by Shri Rajesh I. Shah, Managing Trustee and he reiterated the submission. Further it is requested to submit the copy of agreement held between the applicant and foreign entity also the details of consideration received and expenses on implementation of plantation of mangroves work.

Revenue's Submission:

9. Revenue has neither submitted its comments nor appeared for hearing.

FINDINGS:

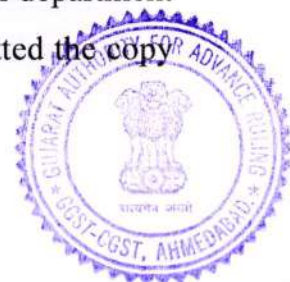
10. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by authorised signatory, during the personal hearing proceedings on 26-09-22 before this authority. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

11. At the outset we would like to make it clear that the provisions of CGST Act and GGST Act are in parimateria 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 GGST Act.

12. The issue here is to decide (i) whether the activity of afforestation which include mangrove plantation carried out by the applicant are covered under charitable activities as defined under clause 2(r) of the Notification No. 12/2017-CT (Rate) dated 28-6-2017 as amended and (ii) whether the such activity falls within the ambit of Supply and consideration received for carrying out such activity falls within the term business as defined under Section 2(17) of the GST Acts.

Determination of nature of activity of the applicant

13. We find that the applicant is registered under Section 12AA of the Income Tax Act, 1961 as a Charitable Trust to carrying out the Charitable activities. The applicant in support has submitted the copy of Form No. 10AC issued by the Income Tax department and is valid from AY 2022-23 to AY 2026-27. The applicant has also submitted the copy



of Certification of Registration issued on 4-1-1978 issued by the Deputy Charity Commissioner, Ahmedabad Region, Ahmedabad.

14. The applicant has submitted the trust deed and objectives of the Trust have been elaborated in Para 2 of the deed. The relevant clauses of objectives of the trust in reference to this application have been reproduced as under:

1. *To undertake, promote and support such activities leading to promotion of human development and welfare among general public {clause (g)}*
2. *To render all types of services for the amelioration, relief, betterment and advancement of the community and for carrying out any programme for the benefit of the fellow beings and for any other object of public utility.*
{Clause (r)}

15. We find that to achieve the object of the trust to reduce salinity in the farm land, Natural resource development and enhancement of marginalized coastal communities along with the coastal belt, the applicant has entered into an agreement with the company M/s Goodcarbon Impact GMBH for plantation of mangroves along with coastal line of Gujarat. The service and scope is given in Schedule-1 and details of 200 hectare Pilot Plantation Project is mentioned in Schedule-3. Schedule-1 and Schedule-3 of the agreement is reproduced as under:

Schedule-1

The Implementation Agency shall:

- (i) *prepare a master plan for implementation of the Pilot Projects development cycle;*
- (ii) *deploy an appropriate number of its trained and skilled personnel for undertaking implementation of the Pilot Project;*
- (iii) *undertake such acts, deeds and things as may be necessary for the successful implementation of the Pilot Project;*
- (iv) *provide a development cycle for the Pilot Project with key dates for relevant milestones and commercial requirements and prepare a final plan, which will form the basis and set out the standard operating procedure for the scaled up Project;*
- (v) *develop and maintain a good working knowledge of the various practical aspects of and documentation related to the Pilot Project;*
- (vi) *prepare and share progress/development reports periodically during the Term of this agreement;*



Schedule-3

KEY OUTPUTS FROM THE 200 HA PILOT PLANTATION PROJECT:

1. *This Pilot Project is designed to explore various plantation densities from 2,500 up to 10,000 plants per hectare. This will allow the Implementing Agency to identify the optimal plantation densities and plant size for the future scope of the Project. This will lead to better estimates of Carbon Credit realisation.*
2. *This Pilot Project is expected to generate about 38,500 person-days of employment by planting 12,50,000 plants.*
3. *Furthermore, this Pilot Project will help both the Parties develop and establish the data collection, measurement, analysis, documentation and reporting mechanism for certification of Carbon Credits.*
4. *Further, with a potential future scope of 10,000 hectare plantation, the Implementing Agency will use this Pilot Project for internal capacity building.*
5. *This Pilot Project will help build a stronger partnership and working relationship between the Parties and other stakeholders involved.*

15.1 We find that the applicant has undertaken the project of afforestation which include plantation of Mangroves covering 200 hectare area along coastal belt of Jambusar taluka, Bharuch district, Gujarat. Mangroves are one of the earth's most important ecosystems and serve many critical functions: buffering coasts from storm surges, preventing coastal erosion, filtering water, storing carbon, serving as a vital habitat for a great number of species, and providing food and livelihoods for local communities. Planning Commission, New Delhi has published report of the Task Force on "ISLANDS, CORAL REFS, MANGROVES & WETLANDS IN ENVIORNMENT & FORESTS" For the Eleventh Five Year Plan 2007-2012. Chapter-3 of the report has elaborated causes of depletion of Mangroves, benefits of plantation of Mangroves on Environment, Economic and social aspect. The main extracts of the report is as follows :

Causes of Mangroves areas to change

- *Shoreline development (e.g. coastal urbanisation and industrialisation and conversion to aquaculture) and changes in local hydrology are the biggest threats to mangrove habitat and some specific threat include :*
1. *Baffling by mangrove root system provides a physical trap for fine sediment with loads of heavy metals and other toxicants.*
 2. *Changes in pH redox potential (dissolved oxygen) and salinity can render these toxicants more available to keynote mangrove animals, including crabs.*



3. Increase in heavy metals can also lead to inhibition of photosynthesis and respiration in mangroves, causing die back.

Benefit to Environment

Mangroves have always been considered as exceptional ecosystems as in any case, mangrove forests create a wide diversity of niches, which serves as suitable habitats for feeding, breeding, spawning and hatching of sedentary and migratory species. In particular, they are important nursery habitat, for fish and crustaceans of commercial value.

The mangrove play an important role in a sediment repository, stabilizes shoreline, a buffer against storm surges. The mangroves are resistant to much of environmental perturbations and stresses. Mangroves are also important for their role as an biological filters and a sink for several pollutants. With the advent and current acceleration of climate changes, mangroves are being increasingly seen as carbon sinks and carbon stores. Mangroves protect coastlines from wave energy and offshore ecosystems from terrestrial sediments flowing downstream.

Mangroves are salt-tolerant forest ecosystems of tropical and subtropical intertidal coastal regions near river mouths. Mangrove form highly productive ecosystems since the inorganic nutrients, brought in by the incoming freshwater from land run-off, are trapped to form the source of energy for many organism. A mangrove ecosystem constitutes a reservoir, refuge, feeding ground and nursery for many useful and unique plants and animal confined to this region. Through the export decomposable organic matter into adjacent coastal waters, the mangroves provide an important nutrient inputs and primary energy source for many tropical estuaries. The mangroves ecosystem also protects coastal areas from sea erosion and from the violent effects of cyclones and tropical storms. The warm, calm waterways of mangroves provide shelter and rich food for many juveniles and larvae of finfish and shellfish.

Social and Economic benefit

Mangroves provide socially and economically important materials such as fodder for live stock, medicines and dyes. It provides nurseries for commercially important fish and prawn stocks; replenishing estuarine and coastal fisheries. Mangroves are source of firewood, of wood product such as timber, poles and posts, and of non-wood produce such as fodder, honey, wax, tannin, dye and plant material for thatching. They serve as good webs and enhance the fishery production of nearby coastal waters by exporting nutrients and detritus.



15.2 It is observe from the above that Mangroves have following benefit to protect the environment:

- (i) The filtering effect of mangroves forests protects vital coral reefs and sea grass beds from damaging siltation.
- (ii) Mangroves are important for their role as biological filters and sink for several pollutants. It capture effluents from terrestrial runoff; providing a buffer for nutrients, metals and other toxicants entering coastal waters.
- (iii) Mangroves protect shorelines from storm and surges damage and increase coastal stability.
- (iv) Mangroves are a sink for atmospheric carbon; helping to reduce global carbon dioxide levels and global warming.

15.3 Now, to decide all the above mentioned activities of the applicant are covered under Charitable activities as defined under clause 2(r) of the Notification No. 12/2018-CT (Rate) dated 28-6-17, we refer to clause 2(r) of Not. No. 12/2017-CT (Rate) wherein the term "charitable activities" has been defined and same is reproduced as follows :

charitable activities" means activities relating to -

- (i) *public health by way of,-*
 - (A) *care or counseling of*
 - (I) *terminally ill persons or persons with severe physical or mental disability;*
 - (II) *persons afflicted with HIV or AIDS;*
 - (III) *persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or*
 - (B) *public awareness of preventive health, family planning or prevention of HIV infection;*
- (ii) *advancement of religion, spirituality or yoga;*
- (iii) *advancement of educational programmes or skill development relating to,-*
 - (A) *abandoned, orphaned or homeless children;*
 - (B) *physically or mentally abused and traumatized persons;*
 - (C) *prisoners; or*
 - (D) *persons over the age of 65 years residing in a rural area;*
- (iv) **preservation of environment including watershed, forests and wildlife;**

15.4 We have already discussed in Para 15.1 to 15.3 the benefits of plantation of Mangroves along coastal and looking to the impact of plantation of mangrove on environment, social and economic, we hold that the activities of plantation of mangrove carried out by the applicant are covered under point (iv) of Charitable Activity define under clause 2 (r) of Notification No. 12/2017-CT (R) dated 28-6-2017 as amended.



Determination whether activity of the applicant covered under Supply defined under Section 7 of CGST Act, 2017

16.1 The term “supply” has been defined under Section 7(1) of the GST Acts, 2017. Relevant extract of the definition reads as under :

“7. (1) For the purposes of this Act, the expression “supply” includes -

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.”

16.2 The term ‘Supply’ includes all forms of supply (goods and/or services) and includes agreeing to supply when the supply is for a consideration and is in the course or furtherance of business. The term business has been defined under Section 2(17) of the GST Acts as under :

“Business” includes -

- (j) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;*
- (k) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);*
- (l) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;*
- (m) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;*
- (n) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;*
- (o) admission, for a consideration, of persons to any premises;*
- (p) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;*
- (q) services provided by a race club by way of totalisator or a licence to book maker in such club; and*
- (r) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;”*

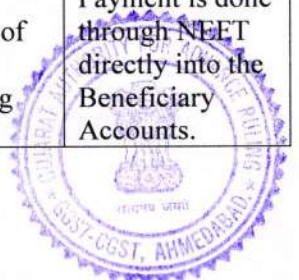
16.3 The term “business” has been elaborately defined, except for a few activities which have been specifically in-corporated; the activity should be in the nature of trade, commerce, manufacture, profession, vocation, adventure or similar activity in order to qualify as “business”. We find that the applicant service of afforestation which include plantation of Mangroves along with the coastline to protect the environment and up liftmen of socially and economically marginalized people as discussed in the above paras cannot be considered a business activity. The said activity have not been done for the



commercial benefit but it is being carried out for social and economic benefit of the marginalized people and to protect the environment.

16.4 The Invoicing and Payment Parameters for the year 2022-23 have been given in Schedule-2 of the Service Agreement. As per Schedule-2 the applicant would get total 198939/- Euro { Rs.169,09,815/- @ Conversion rate of 1 Euro = Rs.85} for the plantation of Mangroves. The applicant has submitted the flow of utilization of fund of Rs.169,09,815/- in Excel Sheet "VIKAS CFD : PILOT AFFORESTATION PROJECT : ACTIVITIES AND PAYMENTS : PLANNING 2022-2025" and same is reproduced as under :

VIKAS CFD : PILOT AFFORESTATION PROJECT : ACTIVITIES AND PAYMENTS : PLANNING 2022-2025								
200 Ha. Pilot Plantation Budget (Amount in INR)							Activities/Remarks	Mode/System of Payment
Sr.	Activity	Rate	Number	Time	2022-2023	Total		
1	Land Preparation							
A	Mapping with GPS	2500	1	3	2,500	7,500	Mapping of the Plot area with GPRS Points, after the selection of the area.	
B	Soil and Water Testing	1500	1	3	1,500	4,500	Samples of Water and Soil to be given for Lab Testing	
	Total- 1				4,000	12,000		Against Invoice, through Bank Transfer
2	NURSERY							
A	Mangroves Nursery- 1st Year							
1	Pilot Plot 1 - 50Ha. 2500 Plants	4.80	2500	50	6,00,000	6,00,000		
2	Pilot Plot 2 - 50Ha. 5000 Plants	4.80	5000	50	12,00,000	12,00,000		
3	Pilot Plot 3 - 50Ha. 7500 Plants	4.80	7500	50	18,00,000	18,00,000		
4	Pilot Plot 4 - 50Ha. 10000 Plants	4.80	10000	50	24,00,000	24,00,000		
	A				60,00,000	60,00,000	Payment to be done to Labourers against the activities towards formation of Nursery of total 12.50 lakh seedlings. The activities include Collection of Seeds, transporting seed to	Payment transfer to the Labourers on weekly basis based on the Payment Sheet received from the Field. The Payment is done through NEFT directly into the Beneficiary Accounts.



								location, punching of bags, filling of bags, laying of bags inside the nursery beds etc. The labourers need to be transported from villages to the site area.	
B	Mangroves Nursery-Gap filling								
1	Pilot Plot 1 - 50Ha. 2500 Plants	5.04	750	50	-	1,89,000			
2	Pilot Plot 2 - 50Ha. 5000 Plants	5.04	1500	50	-	3,78,000			
3	Pilot Plot 3 - 50Ha. 7500 Plants	5.04	2250	50	-	5,67,000			
4	Pilot Plot 4 - 50Ha. 10000 Plants	5.04	3000	50	-	7,56,000			
	B					18,90,000			
C	Mangroves Nursery-Gap filling								
1	Pilot Plot 1 - 50Ha. 2500 Plants	5.30	250	50	-	66,250			
2	Pilot Plot 2 - 50Ha. 5000 Plants	5.30	500	50	-	1,32,500			
3	Pilot Plot 3 - 50Ha. 7500 Plants	5.30	750	50	-	1,98,750			
4	Pilot Plot 4 - 50Ha. 10000 Plants	5.30	1000	50	-	2,65,000			
	C					6,62,500			
	TOTAL-2					60,00,000	85,52,500	Payment to be done to Labourers against Gapfilling work, which includes replenishing the plants, weeding etc.	Payment transfer to the Labourers on weekly basis based on the Payment Sheet received from the Field. The Payment is done through NEFT directly into the Beneficiary Account.
3	Plantation								
A	Mangroves Plantation- 1st Year								
1	Pilot Plot 1 - 50Ha. 2500 Plants	6.00	2500	50	7,50,000	7,50,000			
2	Pilot Plot 2 - 50Ha. 5000 Plants	6.00	5000	50	15,00,000	15,00,000			
3	Pilot Plot 3 - 50Ha. 7500 Plants	6.00	7500	50	22,50,000	22,50,000			
4	Pilot Plot 4 - 50Ha. 10000 Plants	6.00	10000	50	30,00,000	30,00,000			



								Payment done to Labourers against activities towards Plantation activity of 12.50 lakh mangrove plants. The Plantation activity includes plotting the line with holes at regular intervals, transportation of the nursery plants to the Plantation area, removing the bags and then putting the Plants in the holes.	
	A		25000		75,00,000	75,00,000	0		Payment transfer to the Labourers on weekly basis based on the Payment Sheet received from the Field. The Payment is done through NEFT directly into the Beneficiary Account.
B	Mangroves Plantation- Gap Filling								
1	Pilot Plot 1 - 50Ha. 2500 Plants	6.30	750	50	-	2,36,250			
2	Pilot Plot 2 - 50Ha. 5000 Plants	6.30	1500	50	-	4,72,500			
3	Pilot Plot 3 - 50Ha. 7500 Plants	6.30	2250	50	-	7,08,750			
4	Pilot Plot 4 - 50Ha. 10000 Plants	6.30	3000	50	-	9,45,000			
	B				-	23,62,500		Gapfilling of 3.75 lakh plants in 2nd Year	Payment transfer to the Labourers on weekly basis based on the Payment Sheet received from the Field. The Payment is done through NEFT directly into the Beneficiary Account.
C	Mangroves Plantation- Gap Filling								
1	Pilot Plot 1 - 50Ha. 2500 Plants	6.62	250	50	-	82,750			
2	Pilot Plot 2 - 50Ha. 5000 Plants	6.62	500	50	-	1,65,500			
3	Pilot Plot 3 - 50Ha. 7500 Plants	6.62	750	50	-	2,48,250			
4	Pilot Plot 4 - 50Ha. 10000 Plants	6.62	1000	50	-	3,31,000			
	C				-	8,27,500			



									Payment transfer to the Labourers on weekly basis based on the Payment Sheet received from the Field. The Payment is done through NEFT directly into the Beneficiary Account.
	TOTAL- 3				75,00,000	106,90,000	Gapfilling of 1.25 lakh plants in 3rd Year		
4	Supervision cost								
A	Plantation Supervision	15000	2	36	3,60,000	11,91,600	Cost of 02 Persons to Supervise the Nursery Formation and Plantation and Gapfilling activity for 36 months.	Monthly Project Salary given directly to Beneficiary Account on Monthly basis.	
B	Caretaker for Site	10000	2	36	2,40,000	7,94,400	Cost of 02 Caretakers at the sight from the local community for 36 months	Monthly Project Salary given directly to Beneficiary Account on Monthly basis.	
	TOTAL- 4				6,00,000	19,86,000			
5	Project Co-ordination & Monitoring								
A	Project Manager Time	20000	1	36	2,40,000	7,94,400	Project Team	On Monthly basis, NEFT directly into the Beneficiary account	
B	Project Coordinator Time	20000	1	36	2,40,000	7,94,400	Project Team	On Monthly basis, NEFT directly into the Beneficiary account	
C	Documentation And Reporting	5000	1	36	60,000	1,98,600	Project Team	On Monthly basis, NEFT directly into the Beneficiary account	
D	Community Building	5000	1	36	60,000	1,98,600	Cost of 01 local community member working towards community building activities.	On Monthly basis, NEFT directly into the Beneficiary account	
	TOTAL- 5				6,00,000	19,86,000			
	Program Expense				147,04,000	232,26,500	Total Expenses towards the Programme		



6	Management Cost (Admin & HR)				22,05,600	34,83,975	Management Cost of VIKAS CFD. This fund covers the Administrative / Account Personnel Salaries, all the administrative expenses of the Office, which includes all utility bills, AMC related Bills etc. It also covers the Audit Fees, IT return filing charges etc. And covers all expenses towards day to day running of the Office.	On monthly basis, debited from Project account and Credited into VIKAS CFD Account.
	TOTAL BUDGET				169,09,600	267,10,475	TOTAL PROJECT COST	

1ST
YEAR

16.5 We have observed that the applicant has submitted that total fund of Rs. Rs.169,09,815 would be received and utilized for the carrying out the work of plantation of Mangroves and no amount would be utilized for the other than the said project work. The applicant has given heads under which the fund would be utilized and same is reproduced as above. We find that the applicant does not have any profit motive and not earned any Income due to such activities. All the fund received in the year 2022-23 would be utilized for the project of plantation only. Therefore, the applicant activity do not covered under the Supply as defined under Section 7 of CGST Act 2017.

17. We have already hold that the applicant activity of plantation of Mangrove are covered under Charitable Activity as defined under Clause 2(r) of the Notification No. 12/2017-CT (Rate) dated 28-6-2017. The applicant is registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) as Charitable Trust, thus service of plantation of Mangroves by the applicant is eligible for exemption from the payment of GST and covers under entry No. 1 of the Notification No. 12/2017-CT (Rate) dated 28-6-2017. The entry No. 1 of Not. is read as under:



Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil

17.1 We hold that the applicant service of plantation of mangrove is covered under point (iv) of Charitable Activity define under clause 2 (r) of Notification No. 12/2017-CT (R) dated 28-6-2017 as amended and is eligible for exemption from payment GST in terms of entry No. 1 of Not. No. 12/2017-CT (Rate) dated 28-6-2017.

18. We have already discussed that the applicant service does not covered under supply as defined under Section 7 of CGST Act, 2017, therefore, applicant is not liable for registration under the provisions of Section 22(1) of the CGST Act, 2017.

19. We, hereby pass the Ruling:

RULING

- (i) The activity of Afforestation carried out by the applicant as charitable organization is exempted from GST under Sr. No.1 of Notification No.12/2017-CT (Rate) dated 28-6-2017 if organization is registered under (i) Section 12AA of Income Tax Act (ii) Public Charitable Trust under Bombay Public Trusts Act, 1950 (iii) Charity Commissioner :Trust Registration no. E3183, Ahmedabad dated 04/01/1978
- (ii) The applicant is not required to be get registered under GST if fulfills all the conditions as mentioned in (i) above of the Ruling.

(MILIND KAVATKAR)
MEMBER (S)

(AMIT KUMAR MISHRA)
MEMBER (C)

Place: Ahmedabad

Date: 30.12.2022

