

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX

14 Beliaghata Road, Kolkata – 700015

Name of the applicant	Sreepati Ranjan Gope & Sons
Address	Kali Villa, Malancha Road, Nimpura, Kharagpur, Dist: Paschim Medinipur, PIN - 721304
GSTIN	19ABAFS1887Q1ZB
Case Number	06 of 2018
Date of application	07 th February, 2018
Date of advance ruling	03 rd May, 2018
Applicant's representative heard	Sri Anup Kumar Gope, Partner

1. The Applicant, stated to be an enlisted contractor engaged by the Railways for maintenance work of railway tracks, wants a ruling on the Classification and Rate of Tax when maintenance of railways tracks is done by them by providing contractor's labour only in cases where the Railways supply materials free of cost and when maintenance of railways tracks is done by them by providing, both, contractor's material and labour.

Advance Ruling is admissible on this question under Section 97(1) (a) of the CGST / WBGST Act, 2017 (hereinafter referred to as "the GST Act").

The officer concerned raises no objection.

The Application is admitted.

2. During the course of Personal Hearing, on 21/03/2018, the Applicant submitted a photocopy of Letter of Acceptance, for the period 01.10.2017 to 30.09.2018, (hereinafter referred to as "LOA") No.: T/Misc.P.Way (Zonal)/PWI-West/SRC/2017(e-30) dated 04/01/2018 issued from the Office of the DRM (Engg), Kharagpur, along with the Schedules annexed thereto.

The questions raised by the Applicant will be discussed in relation to the above document.

3. The Application, in Annexure C refers to a hyperlink: www.exportgenius.in/gst-tax-rates/railway-track-maintenance-work which leads to information on the GST on HSN Code 86040000 - Railway or Tramway Maintenance or Service Vehicles Whether Or Not Self-propelled (for Example Workshops Cranes Ballast Tampers Track-liners Testing Coaches and Track Inspection Vehicles. Since the Applicant is neither manufacturing nor supplying any such vehicle, the information available on the hyperlink is not relevant to the Applicant.

The Applicant is a supplier of services as per work order issued for execution by the Railways. From examination of the LOA and the annexed Schedules it is clear that the work to be executed involves repair, maintenance and fitting out of immovable property, namely, Railway Tracks, and also transfer of property in goods in course

thereof. It is, therefore, a “Composite Supply” of labour and goods in the nature of Works Contract, as defined under Section 2 (119) of the GST Act, and is, therefore, classifiable under (ii) of column 3 [Description of Service] of Heading 9954 (Construction services) of column 2 under Serial No 3 of column 1 of the Table in Notification No. 11/2017-CT (Rate) dated 28/06/2017 under the CGST Act, 2017 (1135-FT dated 28/06/2017 under the WBGST Act, 2017) – hereinafter collectively called Rate Notification. The Annexure: Scheme of Classification of Services appended with the said Notification No. further classifies Heading 9954 under Section 5 “Construction Services”. Group 99542 under Heading 9954 classifies “General Construction of civil engineering works” and Sub-group 995421 classifies “General Construction services of highways, streets, roads, railways and airfield runways, bridges and tunnels”. Sub-Group 995429 classifies “Services involving repair, alterations, additions, replacements, renovations, maintenance or remodeling of the constructions covered above”.

After a thorough perusal of the LOA it is seen that the Services rendered by the Applicant are to be classified under SAC (Service Code Tariff) Heading 9954, Group 99542, Sub-group 995429.

4. The Rate Notification, along with its amendments on various dates, deals with the Tariff rate of tax as well as the effective rate of tax at reduced rates subject to specific laid down conditions. None of the amendments, whereby the effective rate of tax is at a rate lower than the Tariff rate under specifically laid down conditions are applicable in this case.

During Personal Hearing the Applicant has submitted a screenshot of GST rate of 5% for construction services for composite supply of works contracts involving predominantly earth work (that is, constituting more than 75% of the value of services provided, *inter alia*, to Central Government).

It appears that the Applicant is referring to amendment dated 13.10.2017 of the above mentioned Rate Notification. The LOA provides a detailed schedule of the nature of the work involved. It involves cleaning, surface preparation and painting of the rails, welding of joints, fabrication and fixing of guard rails, dressing and boxing of ballast, piling of Bullah, and other maintenance related work, only a minor fraction of which can be described as earth work. Hence, this amendment for effective rate of GST at reduced rates is not applicable in the instant case.

5. During Personal Hearing the Applicant has referred to an exemption granted under Notification No. 12/2017-CT (Rate) dated 28/06/2017 under the CGST Act, 2017 (1136-FT dated 28/06/2017 under the WBGST Act, 2017) (hereinafter referred to as “the Exemption Notification”), and as amended on 25.01.2018. This argument is not present in the original application of Advance Ruling submitted on 07.02.2018. However, it is seen that the condition for being exempted from GST under this amendment requires the composite supply (wherein the value of the goods supplied is not more than 25% of the total value of the supply) to be provided, *inter alia*, to Central Government by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function

entrusted to a Municipality under article 243W of the Constitution. Once again, the conditions laid down are not applicable to the instant case.

6. The works contract service of maintaining railway track as per the above LOA is, therefore, taxable @ 18% under the Serial no. 3 (ii) of the Rate Notification.

In view of the foregoing we rule as under

RULING

The Applicant supplies works contract service, as defined under Section 2 (119) of the GST Act, of maintaining existing railway tracks, which is taxable @ 18% under serial no. 3(ii) of Notification No. 11/2017-CT (Rate) dated 28/06/2017 under the CGST Act, 2017 (1135-FT dated 28/06/2017 under the WBGST Act, 2017). The appropriate SAC (Service Code Tariff) is as follows: Heading 9954, Group 99542, Sub-group 995429.

This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the GST Act.

Sd-

(VISHWANATH)

Member

West Bengal Authority for Advance Ruling

Sd-

(PARTHASARATHI DEY)

Member

West Bengal Authority for Advance Ruling