

T. NO-57/2024-25

**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 33/ 2024

Dated: 02.07.2024

Present:

1. Dr. M.P. Ravi Prasad

Additional Commissioner of Commercial Taxes Member (State)

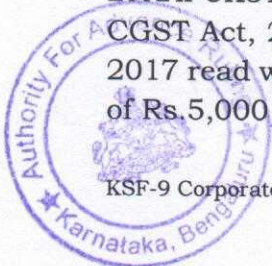
2. Sri Kiran Reddy T

Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. KSF-9 CORPORATE SERVICES PRIVATE LIMITED 2nd Floor, No.26-34/4, M R Mansion, 3rd Main, Opp Kalagrama, Kengeri Ring road, Jnanajyothi Nagar, Mallathalli, Bengaluru-560056
2.	GSTIN or User ID	29AAFCK8154M1ZV
3.	Date of filing of Form GST ARA-01	02.11.2023
4.	Represented by	Mr. Shivarajkumar, Director
5.	Jurisdictional Authority - Centre	The Commissioner of Central Tax, Bengaluru West GST Commissionerate, West Division-7, Range-CWD7
6.	Jurisdictional Authority - State	ACCT, LGSTO-061, 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. DC 2910230438160 Dated 31.10.2023

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

M/s. KSF-9 Corporate Services Private Limited, 2nd Floor, No.26-34/4, M R Mansion, 3rd Main, Opp Kalagrama, Kengeri Ring road, Jnanajyothi Nagar, Mallathalli, Bengaluru-560056 (hereinafter referred to as 'The applicant'), having GSTIN 29AAFCK8154M1ZV 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.



KSF-9 Corporate Services Pvt Ltd

2. The applicant is a Private Limited Company registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The applicant is engaged in providing security services to BBMP.

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

1. *Whether the Bruhat Bengaluru Mahanagra Palike, Bangalore are exempt from GST for obtaining security services on outsource basis from security agency as per the pure services under 12th schedule to Article 243-W of the Constitution and under 11th schedule to Article 243-G?*

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

5. **Brief Facts of The Case:** The applicant states that Bruhat Bengaluru Mahanagra Palike (hereinafter referred as BBMP) has issued work order to the Applicant to provide security services to head office premises for three years and the Applicant wants to know the taxability of providing security services to BBMP.

PERSONAL HEARING: / PROCEEDINGS HELD ON 14.03.2024

6. Sri Shivarajkumar, Director of the company appeared for personal hearing/proceedings held 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 states that BBMP has issued work order to the Applicant to provide security services to head office premises for three years and the Applicant wants to know the taxability of providing security services to BBMP.

10. The applicant states that BBMP is stating that supply of security services to them is exempted as per Sl.No. 3 of Notification No.12/2017 central Tax(R) dated 28.06.2017.



11. Whether the security services provided by the Applicant to BBMP is exempted under entry no.3 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 is to be examined and the said Entry reads as under:

“Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority 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.”

11.1 From the above said entry of the notification it is observed that, in order to claim exemption on supply of services two conditions should be satisfied:

1. *Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority*
2. *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.”*

Now we examine them one by one. The Applicant states that he is providing security services to BBMP. BBMP is neither a Central Government nor State Government or Union territory. Now we need to examine whether BBMP is a local Authority or not.

As per section 2(69) of KGST Act 2017 “Local Authority” means

(a) Panchayat as defined in clause (d) of article 243 of the Constitution;

(b) a Municipality as defined in clause (e) of article 243P of the Constitution;

(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006 (41 of 2006);

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 8[and article 371J] of the Constitution; or

(g) a Regional Council constituted under article 371A of the Constitution;

11.2 Bruhat Bengaluru Mahanagara Palike(BBMP) is established and governed under the provisions of the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977).



Chapter III and part of Chapter IV of The Bruhat Bengaluru Mahanagara Palike Act, 2020, is reproduced below:

CHAPTER II
CORPORATION AUTHORITIES

3. Corporation Authorities.-The following shall be the Authorities of the Corporation who shall carry out the provisions of the Act, namely:-

- a) the Bruhat Bengaluru Mahanagara Palike (BBMP)
- b) the Mayor
- c) the Chief Commissioner
- d) the Zonal Commissioner
- e) the Zonal Committees
- f) the Standing Committees
- g) the Ward Committees
- h) (h) Area Sabhas

CHAPTER III
CONSTITUTION OF THE CORPORATION

4. Establishment of Bruhat Bengaluru Mahanagara Palike.- (1) As soon as may be, after the commencement of this Act, there shall be established for the purposes of this Act, a Corporation to be called Bruhat Bengaluru Mahanagara Palike.

In view of the above, it is evident that BBMP is a corporation and the same is covered under local authorities and hence the first condition is satisfied.

12. 243G- Powers, authority and responsibilities of Panchayats subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

- (a) The preparation of plans for economic development and social justice;
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Matters listed in Eleventh schedule are:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.



8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

12.1 243W. Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law, may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to
 - (i) the preparation of plans for economic development and social justice;
 - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

There are 18 items in the twelfth schedule of the Constitution which are as below:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.



7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

12.2 The applicant is providing Security Services to BBMP. But these services are not provided 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. Thus, the second condition is not satisfied. Hence provision of such Security services are not exempted from GST.

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

RULING

Supply of Security services to Bruhat Bengaluru Mahanagara Palike (BBMP) are not 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 and hence not exempted from GST.

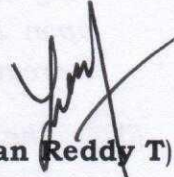


(Dr. M.P. Ravi Prasad)

Member
MEMBER

Karnataka Advance Ruling Authority
Place : Bengaluru,
Bengaluru - 560 009

Date : 02.07.2024



(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 Tax, Bengaluru West GST Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-61, Bengaluru.
5. Office Folder

