GSTAT

State Bench Agra

Division Bench Court No. Court I

APL/194/AGR/2026

KRISHNA VEER YADAV **.....Appellant**

Versus

ARSS SIPS (JV), MANAGER, 5488 GALI NO 72 RIAGAR PURA NEW DELHI DLCEN 110005 **.....Respondent**

Quorum

Hon'ble Ajeet Singh, Member(Judicial)
Hon'ble Vivek Kumar, Member (Technical)

Counsel for Appellant
SH. MUKESH KUMAR, AUTHORIZED REPRESENTATIVE

Counsel for Respondent
SH. KAPIL ARORA, CA

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZA090401026000217H **Date of order :** 30/10/2026

1.	GSTIN/Temporary ID/UIN - 09AAEAA3620K1ZV	
2.	Appeal Case Reference no. - APL/194/AGR/2026	Date - 27/04/2026
3.	Name of the appellant - KRISHNA VEER YADAV , kv1910@gmail.com , 9654750076	
4.	Name of the respondant - 1. ARSS SIPS (JV) , gstsips@gmail.com , 9268564605	
5.	Order appealed against - AD090925149253R	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD090126106420W	Date - 16/01/2026
6.	Personal Hearing - 30/10/2026 06/10/2026 18/08/2026 03/08/2026	

7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - This second appeal is sound on the factual and legal aspects and deserves to be allowed. Accordingly, order in appeal dated- 16.01.2026, passed by first appellate authority is set aside and order in original, dated28.06.2025, passed by adjudicating officer is restored.

Summary of Order

9.	If demand order then whether demand quantified: No

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellat Tribunal
Classification dispute	The Works executed by the appellant with Indian Railways is in the capacity of a government entity under the GST Act. The appellant has performed work related to rock/boulder blasting, signal works, and MSE items. After constructing foundations at various locations, the work of erecting iron structures was done by securing them with nuts and bolts. Subsequently, after laying electric wires through overhead [lines], signal-related work was completed. Thus, the works completed under the contract obtained from the Railway Department are permanently attached to immovable property, and both goods and services are involved in the work. Therefore, these works fall under the definition of a Works Contract according to Section 2(11). In this manner, railway signaling wiring and related electrical/supporting installation work is legally considered a Works Contract service. The projects executed by the appellant for Indian Railways are government projects. Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017, as amended by Notification No. 20/2017 Central Tax (Rate) dated 22.08.2017, provides that the GST rate for relevant works contract services provided to railway entities for the respective year is 12%. This benefit of the concessional rate also extends to contractors engaged in railway-related works. The contract executed by the appellant with Indian Railways, being a government department, has been performed accordingly. Therefore, in light of the facts discussed above, the tax liability of the appellant should be 12% instead of 18%.	AGRA BENCH

Place :AGRA

Signature

Date : 30.10.2026

AGRA Sandeep Yadav

Designation : Stenographer/Law researcher

Jurisdiction :Agra

ORDER

Per. Ajeet Singh (Judicial Member)

Commissioner State Tax (through-Krishna Veer Yadav, Deputy Commissioner)

Vs

ARSS SIPS, New Delhi.

APL/194/AGR/2026

(Passed on 30th day of October, 2026)

1. Being aggrieved by the order dated- 16.01.2026, passed by first appellate authority in first appeal no. AD090925149253R/2025, whereby by allowing the respondent's first appeal order in original passed by adjudicating officer on 28.06.2025, has been modified by accepting tax liability of Rs. 43,248/- only on respondent while the main demand of Rs. 72,82,446/- has been quashed, department of UP state tax has preferred the present appeal u/s 112 of Central Goods and Services, Act/Uttar Pradesh Goods and Services Tax, Act, 2017 (for short CGST/UPGST, Act) on the direction of commissioner. For convenience hereinafter in the order appellant and respondent will be addressed as department and taxpayer respectively.
2. Before narrating the facts of the case it would be beneficial to note that taxpayer did not show his income of Rs. 75,100/- as taxable income, which was detected in audit and accordingly in addition to main demand of tax from construction services, Rs. 43,248/- were imposed as goods and services tax from other income, on taxpayer. To that extent learned first appellate authority has confirmed the order in original and no appeal or memorandum of cross objection has been filed by respondent taxpayer therefore, findings recorded by learned first appellate authority to that extent are not subjected to appreciation by this tribunal and discussion of this tribunal now would be in respect of tax on construction services rendered by taxpayer to Indian Railway a government entity.
3. In order to disposal of this second appeal filed u/s 112 of CGST/UPGST, Act facts of the case in brief are that taxpayer is a registered Joint Venture having GSTIN 09AAEAA3620K1ZV and provides construction and other services. Main business place of taxpayer is at house no. A-17 situated at eldeco county, Bijalui, jhasni. Taxpayer provides construction services regarding earthwork in embankment/cutting blanketing side, drains, retaining/toe wall, construction of minor bridges and removal of infringement of signals, cables equipment with other aligned work, construction of major bridges and earthwork in approaches including protection and other ancillary work to North Central Railway in the year 2019-20. For works performed by him to railway he submitted several tax invoices for a total amount of Rs. 12,13,74,088/- on which he paid GST at the rate of 12% through his GSTR-1 and GSTR-3B.
4. On verification learned proper officer has issued a SCN u/s 74 of CGST/UPGST, Act to taxpayer that he has short paid tax by willful misstatement as service provided by him comes under head of general

construction services SAC no. 995423 and 995424 those are taxable at the rate of 18% GST but he has paid the tax of 12% GST. In such SCN demand of deficit GST was assessed as 72,82,446/- along with applicable interest and penalty. Learned proper officer issued SCN to taxpayer which was replied unsatisfactorily and thus, learned adjudicating officer passed the order u/s 74(9) of CGST/SGCT, Act.

5. Feeling aggrieved by the order passed by proper officer as aforesaid, taxpayer preferred first appeal which was allowed by first appellate authority and to the extent of demand of Rs. 72,82,446/- raised in pursuance of order in original, order was set aside, hence this second appeal before this tribunal by state tax department, through its official Sh. Krishna Veer Yadav, Dy. Commissioner.
6. We have heard the learned authorized representatives of respective parties and perused the record carefully. The question for determination may be stated thus-

Whether general construction services provided by taxpayer to Indian Railway, comes under the head of "Composite Supply of Works Contract to Railways and are covered by entry at sr. no. 3(v)(a) of notification no. 11/2017 as amended by notification no. 20/2017 Central Tax (Rate) attracting 12% tax .?

FINDINGS WITH REASON

7. In this second appeal filed by department of state tax, U.P u/s 112 of CGST/UPGST, Act, before the appellate tribunal the core issue revolves around the correct classification and applicable GST rate for general construction services provided for railway infrastructure product by the tax payer. Learned adjudicating officer has held that services provided by taxpayer are not covered in the head of construction of buildings residential or commercial but same are covered with "general construction services" which should be assessed under GST slab of 18% not in slab of 12%. In first appeal learned first appellate authority has held that services provided by taxpayer to Indian railway which is a government entity comes under the construction services in relation to immovable property and thus being work Contract services to Railway and are taxable at the rate of 12%.
8. Question before this appellate tribunal is only as to whether services provided by taxpayer to Indian Railway such as earthwork in embankment/cutting blanketing side, drains, retaining/toe wall, construction of minor bridges and removal of infringement of signals, cables equipment with other aligned work, construction of major bridges and earthwork in approaches including protection and other ancillary work are work contract services and thus are covered by notification no 11/2017 as amended by notification no.20/2017 or not.
9. Thus, work contract description indisputedly includes bridges, toe walls, major/minor construction, signal relocation and earthwork. Unless the taxpayer can mathematically demonstrate with structural proofs and billing breakups that construction services provided to Railways are only in relation to construction /repairing of immovable property, the contract can not qualify for the 12% concessional rate under serial no. 03(V)/(a) of notification no. 11/2017-CT(Rate) as amended by notification no, 20/2017 CT(Rate) dated 22-08-2017.
10. Learned authorized representative appeared for department has also drawn our attention to the tax invoices submitted by taxpayer to Indian Railway regarding services rendered by him. In such invoices as noted in the facts it is described the service as "general construction services" which are taxable at the rate of 18% until unless taxpayer would not show these services are work contract services. As per

SAC (Services Accounting Code) 9954, all construction and works contract services fall under the heading of 9954, however, simply grouping everything under “construction of immovable property” ignores the specific sub entries under notification no. 11/2017 central tax dated June 28, 2017 (as amended). Further, taxability of works contract services provided to central/state governments local authorities, government entities and government undertakings like Indian Railways is strictly govern by notification state above. As per serial no. 03(V) of the said notification any composite supply of works contracts other than those specifically carved out attracts a standard rate of 18% (09% CGTS+ 09% SGST). As stated earlier, as per serial no. 03(V) of the notification prescribes a concessional rate of 12% (06% CGST+ 06% SGTS) is only for a composite supply of works contract provided to railway, in this matter taxpayer has not shown supply of services provided by him involves construction services in relation to immovable property and are composite supply of works contract. Therefore, in the present matter services provided by the taxpayer do not qualify for 12% rate under Sr. No. 3(V)(a) and defaults to the standard 18% rate.

11. In this way, findings recorded by first appellate authority is that all railway construction services fall under “work contract services at the rate of 12% GST” is legally untenable, perverse to record and thus liable to be overturned.
12. Consequently, on the discussion above, we are of the considered opinion that this second appeal is sound on the factual and legal aspects and deserves to be allowed. Accordingly, order in appeal dated-16.01.2026, passed by first appellate authority is set aside and order in original, dated28.06.2025, passed by adjudicating officer is restored as taxpayer has short paid tax by charging 12% GST instead of applicable 18% standard rates on general construction services to Indian Railway, a central government undertaking.
13. There is no pending interim application in the appeal.
14. Order is pronounced in open court on this day of 30th of October, 2026.
15. Copy of order be communicated to all concerned, as per rules.

Ajeet Singh
Digitally signed by Ajeet Singh
Date: 2026.10.30 16:40:19 +05'30'
(Ajeet Singh)

Vivek Kumar
Digitally signed by Vivek Kumar
Date: 2026.10.30 16:28:06 +05'30'
(Vivek Kumar)

Dated: 30.10.2026