

**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 60/ 2021  
Dated: 29.10.2021**

Present:

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

1.	Name and address of the applicant	M/s. SREE VINAYAKA ENTERPRISES, (Sri Ganganahalli Channaveeregowda Krishnegowda) 512, 2 <sup>nd</sup> , C Main, 11 <sup>th</sup> Block, Nagarabhavi, Bengaluru-560 070
2.	GSTIN or User ID	29ADIPK7762Q1ZJ
3.	Date of filing of Form GST ARA-01	03-09-2021
4.	Represented by	Shri Sudarshan B.N, Chartered Accountant & Duly Authorised Representative
5.	<b>Jurisdictional Authority - Centre</b>	The Principal Commissioner of Central Taxes, Bengaluru West GST Commissionerate, West Division 7, RANGE BWD 7
6.	Jurisdictional Authority - State	ACCT, LGSTO-70, 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 & Rs.5,000-00 under SGST Act vide CIN HDFC21082900058724

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

M/s. Sree Vinayaka Enterprises, 512, 2<sup>nd</sup>, C Main, 11<sup>th</sup> Block, Nagarabhavi, Bangalore-560072 having GSTIN 29ADIPK7762Q1ZJ 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 Proprietorship concern 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 the business of providing manpower supply to various government and non-governmental organisations.

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

1. *Whether the applicant is correct in classifying the services provided to the Government entities as exempted services?*
2. *Whether the applicant is correct in claiming exemption under Sl.No.3 of Notification 12/2017 dated 28<sup>th</sup> June 2017 for the said exempted services?*

4. **Admissibility of the application:** The question is about “classification of any goods or services or both” and “applicability of a notification issued under the provisions of this Act” and hence is admissible under Section 97(2)(a) and 97(2)(b) of the CGST Act 2017.

5. **Brief Facts Of The Case:** The applicant furnishes some facts relevant to the issue:

5.1 The Applicant states that they are engaged in the business of providing manpower supply services to various government and non-government organisations. Manpower supply services include supply of workforce of both skilled and unskilled for security, housekeeping, catering etc. Majority of the services are rendered to Central / State Government and public sector undertakings like ISRO, Central University of Karnataka.

5.2 The applicant states that they have entered into various contracts with government and public sector undertakings for supply of security and housekeeping staffs as listed below:

<b>Service Receiver</b>	<b>Nature of services rendered as per the agreement</b>
BGS Global Institute of Medical Sciences	Security Services
Indian Institute of Astrophysics	Housekeeping and security
Indian Academy of Sciences	Security Services
National Dairy Research Institute	House Keeping
National Institute of Oceanography	House Keeping
National Institute of Technology, Goa	Sanitation and Housekeeping services
Raman Research Institute	Security Services
SJB College of Nursing	Security Services
Central University of Karnataka	Manpower Services



National Aeronautical Laboratory	Security Services
National assessment and accreditation Council	Security Services
National Institute of Fashion Technology	Manpower services

5.3 The Applicant states that the services rendered by them are in the nature of “pure services” to the “government agencies” as defined in the Notification No.12/2017. The services rendered by such “Government Agencies” are covered in list of functions rendered by Panchayat / Municipality under article 243G and 243W of the Constitution. Thus, the said service is eligible for exemption under Sl.No.3 of Notification 12/2017.

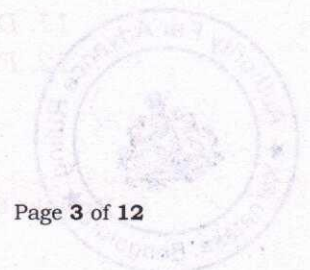
#### 6. Applicant’s Interpretation of Law:

6.1 The applicant has relied on AAR order passed by Gujarat in case of M/s A.B.Enterprises which pertains to the same issue.

6.2 The applicant has reproduced entry at Sl.No.3 in the notification No.12/2017 dated 28<sup>th</sup> June 2017 as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Service	Rate	Condition
3.	Chapter 99	<b>Pure services</b> (excluding works contract service or other composite supplies involving supply of any goods) provided to the <b>Central Government, State Government</b> or Union territory or <b>local authority</b> or a <b>Governmental authority</b> or a <b>Government entity</b> by way of any activity in relation to any function entrusted to a Panchayat under article <b>243G of the Constitution</b> or in relation to any function entrusted to a Municipality under article <b>243W of the Constitution</b> .	NIL	NIL

6.3 The applicant has submitted the details of the key words Pure Service, Governmental Authority and the functions entrusted to them under Article 243G and 243W as under:





6.3.1 Pure Service: The phrase "pure service" has not been specifically defined in any of the notifications / circulars. However, in common parlance, "pure services" in this context would intend to cover all the contracts where there is no supply of goods i.e., to say any supply which is either deemed as services under Schedule II of CGST Act or which are not covered under the definition of goods shall be categorized as pure services. The applicant states that they are providing "security and house-keeping services" to the customers cited at para 5.2 supra. The said supply is not covered under the definition of goods.

6.3.2 Governmental Authority: Governmental Authority has been defined in Notification No.32/2017-CT (R) dated 13.10.2017 as:

(zf) "Governmental Authority" means an authority or a board or any other body,-

(i) Set up by an Act of Parliament or a State legislature; or

(ii) established by any Government, with 90 percent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution."

(zfa) "Government Entity" means an authority or a board or any other body including a society, trust, corporation,

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government with 90 percent or more participation by way of equity or control to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority."

6.3.3 Functions entrusted under Article 243G and 243W of the Constitution:

Following functions are entrusted to Panchayats under Article 243G:

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.

Following functions are entrusted to Municipalities under Article 243W:

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.





6.4 The applicant has also stated about the entities to which the applicant provides the service and corresponding grounds on which such services are exempt and the same is listed as under:

Service Receiver	Grounds on which it is a Government Entity/Authority.	Clause under Article 243G/243W
BGS Global Institute of Medical Science	The entity is a unit of Rajiv Gandhi University of Health Sciences, centered in Bangalore which is a public, affiliating university set up in 1996 by the Government of Karnataka. Rajiv Gandhi university for all practical purposes control BGS Global Institute of medical sciences.	Public health, sanitation conservancy and solid waste management under 243W.
Indian Institute of Astrophysics	The Indian Institute of Astrophysics (IIA), with its headquarters in Bengaluru (Karnataka State), is an autonomous Research Institute wholly funded by the department of Science and Technology, Government of India.	Education, including primary and secondary schools under 243G
Indian Academy of Sciences	Indian Academy of Sciences is a unit of Raman Research Institute which is an institute of scientific research located in Bangalore and funded and controlled by Government of India	Education, including primary and secondary schools under 243G
National Dairy Research Institute	NDRI was brought under Indian Council of Agricultural Research (ICAR) since 1970. The current president of ICAR is the Hon'ble Minister of Agriculture and NDRI is a constitutional body and thus a Government entity.	Education, including primary and secondary schools under 243G
National Institute of Oceanography	NIO is established by Council of Scientific and Industrial Research of Government of India. Fully funded and controlled by the Indian Government.	Education including primary and secondary schools under 243G
National Institute of	The National Institutes of	Education, including





Technology Goa	Technology (NITs) are the premier autonomous public technical universities under the jurisdiction of Ministry of Education, Government of India.	primary and secondary schools under 243G
Raman Research Institute	Raman Research Institute is an institute of scientific research located in Bangalore and funded and controlled by Government of India.	Education, including primary and secondary schools under 243G
SJB college of nursing	This institute is neither funded nor controlled by the Government. Hence, the same is a taxable service.	Education, including primary and secondary schools under 243G
Central University of Karnataka	The Central University of Karnataka was established by an Act of the Parliament at Kadaganchi of Aland, Karnataka Taluk Kalaburagi, Karnataka.	Education including primary and secondary schools under 243G
National Assessment and Accreditation Council	National Assessment and Accreditation Council (NAAC) was established in 1994 as an autonomous institution of the University Grants Commission (UGC) under the National Policy on Education (NPE, 1986) and the Programme of Action (PoA, 1992) which is fully controlled by Ministry of Education, Government of India.	Education, including primary and secondary schools under 243G
National Institute of Fashion Technology	NIFT was set up in 1986 and was made a statutory institute in 2006 by an Act of the Indian Parliament. Hence, the same is fully funded Government entity.	Education, including primary and secondary schools under 243G

**PERSONAL HEARING / PROCEEDINGS HELD ON 07-10-2021**

Shri Sudarshan B.N, Chartered Accountant & Duly Authorised Representative of the applicant appeared for personal hearing proceedings held on 07-10-2021 and reiterated the facts narrated in their application.



## FINDINGS & DISCUSSION

8. 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.

9. 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 the applicant and also their submissions made by their learned representative during the time of hearing.

10. The applicant is engaged in supply of Manpower services to various organisations/institutions like Indian Institute of Astrophysics, Indian Academy of Sciences, National Dairy Research Institute, National Institute of Oceanography, National Institute of Technology Goa, Raman Research Institute, SJB College of nursing, Central University of Karnataka, National Assessment and Accreditation Council, National Institute of Fashion Technology and BGS Global Institute of Medical Science. The manpower supplied by the applicant is in the nature of security guards, housekeeping staff and catering staff.

11. The applicant claims that he is supplying manpower services to various government and non-government organisations and the services rendered by the applicant are pure services to the government agencies and hence eligible for exemption as per Sl.No. 3 of Notification No.12/2017 central Tax(R) dated 28.06.2017.

12. Whether the manpower services provided by the applicant to various organisations/institutions mentioned supra in para 10 are 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:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Service	Rate	Condition
3.	Chapter 99	<b>Pure services</b> (excluding works contract service or other composite supplies involving supply of any goods) provided to the <b>Central Government, State Government</b> or Union territory or <b>local</b>	NIL	NIL





		<b>authority or a Governmental authority or a Government entity 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.</b>	
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13. From the above said entry of the notification it is observed that, in order to claim exemption on supply of man power services two conditions should be satisfied:

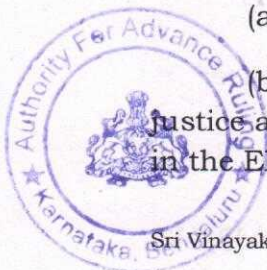
1. *Pure Services (excluding works contract service or other composite supplies involving any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government entity*
2. *by way of any activity in relation to any function entrusted 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 one by one. The Applicant states that he is providing manpower services to various organisations/institutions which he claims to be either Governmental authority or Government entity. But the applicant has not submitted any supporting documents to prove the same. If the organisations/institutions to which the applicant is supplying manpower services qualify to be 'a Governmental Authority' or 'a Government Entity' as per the definitions at (zf) and (zfa) respectively of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017, as amended then the first condition will be satisfied.

14. Now we move on to examine whether the applicant satisfies the second condition mentioned at para 13 supra.

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.

15. 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.

16. The applicant is providing manpower services like security guards, housekeeping staff and catering staff. But these manpower 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. Hence provision of such manpower services are liable to tax at 18% (9% CGST and 9%SGST).

17. In view of the foregoing, we rule as follows

### **RULING**

1. The applicant is incorrect in classifying the manpower services provided to the organisations/institutions as exempted services since the same is 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.



2. The applicant is incorrect in claiming exemption under Sl.No.3 of Notification 12/2017 dated 28th June 2017 for the said services, since the services provided by the applicant are not covered under the said entry and therefore are not exempted.



(Dr. M.P. Ravi Prasad)

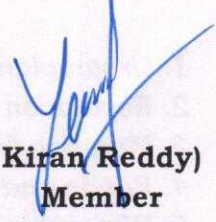
Member

MEMBER

Karnataka Advance Ruling Authority

Place: Bengaluru - 560 009

Date: 29.10.2021



(T. Kiran Reddy)

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 Principal Commissioner of Central Tax, Bangalore West GST Commissionerate, West Division 7, Bangalore.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-70, Bengaluru.
5. Office Folder.

