

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**  
**ROOM NO.206, 2<sup>ND</sup> FLOOR, PAPJM BUILDING,**  
**NO.1. GREAMS ROAD, CHENNAI -600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING UNDER**  
**SECTION 98 OF THE GOODS AND SERVICES TAX ACT, 2017**

**Members present:**

Shri R.Gopalsamy, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt N.Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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**Advance Ruling No. 16 /ARA/2023 Dated: 16.06.2023**

1. *Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.*
2. *In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-*
  - (a) *on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.*
  - (b) *on the concerned officer or the jurisdictional officer in respect of the applicant.*
3. *In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
4. *Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*
5. *The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.*

GSTIN Number, if any / User id		33AAECH8952R1ZU
Legal Name of Applicant		Harshitha Infra Engineering Private Ltd.
Registered Address / Address provided while obtaining user id		Plot No.4/18, Ground Floor, Shiney Tech Park, Poonammallee Road, Ekkattuthangal, Chennai – 600 032.
Details of Application		GST ARA – 01 Application Sl.No.60/2022 dated 07.12.2022
Jurisdictional Officer		Centre: Chennai South Commissionerate; Division: Guindy
Concerned Officer		State: Ekkattuthangal Assessment Circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service provider
B	Description (in brief)	Applicant is a Private Limited Company engaged in the business of Land Reclamation.
Issue/s on which advance ruling required		1. Applicability of a notification issued under the provisions of the Act. 2. Determination of the liability to pay tax on any goods or services.
Question(s) on which advance ruling is required		1. Whether rendering sub contract work of Solid Waste Management/Land reclamation to Municipal Corporation of Greater Mumbai through the main contractor is exempted from payment of GST in terms of serial number 3 of Notification No.12/2017 dt.28.06.2017. 2. If answer to the above is yes, whether that exemption is applicable to all sub contracts which the applicant will undergo in future.

1. The applicant submitted a copy of challan evidencing payment of application fees of Rs. 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2. The Applicant is registered under the Companies Act 2013 in the State of Tamil Nadu, having registered office at Plot No.4/18, Ground Floor, Shiney Tech

Park, Poonammallee Road, Ekkattuthangal, Chennai - 600032 under GST Act and are engaged in the business of Land Reclamation.

2.1 The Applicant has sought Advance Ruling on the following questions:

- i. Whether the Applicant rendering sub-contract work of Land Reclamation/Solid Waste Management to “Municipal Corporation of Grater Mumbai” through their main contractor M/s Biominning India Private Ltd.” Is also exempted from payment of GST in terms of serial number 3 of Notification No.12/2017 dt.28.06.2017.
- ii. If the answer to the first question is affirmative, whether that exemption is applicable to all sub contracts which the Applicant will undergo both GSST/CGST and IGST in future? (i.e whether is it applicable to both intrastate supply and interstate supply?)

2.2 M/s Biominning India Private Ltd., a company registered under Companies Act 2013, having registered office at 1011,1015, Raheja Chambers, Free Press Journal Marg, Nariman Point, Mumbai City – 400021, has entered into a contract with the Municipal Corporation of Grater Mumbai vide Work Order No. 4100045843 dt.17.10.2018, for carrying out the Land Reclamation project at Mulund Dumping Ground.

2.3 The Applicant has entered into a sub contract agreement with M/s Biominning India Private Ltd. on 08.04.2022, whereby the Applicant is bound to complete the project within stipulated time and solely responsible to transport, fabricate, assembling and commission of required machineries at Project site and for its removal also. The Applicant is bound to follow standard operating procedures and norms and regulations of machinery and should not deviate from standard protocol and norms of M/s Biominning India Private Ltd. and the Applicant, as per sub contract agreement should follow and execute the Project as per “Solid Waste Management Riles, 2016” and norms provided by CPCB for carrying out Bio mining Project.

2.4 Services provided by Biominning India Private Ltd to Municipal Corporation of Grater Mumbai for carrying out the Land Reclamation project at Mulund Dumping Ground is covered under entry serial number 3 of Notification 12/2017 dt.28.06.2017 as it falls under the PURE Services provided to the local authority.

3. The applicant, after consent, was given an opportunity to be virtually heard on 15.03.2023. The Authorized Representative (AR) Sri Madhusuthanan, Advocate of the applicant appeared before the authority and reiterated the submissions. The AR stated that applicant provides solid waste management services as sub-contractor at Mulund Dumping Ground to the main contractor who is rendering the said services to Municipal Corporation of Grater Mumbai. The AR requested for extension of time exemption available to main contractor vide Sl.No.3 of Notification No.12/2017 dt.28.06.2017 to the applicant as a sub-contractor. The members sought copy of invoices issued by the applicant to the main contractor and GST registration of the applicant in Maharashtra.

4. The applicant is under the administrative control of Central Tax. The said jurisdictional authority was addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the ARA application and for comments on the issues raised. The said authority has neither furnished their comments on the question raised by the applicant nor informed about any pending proceeding against the applicant on the question raised. Therefore, it is presumed that there is no proceeding pending against the applicant with the concerned authority on the question raised.

4.1 The concerned State Tax Officer has submitted Nil report with regard to any pending proceedings against the applicant.

5.1 We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearing. The applicant filed advance ruling application for applicability of notification issued under the provisions of the Act, and determination of the liability to pay tax on service. The question which needs to be answered is whether rendering sub-contract work of Land Reclamation/Solid Waste Management to "Municipal Corporation of Grater Mumbai" through the main contractor M/s Biomining India Private Ltd." is also exempted from payment of GST in terms of serial number 3 of Notification No.12/2017 dt.28.06.2017, if so, whether exemption is applicable to all sub contracts which the Applicant will undergo both GSST/CGST and IGST in future.

5.2 We have carefully examined statement of facts, supporting documents filed by the Applicant along with application, oral submissions made at the time of Virtual hearing. As per the Memorandum of Understanding signed between Applicant and Biomining India Private Ltd it is clear that the applicant has undertaken sub contract for the project undertaken by Biomining India Private Ltd with municipal Corporation of Grater Mumbai for carrying out the Land Reclamation project at Mulund Dumping Ground with Work Order No.4100045843 dt.17.10.2018.

5.3 The applicant has submitted copies of invoices raised by them to M/s Biomining India Private Ltd., issued for the months from Sept 2022 to Jan 2023 vide mail on dt.21.03.2023. It is also stated in the mail that applicant has not obtained any GST registration in Mumbai. It is seen from the invoices that the address of the Applicant is mentioned as Plot No.4/18, Ground Floor, Shiney Tech Park, Poonammallee Road, Ekkattuthangal, Chennai - 600032 and the service is supplied to 'Receiver' i.e M/s Biomining India Private Ltd. At 1011,1015, Raheja Chambers, Free Press Journal Marg, Nariman Point, Mumbai City - 400021. Which means that the service has been rendered from the State of Tamilnadu to another state i.e Maharashtra. The applicant has taken GST registration in Tamilnadu and they are not registered in the state of Maharashtra, which has been verified from the GST portal and also confirmed from the Advance Ruling application. Also, the main contractor viz. M/s Biomining India Private Ltd. is also registered in the state of Maharashtra. This clearly indicates that the supply of service is interstate.

6. It is observed that the place of supply is not in the state of Tamilnadu but in another state. Further, the contract is between M/s Biomining India Private Ltd., who is registered in the state of Maharashtra and Municipal Corporation of Grater Mumbai and the Tax treatment given to the main contractor is not known. As the authority for advance ruling is created under SGST/CGST Act and the rulings are applicable within the particular state only. As the situs of transaction in question is not within the state of Tamilnadu, then as per provisions of Section 96 of the Central Goods and service Tax Act 2017 (and similar provision under the TNGST Act), the Tamilnadu Advance Ruling Authority cannot acquire the jurisdiction over the questions raised, hence no ruling can be given on this question.

7. With regard to advance ruling sought for regarding whether exemption is applicable for all sub contracts which the Applicant will undergo both GSST/CGST and IGST in future (both interstate and intra state supply), it is observed each

contract entered by the applicant has to be assessed for applicability of exemption based on the terms and conditions of the contract and activities undertaken. Advance Ruling cannot be rendered for cases which are hypothetical in nature. For the same reason the question is not admitted.

8. In view of the above, we rule as under;

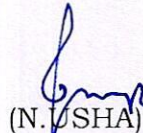
**RULING**

- i. Whether the Applicant rendering sub-contract work of Land Reclamation/Solid Waste Management to "Municipal Corporation of Grater Mumbai" through their main contractor M/s Biomining India Private Ltd." Is also exempted from payment of GST in terms of serial number 3 of Notification No.12/2017 dt.28.06.2017.

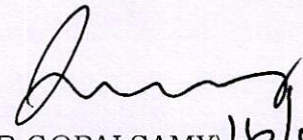
Reply: Not admitted as discussed in Para no 6.

- ii. If the answer to the first question is affirmative, whether that exemption is applicable to all sub contracts which the Applicant will undergo both GSST/CGST and IGST in future? (i.e whether is it applicable to both intrastate supply and interstate supply?)

Reply: Not admitted for being hypothetical as discussed at Para no. 7

  
(N. USHA) 16.6.2023  
Member (SGST)



  
(R.GOPALSAMY) 16/06/23  
Member (CGST)

To

M/s Harshitha Infra Engineering Private Ltd.,  
Plot No.4/18, Ground Floor, Shiney Tech Park,  
Poonammallee Road, Ekkattuthangal,  
Chennai - 600 032.

Copy submitted to:

1. The Principal Chief Commissioner of CGST & Central Excise,  
No. 26/1, Mahatma Gandhi Road, Nungambakkam,  
Chennai – 600 034.
2. The Principal Secretary/ Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Principal Commissioner of GST & Central Excise,  
Chennai South Commissionerate.
2. The Assistant Commissioner (ST),  
Ekkattuthangal Assessment Circle ,  
Integrated Building for Commercial Taxes and Regn. Department,  
Room No. 306, 3<sup>rd</sup> Floor, Nandanam,  
Chennai – 600 035.
3. Master File / spare ✓ - 1.

