

# Goods and Services Tax



**AAR-Karnataka- Works contract service provided by applicant to National Centre for Biological Sciences (NCBS) for construction of hostel building on campus is taxable at 18 per cent GST under residual item no. (xii) of Serial No. 3 of Notification No. 11/2017- Central Tax (Rate) dated 28-6-2017.**

## Facts

The applicant (**M/s. Hombale Constructions & Estates Private Limited**) has entered into a works contract agreement with National Centre for Biological Sciences (NCBS) for construction of hostel building at NCBS.

## Issue before the AAR

Whether applicant should charge GST @12 % for service provided to NCBS as per Notification No 24/2017 Central Tax (Rate) dated 21-09-2017?

## Discussion and Findings of the AAR

- 1.) The applicant submitted that the contractee; i.e. NCBS is of the opinion that since it is a fully funded aided institute administratively controlled by the Department of Atomic Energy, Govt. of India and the activities of NCBS are related to the educational research, 12% rate is applicable as per the serial No. 3 of the item no. (vi) of the Notification No. 11/2017 dated 28.06.2017 and amended by Notification 24/2017 dated 21.09.2017.
- 2.) Notification 24/2017 dated 21.09.2017 as:  
“(vi) Services provided to the CG/SG/UT, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the CGST Act, 2017.
- 3.) It is clear from outset that NCBS is not a CG/SG/UT or a local authority or a governmental authority. The only question is whether NCBS is a Government Entity or not. Clause (x) of paragraph 4 of Notification No. 11/2017 dated 28.06.2017 as amended by Notification No. 31/2017 dated 13.10.2017 defines Government Entity as:  
“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% or more participation by way of equity or control, to carry out a function entrusted by the CG/SG/UT or a local authority.

- 4.) Further it was observed that the NCBS began as separate centre of TIFR in 1992. The Government of India has agreed to fund the institute and the institute was to function as an “autonomous unit under the aegis of TIFR”. Hence it is clear that NCBS is neither set up by an Act of Parliament or State Legislature; nor established by any government. Hence NCBS is not a Government Entity.
- 5.) In view of the above, the service supplied by the applicant is not covered under clause (vi) of Serial No 3 of the Notification No. 11/2017 dated 28.06.2017 and hence not applicable for 12% rate and the service is taxable at 18% under the residual item no. (xii) of serial no. of Notification 11/2017.

## OUR TEAM

### Our People are Our Strength

75  
Chartered  
Accountants

07  
Company  
Secretaries

05  
Advocates  
& Solicitors

120  
Trainee  
& Others

14  
Others

## OUR OFFICES

### New Delhi

505, Chiranjiv Tower,  
43, Nehru Place  
New Delhi 110019, India  
+91-11-2622-3712,  
+91-11-2643-0349

### Gurgaon

101, Global Business Square  
Building No. 32, Sector 44,  
Institutional Area Gurgaon,  
122003, India  
Tel : +91-124-4786-200

### Mumbai

201, 2nd floor,  
Madhava Building,  
Bandra Kurla Complex,  
Bandra East.  
Mumbai-400051  
+91-22-4974-6258

Since 1963  
**MEHRA GOEL**  
& CO. Chartered Accountants

For further information on this,  
please contact:

CA Vaibhav Jain  
+91 97113 10004  
[vaibhavjain@mehra-goel.com](mailto:vaibhavjain@mehra-goel.com)

*This document is the property of Mehra Goel & Co and contains confidential information that has been provided at your request. This information should not be disclosed in whole or in part without express written consent of the firm. This document should not be duplicated or used, in whole or in part, except for evaluating the proposal and should be returned upon request*