

2024 (85) G.S.T.L. 354 (A.A.R. - GST - A.P.)

BEFORE THE AUTHORITY FOR ADVANCE RULING UNDER GST, ANDHRA PRADESH

S/Shri B. Lakshmi Narayana, Member (Central Tax) and K. Ravi Shankar, Member (State Tax)

IN RE : ARCHIPEL INDIA FOUNDATION

AAR No. 02/AP/GST/2024, dated 10-1-2024

Afforestation, reforestation and revegetation - 'Support services to agriculture, forestry, fishing, animal husbandry' - Heading 9986 - Exemption - Assessee was a social enterprise in India that is formed for social purpose to assist people and society and rural development - Assessee had entered into project development agreement with SE Ltd. for Afforestation, Reforestation and Revegetation (ARR) for sustainable agriculture and land management and afforestation - Assessee should, on quarterly basis issue written request to SE Ltd. (Cash Call) for advance of amount that was equal to assessee's total budgeted expenditure (inclusive of all Operating Expenses) for next quarter after adjusting for any prior unused advances funded - Assessee sought advance ruling on issue whether its activities under agreement qualified as 'composite supply' under GST law with Principal Supply as "Support services to agriculture, forestry, fishing, animal husbandry" as provided in Sl. No. 24 of Notification No. 11/2017-C.T. (Rate), dated 28-6-2017 and whether taxable rate applicable would be 'NIL' in Term No. 24 of Notification No. 11/2017-C.T. (Rate), dated 28-6-2017 - *HELD* : Services said to have been undertaken by assessee were nowhere in tune with agricultural support services and were mostly independent activities - Hence, worker or activities undertaken by assessee as per agreement during project did not fall under support services to agriculture under Sl. No. 24 of Heading 9986 of Notification No. 11/2017-C.T. (Rate), 28-6-2017 - Assessee was not entitled to get exemption under said Notification - Section 11 of Central Goods and Services Tax Act, 2017 - Section 11 of Andhra Pradesh Goods and Services Tax Act, 2017. *[paras 9 and 12]*

Ruling in favour of department

CASE CITED

Avani Infosoft Pvt. Ltd. — 2023 (68) G.S.T.L. 416 (A.A.R. - GST - Kar.) — *Referred* [Para 5]

NOTIFICATIONS CITED

Notification No. 11/2017-C.T. (Rate), dated 28-6-2017..... [Paras 3.3, 4, 5, 7]

Notification No. 9/2017-I.T. (Rate), dated 28-6-2017..... [Para 5]

DEPARTMENTAL CLARIFICATIONS CITED

C.B.I. & C. Circular No. 189/8/2015-S.T., dated 26-11-2015..... [Para 5]

C.B.I. & C. Circular No. 34/8/2018-GST, dated 1-3-2018..... [Para 7]

C.B.I. & C. Circular No. 46/20/2018-GST, dated 6-6-2018..... [Para 7]

REPRESENTED BY : Shri Debasis Nayak, Director, for the Assessee.

[Order]. - At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST 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 APGST Act.

2. The present application has been filed u/s. 97 of the Central Goods and Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Archipel India Foundation (hereinafter referred to as applicant), registered under the AP Goods and Services Tax Act, 2017.

3. Brief facts of the case :

3.1 M/s. Archipel India Foundation (Hereinafter referred to as “applicant”) is a social enterprise in India that develops and implements community-based conservation and sustainable agricultural land management projects with small seale farmers. The Applicant is formed for social purpose to assist the people and society and rural development.

3.2 The Applicant has entered into a Project Development Agreement (“Agreement”) with M/s. Shell Energy India Private Limited (“SEIPL”) where, as per Schedule 1 of the said agreement, “Project” has been defined as Afforestation, Reforestation and Revegetation (ARR) for Sustainable Agriculture and Land Management and Afforestation.

3.3 The project will be undertaken in the State of Andhra Pradesh to increase productivity of privately held agricultural lands in 2 mandals of Integrated Tribal Development Agency, Paderu, Distriet Alluri Sitharama Raju, covering an area of approximately 23,000 hectares and 20,000 farmers. Applicant is having GST Registration Number 37AAQCA9513P1ZU.

The Applicant is formed for social purpose to assist the people and society and rural development. The objects of the applicant are as follows :-

- To help, serve and assist any person(s), irrespective of caste or creed, religion, community, sex, region, Language, groups/organizations of any such persons with low income and/or with inadequate resources to earn income in designing and implementing social businesses.
- To solve social issues like education, sanitation, livelihoods and any other social issues of the low income category only, by working with partners to come up with affordable solutions - products or services - that will ensure either resolving a social issue or upliftment of the low income groups.
- To promote and carry on rural development programs; to develop and promote rural infrastructural facilities.

- To work with partner like Corporates, NGOs, Governments etc. to come up with affordable, innovative and sustainable solutions to solve social issues and help the upliftment of the low income groups.
- To undertake the projects relating to sustainable livelihoods of small/marginal farmers and farming communities, to implement sustainable agricultural land-use management, promoting a bio-friendly landscape transformation that leverages the traditional knowledge of composting, rotational cropping, intercropping that improves soil fertility, to provide expertise and training to small/marginal famers and farming communities in growing pulses, cereals, fruits, vegetables and any other crops or produce organically, to undertake and develop agroforestry and carbon sequestration projects that helps in positive climate change and reducing GHG emissions and/or with a view to increase the income levels and livelihoods of small/marginal farmers and farming communities, to provide guidance and technical inputs to engage small/marginal famers and farming communities in animal husbandry and dairy development that improve their income levels and livelihoods.

The Applicant has enclosed memorandum of association and article of association which depicts the detailed objects of applicant as “Annexure-B”

- The Applicant has entered into a Project Development Agreement (“Agreement”) with M/s. Shell Energy India Private Limited (“SEIPL”) where, as per Schedule 1 of the said agreement,

“Project” has been defined as Afforestation, Reforestation and Revegetation (ARR) for Sustainable Agriculture and Land Management and Afforestation. The project will be undertaken in the State of Andhra Pradesh to increase productivity of privately held agricultural lands in 2 mandals of Integrated Tribal Development Agency, Paderu, District Alluri Sitharama Raju, covering an area of approximately 23,000 hectares and 20,000 farmers. Copy of the agreement is enclosed as “Annexure-C”

- SEIPL wishes to be a leader driving the energy transition and wishes to contribute to the global effort to tackle climate change and a front-runner in preservation of the environment. SEIPL intends to reduce its net carbon footprint and as part of this ambition is investing in nature-based solutions such as avoided deforestation, forest restoration and reforestation initiatives.
- The Applicant and SEIPL wish to collaborate together to ensure the long-term success of ARR Project in the establishment of plantations and sustainable economic development of local communities.
- Vide the aforesaid mentioned agreement, SEIPL has agreed to support development of applicant's ARR project by incurring expenses related to development and operational activities of the project with tent to be granted the full rights and title to 100% of the Verified Carbon Units (VCU) generated by the Project and participate in the project governance as a non-operating party.
- The Applicant is the Project Proponent, Developer and Operator, implementing and coordinating all required operational activity under the oversight of the Joint Coordination Committee under the terms of this Agreement.

- The Afforestation Reforestation and Revegetation Project, which includes plantation covering 23,000 hectares of land in 2 mandals of Integrated Tribal Development Agency, Paderu, District Alluri Sitharama Raju, Andhra Pradesh would result in following benefits :

(1) economic benefit to farmers by providing agricultural support services by way of plantation, cultivation etc.

(2) Environmental benefits by way of reduction of soil erosion, Absorption of the impurities including improving the air quality by increasing green cover across the region, absorption of CO₂ etc.

(3) Social benefit by way of providing skill in plantation process from seed collection to full establishment of plantation, promoting marginalized communities etc.

(4) Social and economic benefits to farmer families by recognising the effort of women members of the family in agriculture work; ensuring equal participation of women and men in all community meetings and knowledge transfer sessions; access for women to high quality regenerative agriculture trainings; supporting women to open bank accounts etc.

- The project contributes to the conservation of local biodiversity by creating and maintaining diverse ecosystems through agroforestry, benefiting both plant and animal species. The adoption of regenerative agriculture practices, including the use of scientifically developed compost, mulehing, and green manuring, ensures long-term soil health and sustainable crop production. Diversifying crop cultivation with native crops like millets enhances food security, as these crops are resilient to changing environmental conditions. Improved livelihoods for local farmer families through increased crop yields, reduced input costs, and enhanced access to diverse food sources. The establishment of market linkages benefits both farmers and local communities, promoting economy growth in the community.

- **The Applicant wishes to refer to the scope of services to be performed under the Agreement as follows :**

Page 4 of the agreement - Definition

AIF Service Obligations means the services (and related obligations) for the establishment, management and delivery of the Project listed in Schedule 1 (AIF Service Obligations) and undertaken by AIF in accordance with this Agreement, including Sustainable Agriculture and Land Management, Forest Management and Carbon Management Activities.

Page 20 of the agreement - Project development and operations

5.7 AIF shall implement the Project as set out in, and in accordance with, each Project Description in Schedule 1 and any other requirements as may be communicated to AIF by the Joint Coordination Committee from time to time.

5.8 AIF shall be solely responsible to manage and maintain the relationships with farmers and local communities throughout the Project Duration, undertake any operational activities that may be required to support farmers on ground in plantation required activities and enter into relevant agreements with landowners to ensure transfer of 100% carbon credits to Shell.

5.9 AIF shall provide all the necessary information and support to the Carbon Consultant appointed by Shell to manage requirements of VCS and CCB standards (including but not limiting to PDD, Monitoring report etc.) as detailed in Schedule 1

- From the Schedule 1 - (Project Description) of the Agreement, the applicant wishes to submit the roles and responsibilities of the applicant as follows (Pages 48 & 49 of the Agreement) :-

AIF will act as a Project Proponent, Developer and Operator in implementing and coordinating all required operational activity and will provide its services to carry out ARR project. Responsibilities of AIF includes all activities in the level of field actions including relationships with the farmers, but are not limited to :-

Project design and implementation

Establishing landownership

- Community awareness, engagements, and mobilization in line with VCS-CCB requirements including undertaking all data collection, surveys on climate, community and biodiversity to establish baseline and for periodic monitoring reports including necessary data collection and monitoring of the Project as per the advice of the carbon consultants and Shell for preparation of the PDD, validation and verification of the project as per the MRV protocols required by VERRA.
- Entering into agreement with landowners for undertaking the project and transfer of 100% carbon credits.
- Raising nurseries and procuring saplings as per the agreed species including transportation of saplings, land preparation, pit digging and plantation as per agreed densities.
- Providing GPS for plantation and maintaining the GIS platform with the details such as area, plots, plantation etc.
- Undertaking monitoring, maintenance, and replacement (for early mortalities) of the planted saplings and crops.
- Providing all support to the carbon consultant as necessary to file reports with Verra, issuance of credits, etc.

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Providing any other relevant data (such as planting locations, species planted, community data, photographs etc.) as requested by the carbon consultant.

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Work closely with the Carbon Consultant and provide any other information and data that may be required to help the Carbon Consultant undertake their role effectively

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Reporting on the physical and financial progress of the Project.

- From the above scope of work, the Applicant wishes to submit that activities of the applicant relating to Afforestation, Reforestation and Revegetation which includes plantation of trees/crops are activities relating to “preservation of environment”. The applicant further submits that a significant percent of global greenhouse gas (GHG) emissions is caused by forest

destruction and poor agricultural practices. Boosting carbon sequestration in forestry sector is an effective approach to reduce and remove emissions from the atmosphere. The afforestation and reforestation and revegetation program aim to establish and maintain a sustainably managed ecosystem for carbon sequestration, natural disaster risk reduction, poverty reduction with sustainable livelihoods in the coastal communities.

- The Applicant wishes to submit the following in relation to billing and milestones aspects basis the agreement (clause (g) of Page 24 and Schedule 2 to Page 51) :-

- The detailed milestone plan will be approved by Joint Coordination Committee in quarterly meetings. Disbursement of funds will be on basis of achieved milestone every quarter.

The Applicant shall submit properly specified invoices for all payments to be made by SEIPL to AIF under this Agreement on quarterly basis.

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Applicant shall, on a quarterly basis issue a written request to SEIPL (Cash Call) for an advance of an amount that is equal to applicant's total budgeted expenditure (inclusive of all Operating Expenses) for the next quarter after adjusting for any prior unused advances funded.

The Applicant needs to invoice SEIPL in INR currency, 30 days prior to start of next quarter and SEIPL to make payment on Day 1 of the quarter.

- The Cash Call is linked to the completion of agreed milestones. In case a milestone is incomplete or unachieved, both parties will review and agree on the timing and amount of the next cash call.

- A detailed quarter wise budget for the first three years shall be provided to SEIPL and SETPL, shall approve the Annual Budget before the end of each year. If SEIPL does not approve, then the last approved Annual Budget shall

continue
until the
said
Annual
Budget is
approved.

- From the roles and responsibilities of the applicant under the agreement, it can be noted that multiple components of goods and services are contemplated in as a bundle. In such scenario, CGST Act provides for the concept of 'composite supply' to determine the taxability of such bundled transaction and to provide certainty in respect of tax treatment under GST for such supplies.

- Further, it

can be noted that activities performed by the applicant is in the nature of planation and growing trees which is related to agriculture. Serial No. 24 of Notification No. 11/2017-CGST (Rate), dated June 28, 2017 (amended time to time) provides nil rate of rate for "Support services to agriculture, forestry, fishing, animal husbandry".

• Therefore, it is relevant to determine the nature of supply and applicability of nil rate of tax for the present activities performed

by the
applicant.

4. Questions raised before the authority :

The applicant seeks advance ruling on the following :

(1) Whether the activities of the applicant under the agreement can qualify as 'composite supply under GST law with Principal Supply as "Support services to agriculture, forestry, fishing, animal husbandry" as provided in the Sl. No. 24 of Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017 (as amended time to time) having SAC Code 9986.

(2) If the answer is affirmative, whether taxable rate applicable would be NIL in Term No. 24 of Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017.

On Verification of basic information of the applicant, it is observed that the applicant is under State jurisdiction i.e., Paderu Circle, Visakhapatnam-II Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST/APGST Act, 2017.

In response, remarks are received from the Central jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

5. Applicant's interpretation of law :

- Classification of Supplies contemplated in the Agreement

In order to understand the taxability of the transaction, it is relevant to first determine the nature and classification of supplies. In this regard, the applicant has captured relevant extract of explanatory notes to Service Code (Tariff) 9986 as per Notification No. 11/2017-Central Tax (Rate) below :-

"9986	Support services to agriculture, hunting, forestry, fishing, mining and utilities
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99861	Support services to agriculture, hunting, forestry, and fishing
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99861	Support services to crop production
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This service code includes

(i) services to improve the propagation quality of the seed, including treatment of genetically modified seeds; removal of non-seed materials, undersized, mechanically or insect-

damaged and immature seeds; removal of seed moisture to a safe level for seed storage; drying, cleaning, grading and treating of seeds to be marketed;

(ii) post-harvest crop services such as preparation of crops for primary markets, cotton ginning services;

(iii) Other support services to crop production like tilling of fields preparatory to planting; planting, cultivation and fertilization of crops; spraying, including from the air;

(iv) pest control for agriculture; trimming of fruit trees and vines; transplanting and thinning of crops; harvesting;

(v) provision of agricultural machinery with crew and operators; operation of irrigation systems for agricultural purposes;

(vi) other services necessary for agricultural production; Crop production services on inputs owned by others like operation of a crop production unit on a fee or contract basis.

This service code does not include :

- formation and clearance of agricultural land, cf. 995432
- services provided by agronomists and agricultural economists, cf. 998311
- water distribution services through mains (on a fee or contract basis), cf. 998633

998619	Other support services related to agriculture, hunting, forestry and fishing
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This service code includes other support services related to agriculture, hunting, forestry and fishing, n.e.c.

- The Applicant would like to highlight that Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017 which provides rate of tax also provides an explanation with regard to meaning of "Support Services to agriculture, forestry, fishing, animal husbandry". The applicant has extracted the same below for reference :-

"Support services to agriculture, forestry, fishing, animal husbandry" mean. -

(I) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of :

(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(b) supply of farm labour;

(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(e) loading, unloading, packing, storage or warehousing of agricultural produce;

(f) agricultural extension services;

(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

(II) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.

(III) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.

From the pursual of the above explanatory notes to SAC and meaning of support services to agriculture etc., it is worthwhile to note that an activity would qualify as "Support service to agriculture" if the activity is related to cultivation of plants for food, fibre, fuel, raw material or other similar products or agricultural produce by way of agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing.

- Therefore, in order to categorize any activity as agricultural support services, it is necessary to substantiate that agricultural operations should be linked to production of any agricultural produce including cultivation, harvesting etc.

- Keeping the above in mind, the applicant has tabulated below the present scope of work linking with classification of services :-

Table 1	
Activities as per the agreement	Classification of Services
Project design Establishin	These are the initial activities undertaken at the commencement of

g ownership of land Entering into an agreement with landowners for undertakin g the project and other ancillary activities	the agricultural production to enable cultivation of plants as, without the said activities, it is not possible to commence the agricultural operations. This will allow to identify the optimal plantation densities and plant size for the future scope of the Project. These activities, being essential for cultivation may be termed as agricultural operations in relation to agricultural produce. Further SAC Code of 9986 carries a residual entry of other support services related to agriculture etc. n.e.c. to include in its ambit, all such activities which are in the nature of support of agricultural operations The aforesaid activities are instrumental to the production of agriculture produce, and hence, ought to be categorized as incidental and ancillary for undertaking agricultural operations.
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• Raising nurseries • Procuring saplings (agreed species) including transportation of saplings and plantations of saplings and plantations. • Undertaking monitoring, maintenance and replacement of plant	These activities involve cultivation, plantation, maintenance, monitoring etc. The word “Agricultural operations” as mentioned in Notification No. 11/2017-C.T. (R) is not been defined in the GST law and only an inclusive and indicative list of activities covered in such operations has been given. It has been defined as “Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant or protection or testing”. Therefore, the meaning of agricultural operation is wider to cover other than listed operations like cultivation, harvesting etc. However, it should be directly linked to production of agricultural produce. Further, it is also to be noted that under erstwhile service tax regime (entry was same in
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ed saplings and crops • Providing GPS coordinates of plantation and maintaining GIS platforms.	negative list), the C.B.I. & C. vide Circular No. Circular : 189/8/2015-S.T., dated 26 Nov., 2015 clarified that ancillary activities related to seed testing is also covered as agricultural operations directly related to agricultural produce. The present activities such as cultivation, transportation of sapling, cultivation, ensuring irrigation and appropriate fertilizers, pest control, monitoring, maintenance would qualify as agricultural operations directly related to agricultural produce. Further, the GPS tracking activities of plantation etc. can also be said as ancillary to plant protection. In view of the above, the listed activities can be termed as "Support Service to agriculture" under SAC Code 99861 Further, the activity under this category also includes
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	procurement of saplings, fertilizers, farm inputs, seeds etc. which are inputs to such activity and hence these can be categorized as supply of goods ancillary to the main activity of agriculture.
Coordination with Carbon Consultant to achieve reduction in GHG as per the standards of VCS-CCB. This includes the followings activities : • Compliance with VCS-CCB requirements (Verified Carbon Standard - Climate, Community & Biodiversity) • Providing all support to the carbon	In order to obtain certification for carbon credits and scrips from the registry, the project needs to be in compliance with VCS-CCB requirements. In order to perform above services, the carbon consultant (a separate third party) would require various data and information. In relation to this, the applicant would provide carbon consultant with relevant information, statements and documents related to planation such as growth of the plant etc. From the nature of the activities, it can be noted that in order to provide the information, documents as per the VCS-CCB

consultant as necessary to file reports with Verra, issuance of credits, etc. • Providing any other relevant data (such as planting locations, species planted, community data, photographs etc.) as requested by the carbon consultant • Work closely with the Carbon Consultant and provide any other information and data that maybe required to help the Carbon Consultant undertake their role effectively.	standard, the applicant needs to prepare appropriate statements, evidences etc. to capture the reduction in greenhouse gas (GHG) remission. Further, this will also fulfill the requirements of certifying agency for registering the project. It is a support services provided by applicant with the available information's
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- From the above, it can clearly be noted that multiple supply of goods and services are contemplated in the present agreement. Each individual supply under the agreement may attract different rate of tax. In such scenario, CGST Act provides concept of 'composite supply' to

determine the taxability of such bundled transaction and to provide certainty in respect of tax treatment under GST for such supplies.

- The Applicant has discussed the concept of composite supply below to ascertain the taxability.

B. Composite Supply

- Section 2(30) of Central Goods and Services Tax Act, 2017 (CGST Act) defines 'composite supply as follows :-

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Illustration : Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

- On perusal of the above definition, it is pertinent to note that for classifying a particular transaction as composite supply following conditions are required to be fulfilled :

- (a) Supply should be made by a taxable Person
- (b) Consisting of two or more taxable supplies of goods or services or both, or any combination thereof
- (c) Supplies should be naturally bundled
- (d) Supplies shall be in conjunction with each other in ordinary course of business
- (e) There should be a principal supply

The Applicant has tabulated analysis of each of the conditions and their applicability in the present contract below :-

Table-2		
C o n d i t i o n	Analysi s	Present Case

	Supply should be made by taxable person	Composite supply can be effected only by a person who is registered or liable to be registered under GST Law The Applicant is registered under GST law and hence this condition is satisfied
	Consist in	Two or more taxable supply is necessary to constitute a composite In the present case, as explained above in detail, there are multiple taxable supplies

g o f t w o o r m o r e t a x a b l e s u p p l i e s o f g o o d s o r s e r v	e supply. Taxable supply is defined to mean “a supply of goods or services or both” which is leviable to tax under this Act;	involved :- • Support service relating to agriculture • Procuremen t of goods such as saplings, seeds, fertilizers Other Support service relating to agriculture • Creating documentati on of GHG reductions in complying with VCS- CCB standards and sharing such info as necessary
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ices or both, or any combination thereof		
Supplies	The term "naturally bundled" is not defined in the GST	The Applicant has analyzed below whether multiple supplies

should be a naturally bundled	Law. However, two supplies can be considered as naturally bundled if one is a principal supply and other supply which is ancillary to make the principal supply more effective, more convenient, more comfortable, more useful, and more enjoyable. As per the GST Flyer issued by CBIC, whether services are bundled in the ordinary course of business would depend	under the present agreement can be treated as naturally bundled. 1. In the present contract, SEIPL (i.e., Service receiver) expectation is to receive packaged service from the supplier. Various categories of supply under the agreement are interlinked and the applicant is in best position to provide entire gamut of supplies. 2. In the present case, ultimate objective of cultivation or planation of crops/tree is GHG reduction. In order to achieve this objective, main activity
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	upon the normal or frequent practices followed in the area of business to which services relate. Several indicators are listed as below : (1) The perception of the consumer or the service receiver - If large number of service receivers of such bundle of services reasonably except such services to be provided as a package, then such a package could be treated as	is plantation and maintenance of crops/tree during entire life cycle of the project. Therefore, the activities like project design, implementation, coordination with farmers, agreement with farmers, purchase of saplings, fertilizers etc. can be said as incidental or ancillary for better enjoyment main service i.e., support service relating to agriculture. Implementation, coordination with farmers, agreement with farmers, purchase of saplings, fertilizers etc. can be said as
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	naturally bundled in the ordinary course of business . (2) Majority of service providers in a particular area of business provide similar bundle of services. For example , bundle of catering on board and transport by air is a bundle offered by a majority of airlines. (3) The nature of the various services in a bundle of services will also help in	incidental or ancillary for better enjoyment main service i.e., support service relating to agriculture. The main role of AIF is to provide cultivation, planation, monitoring and maintenance services of crops/plants . Therefore, other services like project design, implementation, coordination with farmers, agreement with farmers are incidental to provide main supply. 3. In case of nature based solution business, the applicant would not advertise the entire gamut of
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	determining whether the services are bundled in the ordinary course of business . It the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. for example , service of stay in a hotel is often combine	supplies as package but customize the same basis the requirement of the service receiver. However, the main activity or recurring activity for AIF would be related to plantation, cultivation, monitoring etc. For example : AIF would be helping corporates in fulfilling the requirements of cultivation or plantation services. Therefore, it can be said that the applicant would be rendering similar services for various service recipients, based on their requirements because that is main/core domain of
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	d with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business . (4) Other illustrative indicators, not determinative but indicative of bundling of services in the	the applicant 4. Activities starting from project design to cultivation, maintenance can only be done by one party and it is not possible to provide services separately because of dependence of one activity on another. Also, it can be noted that AIF possess specific expertise w.r.t. cultivation and maintenance of trees and has the knowhow of which kind of trees are best suited for the particular geography. Here the attraction for service recipient is in the specific expertise of
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	ordinary course of business are :- (i) There is a single price or the customer pays the same amount, no matter how much package they actually receive or use. (ii) The elements are advertised as a package . (iii) The different elements are not available separately. (iv) The different elements are integral to one overall	the AIF. 5. Activities starting from project design to cultivation, plantation and maintenance are integral part of each other. It can be easily said that if one activity is removed other activities can't be performed. From the above discussion, the activities under the present agreement can be said to be naturally bundled.
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		supply. If one or more is removed, the nature of the supply would be affected.	
	In conjunction with each other in the ordinary	The supplies should be provided simultaneously at the same time or at the time of principal supply or just after the main supply. The goods or services or both provided as a package in ordinary course of business. Meaning, thereby it should be the practice of majority of traders/service providers to	In the present context, the applicant would provide the activities of project design, implementation, cultivation, maintenance of documents and sharing with carbon consultant etc. in conjunction with each other.

a r y c o u r s e o f b u s i n e s s	provide different element s of supplies as a package or bundle.	
P r i n c i p a l S u p p l y	In terms of 'composi te supply definition , there has to a principal supply. A principal supply has been defined under Section 2(90) of the CGST Act as "the supply of goods or services which & constitut es the	In the present context, support services relating to agriculture” constitutes predominan t element of composite supply. This is also due to the fact that entire contract is dependent on cultivation of plant. Other activities like project design, implementat ion, dealing with

	Predominant element of a composite supply and to which any other supply forming part of that composites ancillary. Thus, principal supply is the supply which is the main/predominant supply under a contract and supplies are ancillary to that supply.	farmers, contract with farmers, procurement of sapling is ancillary or incidental to the main supply Further, it can be noted that out of the total project cost, majority of the cost is budgeted for cultivation, plantation, maintenance and monitoring the growth of the plant/trees. Therefore, it can be concluded that the principal supply among the various activities under the contract is the "support services to agriculture" and other supplies are ancillary or incidental to the main
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		supply
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From the above tabulation, it can be noted the present activities of the applicant qualifies as composite supply with principal supply as “Support Services to Agriculture” and other activities as incidental or ancillary to the principal supply.

- The Applicant would like to place reliance in case of ruling pronounced by Karnataka Advance Ruling Authority in case of *Avani Infosoft Private Limited* [KAR ADRG 28/2022, dated 12-8-2022] [2023 (68) G.S.T.L. 416 (A.A.R. - GST - Kar.) = [2022] 145 taxmann.com 441 (AAR - Karnataka] wherein the question before the authority was whether services provided by applicant is covered under agricultural extension services and hence exempted in terms of Entry No. 57 of Notification No. 9/2017.

The Hon'ble AAR authority observed that the scope of the applicant under the contract are followings :-

- Promote Tree Based Agriculture as guided by Cauvery Calling
- Farmer enrolment and Demand collection
- Support farmers with sapling pickup from nurseries
- Conducting proof of planting surveys
- Conducting proof of survival surveys
- Inventory tracking at nurseries

The Hon'ble AAR authority held that the applicant, through mara mitras, provides education and training to the farmers for cultivation of plants/trees, by applying scientific research and knowledge which qualifies as agricultural extension services as per the definition. All the other activities of the applicant carried out through mara mitras from selection of saplings to assisting in transportation & planting, to monitoring the survival of plants are related to agricultural extension activity. Thus the services of the applicant are covered under agricultural extension services.

Therefore, it can be noted that the authority relied on main activity of the applicant which is providing education and training to farmers.

- The above ruling also recognized that the predominant nature is agricultural extension services and other activities are related to and supportive of agricultural extension services. In the present case also, the predominant nature of supply is “Support service to agriculture” for which applicant was hired and other services such as project design, implementation, dealing with farmers, contract with farmers, maintenance of documents and sharing with carbon consultant etc. are related to support service to agriculture.

Question 2 :- If the answer is affirmative, whether taxable rate applicable would be NIL in terms of Serial No. 24 of Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017.

Tax Liability for Composite Supply

In order to determine taxability of composite supply, Section 8 of CGST Act is required to be referred which provides as follows :-

Tax liability on composite and mixed supplies.

“8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely :-

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

In terms of Section 8 of CGST Act, tax liability in case of composite supply shall be determined in terms of Principal supply. In the present case, support services relating to agriculture is a principal supply and other activities like project design, implementation, dealing with farmers, contract with farmers, procurement of saplings, seeds, maintenance of documents and sharing with carbon consultant etc. are incidental or ancillary to the main supply.

Applicable Rate of Tax

- The Applicant would like to refer Notification No. 11/2017-CGST (Rate), dated June 28, 2017 (amended time to time) which provides rate of tax for supply of services under CGST Act. Serial No. 24 of Notification No. 11/2017-CGST (Rate) provide tax rate for the followings :

- It can be noted from the above rate notification that the tax rate on ‘Support services to agriculture’ is NIL. As discussed above, in terms of Section 8 of CGST Act, tax liability in case of composite supply shall be determined basis tax rate as applicable on principal supply. Therefore, in the present case, the tax rate applicable on principal supply is NIL. Hence, supply under the present agreement is taxable at NIL rate of tax in terms of Notification No. 11/2017.

Conclusion

- In view of the factual and legal position set out hereinabove, the applicant believes that the supply of services under the present agreement qualifies as composite supply wherein the principal supply is “Support services to agriculture”

- The Applicant also believes that tax rate applicable on the aforesaid services is NIL, in terms of Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017

6. *Personal hearing :*

The proceedings of Personal Hearing were conducted on 8-1-2024, for which the authorized representative, Debasis Nayak, Director, attended and reiterated the submissions already made.

7. *Discussion and findings :*

We have examined the issues raised in the application in light of the facts from the records and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for Advance Ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

The appellant relied on the Entry 24 of Headings 9986 (Support services to agriculture, hunting, forestry, fishing, mining and utilities) of Notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 which reads as follows :

Sl. No	Chapter, Section	Description of Service	Rate (percent)	Condition
24	Heading 9986	(i) Support services to agriculture, forestry, fishing, animal husbandry. <i>Explanation.</i> - “Support services to agriculture, forestry, fishing, animal husbandry” mean - (i) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of - (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting,	Ni	-

		harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce. (ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables. Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.		
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Classification of Supplies contemplated in the Agreement

In order to understand the taxability of the transaction, it is relevant to first determine the nature and classification of supplies. In this regard, the applicant has captured relevant extract of explanatory notes to Service Code (Tariff) 9986 as per Notification No. 11/2017-Central Tax (Rate) below :-

“
9 Support services to agriculture, hunting, forestry,
9 fishing, mining and utilities
8
6

9 Support services to agriculture, hunting, forestry,
9 and fishing
8
6
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9 Support services to crop production.
9
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The Applicant has relied on the Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017 which provides rate of tax also provides an explanation with regard to meaning of “Support Services to agriculture, forestry, fishing, animal husbandry”. The applicant has extracted the same below for reference :-

“Support services to agriculture, forestry, fishing, animal husbandry” mean. -

(I) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of :

(a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;

(b) supply of farm labour;

(c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;

(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

- (e) loading, unloading, packing, storage or warehousing of agricultural produce;
- (f) agricultural extension services;
- (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.
- (II) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
- (III) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.

They have submitted the list of activities taken up by them as per agreement and relayed on the following services.

Project design and implementation

- v Establishing landownership
- v Community awareness, engagements, and mobilization in line with VCS-CCB requirements including undertaking all data collection, surveys on climate, community and biodiversity to establish baseline and for periodic monitoring reports including necessary data collection and monitoring of the Project as per the advice of the carbon consultants and Shell for preparation of the PDD, validation and verification of the project as per the MRV protocols required by VERRA.
- v Entering into agreement with landowners for undertaking the project and transfer of 100% carbon credits.
- v Raising nurseries and procuring saplings as per the agreed species including transportation of saplings, land preparation, pit digging and plantation as per agreed densities
- v Providing GPS for plantation and maintaining the GIS platform with the details such as area, plots, plantation etc.
- v Undertaking monitoring, maintenance, and replacement (for early mortalities) of the planted saplings and crops
- v The applicant has tabulated below the present scope of work linking with
- v Coordination with Carbon Consultant to achieve reduction in GHG as per the standards of VCS-CCB. This includes the followings activities:
- v Compliance with VCS-CCB requirements (Verified Carbon Standard - Climate, Community & Biodiversity)
- v Providing all support to the carbon consultant as necessary to file reports with Verra, issuance of credits, etc.

v Providing any other relevant data (such as planting locations, species planted, community data, Photographs etc.) as requested by the carbon consultant

v Work closely with the Carbon Consultant and provide any other information and data that may be required to help the Carbon Consultant undertake their role effectively.

The appellant's participation in the realm of carbon credit trading, on examination of records, stands as evidence of a significantly prove that the appellant is a commercial enterprise. Carbon credit trading, where the appellant is involved is a big business on commercial lines .We noticed this by carefully looking at their records. This shows us a significant commercial operation. The activities required to be undertaken for the purposes of achieving the Project Objectives are not purely related agricultural activities but also involves activities such as Project Design, Carbon Accounting, Validation, Monitoring, Reporting and Verification, Project Administration, Project Operations, Biodiversity Impact Assessment, Community Engagement etc., We found that such activities doesn't quite fit the definition of support services 9986.

To understand this legally, we need to look at what the appellant is really trying to do. It seems they want to make it look like they're doing good things for the environment, like planting trees. They're saying it's a social enterprise. But, behind this seemingly good intention, their main goal is to make a profit from trading carbon credits. They want to benefit from support services to maximize their gains. Understanding the legal situation around carbon credit trading is complex. It involves knowing the ever-changing rules. Figuring out if the appellant should get a tax break becomes tricky due to the misalignment in how they fit into the support services category.

Furthermore, the Central Government, as delineated in Circular No. 34/8/2018-GST, dated 1-3-2018, has issued elucidations concerning the categorization of Priority Sector Lending Certificates (PSLCs). The circular underscores the analogy between PSLCs and Renewable Energy Certificates (RECs), explicitly asserting that PSLCs should not be construed as securities. Consequently, they are subjected to Goods and Services Tax (GST) under the residual head. It is pertinent to highlight the intrinsic resemblance between carbon credits and RECs. In alignment with this, Circular No. 46/20/2018-GST, dated 6-6-2018 provides additional clarification, stipulating that RECs, PSLCs, and such analogous instruments attract GST.

The appellant's strategy of aligning with environmental initiatives while also aiming for profits is intentional. They are carefully navigating the legal system to benefit both socially and financially. This careful balance means we have to look closely at their motives, especially at the intersection of environmental efforts and making money within the tax regulations.

In conclusion, the appellant's role in carbon credit trading is a complicated legal situation. Resolving this matter requires careful use of legal principles, taking into account all the details of what the appellant is doing within the broader legal and regulatory context resulting in outcome of them not getting the exemption under support services. This legislative interpretation underscores the importance of ascertaining the specific characteristics and nature of carbon credits to determine their GST status accurately.

It is pertinent note that the services said to have been undertaken by the appellant are nowhere in tune with the agricultural support services and are mostly independent activities.

Hence, in view of the above, the worker or activities undertaken by the appellant as per agreement viz., project during doesn't fall under the support services to agriculture under Sl. No. 24 of Heading 9986 of Notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017.

Now, when it comes to taxes, the main argument is whether the appellant should get an exemption vide Notification No. 11/2017-CGST [Rates], specifically under Serial No. 24. In view of findings given above, doesn't qualify for the exemption. This decision is strengthened by the fact that for the reason their activities doesn't match the definition of services in the support services 9986 category.

RULING

Question : 1. Whether the activities of the applicant under the agreement can qualify as 'composite supply under GST law with Principal Supply as "Support services to agriculture, forestry, fishing, animal husbandry" as provided in the Sl. No. 24 of Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017 (as amended time to time) having SAC Code 9986.

Answer : No

Question : 2. If the answer is affirmative, whether taxable rate applicable would be NIL in Term No. 24 of Notification No. 11/2017-Central Tax (Rate), dated June 28, 2017. Since we are dealing in brokerage of agricultural produce which is exempt, are we liable for GST Registration?

Answer : Does not arise.