

IMPORTANT GST UPDATES



Issued in case of M/s Shreeji Earth Movers by Gujarat Appellate Authority for Advance Ruling (GAAAR)
Order No: W.P.(C) 14048/2021 | Date: 29-03-2023

Ruling

GAAAR ruled that the services provided by a sub-sub-contractor to sub-contractors are subject to 18% Goods and Services Tax (GST).

Observations & Findings

The Gujarat Appellate Authority for Advance Ruling (GAAAR) ruled that the services provided by a sub-sub-contractor to sub-contractors are subject to 18% Goods and Services Tax (GST). The ruling was made in response to an appeal from M/s Shreeji Earth Movers, a sub-sub-contractor that executes and undertakes composite supply of works contracts.

M/s. JSIW Infrastructure Pvt. Ltd (Original Contractor), received the original contract from the irrigation department for the construction of the pumping station and supplying and laying MS pipeline with all allied works and maintenance of the commissioned project for 10 years. Further, M/s. JSIW Infrastructure executed the same contract with M/s. Radhe Construction (Sub contractor). The sub-contractor executed the same contract with the appellant.

According to the GAAAR bench, the appellant was not eligible for the tax rate of 12% mentioned in Entry No. 3(iii) of the notification, as they had yet to receive any work orders from governmental authorities. Although the appellant argued that subcontractors should collect the GST applicable to the primary contractor, citing a press release from the 25th meeting of the GST Council, the bench concluded that they were liable to pay tax at a rate of 18% under Entry No. 3(ii) of Notification No. 11/2017-CT(R) dated June 28, 2017, as amended by Entry No. 3(xii) of the same notification.

While a lower rate of 12% applies to those providing a composite supply of works contracts to governmental authorities, this rate only applies if the sub-contractor has a work order issued in their favor by such rules. A sub-sub-contractor hired by the sub-contractor for executing work related to governmental authorities must pay a GST of 18%. The lower GST rate benefit only applies to the principal contractor's subcontractors; second-level subcontractors are not eligible.