

THE WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Shafeeq S, Joint Commissioner, CGST & CX

Jaydip Kumar Chakrabarti, Senior Joint
Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Arihant Dredging Developers Private Limited
Address	6B, Dr Rajendra Prasad Sarani, Hare Street, Kolkata-700001
GSTIN	19AAHCA2225K1ZO
Case Number	WBAAR 01 of 2025-26
ARN	AD190325069414X
Date of application	April 02, 2025
Jurisdictional authority (State)	Lyons Range Charge
Jurisdictional authority (Centre)	BBD Bag I Division, Kolkata North Commissionerate
Order number and date	04/WBAAR/2025-26 dated 16.07.2025
Applicant's representative heard	Mr. Sumit Nishania, Authorized Representative

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression “GST Act” would mean the CGST Act and the WBGST Act both.

1.2 The Applicant states that he provides Dredging service to various States and Central Government. The applicant has been rewarded work order by Government of West Bengal (Irrigation & Waterways Directorate) (hereinafter referred to as “Govt.”) for dredging to be undertaken by Cutter Suction Dredger (CSD) in Channels i.e. Channel I, III, 2A and 3A as mentioned in order to achieve the desired level throughout the period of Ganga Sagar Mela 2025 irrespective of tides.

The scope of the work comprises of Dredging before Ganga Sagar Mela 2025 in Muriganga river in connection with ‘Dredging in river Muriganga in PSs Kakdwip and Sagar, District South 24 Parganas’. The description of the service is as follow:

(a) Dredging work undertaken by cutter section Drudger in tidal rivers and estuary having tidal fluctuations along with disposal of dredged material by pipelines upto a distance of atleast 350 meters.

(b) The dredged material would be dumped in designated dumping grounds otherwise in Down stream Deep water pocket by pipe of minimum length 350 metres. The river dumping is to be done only in the period of ebb tide for Channel 2A and 3A.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under seeking an advance ruling in respect of following questions:

- (a) Will the supply be covered under Sl. No. 3 Notification No.9/2017 dated 28-06-2017 Integrated Tax (Rate)?
- (b) What will be the applicable GST rate in the case?

1.4 The aforesaid questions on which the advance ruling is sought for are found to be covered under clause (a) & (b) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the questions raised in the application have neither been decided by nor are pending before any authority under any provision of the GST Act.

1.6 The officer concerned from the Revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

2. Submission of the Applicant

2.1. The applicant has been rewarded work by Irrigation & Waterways Directorate which is a department under Government of West Bengal.

The functions and activities of the Irrigation and Flood Control Department (as obtained from the Official Website of the Government of West Bengal,) include the following:

- The department is entrusted with the task of providing irrigation facilities, offering reasonable protection against flood, alleviating drainage congestion, arresting erosion, maintaining internal navigation channels and up-keeping the natural waterways in the state.
- Since 1951 till date several Major and Medium Irrigation Projects, number of Embankment Schemes, Town protection Schemes, Drainage Schemes, Anti River Bank Erosion Schemes & Anti Sea - Erosion Schemes have been taken up by the department.
- With the help of existing Rain Gauge stations and River Gauge stations and collection of data and interaction with some relevant departments like CWC, IMD etc., a Flood Warning System has been developed.
- The department has a Public Relations & Statistical cell which publishes a news magazine "Sechpatra" both in Bengali & English regularly.

The link to webpage: <https://wbiwd.gov.in/index.php/applications/about>

2.2 Article 243G of the Constitution of India have been produced as follows:

Article 243G of the Constitution of India states the following:

“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 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 Panchayats at the appropriate level, subject to such conditions as may be

specified therein, with respect to.

The preparation of plans for economic development and social justice;

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 as follows:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Animal husbandry, dairying and poultry
4. Fisheries.
5. Minor irrigation, water management and watershed development.
6. Social forestry and farm forestry.
7. Small scale industries, including food processing industries.
8. Minor forest produce.
9. Safe water for drinking
10. Khadi, village and cottage industries.
11. Rural housing.
12. Fuel and fodder.
13. Rural electrification, including distribution of electricity.
14. Roads, culverts, bridges, ferries, waterways and other means of communication.
15. Education, including primary and secondary schools.
16. Non-conventional sources of energy
17. Technical training and vocational education
18. Adult and non-formal education. Technical training and vocational education.
19. Public distribution system.
20. Maintenance of community assets.
21. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes
22. Social welfare, including welfare of the handicapped and mentally retarded.
23. Family welfare.
24. Women and child development.
25. Markets and fairs.
26. Health and sanitation, including hospitals, primary health centres and dispensaries.
27. Cultural activities.
28. Libraries.
29. Poverty

Hence the work order provided to the applicant refers to Sl. No 5 and 14 of Article 234G of the constitution of the Eleventh Schedule.

2.3 The scope of the work allotted to ADDPL comprises of Dredging before Ganga Sagar Mela 2025 in Muriganga river in connection with 'Dredging in river Muriganga in PSs Kakdwip and Sagar, District South 24 Parganas'.

The biggest obstacle to reaching Sagar Dwip is the Muriganga River; Pilgrims have to cross this river on their journey. However, due to the low navigability of the river, it is not possible to cross the river without tide. Every year, dredging is carried out in the river for uninterrupted ferry operation. Ferry services are operated between Kakdwip and Kachuberia, Sagar Dwip on the occasion of fairs and Ganga bath. Several temporary jetties were constructed for faster and more pilgrim transport. All vessels and buses can be monitored from a central control room. GPS and NAVIC (Navigation with Indian Constellation) technology is used in all the transport vehicles of Sagar Dwip for surveillance. Vessels are also provided with navigation lights to prevent visibility problems due to fog.

This above mentioned purpose of dredging has been taken from Wikipedia

Link to the webpage: https://en.wikipedia.org/wiki/Gangasagar_Mela

2.4 Further dredging of the Muriganga river is done to improve the navigability of the river in order to carry the journey without any hindrances. This dredging operations are undertaken for movement of barges carrying pilgrims. Essential dredging operations are undertaken to remove sandbars that could hinder the movement of large vessels during the Ganga Sagar Mela. Hence the dredging service is carried out to improve the low navigability of river.

2.5 **Notification no. 9/2017 dated 28-06-2017 Integrated Tax (Rate) serial no. 3**, states that “**Pure services** (excluding works contract service or other composite supplies involving supply of any goods) provided to the **Central Government, State Government or Union territory or local authority** or a Governmental authority 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.” And the applicable GST rate will be Nil.

(i) As per Section 65(36a) of Finance Act, 1994 definition of Dredging, “Dredging includes removal of material including silt, sediments, rocks, sand, refuse, debris, plants and animal matter in any excavating, cleaning, deepening, widening or lengthening either permanently or temporarily, of any river, port, harbour, backwater and estuary”. The applicant is providing **dredging/desilting service** which is a **Pure Service**.

A Pure Service provided (subject to other conditions) **gets covered** under Notification No.9/2017 dated 28-06-2017 Integrated Tax (Rate) Serial no. 3.

The work consists of dredging and dumping of dredged material, so it is a pure service.

(ii) Herein, the work under consideration constitutes mainly of **dredging** which is **pure service** work. Sl. No. 3 Notification No.9/2017 dated 28-06-2017 Integrated Tax (Rate) as amended from time to time, exempts services ***“provided to the Central Government, State Government or Union Territory or local authority”*** (subject to other conditions).

The above Contract is between the Irrigation and Waterways Directorate– Government of West Bengal, India and Arihant Dredging and Desiltation Company Private Limited. Thus, it constitutes service being provided to the State Government.

(iii) Sl. No. 3 Notification No.9/2017 dated 28-06-2017 Integrated Tax (Rate) and as amended from time to time, exempt services 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.***

In view of the above position, the above-mentioned supply provided by ADDPL to Irrigation and Waterways Directorate shall be exempt by virtue of Sl. No. 3 Notification No.9/2017 dated 28-06-2017 Integrated Tax (Rate)

Hence, no GST is leviable.

2.6 Similar Advance Rulings are cited below wherein the said supply is exempted and the Notification is applicable.

(a) Arihant Dredging Developers Pvt. Ltd.; Order No. 04/WBAAR/2019-20 dated 10/06/2019

The Irrigation and Waterways Directorate, Govt of West Bengal has awarded the Applicant a contract for resectioning of river Jamuna from the upstream of Charchat Bridge to the downstream of Ghonja Haspur Bridge in Block and P.S Swarupnagar, Habra - 1 and Gaighata in North 24 Parganas.

The Applicant sought a ruling on whether an exemption under Sl No. 3 or 3A of Notification No 9/2017 - Integrated Tax (Rate) dated 28/06/2017 (hereinafter the Exemption Notification), as amended from time to time, applies to the above supply.

Herein, the Applicant submitted that the Irrigation and Waterways Directorate, Govt of West Bengal, that is, the recipient is the State Government. He also submitted a price schedule that

describes the work and its value and claimed that the work is an activity in relation to a function entrusted to a Panchayat under Article 243G and/or a municipality under Article 243W.

The bench examined the Applicant's eligibility to the exemption from three aspects: **(1) whether the supply being made is pure service or a composite supply, where supply of goods does not exceed more than 25% of the value of the supply, (2) whether the recipient is government, local authority, governmental authority or a government entity, and (3) whether the supply is being made in relation to any function entrusted to a panchayat or a municipality under the Constitution.**

The contract was meant for re-sectioning of river Yamuna. It involved the earthwork in the excavation of the drainage channels and deposit of the excavated materials to locations outside the government land.

Bench Observation: It was held that the recipient, that is, the Irrigation and Waterways Department, Government of West Bengal is the State Government. Also, that the recipient is engaged in the development of irrigation and waterways, which includes activities in relation to the function listed under SI No. 5 of the Eleventh Schedule, and, therefore, entrusted to a panchayat under Article 243G of the constitution of India.

The recipient certifies that the work awarded to the Applicant, involving drainage of channels and riverbeds, is an activity undertaken in relation to the function referred to above.

Thus, the service provided was exempt under SI. No. 3A of the Exemption Notification.

(b) Neo Built Corporation; Order No. 05/WBAAR/2019-20 dated 10/06/2019

The Irrigation and Waterways Directorate, Govt of West Bengal has awarded the Applicant a contract for the resuscitation by re-excavation of river Palaspai from Banskhal to Mahisghata, along with raising and strengthening of embankment on both sides of the river in Block Daspur -1 & 2 and Paschim Medinapur.

The applicant seeks a ruling on whether exemption under SI No. 3 or 3A of Notification no 9/2017 -Integrated Tax (Rate) dated 28/06/2017 (hereinafter the Exemption Notification), as amended from time to time, applies to the above supply.

Herein, the applicant submitted that the Irrigation and Waterways Directorate, Govt of West Bengal, that is, the recipient is the State Government. He also submitted a price schedule that describes the work and its value and claimed that the work is an activity in relation to a function entrusted to a Panchayat under Article 243G.

The contract is meant for resuscitation of Palaspai River. It involves pumping out the water from the clogged channels, excavation of the drainage channels, lifting and deposit of the excavated materials to specified locations, and compacting earthwork for strengthening the embankment. Cost of supplying materials is included in the compacting cost. **The supply of goods, however,**

does not constitute any significant portion in terms of value. As such, compacting, in the course of which goods are to be supplied, constitutes only 2% of the value of the contract.

It is, therefore, a composite supply primarily of various services, principal supply being the service of resuscitation of the river, where the supply of goods constitutes well below the threshold mentioned in SI No. 3A of the Exemption Notification.

The recipient was held to be the State Government.

The bench made reference to **Circular No. 51/25/2018-GST dated 31/07/2018** similarly as in the previously cited Ruling.

Bench Observation: It was also held that the recipient is engaged in the **development of irrigation and waterways**, which includes activities in relation to the function listed under SI No. 5 of the Eleventh Schedule. Resuscitation of a river means reviving the water flow. It is, therefore, relatable to the function listed under SI No. 5 of the Eleventh Schedule, especially when undertaken by a department of the State Government, which is primarily entrusted to execute such functions.

Thus, it was held that the applicant's supply to the Irrigation and Waterways Directorate, Govt of West Bengal, is exempt from the payment of GST under SI No. 3A of Notification No 9/2017 - Integrated Tax (Rate) dated 28/06/2017, as amended from time to time.

(c) Arihant Dredging Developers Pvt. Ltd.; Order No. 11/WBAAR/2019-20 dated 27/06/2019

The Orissa Construction Corporation Limited (hereinafter the recipient) has awarded the Applicant a contract for sectioning of Sunamuhin Drainage Channel (From Narsinghapatna Bridge to Brahmadeva Resort) and from pond near Harachandi mouth to outfall of Chilika in Orissa. The Applicant seeks a ruling on whether the recipient is a government entity in terms of clause 2 (zfa) of Notification No 9/2017 - Integrated Tax (Rate) dated 28/06/2017 (hereinafter the Exemption Notification). He further seeks a ruling on the taxability of his supply in terms of the Notification No. 08/2017 - Integrated Tax (Rate) dated 28/06/2017 (hereinafter the Rate Notification) and the Exemption Notification, as the case may be, and as amended from time to time.

Bench Observation: It appears from the description of the work that it improves the navigability of the riverbed and channels - an activity toward development of irrigation and waterways. It is, therefore, an activity in relation to the function listed under SI. No. 5 of the Eleventh Schedule, as entrusted to a Panchayat under Article 243G of the Constitution of India.

Exemption under SI No. 34 of the Exemption Notification is, therefore, applicable to the Applicant's supply of the above works contract service.

The applicant's supply to Orissa Construction Corporation Ltd, as mentioned above, was taxable @18% under SI. No 3(vii) of Notification No. 8/2017 – Integrated Tax (Rate) dated 28/06/2017 till

12/10/2017. The supply was taxable @5% under Sl. 3(vii) of Notification No. 8/2017 – Integrated Tax (Rate) dated 28/06/2017, as amended by Notification No. 39/2017 - Integrated Tax (Rate) dated 13/10/2017 with effect from 13/10/2017 till 24/01/2018. It has since been exempted under Sl No. 3A of Notification No. 9/2017 - Integrated Tax (Rate) dated 28/06/2017, as amended by Notification No.2/2018- Integrated Tax (Rate) dated 25/01/2018.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

(d) Dredging and Desiltation Company Private Limited; Order No. 12/WBAAR/2019-20 dated 10/06/2019

The Orissa Construction Corporation Limited (hereinafter the recipient) has awarded the applicant a contract for sectioning of Makara River (Right Drainage) and Garanimunha branch of Makara River (Part A, Makara Right Drainage) in Orissa. The Applicant seeks a ruling on whether the recipient is a government entity in terms of clause 2 (zfa) of Notification No 912017 Integrated Tax (Rate) dated 28/06/2017 (hereinafter the Exemption Notification). He further seeks a ruling on the taxability of his supply in terms of the Notification No. 08/2017 - Integrated Tax (Rate) dated 28/06/2017 (hereinafter the Rate Notification) and the Exemption Notification, as the case may be, and as amended from time to time.

Bench Observation: It appears from the description of the work that it improves the navigability of the riverbed and channels - an activity toward development of irrigation and waterways.

It is, therefore, an activity in relation to the function listed under Sl No. 5 of the Eleventh Schedule, as entrusted to a Panchayat under Article 243G of the Constitution of India. Exemption under Sl No. 34 of the Exemption Notification is, therefore, applicable to the applicant's supply of the above works contract service.

2.7 The applicant informed through email dated 23.06.2025 that a typographical mistake had occurred while quoting IGST Notification No. 9/2017 dated 28.07.2017, serial no 3 instead of serial no 3 of CGST Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 and vide entry no 3 of Notification No. 1136 F.T. dated 28.06.2017 under West Bengal State Tax Notification. Requesting to accept the mistake, the applicant prays to consider its submissions and application made in front of the Advance Ruling Authority.

3. Submission of the Revenue

3.1 The concerned officer of BBD Bag I Division, Kolkata North Commissionerate has submitted the following reply:

As per submitted work order, it may be stated that, the work awarded for dredging in Muriganga River is service and may be classified under SAC 9987.

For Question (1) the officer says the supply cannot be covered under SI No. 3 of Notification No 9/2017 dated 28-06-2017 Integrated Tax (Rate) as the Notification can be applied for inter-state supply, but the supply covered under the above said work order is a Intra-state supply.

For Question (2) the officer says Dredging Service (SAC: 9987) GST Rate-18%.

3.2 The concerned officer of Lyons Range Charge has submitted following reply:

(i)The supply will not be covered under SI No. 3 Notification No. 9/2017 dated 28-06-2017 Integrated Tax (Rate) because the address of the applicant is under West Bengal as per submitted Work Order with Memo No. 2291 dated 17.10.2024 (6B Dr Rajendra Prasad Sarani, Mazenine Floor, Kolkata-700001) and the place of supply is also West Bengal. The intra-state supply will attract Central Goods and Services Tax and Service Tax.

(ii)The applicable rate of GST will be 18% (9% CGST and 9% WBGST) as per serial Clause (ii) of No. 21 heading 9983 or as per serial Clause (ii) of No. 23 heading 9985 in Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 issued by Government of India.

(iii)Article 243 G of the Constitution of India deals with the powers of Panchayats and Article 243W of the Constitution of India deals with the powers of Municipalities. As per work order with Memo No 2291 dated 17.10.2024 submitted by the applicant, the work order was issued by the Executive Engineer, Kakdwip Irrigation Division. Hence, provision of article 243G or 243W of the constitution of India are not applicable.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representatives of the applicant during personal hearing. We have also considered the views given by the Revenue.

4.2 According to the facts narrated by the applicant, he has been awarded work order by Government of West Bengal (Irrigation & Waterways Directorate) for dredging to be undertaken by Cutter Suction Dredger (CSD) in Channels i.e. Channel I, III, 2A and 3A in the river Muriganga in order to achieve the desired water level in the said river throughout the period of Ganga Sagar Mela 2025 irrespective of tides.

As per the Work Order issued from the Office of the Executive Engineer: Kakdwip Irrigation Division, I&W Directorate, Government of West Bengal the scope of the work comprises of Dredging before

Ganga Sagar Mela 2025 in Muriganga river in connection with 'Dredging in river Muriganga in PSs Kakdwip and Sagar, District South 24 Parganas'.

The description of the service is as follows:

1. Dredging work undertaken by cutter section Drudger in tidal rivers and estuary having tidal fluctuations along with disposal of dredged material by pipelines upto a distance of atleast 350 meters.
2. The dredged material would be dumped in designated dumping grounds otherwise in Down stream Deep water pocket by pipe of minimum length 350 metres. The river dumping is to be done only in the period of ebb tide for Channel 2A and 3A.

4.3 The following two questions have been raised by the applicant:

- 1) Will the applicant's supply be covered under Sl. No. 3 Notification No.9/2017 Integrated Tax (Rate) dated 28-06-2017?
- 2) What will be the applicable GST rate in this case?

4.4 The applicant believes that his supply is covered by serial no. 3 of Notification No. 9/2017 Integrated Tax (Rate) dated 28.06.2017. The belief of the applicant is based on the following grounds:

- A) The dredging and de-silting service that the applicant is providing is a pure service other than works contract or composite supply involving supply of any goods.
- B) The service is being provided to the Government of West Bengal.
- C) The service provided by the applicant is in respect 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. The applicant has referred to Serial no. 5 and 14 of the schedule appended to Article 243G entries being minor irrigation, water management and watershed development (Serial no. 5) and Roads, culverts, bridges, ferries, waterways and other means of communication (Serial no. 14) respectively.

The applicant has referred to several earlier rulings pronounced by West Bengal Authority for Advance Ruling in respect of the subject matter of the present application.

4.5 Before going into the details of the discussion, we should discuss some concepts which will act as reference in the latter part of the discussion.

Pure Service: This term has not been defined in the provisions of the GST Act. This term has reference in serial no. 3 of Notification No. 12/2017-Central Tax (Rate) Dated 28.06.2017, as amended. Pure Services exclude works contract service or other composite supplies involving supply

of goods. So supply of services which does not involve any supply of goods can be regarded as pure service.

Composite Supply: Section 2(30) of the CGST Act defines Composite Supply as 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.

Article 243G: This Article of the Constitution of India reads as under:

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 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 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.

Now the Eleventh Schedule as available in the Constitution of India downloaded from the official website of Legislative Department, Ministry of Law and Justice, Government of India (<https://legislative.gov.in>) contains the following entries in respect of 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.

Article 243W: This Article of the Constitution of India reads as under:

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;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

Now the Twelfth Schedule as available in the Constitution of India downloaded from the official website of Legislative Department, Ministry of Law and Justice, Government of India (<https://legislative.gov.in>) contains the following entries in respect of 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.

4.6 It is in the context of the above concepts and references that we will note our observations regarding the issues placed before us in this application for advance ruling. At the very outset, we must make it clear that the applicant's referred supply will not be covered by Notification No. 9/2017 Integrated Tax (Rate) dated 28.06.2017 since it is an intra-state supply. The applicant has incorrectly referred to this notification. The correct notification should be Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 and the corresponding State notification in this regard. This mistake has been admitted by the applicant during personal hearing and the applicant has rectified the mistake by e-mail.

The relevant portion of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 is reproduced as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority 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.	Nil	Nil

4.7 It is evident from the above table that in order to qualify for Serial no. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, three conditions are to be fulfilled simultaneously.

1. The service must be a pure service. It should not be works contract service or other composite supplies involving supply of any goods.
2. The service is to be provided to the Central or State Government or Union Territory or a local authority or a Governmental authority.
3. The service provided must be done by way of any activity in relation to any function entrusted to a Panchayat or Municipality under article 243G or 243W of the Constitution of India respectively.

4.8 As per the records placed before us, the applicant's works of dredging by Cutter Suction Dredger (CSD) in Channel I, III, 2A and 3A in the river Muriganga in order to achieve the desired water level for navigation throughout the period of Ganga Sagar Mela 2025 irrespective of tides at Kakdwip and Sagar Police Stations of the district of South 24 Parganas has been awarded by the Chief Engineer (South) of Irrigation & Waterways Directorate of Government of West Bengal. So there is no dispute that the service has been provided to the Government of West Bengal represented by the Chief Engineer (South) of Irrigation & Waterways Directorate of Government of West Bengal.

4.9 The description of the works allotted to the applicant reads as under:

Dredging is to be undertaken by Cutter Suction Dredger (CSD) in channels i.e. Channel I, III, 2A and 3A in order to achieve the desired level throughout the period of Ganga Sagar Mela 2025 irrespective of tides. The dredged materials would be dumped in designated dumping grounds otherwise in Down Stream deep water pocket by pipe of minimum length of 350 meter.

The Ganga Sagar Mela is one of the largest Hindu fairs organized in India where millions of devotees from different parts of India come to Sagar Dwip (Sagar Island) every year to take a holy bath on Makar Sankranti day. The biggest obstacle to reaching Sagar Dwip is the Muri Ganga river. Muri Ganga is a distributary the River Hooghly in the district of South 24 Parganas. Before joining the Bay of Bengal the river Hooghly bifurcates with one channel passing east of the Sagar Dwip. The pilgrims have to cross this river on their journey to Sagar Dwip.. However, due to the low navigability of the river, it is not possible to cross the river without tide. Every year, dredging is carried out in the river for uninterrupted ferry operation. Ferry services are operated between Kakdwip and Kachuberia, Sagar Dwip on the occasion of fairs and Ganga bath.

So it is the issue of navigation that is the main purpose of the work order allotted to the applicant. The dredging and de-silting of Muri Ganga river is to be done for better navigability of the river during the Ganga Sagar mela. As such it is covered under entry no. 13 (Roads, culverts, bridges, ferries, waterways and other means of communication) of the Eleventh Schedule read with Article 243G of the Constitution of India.

Thus the second and third conditions of serial no. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 are fulfilled in the present case.

4.10 Now we come to the first condition of serial no. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017. The applicant's contention is that dredging and dumping of the dredged material is a pure service. He has only referred to the definition of dredging as per Section 65(36a) of the Finance act, 1994. This is basically a reference to the erstwhile Service Tax Act. The definition of dredging reads as under:

"dredging" includes removal of material including, silt, sediments, rocks, sand, refuse, debris, plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary.

The GST Act, however, does not define dredging anywhere in the act.

The Oxford dictionary has defined dredge (*verb*) as 'to remove mud, stones etc. from the bottom of a river, canal etc. using a boat or special machine, to make it deeper or to search for something'. The Cambridge dictionary has defined dredging as 'to remove unwanted things from the bottom of a river, lake, etc. using a boat or special device'. In Merriam-Webster dredging in respect of civil engineering has been defined as 'to deepen (a waterway) with a machine that removes earth usually by buckets on an endless chain or a suction tube'.

From the above references including the one to be found in the erstwhile Service Tax Act it is evident that dredging is an activity of removing mud, stones, silt from the bottom of a water body like river, lake etc. usually with the help of a machine capable of excavating the said materials from the said water body. The machine (usually dredger) is floated in the water body and the materials are excavated through suction dredger from the bottom. Then the dredged materials are transported to an earmarked area for dumping.

From the analysis of the nature of the works as above and also from the tender documents produced before us in respect of the works, it appears that the work undertaken by the applicant is a service where there is no supply of goods in any form. The work of dredging of silts itself does not represent any supply of goods. The dumping of the dredged silts is to be done in the designated dumping grounds or in Down stream Water Pocket which is already there. There is no construction work involved to create either the dumping ground or the water pocket.

In our considered opinion the service rendered by the applicant in this case is a supply of pure service which excludes works contract or other composite supplies involving supply of any goods.

So all the three conditions mentioned in Entry No. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 have been fulfilled in the case of the applicant's activity as mentioned in the application.

In view of the foregoing discussion, we rule as under:

RULING

1. Will the supply (of dredging service and removal of dredged materials) be covered under serial no. 3 of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 ?

Answer: The answer is in affirmative.

2. What will be the applicable GST rate in the case of above supply?

Answer: The applicable GST rate is NIL.

(SHAFEEQ S)

Member

West Bengal Authority for Advance Ruling

(JAYDIP KUMAR CHAKRABARTI)

Member

West Bengal Authority for Advance Ruling

To,

Arihant Dredging Developers Private Limited

6B, Dr Rajendra Prasad Sarani, Hare Street, Kolkata-700001

Copy to,

(1)The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector,
Kolkata-700107

(2)The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015

- (3)The Commissioner, Kolkata North Commissionerate, 180, Shantipally, R.B.Connector,
Kolkata-700107
- (4)The Charge Officer, Lyons Range Charge, 14, Beliaghata Road, Kolkata-700015
- (5)Office Copy