

**SOUTH EASTERN RAILWAY
ACCOUNTS DEPARTMENT**



**South Eastern Railway
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No.Exp/SER/GST/Misc. Clarification/Divn/ *Spl.*

Date: 03 -09-2019.

To
ACHD(Health),
Central hospital
S.E.Railway,GRC.

Sub: Applicability of GST and rate of contracts for Colony
Sanitation etc.

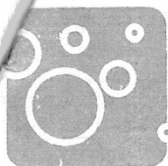
Ref: Your letter no-MD-PH-HT-19-21-5213 dtd. 28.08.19.

In connection with the letter under reference, opinion of GST consultant of this railway i.e. M/s. Dhanania & Associates on the captioned has been obtained which is self explanatory. The same is attached herewith for your ready reference for taking further necessary action at your end please..

Encl. As above.

[Handwritten signature]
08/09/19

AFA/GST/SER/GRC
for P.F.A/SER/GRC



Monday, 02 September 2019

To,

The AFA (GST),

GST Cell,

S. E. Railway / GRC

11, Garden Reach Road,

Kolkata 700043.

Respected Sir,

Sub.: Applicability of GST and rate of contracts

On the basis of details given, rate of GST and SAC Code are as follows:

01. Job Type

Outsourcing of sanitation work including surface sweeping, drain cleaning, solid waste collection, removal of weeds & rag picking, disposal of all dead animals & carcasses, de-choking & de-silting of blocked sewerage pipe line/manholes of South Colony, Garden Reach, S. Railway, Kolkata-700043, on contractual basis.

Reply

Paragraph 301 of Chapter III of Indian Railways Works Manual suggests that for sanitary arrangements in stations and colonies, the allocation of responsibilities lies with operating, medical and engineering departments. Thus, there is no entrustment and responsibility of Municipality towards cleaning of Railway premises/ properties.

Hence, in the light of above provisions, this office is of the view that colony sanitation is not entrusted to Municipality and thus does not fall under the purview of S. No. 3 of Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017, reproduced hereunder

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	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 or a Government entity 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

Thus the aforesaid service received by Railway is taxable and will attract GST @ 18% under the Service Classification Code Chapter heading 9994.

02. Job Type

Daily mechanized dry & wet cleaning of indoor & outdoor of Central Hospital, S. E. Railway, Garden Reach, Kolkata-700043, on contractual basis.

Reply

That the Railway Hospital can't be considered as Public Property. Hon'ble Central Excise and Service Tax Appellate Tribunal (CESTAT) vide Service Tax Appeal no. ST/50007/2014- [DB] in the matter of M/s Mukesh Kalway v/s C.C.E. Bhopal, has held that

"To hold railways or airport authority as non-commercial organizations only on the ground that they are public utility organizations has no legal basis. Incidentally, it may be noted that the freight revenue of railways is more than double of the activity of passenger revenue. It only shows that substantial railways is in commercial freight transport. Even, with reference to the status of the railway stations, we note that the same cannot be considered as non-commercial building or premises. The commercial nature of the railway stations and its premises is very apparent. Having examined the scope of activities of railways and the premises of railway stations we are of the opinion that the activities carried out by the appellant relating to mechanical cleaning of station, rail wagon, railway office is covered by the taxable entry-"cleaning activity"

Thus, being a public utility by itself does not provide any immunity from service tax and service tax is leviable on cleaning services provided to Railways towards cleaning of railway station, railway shed or office premises of the general manager as Railways is a commercial organization.

Hence, in the light of above provisions, this office is of the view that daily mechanized dry & wet cleaning of railway hospital does not fall under the purview of S. No. 76 of Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017, reproduced hereunder

Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

Thus the aforesaid service received by Railway is taxable and will attract GST @ 18% under the Service Classification Code Chapter heading 9994.

03. Job Type

Removal & disposal of garbage/refuse from S. E. Railway Colony, Garden Reach, Kolkata-700043, through hiring of truck (200 cft. capacity) to Dhapa Dumping Ground/KMC on contractual basis.

Reply

That it is been understood that principal object of the agreement is hiring of truck for removal & disposal of garbage/refuse. Garbage / refuse considered as goods. Hence the nature of service classifiable as hiring of truck. Hiring of truck is different form transportation of goods.

Hence, in the light of above provisions, this office is of the view that hiring of truck falls under Heading 9966 (Rental Service of Transport Vehicles) and attract GST @ 18%.

04. Job Type

Outsourcing for Pest, worm, vector & rodent control at Indoor, outdoor of Central Hospital, Garden Reach, Kolkata-700043

Reply

This office is of the view that pest control service falls under Heading 998531 (Disinfecting and exterminating services) and attract GST @ 18%.