

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI - 600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Thiru Senthilvelavan B., I.R.S, Member/ Additional Commissioner,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru KurinjiSelvaan V.S.,M.Sc., (Agri.), M.B.A., Member/Joint Commissioner (ST)/
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 04/AAR/2021 DATED: 26.02.2021

GSTIN Number, if any / User id		33AAALM0037B1ZV
Legal Name of Applicant		M/s. Chennai Metropolitan Water Supply and Sewerage Board
Registered Address/Address provided while obtaining user id	Chennai Metropolitan Water Supply and Sewerage Board No.1, Pumping Station Road, Chintadripet, Chennai 600 002.	
Details of Application		GST ARA- 01 Application Sl.No.29/2020 ARA dated 24.12.2020
Concerned Officer		State: Assistant Commissioner(ST) Chintadripet Assessment Circle, Centre: North Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service provision
B	Description (in Brief)	Chennai Metro water Supply and Sewerage Board is a governmental authority Providing drinking water and off-take of sewerage in Chennai metropolitan area
Issue/s on which advance ruling required		Classification of goods and /or services or both
Question(s) on which advance ruling is required		Whether services provided 1. Leave way charges (Rent) 2. Advertisement on social media 3. Security services 4. License fee for software 5. Third party Inspection 6. Freight charges on transport of water

	<p>through railways</p> <p>7. Printing Charges</p> <p>to Chennai Metrowater Supply and Sewerage Board (CMWSSB) (a governmental authority) can be termed as "pure Services" to avail exemption provided by Notification 12/2017 dated 28th June, 2017</p>
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Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Chennai Metropolitan Water Supply and Sewerage Board, (hereinafter called the Applicant) is a governmental authority Providing drinking water and off-take of sewerage in the Chennai Metropolitan area. They are registered under GST with GSTIN. 33AAALM0037B1ZV. The applicant has sought Advance Ruling on:

Whether services provided

1. Leave way charges (Rent)
2. Advertisement on social media
3. Security services
4. License fee for software
5. Third party Inspection
6. Freight charges on transport of water through railways
7. Printing Charges

to Chennai Metrowater Supply and Sewerage Board (CMWSSB) (a governmental authority) can be termed as "pure Services" to avail exemption provided by Notification 12/2017 dated 28th June, 2017

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that Serial No 3 of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, specify Nil rate for 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. Further, Notification of 12/2017-C.T.(Rate) dated 28.06.2017 treats CMWSSB as a Government authority. Governmental authority is defined as:

“Governmental authority” has the same meaning as assigned to it in the Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017):

Explanation to Clause (16) of Section 2 of the Integrated Goods and Service Tax Act (IGST) is given as under:

Explanation – For the purposes of this clause, the expression “governmental authority” means an authority or a board or any other body, -

- (i) Set up by an Act of Parliament or a State Legislature; or
- (ii) Established by any Government.

With ninety percent, or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

This definition was later modified vide Notification No. 32/2017-Central Tax (Rate) dt. 13.10.2017

“(ii) in paragraph 2, for clause (Zf), the following shall be substituted, namely; (zf) “governmental Authority” means an authority or a board or any other body,

(i) Set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with 90 percent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.”

2.2 They have also stated that Notification No.32/2017 and AAR Tamil Nadu ruling order No. 22/AAR/2018 dated November 28, 2018 confirms CMWSSB as a government Authority.

- 2.3 The applicant has stated that they are receiving the following services
- a. Leave way charges (Rent) – Rent paid to land owners for using the land for laying pipe line underground for drinking water
 - b. Advertisement on social media-Charges paid
 - c. Security services to security agencies for manpower provided to their places of operation
 - d. License fee for software paid to software companies periodically.
 - e. Third party Inspection- Charges paid to inspection agencies for carrying out testing/inspection
 - f. Freight charges on transport of water through railways-Paid to Railways for carrying water in tanks to supply drinking water to Chennai during water crisis periods.
 - g. Printing Charges-

and have sought Ruling as to whether the services mentioned in above are pure services to avail exemption under notification 12/2017.

3.1 The applicant was given an opportunity to be virtually heard on 19.02.2021. The Authorised representatives appeared for the hearing. They stated that they wanted ruling on whether the services received by them are Pure services to avail exemption under Sl.No.3 of Notification No. 12/2017-C.t.(Rate) dated 28.06.2017. They were informed that Advance Ruling can be sought only for the supplies being made or proposed to be made but as a recipient the ruling cannot be sought and the representatives agreed.

4.1 We have carefully examined the submissions of the applicant in their application. It is seen that the applicant seeks ruling as to whether the services received by them are Pure Services to avail exemption under Sl.No. 3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017. The admissibility of the application was examined during the hearing extended to them. The applicant stated that they had sought ruling regarding the services received by them for which charges are paid by them, the activity in which they are recipient and not supplier of services. Thus, the question is on the eligibility of a notification in respect of the services received by them and not on the supply made by them.

4.2 Section 95 (a) of CGST and TNGST Act defines 'advance ruling' as

(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of

section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

From the above, it is evident that an applicant can seek an Advance Ruling only in relation to supply of goods or services or both undertaken or proposed to be undertaken by them. Further, as per Section 103(1) of the GST Act, the ruling is binding only on the applicant and the concerned officer or the jurisdictional officer of the applicant. In the case at hand, the applicant is the recipient of the services and not supplier of such service. Accordingly, this question is not liable for admission and therefore rejected without going into the merits of the case.

5. In view of the above, we rule as under

RULING

The application is not admitted, under Section 98(2) read with Section 95(a) of the CGST Act, 2017/TNGST Act, 2017 for the reasons mentioned in para 4 above.

Shri Kurinji Selvaan V.S.,
Member, TNGST.



Shri Senthilvelavan. B
Member, CGST.

To
M/s. Chennai Metropolitan Water Supply and Sewerage Board
No.1, Pumping Station Road,
Chintadripet, Chennai 600 002.

// BY SPEED POST WITH ACK.DUE //

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
IIndFloor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & Central Excise,
Chennai North Commissionerate
4. Assistant Commissioner(ST)
Chintadripet Assessment Circle,
1st Floor, PAPJM Annexe Building,
1, Greams Road,
Chennai - 600 006.
5. Master File/ Spare - 2.

