

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 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. 16 /AAR/2021 DATED: 07.05.2021

GSTIN Number, if any / User id		33AAECS3538A1ZU
Legal Name of Applicant		Security and Intelligence Services (India)LTD
Registered Address/Address provided while obtaining user id		Office No.L-57 L – Block 27 th Street, Anna Nagar East, Tamil Nadu. Chennai 600 102.
Details of Application		GST ARA- 01 Application Sl.No.25/2020 ARA dated: 05.12.2020
Concerned Officer		State: Assistant Commissioner(ST) Poonamallee Assessment Circle, Centre: North Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		Factory / Manufacturing
A	Category	Service Provision
B	Description (in Brief)	Security and Intelligence Services (India) Ltd, are providers of security services to Indian Institute of Technology, Madras. The Institute is not in agreement with them on paying GST amount being charged on the invoices raised by them for the services rendered by them, and are asking them to give exemptions either under the provision of Serial no 3 of Notification No 12.20217 –

	Central Tax (Rate) dated 28 th June 2017 and/ or Serial No. 66 of Notification No. 12/2017 – Central Tax (Rate) dated 28 th June 2017.
Issue/s on which advance ruling required	<ol style="list-style-type: none"> 1. Applicability of a notification issued under the provisions of this Act. 2. Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	<ol style="list-style-type: none"> 1. Whether the services provided to Indian Institute of Technology Madras will qualify for exemption under Serial No. 66 of Notification No. 12/2017 – Central Tax (Rate) dated 28th June 2017, considering it to be an educational Institution. 2. Whether rate of tax on services provided to Indian Institute of Technology Madras is nil as per Serial no 3 of Notification No 12/2017 – Central Tax (Rate) dated 28th June 2017.

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. Security and Intelligence Services (India)LTD, Office No.L-57 L – Block 27th Street, Anna Nagar East, Chennai 600 102 (hereinafter called the Applicant) are providers of security services to various entities and are registered under GST with GSTIN. 33AAECS3538A1ZU. The applicant has sought Advance Ruling on:

1. Whether the services provided to Indian Institute of Technology Madras will qualify for exemption under Serial No. 66 of Notification No. 12/2017 –

Central Tax (Rate) dated 28th June 2017, considering it to be an educational Institution.

2. Whether rate of tax on services provided to Indian Institute of Technology Madras is nil as per Serial no 3 of Notification No 12/2017 – Central Tax (Rate) 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 they are providers of security services to various entities all over India and have different type of customers including educational bodies and higher educational Institutions like IITs etc. They are providing services to Indian Institute of Technology, Madras. They have stated that Indian Institute of Technology Madras is one among the foremost institutes of national importance in higher technological education, basic and applied research. In 1956, the German Government offered technical assistance for establishing an institute of higher education in engineering in India. The first Indo-German agreement in Bonn, West Germany for the establishment of the Indian Institute of Technology at Madras was signed in 1959. The Institute was formally inaugurated in 1959 by Prof. Humayun Kabir, Union Minister for Scientific Research and Cultural Affairs. The IIT system has sixteen Institutes of Technology. The first of these to be instituted are at Kharagpur (estb. 1951), Mumbai (estb. 1958), Chennai (estb. 1959), Kanpur (estb. 1959), Delhi (estb. 1961), Guwahati (estb. 1994) and Roorkee (estb. 1847, joined IITs in 2001). IIT Madras is a residential institute with nearly 550 faculty, 8000 students and 1250 administrative & supporting staff and is a self-contained campus located in a beautiful wooded land of about 250 hectares. It has established itself as a premier centre for teaching, research and industrial consultancy in the country.

2.2 On the interpretation of the relevant statutory provisions, they have stated that Serial No. 66 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, *inter alia* provides for exemption in relation to certain service availed by educational institutions. The term “**educational institution**” is defined under clause (y) of Part 2 of the notification to mean “*an institution providing services by way of,*”

- (i) *pre-school education and education up to higher secondary school or equivalent;*

- (ii) **education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;**
- (iii) *education as a part of an approved vocational education course”*

In terms of the aforesaid entry, exemption is only provided *inter alia* in relation to security services provided by a supplier of service to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Therefore, the said exemption is not available to any and every kind of educational institution. Thus, in terms of the aforesaid exemption entry, there is no exception carved out in relation to an educational institution which qualifies as a Governmental authority.

2.3 They have further stated that, on perusal of Sr. No. 3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, it would be seen that the same exempts 'pure services' provided to 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. Thus, the aforesaid entry seeks to exempt pure services provided by a supplier of service, which are in the nature of functions entrusted to a Panchayat or a Municipality under the Constitution. Therefore, not all services supplied to Governmental authority are exempt from the provisions of goods and services tax. The services supplied should be in nature of or confirm to the function entrusted to the aforesaid bodies under the Constitution. Article 243G of the Constitution provides for powers, authority and responsibilities of Panchayats. Article 243W, on the other hand provides for powers, authority and responsibilities of Municipalities. On perusal of these articles and notifications, it would be seen that the same provides for similar powers, authority and responsibilities to a Municipality that have been endowed upon the Panchayat by the Constitution. Thus, when a supplier of services supplies services of the aforesaid description to the Central Government, State Government or Union territory or local authority or a Governmental authority, which are in relation to any function that have been entrusted upon the Panchayat or Municipality under the Constitution, then such services supplied would be exempt from payment of tax. It is not the case that any and every services supplied to the Central Government, State Government or Union territory or local authority or a Governmental authority would be exempt from payment of goods and services tax.

2.4 Further, from bare perusal of the relevant article and Schedules appended to the Constitution, it would be seen that security of an educational institution is not a function endowed upon the Panchayat or Municipality. The security of one's own premises cannot be said to be one of the various functions endowed by the Constitution upon the Panchayat or Municipality. Therefore, even if IIT Madras qualify as a Governmental authority, the security services supplied by them in relation to the property belonging to IIT Madras would not be entitled to exemption in terms of the Sr. No. 3 of the exemption notification. Whereas, Sr. No. 66 of the exemption notification specifically provides that the exemption thereunder would not apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. IIT Madras as an institute would get covered under the definition of "educational institution", since it is engaged in imparting education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force. However, IIT Madras as an educational institution is not engaged in providing pre-school education and education up to higher secondary school or equivalent (i.e. junior college). Since IIT Madras as a technical institute is engaged in imparting under-graduate courses, post-graduate courses and Ph. D programs in the field of engineering, architecture and science, it would not be entitled to the exemption provided under Sr. No. 66 of the exemption notification and hence, it would be liable to pay applicable goods and services tax.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the appellant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 12.02.2021. The Authorized Representative appeared for the hearing and reiterated their submissions. They were asked to furnish

- i. Copies of Invoice raised as IIT Madras
- ii. Copies of the agreement entered with IIT Madras
- iii. Copy of communication received from IIT Madras on the non-applicability of GST

3.2 The applicant did not furnish the said details and they were addressed vide Notice dated 19.03.2021 to furnish the required details. In response the applicant furnished

1. Work Order dated 27th May 2019 issued by Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram
2. Tender Notice for providing Security Services at IIITDM, Kancheepuram
3. Tax Invoice No. BNTNCMM000547/19 ; BNTNCMM000548/19 both dated 1st February 2020 raised on IIITDM, Kancheepuram for the services provided in January 2020
4. Letter dated 27.09.2019 issued by IIITDM, Kancheepuram stating GST is not payable by IIITDM

3.3 The applicant vide their e-mail correspondence dated 22.03.2021, further stated that

- the name of Customer is Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram, which is also set up as an Institute of National Importance established by the Government of India, which inadvertently they mentioned as IIT Madras in their application
- As per their understanding levy cannot be dependent on Tender or work order or agreement with customers. It should be seen through the perspective of Law
- There are no communication in writing by the customer to exempt the services

4.1 Advance ruling as per the statutory provisions is extended to the person who provides the supply of goods or service, in respect of such supply. In this case, the applicant vide their application has stated that they provide 'security service' to IIT Madras and had required ruling on the applicability of exemption under Sl.No. 3 and/or Sl.No. 66 of the Notification No. 12/2017-C.T.(Rate) but when the related documents were called for, they stated that no services are provided to IIT Madras. Therefore, the applicant was extended a hearing on 09.04.2021 to re-examine acceptance of the application for ruling.

4.2 The Authorised representative appeared for the hearing virtually. He stated that based on the information given to them they had filed the application seeking the ruling and when documentary evidence was called for by the authority, it was seen that the services are provided to Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram and not Indian Institute of Technology, Madras. The applicant was informed that they had sought the ruling for which no

services was provided or proposed to be provided by them. The applicant stated that they would withdraw the application, which was permitted.

5.1 We have carefully examined the application, the documents furnished by the applicant and the oral submissions made by the applicant during the hearing. The applicant has sought ruling stating that they provide security services to IIT Madras and whether the exemption under Sl.No. 3 or Sl.No. 66 of Notification no. 12/2017-C.T.(Rate) dated 28.06.2017 as amended is applicable to such supply as claimed by IIT Madras. The applicant was asked to furnish the Agreement/Work order, Invoices raised and communication from IIT Madras stating that GST is exempted in respect of services provided by them. The applicant vide their e-mail dated 23.03.2021, has stated that they do not provide the service to IIT Madras but the service is provided to IIITDM, Kancheepuram. Further, they had stated that levy cannot be dependent on Tender or work order or agreement with customers & it should be seen through the perspective of Law.

5.2 Advance Ruling as per the provisions of the GST Act, can be sought in respect of the supply being made or proposed to be made by the person seeking the ruling, as per Section 95 (a) of the Act. For ease of reference, the same is given below:

(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;

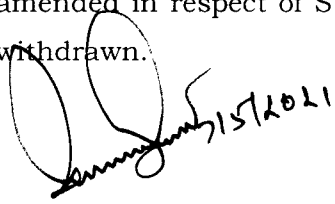
In the case at hand, the applicant vide their application has stated that they provide security service to IIT Madras and when the documents related to the supply for which ruling is sought was called for, the applicant has stated that by mistake they had mentioned that the services are provided to IIT Madras in the application, while the services are being provided to IIITDM, Kancheepuram. We find that the applicant had made elaborate submissions as to the constitution of IIT Madras in their application before us and their interpretation as to how the exempting entries as per Notification No. 12/2017 ibid is not applicable to IIT Madras. The applicant was informed the above statutory provisions during the hearing held on 09.04.2021 and they stated that they would withdraw the application filed by them in the instant case.

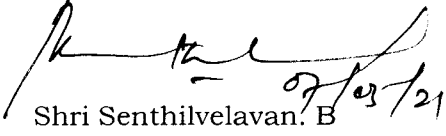
5.3 The applicant vide their e-mail dated 6th May 2021, has stated that due to incorrect information provided, they would like to withdraw their application on the matter and file a fresh plea. Considering the facts on record, the request of applicant to withdraw this application and to file a fresh plea is permitted.

6. In view of the above, we rule as under:

RULING

The application seeking ruling on the applicability of entry Sl.No. 3 and /or Sl.No. 66 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended in respect of Supply of Security services to IIT Madras is allowed to be withdrawn.


Shri Kurinji Selvaan V.S.,
Member, SGST


Shri Senthilvelavan. B
Member, CGST

To
M/s. Security and Intelligence Services (India),
Office No.L-57 L – Block, 27th Street, Anna Nagar East,
Chennai 600 102. **// BY RPAD/By e-mail:arvind.saini@sisindia.com//**

Copy Submitted to:

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

Copy to:

3. The Principal Commissioner of GST & Central Excise, Chennai (North),
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600 034.
4. Assistant Commissioner(ST), Poonamallee Assessment Circle,
1st Floor, Varadharajapuram, Near Nasarathpet Police Station,
Chennai 600 123.
5. Master File/ Spare – 2.

