

**GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
D/5, RAJYA KAR BHAVAN, ASHIRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING(APPEAL) NO. GUJ/GAAR/APPEAL/2025/03
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/10)

Date : 22.01.2025

Name and address of the appellant	:	M/s. Data Processing Forms P Ltd., Data House, Vejalpur Bus Stand, Vejalpur, Ahmedabad- 380 051.
GSTIN of the appellant	:	24AAACD5480E1ZZ
Jurisdiction Office	:	Center Commissionerate – Ahmedabad South Division – VIII- Vejalpur Range -II
Advance Ruling No. and Date	:	GUJ/GAAR/R/2022/43 dated 28.9.2022
Date of appeal	:	17.10.2022
Date of Personal Hearing	:	8.11.2024
Present for the appellant	:	Shri Bhupesh Maretha (Advocate), Shri Jeevan Vasave (Advocate)

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017' and the 'GGST Act, 2017') are *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. The present appeal is filed under Section 100 of the CGST Act, 2017 and the GGST Act, 2017 by M/s. Data Processing Forms P Ltd. (hereinafter referred to as 'appellant') against the Advance Ruling No. GUJ/GAAR/R/2022/43 dated 28.9.2022.



3. Briefly, the facts are enumerated below for ease of reference:

- the appellant is engaged in the manufacturing of computer forms, cut sheets, printed forms & is also engaged in trading of printers, cartridges, laptops, barcode stickers, OMR Sheet, educational booklets, etc.;
- they provide below mentioned services to Gujarat Public Service Commission (GPSC) and Gujarat Panchayat Service Selection Board (GPSSB);

Sr. No	Services provided to	Nature of services
1	GPSC	ICR/OCR/OMR scanning services, capturing and generation of soft data, linkup of soft data with pre-examination data. Result processing of examination and preparation of various reports (Post examination services)
2	GPSSB	Printing of question paper and OMR sheet having serial numbering and barcode. (The scope of work of the applicant relates to compose, typeset, print, pack, transport and supply sealed Question Papers/OMR) and ICR/OCR/OMR scanning.

- the appellant is of the view that the aforementioned services provided to GPSC and GPSSB are exempted in terms of entries 3 and 3A of chapter 99 of the Notification 12/2017-CT (R).

4. In view of the foregoing facts, the appellant had sought Advance Ruling on the following questions, viz:

- In relation to services provided to the GPSSB: whether the services provided to the Panchayat Service Board, amounts to services provided to the Panchayat, and covered under entries 3 and 3A, of the Notification and exempted from Goods and Service Tax?
- In relation to the services provided to the Gujarat Public Service Commission: Whether the services provided to the Gujarat Public Service Commission amounts to services provided to the State Government, covered under entries 3 and 3A of the Notification and exempted from Goods and Service Tax?
- Whether the services provided to the Gujarat Technological University amounts to services provided to the Government Entity or Government Authority, eligible for tax exemption under entry 3 and 3A of the notification?

#The third question was withdrawn by the appellant during the course of the proceedings before GAAR.

5. Consequent to hearing the applicant, the Gujarat Authority for Advance Ruling [GAAR], recorded the following findings viz

Gujarat Panchayat Service Selection Board (GPSSB)

- the manuscript for printing question papers/OMR sheet is supplied by GPSSB;
- the manuscript material is owned by GPSSB while the physical inputs belong to the appellant;
- that it constitutes composite supply of goods & services; that supply of printing is principal supply & would be classified under SAC 9989;

- that it would not fall within Sr. No. 3 of the notification No. 12/2017-CT (R) as the said serial number pertains to 'pure service';
- that as far as Sr. No. 3A is concerned, the appellant has not provided details of value of the goods which constitute the supply;
- that GPSSB does not fall within the ambit of local authority as defined under 2(69) of the CGST Act, 2017; that GPSSB is neither Central Government or State Government;
- that in view of the foregoing, the appellant would not fall within the ambit of Sr. No. 3A of the notification, *ibid*.

Gujarat Public Service Commission (GPSC)

- the appellants service to GPSC is pure service;
- that GPSC though a constitutional body does not qualify as Government/State Government; that the services provided are also not services by way of any activity in relation to any function entrusted to a Panchayat under Article 243G or function entrusted to Municipality under article 243 W of the Constitution of India;
- that the services supplied to GPSC is not eligible for exemption under serial no. 3 of notification, *ibid*.

6. The GAAR, vide the impugned ruling dated 18.10.2021, held as follows:

"Ruling"

- the applicant is not eligible to the exemption under entry No. 3 and 3A of notification No. 12/2017-CT (R) dated 28-6-2017 as amended for supply of service to the Gujarat Panchayat Service Selection Board.*
- the applicant services supplied to the Gujarat Public Service Commission do not fall under the functions entrusted to a Panchayat under article 243G of the Constitution, hence applicant is not eligible to the exemption under entry No. 3 and 3A of notification No. 12/2017-CT (R) dated 28-6-2017 as amended for supply of service to the Gujarat Public Service Commission."*

7. Aggrieved by the impugned Ruling dated 28.09.2022, the appellant is before us, raising the following contentions, *viz*

- the appellant has relied upon the judgements in the case of Ajitsingh¹, The Rajasthan State Electricity Board² & R C Jain³;
- the appellant has relied upon the definition of 'local authority' as defined u/s 3(31) of the General Clauses Act;
- that the GPSSB has been established in terms of section 235 of the Gujarat Panchayat Act, 1993 & that the functions of the Board are listed in sub-sections 6 & 7;
- that a conjoint reading of sections 74, 227(5), 235(6), 274, *ibid*, reveals that GPSSB is an integral part of Panchayat system & therefore a **local authority**; that it is covered under the provisions of article 243G & entitled for the benefit of sr. no. 3 & 3A of the notification, *ibid*;
- that GPSC, a constitutional body having its own identity is 100% controlled, financed & managed by the State Government & is liable to be classified as 'State Government';

¹ AIR 1967 856

² 1967 (3) SCR 377

³ AIR 1981 SC 95



- the conclusion arrived at post reliance of the GAAR on the circular dated 20.11.2017 and GST flyer is not correct in so far as the printing work enumerated in the circular is printing of question papers, OMR which require only manual or mechanical work; that the work done by the appellant is highly confidential in nature, sensitive & requires accuracy;
- that the agreement pertaining to result processing work is ignored; that the post examination result work is 'pure services';
- that the cost of paper is Rs 6.05; that the cost of paper is below 25% [ie Rs. 6.05/Rs. 40.95]; that the composite service provided is eligible for exemption under entry 3A of the exemption notification.

8. Personal hearing in the matter was held on 08.11.2024, wherein Shri Bhupesh Maretha, Advocate, Shri Jeevan Vasave, Advocate and Shri Mukesh M Shah, Director of the appellant, appeared on behalf of the appellant and reiterated the grounds of appeal.

9. We have carefully gone through and considered the appeal papers, written submissions filed by the appellant, submissions made at the time of personal hearing, the impugned ruling and other materials available on record.

10. Before dwelling on to the issue, we would like to reproduce relevant portions of circular/clarification & the exemption notification for ease of reference viz

Notification No. 12/2017-CT (Rate) dated 28.6.2017

G.S.R.....(E).-In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table

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	Nil	Nil

		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.		
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Notification No. 2/2018-CT (Rate) dated 25.01.2018

In the said notification, in the Table, -

- (a) against serial number 3, in the entry in column (3), after the words "a Governmental Authority" the words "or a Government Entity" shall be inserted;
 (b) after serial number 3 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
1	2	3	4	5
"3A	Chapter 99	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply 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"

Notification No. 16/2021 -CT (Rate) dated 18.11.2021.

In the said notification, in the TABLE, -

- (i) against serial number 3, in column (3), in the heading "Description of Services", the words "or a Governmental authority or a Government Entity" shall be omitted;
 (ii) against serial number 3A, in column (3), in the heading "Description of Services", the words "or a Governmental authority or a Government Entity" shall be omitted;

11. As is evident, in terms of the serial no. 3 of notification No. 12/2017-CT (R), as amended, pure services [excluding works contract services or other composite services involving supply of any goods], provided to a Central Government, State Government, Union territory or local authority by way of any activity in relation to any function entrusted to

a Panchayat under article 243G or to a Municipality under article 243W of the Constitution of India, is exempt. Likewise, in terms of serial no. 3A of notification *ibid*, composite supply of goods and services, in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G or to a Municipality under article 243W of the Constitution are exempt.

12. While dealing with an exemption notification, we are mindful of the fact that an exemption notification is to be strictly interpreted in terms of the judgement of the Constitution Bench of the Hon'ble SC in the case of Dilip Kumar and Company [2018(361)ELT 577 (SC)] wherein it was held as follows [relevant extracts]:

“52. To sum up, we answer the reference holding as under

(1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.

(3) The ratio in Sun Export case (supra) is not correct and all the decisions which took similar view as in Sun Export case (supra) stands overruled.”

13. Keeping the above in mind, we move on to the first question on which the appellant has sought ruling in relation to services provided to the GPSSB *ie* whether the services provided to the Panchayat Service Board, relating to Printing of question paper and OMR sheet having serial numbering and barcode, wherein the scope of work relates to compose, typeset, print, pack, transport and supply sealed Question Papers/OMR) and ICR/OCR/OMR scanning, amounts to services provided to the Panchayat, and is covered under entries 3 and 3A, of the notification and is hence, exempted from GST.

14. The findings of GAAR are already mentioned *supra* and is not being repeated for the sake of brevity.

15. Local authority is defined under section 2(69), *ibid*, as under

(69) "local authority" means-

- (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006 (41 of 2006);
- (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
- (f) a Development Board constituted under article 371 [and article 371J] of the Constitution; or
- (g) a Regional Council constituted under article 371A of the Constitution.

16. Panchayat, as defined under Article 243(d) of the Constitution of India, states as under:

(d) "Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

17. The appellant has relied on the definition of 'local authority' u/s 3(31) of the General Clauses Act, and further stated that the GPSSB has been established in terms of section 235 of the Gujarat Panchayat Act, 1993; that a conjoint reading of sections 74, 227(5), 235(6 & 7), 274, *ibid*, reveals that GPSSB is an integral part of Panchayat system & therefore a 'local authority' and hence is eligible for the benefit of sr. no. 3 & 3A of the notification, *ibid*.\

18. Since, the services rendered to GPSSB are composite services, what needs to be examined is whether the appellant is eligible for Sr. No. 3A of the notification, *ibid*. For being eligible for Sr. No. 3A of the notification, the appellant has to satisfy the following viz

- that there has to be a composite supply of goods & services;
- that the value of supply of goods constitutes not more than 25% of the value of the composite supply;
- that the services are provided to the Central Government, State Government, Union territory or local authority;
 - by way of any activity in relation to any function entrusted to a
 - Panchayat under article 243G
 - Municipality under article 243W of the Constitution of India.

19. Now, GPSSB is neither a Central/State Government nor a Union territory. Further as far as *Local authority* is concerned, the term having been defined under the CGST Act, there appears to be no need to borrow it from elsewhere. On going through each of the clauses from 'a' to 'g' of the

definition of local authority, reproduced *supra*, we find that the GPSSB does not fall within the ambit of either of the sub-clauses. Thus, GPSSB is neither a Central Government, State Government, Union Territory or a local authority. The primary condition of the composite services having been provided to a Central Government, State Government, Union territory or local authority, not having been satisfied, the appellant is not eligible for the benefit of the notification. We thus concur with the finding of the GAAR. Even otherwise, nothing is produced by the appellant, compelling us to interfere with the findings of the impugned ruling.

20. Moving on to the second question on which ruling is sought *viz*, whether the services provided to the Gujarat Public Service Commission [GPSC] relating to ICR/OCR/OMR scanning services, capturing and generation of soft data, linkup of soft data with pre-examination data, result processing of examination and preparation of various reports, post examination services amounts to services provided to the State Government, covered under entries 3 and 3A of the Notification and exempted from GST?

21. The findings of GAAR on this question, is already mentioned *supra* and is not being repeated for the sake of brevity.

22. The appellant's contention in this regard is that that GPSC, a constitutional body having its own identity is 100% controlled, financed & managed by the State Government & hence is liable to be classified as '*State Government*'; that the work done by the appellant is highly confidential in nature, sensitive & requires accuracy; that the agreement pertaining to result processing work is ignored; that the post examination result work is 'pure services'.

23. The term '*State Government*' has not been defined under the CGST Act, 2017. However, under the General Clauses Act, 1897, the term stands defined, *viz*

(60) "*State Government*", –

(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the

corresponding Province, in a Part B State, the authority or person authorised at the relevant date to exercise executive government in the corresponding Acceding State, and in a Part C State, the Central Government;

(b) as respects anything done [after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956], shall mean, in a Part A State, the Governor, in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;

[(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union territory, the Central Government;

and shall, in relation to functions entrusted under article 258A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that article/;

After having gone through the definition supra, we do not agree with the contention of the appellant that GPSC, a constitutional body, managed, financed by the State Government, which has 100% control, is liable to be classified as the State Government. We, therefore concur with the finding of the GAAR, that the appellant is not eligible for the benefit of the exemption notification, *ibid*, in respect of the services provided to GPSC.

24. The Appellant has relied upon the judgements in the case of *Ajitsingh, The Rajasthan State Electricity Board & R C Jain, ibid*. On going through the judgements, we observe as under:

[a] *Ajitsingh vs State of Punjab* [AIR 1967 856] wherein the appeal by special leave was filed before the Hon'ble SC against the judgment of the Punjab High Court dismissing a petition filed by the appellant under Article 226 of the Constitution, praying that the scheme of consolidation of village Ropalon, Tahsil Samrola, District Ludhiana, be quashed.

[b] *The Rajasthan State Electricity Board* [1967 (3) SCR 377]. The Electricity Board of Rajasthan, filed this appeal before the Hon'ble SC wherein before the Hon'ble Rajasthan HC, one of the ground was that the Board could not be held to be "State" as defined in Article 12 of the Constitution of India. The Hon'ble Supreme Court held that the Board was clearly an authority to which the provisions of Part III of the Constitution were applicable.


[c] *R C Jain* [AIR 1981 SC 951]. The question for consideration in this matter was whether Delhi Development Authority is a 'local Authority'. The expression 'Local Authority' not having been defined in the payment of Bonus Act, recourse was taken to General Clauses Act, to ascertain the meaning of the expression. The Hon'ble SC finally held that the Delhi Development Authority is a Local Authority and therefore, the provision of the Payment of Bonus Act are not attracted.

As is evident, the facts being totally different, the reliance to this case is not tenable. Further, the term local authority having been defined under the CGSI

Act, 2017, as is already mentioned *supra*, there is no need to borrow the meaning of the term from another Act.

25. In view of the above findings, we reject the appeal filed by appellant M/s. Data Processing Forms P Ltd., against the Advance Ruling No., GUJ/GAAR/R/2022/43 dated 28.9.2022 passed by the Gujarat Authority for Advance Ruling.


(Rajeev Topno)
Member (SGST)


(B V Siva Naga Kumari)
Member (CGST)

Place: Ahmedabad
Date: 22-01-2025

