

THE GOA APPELLATE AUTHORITY FOR ADVANCE RULING FOR

GOODS AND SERVICES TAX

Office of the Commissioner of Commercial Taxes, Goa
IPHB Complex, Near O/o Chief Electoral Officer, Altinho, Panjim, Goa - 403001
Tel: 0832-2422757

[Constituted under Section 99 of the Central Goods and Services Tax Act, 2017/Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017)]

BEFORE THE BENCH OF

Member: Shri. Sarpreet Singh Gill, the Commissioner, State Tax, Goa
Member: Shri. Mayank Kumar, the Chief Commissioner, CGST & Customs, Pune Zone.

Order No. GOA/GAAAR/02 of 2025-26 / 2209. Dated: 18/08/2025

Name of the Appellant	Indian Oil-Adani Gas Private Limited
Address	2 nd Floor, Lounge 1, Crossroads Elite-Court, Eastern Express Bypass, Margao, South-Goa 403602
GSTIN	30AADCI3938D1Z1
Advance Ruling Order under Reference	GOA/GAAR/01 of 2024-25 dated 30.01.2025
Question raised under Section 97(2) of the CGST/GGST Act, 2017 before the Advance Ruling Authority	Whether GST on permission charges, reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD authorities is to be paid under reverse charge by IOAGPL in terms of Serial No. 5 of Notification No. 13/2017- Central Tax (Rate) dated 28-06-2017 ?
Reason of Present Appeal/Reference	The appellant filed appeal primarily contending that the Advance Ruling Authority had not considered all their submissions and claimed that the activities are neither supply of goods nor supply of services under Notification No. 14/2017-CT (Rate) dated 28.06.2017 as amended inasmuch as they claimed that the activities are sovereign function of PWD Goa being a local authority.
Date of Hearing	10.07.2025
Person/s Present for Hearing	Shri C.P. Rao from M/s. Cathexis Associates LLP as authorized representative

RECEIVED
20/8/2025

PROCEEDINGS

(Under Section 101 of the Central Goods and Services Tax Act, 2017 or the Goa Goods and Services Tax Act, 2017)

1. The present appeal has been filed under Section 101 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the '**SGST Act**' and '**CGST Act**') by the appellant registered taxable person **M/s. Indian Oil-Adani Gas Private Limited (GSTIN 30AADC13938D1Z1)**, 2nd Floor, Lounge 1, Crossroads Elite-Court, Eastern Express Bypass, Margao, South-Goa 403602 (hereinafter referred to as "the appellant" or "the taxpayer" or "IOAGPL") against Order No. GOA/GAAR/01 of 2024-25 dated 30.01.2025, passed by Goa Advance Ruling Authority.

BRIEF FACTS

- 2.1 The appellant is a registered taxable person and holds GSTIN **30AADC13938D1Z1**. The Applicant is engaged in the business of developing City Gas Distribution (CGD) infrastructure to supply Piped Natural Gas (PNG) and Compressed Natural Gas (CNG) to household, commercial and industrial sectors.
- 2.2 The applicant taxpayer sought through the advance ruling for the purpose of determination of the following questions:

"Whether GST on permission charges, reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD authorities is to be paid under reverse charge by IOAGPL in terms of Serial No. 5 of Notification No. 13/2017- Central Tax (Rate) dated 28-06-2017 ?"

3. **Appellant's Submission before Advance Ruling Authority as per Order:** For sake of clarity, the submissions filed by the appellant/the applicant before the Advance Ruling Authority is summarised hereunder:
- (i) Section 9(3) of the CGST Act 2017, the government may by way of notification specifies the categories of supply of goods and services on which tax shall be paid on reverse charge basis by the recipient of such goods and services. In this regard, the government has issued the Notification No. 13/2017 Central Tax (Rate) dated 28 June 2017, to notify the categories of services on which tax will be payable under reverse charge mechanism under CGST Act. In terms of the provisions of Section 9(3) of the CGST Act 2017 read with serial no. 5 of the Notification No.13/2017-Central Tax (Rate) dated 28th June 2017, services supplied by the Central Government, State Government, Union territory or local authority to a business entity are liable for GST payment under reverse charge;
- (ii) In light of the above notification, the services supplied by the Central Government, State Government, Union territory or local authority to the business entity located in the taxable territory are liable for payment of GST under reverse charge mechanism;
- (iii) As per section 2(53) of the CGST Act, 2017 "Government" has been defined to mean the Central Government. Further, Goa Goods and Services Tax Act, 2017 defines 'Government' to mean the Government of Goa;
- (iv) Public Works department is responsible for the construction and maintenance of public infrastructure such as roads, bridges, buildings, and water supply systems. The PWD department operates under different government bodies in India i.e. under Central and State government;
- (v) Further, at State level, different State Governments have established

Public Works Department focusing on infrastructure projects within the State, which may include state highways, district roads, government offices, and other public buildings;

(vi) Following are the programmes which are under the State Public Works Department:

(1) Building Works : Functional and Non-functional

(2) **Roads and Bridges.**

(i) State Programmes.

(ii) Centrally Sponsored programmes.

(iii) National Highways.

(iv) Western Ghat Development programme.

(3) Water Supply and Sanitation

(i) State Programmes.

(ii) Centrally Sponsored programmes.

(4) Electrical and Mechanical

(vii) The functions of the Goa Public Works Department are also appearing over the official website of Government of Goa;

(viii) The State government departments work under the control and direction of Governor and the officers subordinate to Governor of Goa. Similarly, PWD being the extension of State government as its departments are managed and controlled by the Governor and the officers subordinate to Governor of Goa;

(ix) CPWD qualifies as 'Central Government' where the administration and functioning is headed by Director General, who is also the Principal Technical Advisor to the Government of India, the Public Works Department established by Government of Goa for developmental activities like planning, design, construction, operation and maintenance of all types of construction works in the State of Goa would qualify in the definition of 'State Government' under GST;

(x) **Person liable to pay tax on services provided by State**

Government: In light of Entry number 5 of Notification No. 13/2017 Central Tax (Rate) dated 28 June 2017 (supra), the services supplied by the Central Government, State Government, Union territory or local authority to the business entity located in the taxable territory are liable for payment of GST under reverse charge mechanism. In the instant case, as the PWD authorities are one of the departments of State Government and qualifies in the definition of 'State Government' under GST, the above entry would be applicable;

(xi) Therefore, GST on services provided by PWD authorities to IOAGPL, who is located in the taxable territory, will be liable to be paid by the recipient of services i.e. IOAGPL under reverse charge mechanism;

(xii) The appellant/the applicant on the basis of their submissions to the Advance Ruling Authority (AAR) prayed to AAR that:

“we are of the view that GST shall be payable by the applicant company under RCM in terms of serial no 5 of the Notification No. 13/2017 Central Tax (Rate) dated 28 June 2017.”

4. The Goa Advance Ruling Authority vide the impugned Order dated 30.01.2025 have passed following order:

“GST on permission charges, reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD authorities is to be paid under reverse charge by the applicant i.e. IOAGPL in terms of Serial No. 5 of Notification No. 13/2017- Central Tax (Rate) dated 28-06-2017.”

5.1 Being aggrieved, the applicant preferred appeal before AAAR under Section 100(1) of the CGST Act, 2017, on following grounds:

- (i) the impugned order is not valid as the same was issued after 90 days from the date of receipt in contravention of Section 98(6) of the CGST Act, 2017;
- (ii) the impugned order is unreasoned & violative of principles of natural justice inasmuch as it had not considered all the submissions of the taxpayer;
- (iii) As per Section 7(2)(b) of the CGST Act, 2017, activities or transactions undertaken by the Central / State Government or any Local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council shall be treated neither as a supply of Goods nor a supply of service;
- (iv) Entry No.4 of the Twelfth Schedule of the Constitution entrusts the municipalities i.e. the local bodies/authorities with construction of roads and bridges within their respective jurisdiction, which includes maintenance, repairs, restoration etc. of the roads as well. In the instant case, the activities, though entrusted to local authorities, has been undertaken by the State Government itself and In the instant case, the road/s is being constructed, repaired and restored by the PWD. The function of construction, repairs, maintenance of the roads is undertaken by the PWD department of the State Government itself. Therefore also it is not to be treated as taxable supply;
- (v) On the basis of Notification No.14/2017-CT(Rate) dated 28.06.2017 read with Notification No.16/2018-CT(Rate) dated 26.07.2018, they claim that services by way of any activity in relation to roads and bridges are neither supply of goods nor services as it is a function covered under Article 243G and 243W of the Constitution of India and have accordingly claimed that activity of collecting restoration charges for restoration of roads is an activity carried out by Governments, Local Authorities and Government Authorities as entrusted to it vide Article 243G and Article 243W of the Constitution of India and further claimed that the said activity carried out by Central Government, State Government or local Authority would not be treated as supply of goods or services and outside the purview of "supply" as per GST Act, 2017;
- (vi) the restoration service is in relation to roads. The said service is by way of activity in relation to function entrusted to Panchayat under Article 243G and to Municipality under Article 243W of the Constitution of India. The said services by way of activity in relation to function entrusted to Panchayat under Article 243G and to Municipality under Article 243W of the Constitution of India shall be treated neither as a supply of goods nor a supply of service as per Notification No. 14/2017-CT(Rate) as amended by Notification No.16/2018-CT(Rate) w.e.f. 01.07.2017 and 26.07.2018 respectively. Accordingly, they have claimed that no GST was payable on the said services of restoration supplied by the Government / Local Authority;
- (vii) Quoting Section 7, the appellant have claimed that transaction is outside the scope of "supply" inasmuch as the element of service is missing as Goa PWD is statutorily required to maintain roads which can be used by public at large, entrusted under Article 243W of the Constitution of India and relied some judgements and accordingly claimed that the transaction is outside the ambit of GST; that "consideration" is missing as the reinstatement charges as prescribed by law has no relationship with actual restoration of the road or the cost incurred by the Goa PWD department and hence the same cannot be equated to consideration and relied upon

some judgements; that activity or transaction is not “in course of further-ance of business” as the activity performed by Goa PWD is part of the statutory or sovereign function to be performed by municipalities or local authorities as prescribed under Article 243W of the Constitution of India.

5.2 Further, the appellant on 10.07.2025 mailed summary of their submission wherein apart from reiterating above submissions, they also made following points:

(i) These GST notifications, laying down that the services provided by the Government and its agencies are not service and not liable to tax is a continuation of the assessment practice guided by CBIC Circular No. 89 / 7 /2006- Service Tax dated 18th December 2006 and Circular No. 192/02/2016- Service Tax dated 23rd April 2016.

The charges viz. permission charges, road-cutting charges, restoration charges and ground rent charges are charges in the course of performing statutory functions of the state and will not qualify as service and hence would not be covered under RCM Notification No.13/2017- Central Tax (Rate)

(ii) An analysis of the activities of the Goa PWD in the context of a plain reading of Section 7, would clearly show that the elements of ‘service’, ‘consideration’ are missing. As the statutory responsibility of the Goa PWD is to maintain roads, to say that their permission for road cutting would be a “service” is absurd. The restoration of the road is in pursuance of the statutory prescription and cannot be treated as a service for the appellant. As per Section 54(1) of the Goa Highways Act, 1974 (earlier Goa, Daman and Diu Highways Act), no person shall wilfully cause or allow any animal or vehicle to cause damage to any highway. Highway is defined in Section 2(i) and declaration of various categories of highways is as per Section 3 of the said Act. Section 54(2) thereof prescribes that the Highway Authority (PWD) shall repair and recover those expenses from the person causing the damage under Section 25 of the Act by various methods prescribed therein including as arrears of land revenue. The permissions to dig the roads and the recovery of the road cutting and restoration charges are formalised in public interest presumably in terms of the above sections of the Goa Highways Act. Consistent with this law, the PWD GOA has put the condition as per Circular No. 3-3-05/SSW-PWD/Vol 1/2020-21/135 issued by the Government of GOA through Principal Chief Engineer & Ex-Officio Addl. Secretary to the Government, that the road that the appellant will dig in GOA will have to pay the expenses for the restoration of the same. Therefore, payment is a statutory prescription, in exercise of the sovereign powers of the state and will not qualify as service and cannot be charged to GST, as laid down in many a case law. GHMC Vs CCT Hyderabad GST (2024) 22 CENTAX 540 (Tri. Hyd), Rosmerta Technologies Vs. Commissioner LTU 2023 8 CENTAX 183 (Tri. Chan), EPFO Vs CCE (2024) 20 CENTAX 75 (Tri. Del), Maharashtra Industrial Development Corporation vs. Commr. Of C.Ex., Nashik 2018 (9) G.S.T.L. 372 (Bom.), Greater Noida Industrial Development Authority vs. Commr. Of Cus., C.Ex., 2015 (40) S.T.R. 95 (All.), Karnataka Industrial Areas Development Board vs. Commr. Of Central Excise, Bangalore Wing 2020 (40) G.S.T.L. 33(Tri. - Bang.), Uttarakhand Peyjal Sansadhan Vikas Evam Nirman Nigam (2024) 19 Centax 388 (A.A.R. - GST - UK) and Bureau of Energy Efficiency vs. Commr. Of Service Tax, Delhi 2019 (22) G.S.T.L. 25 (Tri. -Del.), are cited in support. These case laws are squarely applicable to the facts of the case.

Consistent with the absence of service, the charges paid cannot be treated

as consideration and hence would not be covered under RCM Notification No.13/2017- Central Tax (Rate);

- (iii) The charges paid cannot be treated as a “consideration” for any “service” rendered, as they are prescribed under law and compulsive in nature. There is no contract between the appellant and the Goa PWD. Secondly, the charges for road cutting and restoration are compensatory in nature, rather than as a consideration for any service. The restoration charges have no nexus with the actual charges incurred by the Goa PWD for restoration and therefore cannot be treated as a consideration. At any rate the restoration of the dug-up road, cannot be considered as a service to the appellant and the restoration charges therefore cannot be considered as a consideration for any service rendered to the appellant. A close look at the definition of “consideration” as defined in Section 2(31) of the GST Acts, would show that it should have a direct nexus with a voluntary act of supply. On the other hand, the charges to be paid are mandatory for the act of causing damage to the road. In support, the cases of NHPC Vs. PC, CGST (2024) 23 CENTAX 233 (H.P.), Bhayana Builders Vs. CST, Delhi 2013 32 STR (Tri. LB), Linde Engineering Vs. CCE&ST (2025) 96 CENTAX 191 (Tri-Ahmd.) and CST Vs. Repco Home Finance STA- 511 of 2011 LB- 2018 are cited;
- (iv) The activities of the state authorities are not “in course or in furtherance of business” and hence would not be covered under RCM Notification No.13/2017- Central Tax (Rate). The activities of the Goa PWD are as per the duties bestowed on them as per the Constitution and not commercial in nature. The definition of “business” as in 2(17) does not take within its ambit the statutory and constitutional functions, which are not commercial in nature. In support, CERC Vs. ADG, GSTI (2025) 26 CENTAX 239 (Del) is cited;
- (v) Without prejudice to the earlier submissions, Ground Rent Charges being in the nature of renting of immovable property are not covered by RCM Notification number 13/2017-Central Tax (Rate) dated 28th June 2017;
- (vi) Without prejudice to the earlier arguments that these charges are nothing but statutory charges and for activities which are neither a supply of goods or services and not liable for GST, it is submitted that the ground rent charges are liable to be paid on forward charge basis, and not under reverse charge mechanism by the appellant. It is seen from the Serial No.5 of the Table of the Notification No. 13/2017-Rate that in respect of services supplied by a Central Government, State Government or a Local Authority to a business entity (Column No.2), when the supplier is the Central Government, State Government or a Local Authority (Column No.3), the whole of central tax shall be paid on reverse charge basis by any business entity located in taxable territory (Column No.4). There are two exceptions given to the services which are mentioned in Column No. 2 of the Notification. At (1) is the renting of immovable property. Ground Rent Charges are nothing but rent of the ground (immovable property) for housing the pipes through which gas is supplied. It is seen from the Ground Rent Charge Calculation in the letter No.PWD/WDVI/ASW-F.45/540/2023-24 dated 03/10/2023 addressed to IOAGPL that the ground rent is being charged for housing 3200 pipes of pipeline of 63mm dia for a period of 10 years. Since the ground rent charges as evident from the calculation are nothing but renting of the ground on which the pipes rest, it is nothing but renting of immovable property. Therefore, these ground rent charges are clearly excluded from the RCM mechanism. In other words, the tax on the Ground Rent Charges is required to be provided by the service provider Viz. the State Government, and not IOAGPL.
- (vii) The Hon'ble CESTAT, Chennai has observed under similar circumstances

in the case of ONGC Vs. CCE&ST, Puducherry reported in **(2024) 19 CEN TAX 486 (Tri. Mad)** that the liability will be on the Government in case of Rent of Immovable Property. In the facts of that case also the subject of analysis below was Rule 2(1)(d) of Service Tax Rules (which was similar to Section 9(3) of GST Acts) read with the Notification 30/2012 dated 30/06/2012, which prescribed RCM like Notification 13/2017- Central Tax (Rate);

PERSONAL HEARING

6. Shri C.P. Rao, authorized representative of the appellant appeared on behalf of the appellant for personal hearing held on 10.07.2025 before this Authority and reiterated the points deliberated in written submissions. Further vide mail dated 19.07.2025, they have mailed a written note on their submission during personal hearing held on 10.07.2025. The same is reproduced hereunder:

- (i) It was stated specifically after tracing the history of the appeal that the following four charges are collected from the Appellant Viz. Permission Charges, Road Cutting Charges, Reinstatement Charges and Ground Rent Charges. These charges are collected from the Appellant as per the procedure laid down as per the 3-3-05/SSW-PWD/Vol.I/2020-21/135 dated 23/06/2020 for issuing the NOC for laying cables/pipelines etc. In the said Circular at Page 8 it was specifically stated that the estimates would be inclusive of all taxes as applicable in the detailed estimates. However, there was some confusion was prevailing in the PWD Authorities in the facts of this case whether the taxes were payable or not. They were not issuing the NOC when the Appellant was paying the charges made as per the Demand Note net of the GST as the obligation to pay is on them and as the detailed estimates are inclusive of taxes as applicable which were borne by the Appellant (not by the Government). Resultantly, the Appellants were on the one hand paying GST under reverse charge and further paying the charges in the Demand Note which was inclusive of GST. This was an additional burden on them. Hence the Advance Ruling was sought as advised when the Appellant approached the GST Authorities for a clarification in the matter;
- (ii) It was submitted that the obligation is shifted to the Appellants as per Sl. No. 5 of the Notification 13/2007-CT (Rate) dated 28/06/2017 issued by the CGST and SGST Authorities in terms of Section 9(3) of the respective GST Acts, by way of Reverse Charge. Therefore, it is first important to determine whether the activities for which Demand Notes are issued for the four charges, detailed above are services to the Appellant and if so whether they are taxable services. Only if they are services or taxable services, then the obligation to pay the GST would flow to them under Reverse Charge;
- (iii) The four authorities which are concerned with roads, buildings, bridges etc under the Indian Constitution are:
- A) The Panchayat Authorities who lay the Panchayat Roads, as per Article 243G read with Entry No. 13 of the Eleventh Schedule of the Indian Constitution;
 - B) The Municipal Authorities who lay the Municipal Roads, as per Article 243W read with Entry No. 4 of the Twelfth Schedule of the Indian Constitution;
 - C) The State Government as per Entry No.13 of the List II (State List) of the Seventh Schedule of the Indian Constitution and;
 - D) The Central Government as per Entry No. 23 of the List I (Central List) of the Seventh Schedule of the Indian Constitution.

Of these four authorities, with regard to the services provided by the Authorities at A above, vide Notification 14/2007-Rate both the Central Government and the Goa Government, on recommendation of the GST Council, under Section 7(2) of their respective GST Acts, notified that the following activities or transactions undertaken by the Central Government, State Government or any local authority in which they are engaged as public authority, shall be treated neither as a supply of service nor as a supply of goods i.e. the services by way of any activity related to a function entrusted to a Panchayat under Article 243G of the Constitution. This notification was amended by Notification 16/2008-Rate by both the Central and Goa Governments by adding the following: (i) Union Territory after the word State Government and (ii) or to the Municipality under Article 243W of the Constitution after the word constitution. The effect of this amendment is that the activities or transactions of Union Territory Government in which they are engaged as public authority along with the Central, State or Local Authorities in so far as any activity related to a function entrusted to a Municipality under Article 243W of the Constitution at B above should be treated neither as a supply of service nor as a supply of goods. Therefore, whatever activities done by Goa PWD in relation to Municipal or Panchayat Roads are concerned are neither a supply of service nor a supply of goods. Consequently, there is no obligation flows to the Appellant under Reverse Charge for payment of any GST.

(iv)

No person can wilfully damage the roads, as per Section 54(1) of the Goa Highways Act. If anyone does so, under Section 54(2) of the said Act the Government repairs the same and recovers the amount from the person damaging the road. Similar provisions exist under Section 36(2) of the Control of Nation High Way (Land and Traffic) Act, 2002 with regard to National Highways. Further, under Section 3(2) of the Prevention of Damage to Public Property Act, 1984 any damage to roads attracts 5 years Rigorous Imprisonment. In other words, for any person who is damaging the roads there are both civil and criminal liabilities. Therefore, the Goa Government has prescribed the procedure as mentioned at Para 2 above under Circular dated 23/06/2020 in terms of these laws;

(v)

Therefore, the activities undertaken by the Goa PWD in pursuance to this circular are activities which are statutory in nature and conducted by them on property owned by the Government and such statutory activities are not to be treated as service. Under the service tax regime, the CBIC vide Circular no. 89/7/2006 dated 18/12/2006 ruled that the activities performed by sovereign authorities is in exercise of their obligations under the statute; the fees collected by them are in the nature of compulsory levy for performance of those obligations; such an activity is in public interest and; they are not service rendered to any particular individual and is not taxable service. The Hon'ble Mumbai High Court in the case of MIDC Vs. CCE Nashik reported in 2018(9) GSTL 372(Bom) held that it was the statutory obligation of MIDC to provide roads and other amenities and therefore the fees collected by them cannot be considered as service. In the absence any change in the law the view taken by the CBIC (Central Government) would still hold good even under the GST regime;

(vi)

It was submitted that the original authority erred in concluding that the service provided by the PWD is forbearance/tolerating the damage caused to the public property. There was no contract between the Appellant and PWD for such a tolerance or forbearance nor the fees were fixed in consultation with the Appellant. The CBIC vide Circular No.178/10/2022 (Annexure 4 of the Appeal), at Para 7 thereof stated that:

An agreement to do an act or abstain from doing an act or to tolerate an act or a situation cannot be imagined or presumed to exist just because

there is a flow of money from one party to another. Unless there is an express or implied promise by the recipient of money to agree to do or abstain from doing something in return for the money paid to him, it cannot be assumed that such payment was for doing an act or for refraining from an act or for tolerating an act or situation.

- (vii) There was no explicit or implied promise by PWD that they will tolerate the damage to the public property. It was a statutory obligation of Goa PWD to collect the fees in terms of Section 54(2) of the Goa Highways Act for damaging the road (and not for tolerating such a damage) as pointed out earlier;
- (viii) The restoration of the road was not a service to the Appellants but to the public at large and therefore fees collected for restoration cannot be treated to be a consideration for providing service to them;
- (ix) As far as the Ground Rent Charges are concerned, these being specifically a service of rent of immovable property to a business entity there is an exclusion from reverse charge payable under Serial No.5 of the Notification no 13/2017 dated 28th June 2017. This exclusion stands even as on today despite several amendments to the said notification. Being a specific entry this is more appropriately applicable to the Appellant.

DISCUSSION AND FINDINGS

7. We have carefully gone through the impugned Advance Ruling Order dated 30.01.2025, grounds of appeal filed by the appellant, oral and written submissions made by the authorized representative during personal hearing held on 10.07.2025 and other documents/records, as submitted before us during the proceedings.

8. The present appeal before us is against the Order No. GOA/GAAR/01 of 2024-25 dated 30.01.2025 passed by the Goa Authority For Advance Ruling (Goa AAR) in respect of Advance Ruling filed by M/s. Indian Oil-Adani Gas Private Limited (hereinafter referred to as “the applicant” or “the appellant” or “the taxpayer”). **The appellant had approached to the Goa Advance Ruling Authority with the following question:**

“Whether GST on permission charges, reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD authorities is to be paid under reverse charge by IOAGPL in terms of Serial No. 5 of Notification No. 13/2017- Central Tax (Rate) dated 28-06-2017 ?”

The Advance Ruling Authority in the impugned order dated 30.01.2025 had answered to the above question that:

“GST on permission charges, Reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD Authorities is to be paid under RCM basis by the taxpayer (IOAGPL) in terms of Sl. No. 5 of Notification No. 13/2017-CT (Rate) dated 28-06-2017”

9. Being aggrieved, the taxpayer preferred appeal before us under Section 100(1) of the CGST Act, 2017 mainly on the grounds that by virtue of Notification No.14/2017-CT(Rate) dated 28.06.2017 read with Notification No.16/2018-CT(Rate) dated 26.07.2018, services by way of any activity in relation to roads are neither supply of goods nor services as it is a function covered under Article 243G and 243W of the Constitution of India and they have accordingly claimed that activity of collecting various charges for restoration of roads is an activity carried out by Governments, Local Authorities and Government Authorities as entrusted to it vide Article 243G and Article 243W of the Constitution of India. They have also claimed that the charges paid cannot be treated as a “consideration” for any “service” rendered, as they are prescribed under law and compulsive in nature and accordingly contended that the restoration of the road was not a service to the Appellants but to the public at large and therefore fees collected for restoration

cannot be treated to be a consideration for providing service to them. For the Ground Rent Charges, they have claimed that these being specifically a service of rent of immovable property to a business entity there is an exclusion from reverse charge payable under Serial No.5 of the Notification no 13/2017 dated 28th June 2017. The appellant have also taken plea that the order is not valid as the same was issued after 90 days' time provided under Section 98(6) of the CGST Act, 2017.

10.1 As regards appellant's contention or plea that AAR order dated 30.01.2025 is issued after 90 days' time limit provided under Section 98(6) of the CGST Act, 2017, it is observed that

Section 98(6) of the CGST Act, 2017 mentions:

“The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.”

This provision mentions a time frame for pronouncement of the ruling but **does not prescribe any consequence** (such as invalidation or nullity) for failure to meet the time limit. There is no express provision under the CGST Act that declares an advance ruling to be null or void if not pronounced within 90 days. Hence, the nature of Section 98(6) is directory in nature and it is not mandatory provision.

10.2 Here, it is worth to understand the difference between **directory vs mandatory provisions**. It is a settled legal position that merely usage of words “shall” do not make provisions mandatory. Its context, legislative intent and consequences of failure are major factors or elements for any provision to be a mandatory provision. A **mandatory provision** is one where non-compliance leads to invalidity. A **directory provision**, on the other hand, sets out a procedural requirement, but non-compliance does not necessarily invalidate the action. Here, the delay in order of AAR has not caused any prejudice or violated any principle of natural justice.

10.3 Further, the decision in case of *Oudh Sugar Mills Ltd. v. Union of India (1978) 2 ELT 172 (SC)* as relied by the appellant is not applicable in the instant case as the matter pertains to advance ruling sought by the taxpayer and the same was given by Goa AAR after personal hearing to the taxpayer. The said AAR order is an appealable under Section 100 of the CGST Act, 2017. Hence, it is found that there is no force or material behind the appellant plea that Goa AAR order dated 30.01.2025 passed beyond 90 days from date of receipt is void or invalid. Accordingly, this plea is rejected.

11.1 Coming to the appellant's contention that impugned AAR order dated 30.01.2025 is unreasoned order as it has not considered the entire submission of the applicant, it is observed that that appellant had undisputedly posed the following question before the Advance Ruling Authority with respect to their transaction/activities with PWD Goa:

“Whether GST on permission charges, reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD authorities is to be paid under reverse charge by IOAGPL in terms of Serial No. 5 of Notification No. 13/2017- Central Tax (Rate) dated 28-06-2017 ?”

The Advance Ruling Authority after examining the noticee's application containing details of transactions/activities with PWD Goa had answered in affirmative and held that:

“GST on permission charges, Reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD Authorities is to be paid under RCM basis by the taxpayer (IOAGPL) in terms of Sl. No. 5 of Notification No. 13/2017-CT (Rate) dated 28-06-2017”

11.2 Here, we observe that Sl. No. 5 of Notification No. 13/2017-CT dated 28.06.2017 clearly states that GST on the services that supplied by the Central Government, State Government, Union territory or local authority to a business entity is payable by the service recipient i.e. the business entity. In the instant

case, PWD Goa, the service provider falls under category of State Government or Local Authority and the appellant (IOAGPL), the service receiver is a business entity. Hence, the appellant are rightly liable to pay GST under RCM, in the instant matter, in terms of Sl. No. 5 of Notification No. 13/2017-CT dated 28.06.2017.

11.3 Further, we also observe that no advance ruling was sought by the applicant/the appellant from the Advance Ruling Authority regarding taxability of the services under reference. It is settled law that no new issues can be raised at the stage of appellate authority. Therefore, we restrain ourselves to go into the issue of taxability.

11.4 Accordingly, we find no legal infirmity with the impugned order dated 30.01.2025 of the Goa Advance Ruling Authority with respect to activities/transaction under question inasmuch as the ruling sought by the appellant before the Goa Advance Ruling Authority was whether they are liable to pay GST under RCM in terms of Sl. No. 5 of Notification No. 13/2017-CT dated 28.06.2017.

12. In view of the foregoing discussion and findings, we find that GST on permission charges, Reinstatement charges, road cutting charges and ground rent charges levied by Goa PWD Authorities is to be paid under RCM basis by the taxpayer (IOAGPL) in terms of Sl. No. 5 of Notification No. 13/2017-CT (Rate) dated 28.06.2017. Accordingly, we reject the present appeal filed by the appellant and uphold the order or ruling dated 30.10.2025 passed by Goa Advance Ruling Authority.

13. In view of the above, the following order is passed:

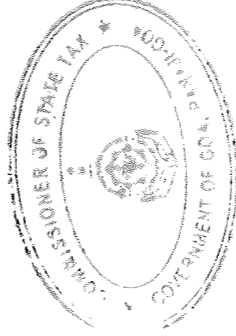
ORDER

(Order under Section 101 (1) of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017)

The appeal is dismissed and the impugned order dated 30.01.2025 of the Goa Advance Ruling Authority is upheld.



(Mayank Kumar)
Member



(S. S. Gill, IAS)
Member

Dated: - 18/08/2025

Place: - Panaji, Goa

To

M/s. Indian Oil-Adani Gas Private Limited,
2nd Floor, Lounge 1, Crossroads Elite-Court,
Eastern Express Bypass, Margao, South-Goa 403602

GSTIN: 30AADCI3938D1Z1

Copy to:

1. The Addl. Commissioner of State GST (HQ), Panaji - Goa.
2. The Joint Commissioner of Central GST, Panaji - Goa.
3. The Dy. Commissioner of Central Tax, GST Bhawan, Patto, Panaji, Goa.
4. The Dy. Commissioner of State Tax, ~~Margao~~ ^{Margao} Ward, ~~Margao~~ ^{Margao}-Goa.
5. The State Tax Officer, ~~Margao~~ ^{Margao} Ward, ~~Margao~~ ^{Margao}-Goa.
6. Office file.
7. Guard file.

