

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
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:

Shri. R.Gopalsamy, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. N.Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.
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Advance Ruling No. 10/ARA/2023 Dated: 06.06.2023

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.

2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.

5. 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.

GSTIN Number, if any / User id		332200000758ART
Legal Name of Applicant		Polaris Foundation
Registered Address / Address provided while obtaining user id		No.244, Carex Centre, Anna Salai, Chennai – 600 006.
Details of Application		GST ARA – 01 Application Sl.No.33/2022 dated 14.06.2022
Jurisdictional Officer		Centre : Chennai North Commissionerate
Concerned Officer		State : Annasalai Assessment Circle,
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service provider / Service Recipient
B	Description (in brief)	Applicant is a Charitable Trust set up with the objective of imparting education - academic, vocational and professional – in all spheres of life.
Issue/s on which advance ruling required		<p>1. Applicability of a notification issued under the provisions of the Act.</p> <p>2. Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term.</p>
Question(s) on which advance ruling is required		<p>1. Whether the activities undertaken by the applicant in partnership with UNICEF amounts to supply under GST?</p> <p>2. Whether the said supply is exempted under GST?</p>

1. The applicant 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 is a Charitable Trust registered under Section 12AA of the Income Tax Act, 1961 and the object of the Trust, *inter alia*, is to give medical relief to the poor and the needy, to establish run, manage, support educational institutions and training centers, hostels, stadiums and other centers, research institutions, orphanages, carry out other activities of general public utility and relief activity for poor and the needy, participate in the charitable activities of other Trusts or Organizations having any objects of the Trust and to do all such things as may be necessary for the attainment of the above objectives.

2.2 The applicant has entered into an MOU with UNICEF for the implementation of the UNICEF-funded programme relating to 'Strengthening COVID-19 and Seasonal Hazard Preparedness and Response at Gram Panchayat level'. The applicant is the Implementing Partner (IP) undertaking the implementation and monitoring team and the applicant will consult UNICEF team for knowledge management, capacity and advocacy aspects.

2.3 The applicant undertakes the activities of creating public awareness on COVID appropriate behavior, Infection Prevention & Control and Community Control. It aims to build the capacities of local communities and strengthen systems to contain COVID pandemic and support alternative livelihood options to strengthen local economy at Gram Panchayat level.

2.4 Thus the supply undertaken by the applicant relates to public health as the focus is on controlling the spread of COVID-19 by creating awareness on its prevention and promote vaccination.

3.1 On interpretation of law, applicant has stated that the scope of the term 'Supply' has been envisaged in Section 7(1) of the Central Goods and Service Tax Act, 2017 (CGST Act). Though the activities undertaken by the applicant is a Supply under the GST law, the applicant is of view that the said supply is covered under Sl.No.1 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

4.1 The applicant has registered as an unregistered applicant in GST portal on 21.05.2022 for filing advance ruling application. The concerned authorities of the Centre and State were addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the ARA application and for comments on the issues raised.

4.2 The concerned State authority vide letter RC No.753/2022/A3 dated 07.07.2022, *inter alia*, stated that Charitable trust means that services by an entity registered under section 12AA of Income Tax Act, 1961 by way of “*charitable activities*” are exempt from whole of the GST. “*Charitable Activities*” has been defined under Sl.No.1 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

4.3 The concerned State Tax Authority has, further, stated that applicant is following objectives to do the trust, *inter-alia*, is to give medical relief to the poor and the needy, to establish run, mange, support educational institutions and training centers, hostels, stadium and other centers, research institutions, orphanages, carry out other activities of general public utility and relief activity for poor and the needy, participate in the charitable activities of other Trusts or Organizations having any objects of the Trust and to all such things as may necessary for the attainment of the above objectives and that there are no unconditional exemption available to the entire activities of any charitable trusts.

4.4 The concerned State Authority, with regard to the question as to whether the said supply of the applicant is exempt from GST has opined that each activities of the charitable trust are to be considered separately for its taxability or otherwise and hence, the applicant, though having general character as a charitable trust, may not claim exemption from the purview of registration under the GST Law.

4.5 The concerned State Authority has informed that no assessment proceeding has been initiated or pending with them in respect of the applicant.

4.6 The concerned Centre authority vide letter dated 20.12.2022 stated that there are no pending proceedings in respect of the applicant on the questions raised by them in the ARA application. It is further stated that the activities undertaken by the applicant in partnership with UNICEF amounts to supply of services under GST as per clause (a) of Section 7(1) of CGST Act, 2017 read with Section 2(31) of the CGST Act, 2017 for definition of consideration, Section 2(84) of the CGST Act, 2017 for definition of a person and Section 2(17) of the CGST Act, 2017 for definition of business.

4.7 The concerned Centre authority has, further, stated that, only activities undertaken by the applicant which are relating to public awareness of preventive health, family planning or prevention of HIV infection is exempted from levy of GST as per Sl.No.1 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as the applicant is registered under Section 12AA of the Income Tax Act, 1961.

4.8 The concerned Centre authority has also stated that other services provided by the applicant which are not covered by the definition of charitable activities as given in Para 2(r)(i) B of the said Notification would attract GST.

5.1 The applicant, after consent, was given an opportunity to be virtually heard on 12.01.2023. The Authorized Representative (AR) Ms. CA Viral M Khandhar, of the applicant appeared before the authority and reiterated the submissions. AR, further, stated that grant received from UNICEF and funds of the applicant in the ratio of 83:17 is utilized for the project activities and agreed to submit copy of FACE form specified in Programme Cooperation agreement between the applicant and United Nations Children's Fund along with details of Program Management cost.

5.2 The applicant has submitted the copy of FACE as called for during PH and has also submitted copy of Order Under Section 12AA of the Income Tax Act 1961 dt.29.03.2016 issued by Assistant Commissioner of Income Tax (H.Qrs) (Exemptions), Chennai and copy of FORM NO.10AC, Order for registration dt.24.09.2021 issued by Income Tax Department.

6.1 We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearing and the comments furnished by the Centre and State Tax Authorities. The applicant filed advance ruling application in respect of applicability of a notification issued under the provisions of the Act as per Section 97(2)(b) of GST Act, 2017, and whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term as per Section 97(2)(g) of GST Act, 2017.

6.2 The question which needs to be answered is whether the activities undertaken by the applicant in partnership with UNICEF amounts to supply under the Act, if so, whether such supply is exempted from GST.

7.1 It is seen from the submissions and documents submitted that the applicant is a trust formed during 2015, registered as a public charitable trust under Section 12AA of the Income Tax Act, 1961.

7.2 The applicant states that they undertake the activities of creating public awareness on COVID appropriate behavior, Infection Prevention & Control and Community control. It also aims to build the capacities of local committees and

strengthen systems to contain COVID pandemic and support alternative livelihood options to strengthen local economy at Gram Panchayat level.

7.3 It is also stated that the supply undertaken by the applicant relates to public health as the focus and is on controlling the spread of COVID-19 by creating awareness on its prevention and promote vaccination; it aims to strengthen the Gram Panchayats, village institutions to ensure quick response and action to mitigate the spread of the COVID-19.

8.1 For ease of reference, the relevant entry in Notification 12/2017 – Central Tax (Rate) dated 28.06.2017 reproduced below:

Sl.No.	Chapter, section, Heading, Group or Service Code (Tariff)	Description of services	Rate (percent)	Condition
1.	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	NIL	NIL

8.2 The definition of “Charitable Activities” has been defined under clause 2(r) of the aforesaid Notification, which is reproduced below for ease of reference:

2. Definitions. - For the purposes of this notification, unless the context otherwise requires, -

.....

.....

(r) “charitable activities” means activities relating to –

(i) public health by way of, -

(A) care or counseling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) **public awareness of preventive health, family planning or prevention of HIV infection;**

8.3 From comprehensive reading of the statutory provisions of the Act and the relevant provisions in Notification No.12/2017-Central Tax (rate) dated 28.06.2017, the activity as specified in their application which are relating to public awareness of preventive health amounts to supply and is exempted from GST.

9. In view of the above, we rule as under;

RULING

The activities undertaken by the applicant in partnership with UNICEF so far as relating to public awareness of preventive health, amounts to supply of service and is exempted from GST under Sl.No.1 of Notification No.12/2017-Central Tax (rate) dated 28.06.2017 read with para (Definition) 2(r)(i)(B) of Notification No.12/2017-Central Tax (rate) dated 28.06.2017.

(N.USHA)
Member (SGST)

6.6.2023



(R.GOPALSAMY)
Member (CGST)

06/06

To

M/s Polaris Foundation,
No.244, Carex Centre,
Anna Salai,
Chennai – 600 006.

//By SPAD//

Copy submitted to:-

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai – 600 034.
2. The Principal Secretary / Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Principal Commissioner of GST & Central Excise,
Chennai North Commissionerate.
2. The Assistant Commissioner (ST),
Anna Salai Assessment Circle,
No. 1, PAPJM Building(Annexure),
4th Floor, Chennai – 600 006.
3. Master File / spare – 1.