

**AUTHORITY FOR ADVANCE RULING, TAMILNADU  
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX  
5<sup>TH</sup> 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:**

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. 13/AAR/2023 Dated: 06.06.2023**

1. Any appeal against this Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, under Sub-section (1) of Section 100 of Central Goods and Service Tax Act / Tamil Nadu Goods and Service Tax Act, 2017('the Act' in short) within 30 days from the date on which the ruling sought to be appealed against is communicated.

2. In terms of Section 103(1) of the Act, this 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. 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, 2017.

GSTIN Number, if any / User id		33AAACT4063D1ZT
Legal Name of Applicant		THE INDIAN HUME PIPE COMPANY LIMITED
Registered Address / Address provided while obtaining user id		B2, 2 <sup>nd</sup> Floor, New No.361, Old No.173, LE ROYAL RITEROOF, Lloyds Road, Gopalapuram, Chennai 600 086.
Details of Application		Form GST ARA – 01 Application Sl.No.43/2022 /ARA, dated 04.08.2022.
Concerned Officer		Centre: Chennai North Commissionerate State: Royapettah Assessment circle.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Works Contract.
B	Description (in brief)	Undertaking contracts for providing Water Supply facilities for M/s Tamilnadu Water Supply & Drainage Board.
Issue/s on which advance ruling required		Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		<p>1. Whether the supply of services by the applicant to M/s Tamilnadu Water Supply and Drainage Board is covered by Notification No.15/2021-CT(Rate) dated 18.11.2021 r/w Notification No.22/2021-CT(Rate) dated 31.12.2021;</p> <p>2. If the supplies as per Question 1 are covered by the said Notification, then what is the applicable rate of Tax under Goods and Services Act, 2017 on such supplies; and</p> <p>3. In case if the supplies as per Question 1 are not covered by the said Notification then what is the applicable rate of tax on such supplies under the Goods and Services Act?</p>

M/s The Indian Hume Pipe Company Limited , B2, 2<sup>nd</sup> Floor, New No.361, Old No.173, LE ROYAL RITEROOF, Lloyds Road, Gopalapuram, Chennai 600086 (hereinafter referred to as the 'Applicant') is registered under the GST Acts with GSTIN: 33AAACT4063D1ZT. The applicant undertakes contracts for construction of head works, Sumps, Pump Rooms, laying and jointing of pipe line and commissioning and maintenance of entire work for Water Supply Projects/Sewerage Projects/Facilities. Their major clients include Government Bodies/Entities / Authorities/ Local Bodies of which M/s Tamilnadu Water Supply & Drainage Board is one among them.

2.1 The Applicant has sought for advance ruling on the following questions;

1. Whether the supply of services by the applicant to M/s Tamilnadu Water Supply and Drainage Board is covered by Notification No.15/2021-CT(Rate) dated 18.11.2021 r/w Notification No.22/2021-CT(Rate) dated 31.12.2021;
2. If the supplies as per Question 1 are covered by the said Notification, then what is the applicable rate of Tax under Goods and Services Act, 2017 on such supplies; and
3. In case if the supplies as per Question 1 are not covered by the said Notification then what is the applicable rate of tax on such supplies under the Goods and Services Act?

2.2. 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.

2.3. The applicant was awarded contract by M/s Tamilnadu Water Supply & Drainage Board vide its letter No.F.CWSS to Alampalayam/DO(T2)/CE/CBE/2018 dated 16.08.2018 for providing Combined Water Supply Scheme to Alampalayam Town Panchayat, Padaveedu Town Panchayat including 669 Rural Habitations in Pallipalayam and Tiruchengode Unions in Namakkal District and Sankari Town Panchayat in Salem District with Cauvery river as source – construction followed by Trial Run including paid maintenance of the scheme. The applicant states that M/s Tamilnadu Water Supply & Drainage Board is a statutory body corporate constituted under TWAD Board Act, 1970 on

14.04.1971 and that TWAD Board is entrusted with the development of Water Supply and Sewerage Facilities in the State of Tamil Nadu, except Chennai Metropolitan Development Areas.

2.4. The parent Notification No.11/2017-CT(Rate) dated 28.06.2017 prescribed rate of Tax on construction services at Sl.No.3 of the table therein viz – “(ii) composite supply of works contract as defined in clause 119 of section 2 of CGST Act, 2017 at 9% under CGST Act, thereby implying total GST at 18% (CGST - 9% + SGST – 9%)”. This was subsequently amended vide Notification No.20/2017-CT(Rate) dated 22.08.2017, whereby in Serial No.3 of the Table therein, item (iii) was inserted viz – “(iii) composite supply of works contract as defined in clause (119) of section 2 of the CGST Act, 2017, supplied to the Government, a local authority or a Governmental Authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of, - (a)....., (b) canal, dam or other irrigation works; (c) pipeline, conduit or plant for (i) water supply (ii) water treatment or (iii) sewerage treatment or disposal” to be taxed at 6% under CGST Act, thereby implying total GST at 12% (CGST -6% + SGST – 6%). Subsequently Notification No.31/2017 dated 13.10.2017 was issued to amend Serial No.3(iii) viz – “Central Government, State Government, Union Territory, a Local Authority, a Governmental Authority or a Government Entity”. At present, Notification No.15/2021-CT(Rate) dated 18.11.2021 read with Notification No.22/2021-CT(Rate) dated 31.12.2021 issued seeks to amend at Sl.No.3(iii) as – “Union Territory or a Local Authority” thereby deleting the words – “a Governmental Authority or a Government Entity”.

2.5. The applicant, on interpretation of law, submitted that the Contractees (M/s Tamilnadu Water Supply & Drainage Board) are holding GSTIN 33AAALT0834FBZ1 and the registration certificate issued by the GST Department classified them under Local Authority and therefore, the applicant opined that they are covered by Notification No.15/2021-CT(Rate) dated 18.11.2021 read with Notification No.22/2021-CT(Rate) dated 31.12.2021, which after amendment now reads as “(iii) composite supply of works contract as defined in clause (119) of section 2 of the CGST Act, 2017, supplied to Central Government, State Government, Union Territory or a local authority”. Therefore, they are liable to tax under GST Act @ 12%.

3.1.The applicant, after consent, was given an opportunity to be heard virtually heard on 15.03.2023. Shri Manish Goel, Authorised Representative(AR) of the applicant appeared before the authorities and reiterated the submissions already made in the application. The AR stated that Works Contract service for the Work Orders issued by TWAD Board prior to 01.01.2022 were continued and completed after amendment of Notification No.11/2017 CT(Rate) by Notification No.22/2021 CT(Rate) dated 31.12.2021. AR stated that the said amendment will not affect the rate of GST on the Works Contract being executed after 01.01.2022 by the applicant, since TWAD Board falls under the category of 'Local Authority'.

3.2. The applicant is under the administrative control of Central Tax. The said jurisdictional authority was addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the ARA application and to give comments on the issues raised. The said authority submitted his report vide letter dated 06.01.2023, wherein he had stated that there are no pending proceedings in respect of the applicant on the questions raised in ARA. He also stated that the supply of services by the applicant to M/s Tamilnadu Water Supply & Drainage Board will not be covered by Notification No.15/2021-CT(Rate) dated 18.11.2021 read with Notification No.22/2021-CT(Rate) dated 31.12.2021 on the basis of the rulings already given in applicant's own case in Order No.07/AAR/2020 dated 31.01.2020 and therefore, the applicable rate of tax will be 18%(CGST – 9% +SGST – 9%) on the supply of services by the applicant under GST Act, 2017.

3.3.The State tax officer did not furnish any report regarding pending proceedings against the applicant on the issues raised. Therefore, it is presumed that there are no pending proceedings against the applicant with the concerned authority on the issues raised.

4.1.We have carefully considered the submissions made by the applicant in the Advance Ruling application, additional submissions made during the personal hearing and the comments furnished by the jurisdictional Central Tax authority. The applicant has filed the ARA for determination of the liability to pay tax on any goods or services or both in respect of supply of services to M/s Tamilnadu Water Supply & Drainage Board, whether it is covered by Notification No.15/2021-

CT(Rate) dated 18.11.2021 read with Notification No.22/2021-CT(Rate) dated 31.12.2021.

4.2. The question which needs to be answered is what is the rate of tax applicable on the supply of services by the applicant to M/s Tamilnadu Water Supply & Drainage Board w.e.f. 01.01.2022 consequent to amendment of Notification 11/2017 CT(Rate) dated 28.06.2017 by Notification No.15/2021-CT(Rate) dated 18.11.2021.

4.3. It is seen from the submissions made in the ARA and the documents submitted that the applicant was awarded contract by M/s Tamilnadu Water Supply & Drainage Board vide its letter No.F.CWSS to Alampalayam/DO(T2)/CE/CBE/2018 dated 16.08.2018 for providing Combined Water Supply Scheme to Alampalayam Town Panchayat, Padaveedu Town Panchayat including 669 Rural Habitations in Pallipalayam and Tiruchengode Unions in Namakkal District and Sankari Town Panchayat in Salem District with Cauvery river as source, 18 months construction followed by 6 months Trial Run including paid maintenance of the scheme for a period of five years. It is also seen that the GST @ 12% on the amount mentioned in the contract is agreed upon.

5.1. The statutory provisions relevant to the contentions of the applicant are discussed as under:

Section 2(119) of the CGST Act, 2017 defines Works Contract –

*“works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property where in transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.”*

5.2. The Notification No. 11/2017 Central Tax (Rate) dated June 28, 2017, was amended vide Notification No. 20/2017 – Central Tax (Rate) dated August 22, 2017, wherein Entry 3(iii) was substituted with the following:

“(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Government, a local authority or a Governmental authority by way of

construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -

(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

(b) canal, dam or other irrigation works;

(c) pipeline, conduit or plant for

(i) water supply

(ii) water treatment, or

(iii) sewerage treatment or disposal.

Notification No. 11/ 2017 was further amended vide Notification No. 31/2017 – Central Tax (Rate) dated October 13, 2017, wherein the words “Government, a local authority or Governmental authority” were replaced/ substituted by the words “Central Government, State Government, Union territory, a Local Authority, a Governmental Authority or a Government Entity”.

5.3. The terms ‘Government Authority’ and ‘Government Entity’ were inserted by Notification No.31/2017-CT(Rate) dated 13.10.2017 in Notification No.11/2017-CT(Rate) as clauses (ix) & (x) of explanation in para 4 as follows:

*(ix) 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 per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.*

*(x) Government Entity - means an authority or a board or any other body including a society, trust, corporation,-*

*(i) set up by an Act of Parliament or State Legislature; or*

*(ii) established by any Government, with 90 per cent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.*

5.4. Notification No. 11/2017 – Central Tax (Rate) dated June 28, 2017 was further amended vide Notification No. 15/2021 – Central Tax (Rate) dated November 18, 2021, wherein, in Entry 3(iii), the words “Union territory, a local authority, a Governmental Authority or a Government Entity” were substituted with “Union territory or a local authority”. The amended Entry 3(iii) of the Notification No. 11/2017 reads as follows:

Description of Service	Rate (percent)
<p>“(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Central Government, State Government, Union territory or a local authority, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-</p> <p>(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 2958 (24 of 1958);</p> <p>(b) canal, dam or other irrigation works;</p> <p>(c) pipeline, conduit or plant for</p> <p>(i) water supply</p> <p>(ii) water treatment, or</p> <p>(iii) sewerage treatment or disposal</p>	6

Thus, by way of Notification No. 22/2021- Central Tax (Rate) dated 31<sup>st</sup> December , 2021 issued in supercession of Notification No. 15/2021 – Central Tax (Rate) dated November 18, 2021, which came into force with effect from the 1<sup>st</sup> day of January 2022, the lower rate of tax of 12% provided by Entry 3(iii) of Notification No. 11/2017 – Central Tax (Rate) dated June 28, 2017, was restricted to works contract supplied to Central Government, State Government, Union territory and a

Local authority only. Thus the terms 'Governmental Authority or Government Entity' was omitted.

5.5. It is essential at this juncture to see that whether M/s Tamil Nadu Water Supply and Drainage Board would fall under Governmental Authority or Government Entity or Local Authority. It was the contention of the Applicant that TWAD Board falls under the category of 'Local Authority'. Then it is imperative to see what is a 'Local Authority'. The term local authority as defined in Section 2(69) of the CGST Act, 2017 means-

"Local authority" means –

- (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.

As defined above, the term local authority inter alia includes certain bodies / authorities, more specifically "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" in section 2(69)(c) of the CGST Act, 2017. Thus, for the purpose of GST law, 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 qualifies as the local authority.

5.6. As per Section 34 of the Tamil Nadu Water Supply And Drainage Board Act, 1970,

(1) The Board shall have its own fund.

(2) The Board may accept loans, grants, subventions, donations and gifts from the Central or State Government or a local authority or any individual or body or organisation whether incorporated or not for all or any of the purpose of this Act.

(3) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all charges, all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.

Further, the expenditure incurred by TWAD Board towards preparation and execution of any scheme is recovered from the concerned local bodies as provided under Section 23 of The Tamil Nadu Water Supply and Drainage Board Act, 1970, as extracted below;

“23. Recovery of the cost of the scheme. –

(1) The cost relating to the preparation and execution of any scheme by the Board including all incidental expenses connected therewith incurred by the Board shall be borne by the local authorities concerned on whose behalf such scheme was prepared and executed by the Board. In cases where the scheme was prepared and executed for more than one local authority, the cost of such scheme shall be borne by the local authorities concerned in such proportion as may be determined by the Board.

Further, TWAD Board has not been conferred with any power to control or manage municipal or local fund as stipulated in the definition of local authority in S.2(69)(c) of the CGST Act, 2017.

5.7. In view of the above provisions, it is clear that TWAD Board has been constituted only to implement certain functions (not all the functions) of local bodies and it cannot be equated to a local body and hence it can be concluded that TWAD Board is not a Local Authority.

5.8. M/s TWAD Board is a Board, constituted by an Act of Tamil Nadu State Legislature called Tamil Nadu Water Supply and Drainage Board Act, 1970 with 100% contribution by way of Government and controlled by Government by way of appointing Directors of the TWAD Board entrusted with the development of Water Supply and Sewerage facilities in Municipalities and Panchayats in the State of Tamil Nadu, except Chennai Metropolitan Development. Thus M/s Tamil Nadu Water Supply and Drainage Board is a 'Governmental Authority' as defined under 2(zf) of the Notification No.12/2017-CT(rate) as amended effective from 13.10.2017 and thereby supply is made to the 'Governmental Authority' by the Applicant.

5.9. Accordingly, M/s Tamil Nadu Water Supply and Drainage Board is a 'Governmental Authority' within the meaning of explanation 4(ix) of Notification No. 11/2017-CT(Rate) dated 28.06.2017, as amended, and the nature of service provided by the Applicant as narrated in para 2.3 supra, is covered under the entry serial no. 3(iii) of the Notification No.11/2017-CT(Rate) dated 28.06.2017 till 31.12.2021. However, after omission of "a Governmental Authority or a Government Entity" from the description of service under the said entry vide Notification No.15/2021-CT(Rate) dated 18.11.2021 read with Notification 22/2021-CT(Rate) dated 31.12.2021, with effect from 01.01.2022, the services of the applicant is covered under serial number 3(xii) of the Notification No.11/2017-CT(Rate) dated 28.06.2017 and attract CGST of 9% w.e.f. 01.01.2022 as below:

Sl No.	Chapter, Section or Heading	Description of Service	Rate (percent)
3	9954  (Construction services)	(xii) Construction services other than (iii), (iv), (v), (va), (vi), (vii), (viii), (ix) above.	9

5.10. Again Entry No. 3 of the Notification No. 11/2017 – Central Tax (Rate) dated June 28, 2017 was amended vide Notification No. 3/2022- Central Tax, Dated 13.07.2022 (come into force with effect from the 18th July, 2022) as below:

(A) in the Table, -

(I) against serial number 3, in column (3), -

(a) items (iii), (iv), (v), (va), (vi) and (ix) and the corresponding entries relating thereto in columns (4) and (5) shall be omitted;

(b) against items (vii) and (x), for the entry in column (4), the entry “6” shall be substituted;

(c) in item (xii), for the brackets and figures “(iii), (iv), (v), (va), (vi), (vii), (viii), (ix)”, the brackets and figures “(vii), (viii),” shall be substituted;

Thus, the entry 3(iii) of Notification No. 11/2017 – Central Tax (Rate) dated June 28, 2017 itself was omitted and with effect from 18.07.2022, the works contract services supplied by the Applicant to TWAD Board is liable for tax @18% vide 3(xii) of the Notification No. 11/2017 as below;

Sl No.	Chapter, Section or Heading	Description of Service	Rate (percent)
3	Heading 9954  (Construction services)	(xii) Construction services other than (vii), (viii) above.	9

5.11. Thus, the works contract services provided by the Applicant to TWAD Board is covered under the above entry and exigible to tax @18%, in as much as TWAD Board qualifies as a Governmental Authority.

In view of the above, we rule as under:

**RULING**

1. Whether the supply of services by the applicant to M/s Tamilnadu Water Supply and Drainage Board is covered by Notification No.15/2021-CT(Rate) dated 18.11.2021 r/w Notification No.22/2021-CT(Rate) dated 31.12.2021?

The supply of service provided/to be provided by the applicant to M/s Tamilnadu Water Supply and Drainage Board are not covered by Notification No.15/2021-CT(Rate) dated 18.11.2021 r/w Notification No.22/2021-CT(Rate) dated 31.12.2021.

2. If the supplies as per Question 1 are covered by the said Notification, then what is the applicable rate of Tax under Goods and Services Act, 2017 on such supplies?

Not applicable.

3. In case if the supplies as per Question 1 are not covered by the said Notification then what is the applicable rate of tax on such supplies under the Goods and Services Act?

The supply of service provided/to be provided by the applicant to M/s Tamilnadu Water Supply and Drainage Board are covered under serial number 3(xii) of the Notification No. 11/2017-CT(Rate) dated 28.06.2017 and attract CGST @ 9% and SGST @ 9% with effect from 01.01.2022.

N.Usha  
(Member SGST)



R.Gopalsamy  
(Member CGST)

To

M/s. The Indian Hume Pipe Company Limited,  
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(by RPAD)

Copy Submitted to:

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2. The Principal Secretary/Commissioner of Commercial Taxes,  
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