



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Commissioner of State Tax (Member)
2. Sri. RV Pradhamesh Bhanu, Joint Commissioner of Central Tax (Member)

AAR No.11/AP/GST/2022 dated:30.05.2022

1	Name and address of the applicant	M/s. Zigma Global Environ Solutions Private Limited, Flat No.21, Jawaharlal Nehru, Building, VMC, Vijayawada-520001
2	GSTIN	37AAACZ8255D1Z5
3	Date of filing of Form GST ARA-01	08.07.2021
4	Personal Hearing	21.10.2021
5	Represented by	Sri B.Venkateswaran, Advocate
6	Jurisdictional Authority - State	Assistant Commissioner (ST) Sitharampuram Circle, Vijayawada-II Division
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	a) Classification of any goods or service or both b) applicability of a notification issued under the provisions of this Act;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in 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 would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Zigma Global Environ Solutions Private Limited (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

- M/s. Zigma Global Environ Solutions private Limited (herein after referred to as 'ZGES' are the service providers of Municipal Solid Waste (MSW) Management

solutions. Zigma Global offers solutions involving segregation, treatment, recycling of Municipal Solid Waste (MSW) and thus clearing MSW landfills.

- The applicant was successful in obtaining the 'Bid' called for by the Superintending Engineer, Tirumala Tirupati Devasthanams, Tirupati (hereinafter referred to as "TTD") for "Processing and disposal of the legacy municipal solid waste near Kakulamanu tippa, Tirumala through Bio-remediation & Bio-mining 'as is where is basis'.

- **Scope of work:**

The applicant is responsible for removal of legacy waste dumped (approximately 2,00,000 MT in the dumping yard at Kakulamanu tippa, Tirumala through bio-mining process on Design, Build, own and Operate (DBOO) concept in Tirumala Tirupati Devasthanams, Tirupati in scientific way in accordance with solid waste Management Rules 2016 (SWM Rules 2016), CPCB Guidelines for legacy Waste Management 2019 and other applicable rules & norms as amended from time to time. The quantity indicated is approximate only and can vary based on the actuals.

➤ **General steps involved in solid waste management work done by M/s. Zigma Global Environ P Ltd.,**

- Urban Local Body awards Zigma the work order for biominning.
- Zigma obtains all requisite clearances and approvals for establishing their plant.
- ULB does not pay any money in advance to Zigma towards capital expenditure.
- Once the mobile plant is erected and machinery is commissioned, zigma starts processing the waste.
- Zigma separates the two main aggregates of combustible fraction and inert fraction.
- Zigma takes responsibility of disposal of all aggregates as per SWM Rules 2016.
- Zigma raises monthly bill to the ULB based on the weight/volume of the waste cleared from the landfill.
- ULB pays zigma the monthly bills.
- Zigma reclaims land till the ground level (waste available up to ground level)
- If required, ULB can ask zigma to clear any waste available below the ground level for complete remediation.
- After complete reclamation/remediation, zigma decommissions the plant and machinery from the site.
- Zigma hands over the reclaimed land back to the ULB.

➤ To sum up, the applicant is engaged in the following process flow:

- M/s. Zigma extends pure service to the TTD in clearing the solid waste dumped using its machine, materials and manpower.
- They are not transferring any goods to TTD, during the course of providing service.

The project is on design, build, own and operate concept so as to retrieve and recover materials by segregating and diverting for recycling the excavated materials and safe disposal of residues at approved disposal facilities.

4. Questions raised before the authority:

The applicant had filed an application in form GST ARA-01 dated 08.07.2021 by paying required amount of fee for seeking Advance Ruling on the following issues

1. Classification of the services Viz., "Processing and disposal of the legacy municipal solid waste near Kakulamanu tippa, Tirumala through Bio- remediation & Bio- mining "as is where is bais" to be provided by the applicant to the Superintending Engineer, Tirumala Tirupati Devasthanams, Tirupati.
2. Whether aforesaid services provided by the applicant is exempted under Sl.No.3 of Notification No.12/2017 dt: 28.07.2017 as amended?

On Verification of basic information of the applicant, it is observed that the applicant falls under State jurisdiction, i.e. Assistant Commissioner (ST) Steel Plant Circle, Visakhapatnam Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the State jurisdictional officer concerned stating that there are no proceedings pending with the applicant on the issues, for which the Advance Ruling sought by the applicant.

5. Applicant's Interpretation of Law:

5.1 Classification of the nature of supply:

With reference to the classification of the supply provided by the applicant, the predominant characteristic of the work is 'Solid Waste Management" and the applicant is of the view that the services to be provided by them fall under SAC code No.9994 "sewage and waste collection, treatment and disposal and other environmental protection services" and in particular Group 99943-Waste treatment and disposal services" as per Annexure to Notification No.11/2017 Central Tax (Rate) dated 28.06.2017.

5.2 Rate of GST for the supply:

With reference to the rate of GST for the services provided by the applicant, the applicant submitted that the services provided by them are exempted under Sl.No.3 of Notification No.12/2017 Central Tax (Rate) dt: 28.07.2017 as amended.

For immediate reference, the relevant portion of the Notification is appended as under:

Sl. No	Chapter, section, Heading, Group or Service Code (Tariff)	Description of services	Rate (percent)	Condition
3	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 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

From the scope of the services, the applicant submits that, services are provided exclusively and no goods are supplied in what so ever manner the execution of disposal of legacy waste is carried out from the existing dumping site, through bioremediation & bio-mining. It is the complete reclamation of the dumpsite land in compliance with Solid Waste Management (Management & Handling) Rules, 2016. Hence the services to be provided by the applicant are "Pure services".

5.3 Submissions for the TTD, as "Governmental Authority as per the definition of Notification No.12/2017 Central Tax (Rate) dt:28.06.2017:

The "Governmental Authority" has been defined as under, as per Notification No.12/2017 Central Tax (Rate) dt: 28.06.2017.

(zf) "Governmental Authority" has the same meaning as assigned to it in the explanation to clause (16) of section 2 of the Integrated Goods and Services Tax, 2017 (13 of 2017).

Further explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) reads as

(16) "non-taxable online recipient" means any Government, Local Authority, Governmental Authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Explanation – For the purposes of this clause, the expression "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 ninety percent or more participation by way of equity or control to carry out any function entrusted to a municipality under article 243w of the constitution.

The functions entrusted to a municipality under the Twelfth schedule to article 243w of the constitution are as under:

(a) Urban planning including town planning.

.....

(f) public health, sanitation conservancy and solid waste management

.....

5.4 Regarding status of TTD, it is submitted:

- TTD was established in 1932 as a result of the TTD Act of 1932. According to the act administration of the temple was vested in a committee of seven members and overseen by a paid Commissioner appointed by the Madras Government. Advising the committee were two advisory councils—one composed of priests and temple administrators to aid the committee with the operations of the Tirumala temple and another composed of farmers for advice on Tirumala's land and estate transactions.
- The Andhra Pradesh Charitable and Hindu Religious Institution and Endowments Act (1969), section 85 to 91, expanded the provisions of TTD. The number of trustees was expanded from five to eleven with compulsory representation from certain communities. Apart from the responsibilities defined in the previous act,

Devasthanam was obliged to promote the study of Indian languages and propagate Hindu Dharma by research, teaching, training and literature creation.

- The A.P. Charitable & Hindu Religious institutions & Endowments Act (1987) superseded the 1979 act. The Board of Trustees' membership was expanded from a maximum of eleven to fifteen and the hereditary rights of temple priests and their right to garner a share of the hundi proceeds were abolished.

Now, TTD is a conglomeration of temples, brought under the first schedule 2 of the Act 30 of 1987. The Board of Trustees is constituted by members appointed by the government. The executive officer is the chief executive of TTD. He is assisted by two joint Executive officers, chief vigilance and security officer, conservator of forests, financial advisor & chief Accounts officer, and chief engineer. Besides, there are officials to look after the different branches of administration.

Some of the legal provisions relating to the governance and functions of TTD as per Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987 (Andhra Pradesh Act No.30 of 1987) are presented below. With reference to TTD, the provisions of act are made applicable vide chapter 14 through rule 95 to 131 of the said act.

Some important provisions are as under:

96. Constitution of Board of Trustees – (1) there shall be a Board constituted by the Government for the Tirumala Tirupati Devasthanams called "the Tirumala Tirupati Devasthanams Board" consisting of not more than (twenty-nine members), including the chairman, to be appointed by the Government, of whom:-

The Commissioner shall be a member, ex-officio:

(i-b) the Chairman, Tirupati Urban Development Authority constituted under the Andhra Pradesh Urban Areas (Development) Act, 1975 (Act 1 of 1975) shall be a member Ex-officio.

(ii) the Executive Officer, shall be the Member –Secretary, Ex-Officio.

(iii) three shall be members of the State Legislature.

(iv) one shall be a person belonging to the Scheduled Castes.

(v) one shall be a woman:

Provided further that a member representing category (iii), shall cease to hold office as soon as he ceases to be a member of the State Legislature. (provided also that the members mentioned at clauses (iv) (v) and (vi) shall hold office during the pleasure of the Government).

From the above it is understood that Tirumala Tirupati Devasthanams, Tirupati squarely fall under the definition of "Governmental authority" as per explanation to clause (16) of section 2 of the integrated Goods and Services Tax Act, 2017 (13 of 2017), in as much as it is set up by an Act of a State Legislature namely – The A.P. Charitable & Hindu Religious Institutions & Endowments Act (1987).

The functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution are as under:

- (a) Urban planning including town planning

(f) Public health, sanitation conservancy and solid waste management.

.....
(h) urban forestry, protection of the environment and promotion of ecological aspects.

From the foregoing submissions it is understood that TTD is Governmental Authority as defined in clause (69) of section 2 of the CGST Act, 2017 and now the work entrusted with the applicant fall under the functions entrusted to a municipality under the twelfth schedule to article 243w of the Constitution viz: public health, sanitation conservancy and solid waste management, urban forestry, protection of the environment and promotion of ecological aspects.

In this connection the applicant submits that in the case of applicant's GSTIN registration 37AAACZ8255D1Z5 at Andhra Pradesh, the Authority for Advance Ruling-Andhra Pradesh, Goods and Services Tax, in their earlier Advance ruling has held that "Solid Waste Management Project – Remediation of existing MSW Dumpsite at Ramapuram through bio-mining process under implementation of the smart city Mission in Tirupati falls under Sl.No. 32 of Heading 9994 of Notification No.11/2017 Central Tax (Rate) dt: 28.06.2017. Further, the Authority had held that said service is exempted under Sl.No.3 of Notification 1-21 2017 dt: 28.07.2017 as amended. The decision taken by the AAR AP IN R No. 10-AP-GST Dt: 05.05.2020 is squarely applicable in the present issue also.

Further in case of applicant's GSTIN 37AAACZ8255D1ZD at Tamilnadu, the Authority for Advance Ruling Tamil Nadu vide order No.35/AAR/2020 dt: 21/10/2020 has held that "Solid waste Management Project –Remediation of existing MSW Dumpsite at Velandiplayam through bio-mining process under implementation of the Smart City Mission in Erode fall under SL.No. 32 of Heading 9994 of Notification No.11/2017 Central Tax (Rate) dt:28.06.2017. Further, the Authority had held that said service is exempted under Sl.No.3 of Notification 12/ 2017 dt:28.07.2017 as amended. The decision taken by the AAR TN in the above said order is squarely applicable in the present issue also.

In view of the above it is submitted that the services to be provided by the Applicant to the Superintending Engineer, Tirumala Tirupati Devasthanam's, Tirupati are exempted as per Sl.No.3 of Notification no.12/2017 Central Tax (Rate) dt: 28.7.2017 as amended.

6. Virtual Hearing:

The proceedings of Hearing were conducted through video conference on 21.10.2021, for which the authorized representative, Sri B.Venkateswaran attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application. The taxability, classification of the services, applicable rate of tax, eligibility of exemption etc., for the Goods and Services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined.

The issue at hand is to decide the Classification of the services provided by the applicant.

The applicant claims that the 'Solid Waste Management' services to be provided by them fall under SAC code No.9994 "sewage and waste collection, treatment and disposal and other environmental protection services" and in particular Group 99943-Waste treatment and disposal services" as per Annexure to Notification No.11/2017 Central Tax (Rate) dated 28.06.2017.

We concur with the opinion of the applicant after a thorough examination of the nature of the services of the applicant by classifying them under Sl.No.32 of Heading 9994 of Notification No: 11/2017 Central Tax (Rate) dt. 28.06.2017.

Subsequently now we examine whether services provided by the applicant is exempted under Sl.No.3 of Notification 12/2017 dated 28.07.2017 as amended Sl.No.3 of the above notification describes 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 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.

There are multiple issues that are to be dealt under this entry as mentioned here under:

a) Whether the services rendered by the applicant are pure services.

The Services rendered by the applicant as seen from the record, are devoid of any incorporation of goods in the process of supply. Even from the perspective of the scope of the services, as submitted by the applicant, they are services only and do not supply any goods in what so ever manner in the execution of disposal of legacy waste from the existing dumping site, by means of bio-remediation & bio-mining with complete reclamation of the dumpsite land in compliance with solid waste management (Management & Handling) Rules, 2016. Hence we concur with the opinion of the applicant that the services provided are "Pure services".

b) Whether the service recipient i.e., Tirumala Tirupati Devasthanam is a "Governmental Authority" as per the definition of Notification No:12/2017 Central Tax (Rate) dt:28.06.2017 as amended.

"Explanation - For the purposes of this clause, the expression "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 ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a panchayat under article 243G or to a municipality under article 243W of the Constitution."*

Now we examine whether the TTD is qualified by the above conditionalities.

(i) Whether the applicant is set up by an Act of Parliament or a State Legislature?

Tirumala Tirupati Devasthanams, Tirupati fall under the definition of "Governmental authority" as per explanation to clause (16) of section 2 of the integrated Goods and Services Tax Act, 2017 (13 of 2017), in as much as it is set up

by an act of a State Legislature namely – The A.P. Charitable & Hindu Religious Institutions & Endowments Act (1987).

(ii) Whether the applicant possesses 90% or more participation by the Government by way of equity or control.

Constitution of Board of Trustees – It is constituted by the Government of not more than (twenty-nine members), including the chairman, to be appointed by the Government, of whom:-

The Commissioner shall be a member, ex-officio:

(i-b) the Chairman, Tirupati Urban Development Authority constituted under the Andhra Pradesh Urban Areas (Development) Act, 1975 (Act 1 of 1975) shall be a member Ex-officio.

(ii) the Executive Officer, shall be the Member –Secretary, Ex-Officio.

(iii) three shall be members of the State Legislature.

(iv) one shall be a person belonging to the Scheduled Castes.

(v) one shall be a woman

Provided further that a member representing category (iii) shall cease to hold office as soon as he ceases to be a member of the State Legislature. (provided also that the members mentioned at clauses (iv) (v) and (vi) shall hold office during the pleasure of the Government. Hence the parameter of 99% or more participation by the government by way of control is meted out in this case.

(iii) Now we examine whether the functions carried out by TTD are meant to carry out any function entrusted to a panchayat under article 243G or to a municipality under article 243W of the Constitution."

The functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution are as under:

(f) Public health, sanitation conservancy and solid waste management.

.....
(h) urban forestry, protection of the environment and promotion of ecological aspects.

As mentioned above, the work entrusted with the applicant fall under the functions entrusted to a municipality under the twelfth schedule to article 243w of the Constitution viz: public health, sanitation conservancy and solid waste management urban forestry protection of the environment and promotion of ecological aspects.

In the context of the activity carried out by M/s. Zigma, though the primary purpose is "solid waste management" as per the guideline issued by the Central Pollution Control Board, the following incidental functions as per Article 243w is done.

- Public health, sanitation conservancy and solid waste management
- Urban forestry, protection of the environment and promotion of ecological aspects.

As per the Services exemption notification,

Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 exempts 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 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”.

The activity of M/S. Zigma Global falls under this exemption notification, but it has been amended further vide **Notification No. 16/2021-Central Tax (Rate) dated November 18, 2021**, w.e.f. January 1, 2022 :

▪ *"In Serial No. 3 (i.e., pure services) and 3A (i.e., 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), the words "or a Governmental authority or a Government Entity" have been omitted in order to exclude such services supplied to a Governmental Authority or Government Entity. Thus, services mentioned in Serial No. 3 and 3A provided to Governmental authority and Government Entity shall no longer be exempt from January 1, 2022 and shall attract GST as applicable under Services Rate Notification."*

Hence, services provided by the Applicant are no longer exempted under SI.No.3 of Notification No.12/2017 dated 28.07.2017 as amended further by Notification No. 16/2021 - Central Tax (Rate), dated: November, 18, 2021.

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Classification of the services Viz., "Processing and disposal of the legacy municipal solid waste near Kakulamanu Tippa, Tirumala through Bio-remediation & Bio- mining on "as is where is basis" to be provided by the applicant to the Superintendent Engineer, Tirumala Tirupati Devasthanams, Tirupati.

Answer: 'Solid Waste Management" services to be provided by them fall under SAC code No.9994 "sewage and waste collection, treatment and disposal and other environmental protection services" and in particular Group 99943-Waste treatment and disposal services" as per Annexure to Notification No.11/2017 Central Tax (Rate) dated 28.06.2017.

Question: Whether aforesaid services provided by the applicant is exempted under SI.No.3 of Notification No.12/2017 – Central Tax (Rate) dt:28.07.2017 as amended?

Answer: Negative

Sd/-D. Ramesh
Member

Sd/-RV Pradhamesh Bhanu
Member

//t.c.f.b.o//


Deputy Commissioner (ST)

DEPUTY COMMISSIONER (ST)

C.O. Chief Commissioner of State Tax,

Government of A.P., Vijayawada

To

1. M/s. Zigma Global Environ Solution Private Limited, Flat No.21, Jawaharlal Nehru Building, VMC, Vijayawada, Andhra Pradesh **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Sitharampuram Circle, Vijayawada-II Division. **(By Registered Post)**
2. The Superintendent, Central Tax, CGST Indrakeeladri Range, Amaravathi Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)
2. The Principal Chief Commissioner (Central Tax), O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

DEPUTY COMMISSIONER (ST)
Chief Commissioner of State Tax
Government of A.P. Vijayawada