

**AUTHORITY FOR ADVANCE RULING – CHHATTISGARH**  
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**Raipur (C.G.) 492002**  
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**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING**  
**U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017**

Members Present are

Shri S.K.Buxy  
Joint Commissioner  
O/o Commissioner, State Tax  
Chhattisgarh, Raipur

Shri Rajesh Kumar Singh,  
Additional Commissioner,  
O/o Principal Commissioner,  
CGST & Central Excise, Raipur

**Sub:-** Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 – Regarding the GST rates applicable in case of supply of services to Solid waste management, Garbage Collection, Disposal, Water Supply, Cleaning of Colony.

**Read:-** Application dated 08-09-2018 from Shri Dhananjay Kumar Singh, H.N -13, Sanyasi Para, Khamtarai, Raipur, Chhattisgarh 492001

**PROCEEDINGS**

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/06/2018

Raipur, Dated 05/12/2018

The applicant M/s Dhananjay Kumar Singh HN 13, Sanyasi Para, Khamtarai, Raipur, Chhattisgarh GSTIN 22AVZPS5945E1ZZ has filed the application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling as regards the applicable GST Rate on "supply of services to Solid waste management, Garbage Collection, Disposal, Water Supply, Cleaning of Colony" classified by the applicant as exempted supply as per Notification No. 12/2017 dated 28<sup>th</sup> June, 2017 as updated and amended time to time.

**2. Facts of the case:-**

- I. M/s Dhananjay Kumar Singh H.N 13, Sanyasi Para, Khamtarai, Raipur (C.G.) is a service provider who is engaged in the business of executing service contracts and had been awarded a contract by the Chhattisgarh Housing Board (herein to referred as CGHB) for providing services in relation to Solid waste management, water supply operations, Garbage Collection door to door and disposal, Cleaning of colony i.e. garden, street,



and open area, drainage system, sewerage cleaning of water tank (all UG Sump & Over head tank), cleaning of common area of residential area developed by Chhattisgarh Housing Board and not handed over to the local authority for its maintenance. The applicant is providing all those services to the CGHB that a local authority usually provides to the common resident under their jurisdiction. There are certain localities which are developed by CGHB for which maintenance work is given to contractor till they are handed over to the local authority.

- II. The applicant sought Advance Ruling (AAR) on whether the services provided in relation to solid waste management, water supply operations, garbage collection door to door and disposal, cleaning of colony i.e. garden, street and open area, drainage system, sewerage cleaning of water tank (all UG Sump & Over head tank), cleaning of common area of residential area developed by Chhattisgarh Housing Board and not handed over to the local authority by Chhattisgarh Housing Board (CGHB) are exempt, under as per notification no. 12/2017 dated 28<sup>th</sup> June, 2017 as updated and amended time to time or not.

### **3. Contention of the Applicant:**

- I. Chhattisgarh Housing Board (CGHB) is a public sector undertaking of the Government of Chhattisgarh. It is a board constituted under Chhattisgarh Housing Board Act, 1972 (No. 3 of 1973). After formation of the State of Chhattisgarh in November 2000, Housing Board was one among the several Boards and Corporations liquidated by the Government. Later, however, the Government in 2004 revised its earlier decision and formed Chhattisgarh Housing Board vide Notification No. 177/3236/32/2003, dated 12/12/2004. Chhattisgarh Housing Board is the main arm of the Government of Chhattisgarh for giving effect to its Housing Board schemes and on implementing the Government's schemes under social housing.
- II. Since CGHB is a board constituted in terms of Chhattisgarh Housing Board Act which carries out functions entrusted by the State Government, the same would qualify as per the definition of "Government entity".
- III. Further CGHB is also engaged in performing various functions required to be performed by Municipality under article 243W of the Constitution like slum improvement, up gradation and also facilities like solid waste management, Water supply for domestic purpose etc. till the time the developed areas are officially handed over to the local authority for maintenance.
- IV. The above view is supported by the recent judgment in case of M/s Vinod Kumar Panday, Raipur O/A No. BHO-EXUS-002APP-037-17-18 dated 03.05.2017 passed by Hon. Commissioner (Appeals) Raipur where the appellate authority held that the CGHB is covered under the definition of Government Authority for the purpose of Notification No. 25/2012 dated 20.06.2012.



V. The Definition of Government authority under service tax regime is also produced below as defined in Notification No. 25/2012 dated 20.06.2012 and as amended from time to time :

**" 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 Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

VI. Applicant, engaged in the business of executing service contracts had been awarded a contract by the Chhattisgarh Housing Board (CGHB) for providing services in relation to Solid waste management, water supply operations, Garbage Collection door to door and disposal, cleaning of colony i.e. garden, street, and open area, drainage system, sewerage cleaning of water tank (all UG Sump & Overhead tank), cleaning of common area of residential area developed by Chhattisgarh Housing Board and not handed over to the local authority for its maintenance.

VII. The applicant's contention is that residential area developed by Chhattisgarh Housing Board and not handed over to the local authority by Chhattisgarh Housing Board (CGHB) is exempt under as per notification no. 12/2017 dated 28<sup>th</sup> June 2017 as updated and amended time to time. However, in case they are not covered under the said exemption notification, the applicant has sought clarification as regards the applicable rate of GST for the above services rendered by them.

#### 4. Personal Hearing:-

In keeping with the established principles of natural justice, personal hearing in the matter was extended to the authorized representative of the applicant and accordingly, Shri Ramandeep Singh Bhatia (CA) appeared before us for hearing on 30.10.2018 and reiterated their contention. They also furnished a written submission dated 30.10.2018, which has been taken on record.

- I. The applicant has quoted the judgment of M/s The Nursery Men Co-operative Society, Lalbagh, Lalbagh Double Gate Road, Bengaluru, Karnataka in case no. KAR ADRG 18/2018, order dated 06-08-2018 as pronounced by Authority for Advance Ruling, Karnataka, wherein it was ordered that the services of maintenance of parks provided by the society to the State Government, Central Government or a Local Authority (including BBMP) or a Government Authority, not involving transfer of property in goods either as component of a works contract or a composite supply is covered under entry No. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28-6-2017 and hence exempt.



- II. So the pure service contracts awarded by the Chhattisgarh Housing Board (CGHB) to them for providing services in relation to Solid waste management, water supply operations, Garbage Collection door to door and disposal, Cleaning of colony i.e. garden, street, and open area, drainage system, sewerage cleaning of water tank (all UG Sump & Over head tank), cleaning of common area of residential area developed by Chhattisgarh Housing Board comes under Indian Constitution's Article 243W and Twelfth Schedule services in relation to a function of Municipality. Hence exempt under as per notification no. 12/2017 dated 28<sup>th</sup> June, 2017

## 5. The legal position, Analysis and Discussion:-

- 5.1 The provisions for implementing the CGST Act and CGGST Act, 2017 are similar. Now we sequentially discuss the provisions that are applicable in the present case.

Notification No. 12/2017-State Tax (Rate) No. F-10-43/2017/ CT/V(80), Naya Raipur, Dated 28.06.2017, Serial No. 3, Chapter 99 reads as under:-

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
3	Chapter 99	"Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Government 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



- 5.2 Applicant M/s Dhananjay Kumar Singh has been awarded with the work order by Office of the Executive Engineer, Chhattisgarh Housing Board,

- 5.2** Applicant M/s Dhananjay Kumar Singh has been awarded with the work order by Office of the Executive Engineer, Chhattisgarh Housing Board, Capital Project Division-1, Naya Raipur (C.G.) vide Order No. 1653/का. अभि./राज.परि. सं.-1/नि.शा./17 नया रायपुर, दिनांक 29/09/2017 Work order agreement approved in Rs. 35,11,000/- for colony maintenance work of C.G. Housing Board Colony Sector 29 Naya Raipur, Chhattisgarh.

**Nature of the work :-** Colony maintenance work of C.G. Housing Board Colony Sector 29 Naya Raipur with solid waste management, water supply operation, garbage collection door to door and disposal, cleaning of colony i.e. garden, street and open area, drainage system, sewerage, water tank (All UG Sump & Overhead Tank), cleaning of common area in multistoried building, etc. and all other related work pertaining to operation and maintenance.

- 5.3** To ascertain as to whether any supply of goods is involved herein along with provision of service, the work order issued by Chhattisgarh Housing Board has been verified. The applicant has shown the nature work order to be solely provision of services, and no supply of goods has been mentioned. This gets further clear from the invoices submitted to the Chhattisgarh Housing Board. Thus it is evident from the work order itself that the same is solely for provision of service and no supply of good is involved.

Following two points needs ascertainment in order to determine the applicable tax rate on the impugned services to be provided by the applicant:-

- i. Whether the Authority issuing work order to the applicant i.e. Chhattisgarh Housing Board is an established 'Governmental Board' under State or Central Government or not; and
- ii. Whether the service supplies to be provided by the applicant falls under public utility services enumerated under 12<sup>th</sup> schedule, Article 243W of the Indian Constitution or not.

- 5.4** In this context, it is observed that Chhattisgarh Housing Board has been incorporated under Section 3 of the Chhattisgarh Housing Board Act, 1972; vide State Governments' Notification No. 177/3236/32/2003, dated 12-02-2004. Section 4 of concerned Act provides for the Constitution of following post in the Board -

Constitution of Board - The Board shall consist of the Chairman who shall be appointed by the State Government and the following other member, namely:-

- (a) Secretary to the Government of Madhya Pradesh in charge of each of the following departments or his nominee, namely :-

(i) Housing Department (ii) Finance Department

- (b) Chairman, Housing and Urban Development Corporation, New Delhi or his nominee;
- (c) Engineer-Chief, public Works Department;
- (d) Two members of the State Legislative Assembly to be appointed by the State Government;
- (e) Director, Town and Country Planning or his nominee;
- (f) Two non-officials to be appointed by the State Government.
- (g) One person prominent in the field of Housing, Engineering Architecture of Town Planning to be appointed by the State Government.
- (h) Housing Commissioner;

**5.5** Thus it gets amply clear that Chhattisgarh Housing Board is a "Government Authority" as per No. 12/2017-State Tax (Rate) No. F-10-43/2017/CT/V(80), Naya Raipur, Dated 28.06.2017 and as amended by Notification No. 31/2017-State Tax (Rate) No. F-10-82/2017/CT/V(146), Naya Raipur, Dated 13.10.2017.

"(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 percent. or more participation by way of equity or control, to carry out an)' function entrusted or a Municipality/ under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

Thus Chhattisgarh Housing Board is a Government Authority fully owned by the State Government.

**5.6** Now for arriving at a decision as to whether the nature of service supplies being provided by the applicant falls under 12<sup>th</sup> schedule, Article 243W of the Indian Constitution, the following works enumerated under Article 243W needs consideration.

#### **Article 243W in the Constitution of India 1949**

243W. Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to

(i) the preparation of plans for economic development and social justice;



(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule

**APPENDIX-3**

**Twelfth Schedule [Article 243W of the Constitution  
(Seventy-Fourth Amendment) Act, 1992]**

1. Urban planning including town planning.
2. Planning of land- use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and up gradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

In the impugned matter in hand the applicant M/s Dhananjay Kumar Singh has been awarded a work order by the office of the Executive Engineer, Chhattisgarh Housing Board, Capital Project Division-1, Naya Raipur (C.G.) vide Order No. 1653/का. अभि./राज.परि. सं.-1/नि.शा./17 नया रायपुर, दिनांक 29/09/2017ए having work order agreement approved for



Rs. 35,11,000/- for colony maintenance work of C.G. Housing Board Colony Sector 29 Naya Raipur, Chhattisgarh. The nature of work in the said work order has been specified as under:

**Nature of the work :-** colony maintenance work of C.G. Housing Board Colony Sector 29 Naya Raipur with solid waste management, water supply operation, garbage collection door to door and disposal, cleaning of colony i.e. garden, street and open area, drainage system, sewerage, water tank (All UG Sump & Overhead Tank), cleaning of common area in multistoried building, etc. and all other related work pertaining to operation and maintenance.

The service supply to be provided by the applicant by their very nature appear to fall in the list of services enumerated under serial no. 5, 6, 8, 10, 12 and 17 of 12<sup>th</sup> schedule of Article 243W of the Indian Constitution, thus qualifying the admissibility criterion. It has also been categorically stated by the applicant that the said services to be provided to Chhattisgarh Housing Board does not involve any transfer/sale of any goods. Services specified under serial no. 3, chapter 99 of Notification No. 12/2017-State Tax (Rate) No. F-10-43/2017/CT/V(80), Naya Raipur, Dated 28.06.2017 provides exemption, as under :-

"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 Government 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."

On the above basis, we come to the considered conclusion that the said services provided by the applicant to Chhattisgarh Housing Board qualifies being placed under the category of services as stipulated under Notification No. 12/2017-State Tax (Rate) No. F-10-43/2017/CT/V(80), Naya Raipur, Dated 28.06.2017 and hence is exempt.

In view of the deliberations and discussions as above, we pass the following order:-

### **ORDER**

**(Under section 98 of the Chhattisgarh Goods and Services Tax Act,2017)**

No.STC/AAR/06/2018

Raipur, Dated 05.../12.../2018

The ruling so sought by the Applicant is accordingly answered as under:-

In terms of Notification No. 12/2017-State Tax (Rate) No. F-10-43/2017/CT/V(80), Naya Raipur, Dated 28.06.2017, Serial No. 3, Chapter 99 :-

(i) Supply of Services of Colony maintenance work to C.G. Housing Board Colony, Sector 29, Naya Raipur with regard to solid waste management, water supply operation, garbage collection door to door and disposal, cleaning of colony i.e. garden, street and open area, drainage system, sewerage, water tank (All UG Sump & Overhead Tank), cleaning of common area in multistoried building, etc. and all other related work pertaining to operation and maintenance will be treated as exempt supply as per notification No 12/2017-State Tax (Rate) No. F-10-43/2017/CT/V(80), Naya Raipur, Dated 28.06.2017, Serial No. 3, Chapter 99.

(ii) The aforesaid exemption is not available in case any transfer of property in goods involved therein or if the said service is provided to persons other than State Government, Central Government or a local Authority or a Governmental Authority.

Place:- Raipur

Date:- 05/12/2018

Seal:-



*S.K. Buxy*  
S.K. Buxy 5/12/18  
(Member)

*Rajesh Kumar Singh*  
Rajesh Kumar Singh  
(Member)

**Copy to:-**

1. Applicant,
2. The Commissioner, (CGGST)
3. The Principal Commissioner, (CGST)
4. The jurisdictional officer, Raipur Circle-4.