

GOA AUTHORITY FOR ADVANCE RULING.

(Constituted under section 96 of the Goa Goods and Services Tax Act,
2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and
Services Tax Rules, 2017)

BEFORE THE BENCH OF

- (1) Shri. J. K. Meena, Addl Commissioner of Central Tax
(2) Smt. Sarita S. Gadgil, Addl Commissioner of State Tax

Advance Ruling No. GOA/GAAR/10 of 2018-19/1737

Name of the Applicant	M/s Sewerage & Infrastructural Development Corporation of Goa Ltd.
Address	2 nd floor, Ishan Building, Dada Vaidhya Road, Panaji – Goa
GSTIN	30AAICS1298P1ZW
Date of Application	26/02/2019
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	<p>1. Whether the Project Management services provided by applicant to recipient would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?</p> <p>2. Would supervision fees received towards such services provided by the applicant qualify as “Pure services (excluding works contract service or other composite supplies involving supply of</p>



	<p>any goods)” as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017[Notification No. FA -3-42/201711/v (53) dated 30 June 2017, as amended by Notification No. 2/2018-Central Tax (Rate) dated 25 January, 2018 issued under CGST Act, 2017 serial number 3 of Notification No. 9/2017 –Integrated Tax (Rate) dated 28.06.2017, as amended by Notification No. 2/2018 – Integrated Tax (Rate) dated 25.01.2018 and corresponding notifications issued under SGST Act?</p> <p>3. Whether the applicant would fall under the definition of governmental authority or Government entity.</p>
Date of Hearing	19.03.19, 16.04.19, 25.04.19, 02.05.19 and 20.08.19
Persons Present for Hearing	CA Dattaram Vengurlekar and Smt. Veena Bakal

PROCEEDING

(Under Section 98 of the Goa Goods and Services Tax, Act 2017)

The present application has been filed under section 97 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 M/s Sewerage & Infrastructural Development Corporation of Goa Ltd., 2nd floor, Ishan Building, Dada Vaidhya Road, Panaji – Goa, seeking an Advance Ruling in respect of the following question as listed below:



1. Whether the Project Management services provided by applicant to recipient would qualify as an activity in relation to function entrusted to Panchayat or Municipality under Article 243G or Article 243W respectively, of the Constitution of India?
2. Would supervision fees received towards such services provided by the applicant qualify as “Pure services (excluding works contract service or other composite supplies involving supply of any goods)” as provided in serial number 3 of Notification No. 12/2017- Central Tax (Rate) dated 28 June, 2017[Notification No. FA -3-42/201711/v (53) dated 30 June 2017, as amended by Notification No. 2/2018-Central Tax (Rate) dated 25 January, 2018 issued under CGST Act, 2017 serial number 3 of Notification No. 9/2017 –Integrated Tax (Rate) dated 28.06.2017, as amended by Notification No. 2/2018 – Integrated Tax (Rate) dated 25.01.2018 and corresponding notifications issued under SGST Act?
3. Whether the applicant would fall under the definition of governmental authority or Government entity.

M/s Sewerage & Infrastructural Development Corporation of Goa Ltd., was incorporated under Companies Act, 1956 with 100% participation by way of equity by the State Government and has been appointed as the state level Nodal agency to take up the Sewerage projects and is also responsible in implementation of various sewerage projects in the state of Goa and is registered under GSTIN 30AAICS1298P1ZW.

The applicant is engaged in providing

- a) Project management
- b) Project planning
- c) Survey, studies and investigations
- d) Feasibility study
- e) Detailed design
- f) Bidding process and contract management



g) Construction supervision and contract management

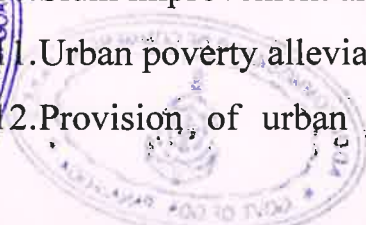
h) Preparation of detailed project report

Scope of Work

The applicant shall be responsible for overall management of all components of the project on technical, financial and contractual matters during implementation of the sewerage projects. The services shall include deployment of team of experts, Engineers and other support staff which shall remain involved till execution of the projects. The scope would broadly include appointments of contractors and consultants, review and finalisation of contractor's and consultant's submissions in relation to project planning and execution, periodic review of progress report, rendering advice on counter measures/corrective actions required for overcoming bottlenecks/problems encountered during the execution of the project.

Now for arriving at a decision as to whether the nature of services provided by the applicant falls under 12th Schedule, Article 243W of the Indian Constitution, the activities listed under 12th Schedule are enumerated as under:

1. Urban planning including town planning.
2. Regulation 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,



Signature

playgrounds.

13.Promotion of cultural, educational and aesthetic aspects.

14.Burials and burial grounds; cremations, cremation grounds and electric crematoriums.

15.Cattle ponds; 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.

The services provided by the applicant appears to fall in the list of services enumerated under serial no. 6 of the 12th Schedule of Article 243W of the Indian Constitution, thus qualifying the admissibility criteria.

The relevant extract of Sl. No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 and the relevant definition are extracted below for case of reference:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
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 Governmental authority by way of any activity in relation to any function entrusted to a	NIL	NIL



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		Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.		
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(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 Act, 2017 (13 of 2017);

Explanation to clause (16) of Section 2 of the Integrated Goods and Service Tax Act (IGST) is given as under:

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 municipality under article 243W of the Constitution;

This definition was later amended vide Notification No. 32/2017 – Central Tax (Rate) dated 13/10/2017

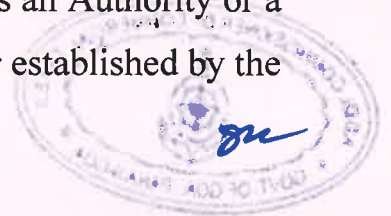
(ii) in paragraph 2, for clause (zf), the following shall be substituted, namely: -

“(zf) “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 90per 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

Form the above, it is evident that if any ‘Pure Services” are provided to a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat or Municipality under Article 243G or Article 243W of the Constitution of India and that ‘Governmental Authority’ is an Authority or a Board set up by an Act of Parliament or a State Legislature or established by the



Government with 90 percent or more participation by way of equity or control to carry out any function entrusted to a Panchayat or Municipality under Article 243G or Article 243W of the Constitution of India, then the same is exempted vide Sl. No. 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017.

In view of the above facts and provisions the ruling is given as under:

ADVANCE RULING UNDER SECTION 98 OF THE CGST/GGST ACT,
2017

1. The services provided by the applicant appears to fall in the list of services enumerated under serial no. 6 of the 12th Schedule of Article 243W of the Indian Constitution, thus qualifying the admissibility criteria.
2. Supervision fees received towards such services provided by the applicant qualify as “Pure services (excluding works contract service or other composite supplies involving supply of any goods)” provided to a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat or Municipality under Article 243G or Article 243W of the Constitution of India and are exempted from CGST under Sl. No. 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 as amended and from SGST under Notification No. 38/1/2017-Fin(R&C)(12/2017-Rate) dated 30/06/2017 as amended.
3. The applicant falls under the definition of Governmental Authority or Government Entity clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and amended vide Notification No. 32/2017 – Central Tax (Rate) dated 13/10/2017.


(J. K. Meena)
Member




(Sarita S. Gadgil)
Member

Dated: - 30/09/2019

Place: - Panaji – Goa

To,

M/s Sewerage & Infrastructural

Development Corporation of Goa Ltd.,

2nd floor, Ishan Building,

Dada Vaidhya Road, Panaji – Goa,

Copy to

1. The State Tax Officer, Panaji Ward, Panaji – Goa;
2. The Dy. Commissioner of State Tax, Panaji Ward, Panaji;
3. The Commissioner of State GST, Panaji – Goa;
- ✓ 4. The Commissioner of Central GST, Panaji – Goa;
5. Office file;
6. Guard file.

