



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO 1-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2018-19/46
(In Application No.: 46/2018-19, dated 24.12.2018)

Name & Address of the Applicant	: M/s National Institute of Technology, NIT Campus, Kurukshetra.
GSTIN of the Applicant	: 06AAATN6169K1Z7
Date of Application	: 24.12.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	: Clause(b)-applicability of a notification issued under the provisions of this Act
Date of Personal Hearing	: 15.03.2019
Present for the Applicant	: Sh. Ashok Kumar Batra (C.A.) and Sh. Sudhansh Pathak (C.A.) and Mohd. Feroz

Memo No.: 807 / ACTE/CML
Dated : 12/9/19

1. Brief facts of the applicant's case:

- 1.1 The applicant, M/s National Institute of Technology, Kurukshetra (Haryana) is a creation of an Act of Parliament i.e. NIT Act, 2007.
- 1.2 According to Section 2(zfa) of Notification 12/2017- Central Tax (rate) dated 28.06.2017, Government Entity means an authority or a board or any other body:-

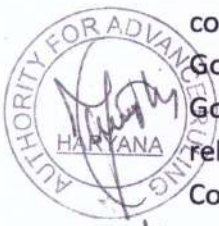
- (i) Set up by an Act of Parliament or State Legislature
- (ii) Established by any Government

With 90% 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.

- 1.3 As per the Department of Secondary and Higher Education, Minister of Human Resource Development, Government of India Notification dated 14th May, 2003, the Central Government took over total control of NIT, Kurukshetra.

- 1.4 As per Entry No. 3 of the Notification 12/2017- Central Tax (rate) dated 28.06.2017, 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 attracts Nil rate of tax.

- 1.5 The applicant has produced a copy of Schedule XI, Article 243G of the Constitution of India whereby the subjects assigned to the Panchayats have



been mentioned. Entry No. 17 of this Schedule mentions Education, including Primary and Secondary Schools.

- 1.6 The issue raised by the applicant for Advance Ruling is whether the pure services supplied to the applicant institute such as manpower supply services, security services, horticulture services, civil maintenance and electrical maintenance services etc. shall be liable to tax under GST or exempt from payment of tax vide Entry 3 of Notification 12/2017- Central Tax (rate) as amended from time to time?

2. Discussion:

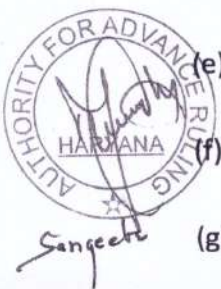
- 2.1 In order to decide the issue at hand, the following questions require clarity;

- (i) What is a Local Authority?
- (ii) What is a pure service?
- (iii) Whether NIT is a Government Entity?
- (iv) Whether NIT is covered under subject mentioned at Serial No. 17, Schedule XI to the Constitution of India?
- (v) Whether the pure services received by the NIT fall under Serial No. 3 of Notification No. 12/2017 Central Tax (rate) dated 28.06.2017?
- (i) The term Local Authority has been defined under Section 2(69) of the CGST/HGST Act, 2017. This section reads as under:-

"Local Authority" means:-

- (a) 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 Zila 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 (Central Act 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 of the Constitution.
- (g) A Regional Council constituted under Article 371A of the Constitution.

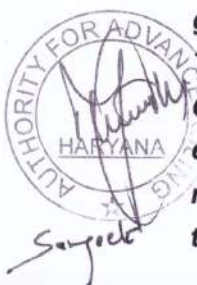
As per this definition, it is clear that Panchayat is a form of Local Authority.



- (ii) Although "Pure services" have not been defined under the Goods and Services Tax Act, 2017, but it is meant to mean supply of services without involving any supply of goods. Entry No. 3 of Notification 12/2017- Central Tax (rate) dated 28.06.2017 lends weight to this definition, whereby the works contract services and composite supplies involving supply of any goods are excluded from pure services.
- (iii) Since the NIT, Kurukshetra has been established by an Act of Parliament and as per the Department of Secondary and Higher Education, Minister of Human Resource Development, Government of India Notification dated 14th May, 2003, the Central Government took over total control of NIT, Kurukshetra, it qualifies to be a Government Entity as defined under Section 2(zfa) of the Notification No. 12/2017 Central Tax (rate) dated 28.06.2017 which reads as under:-

"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% 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."

- (iv) The National Institute of Technology, Kurukshetra is an institute of higher education whereas, Entry No. 17 of Schedule XI, Article 243G of the Constitution of India incorporates Education, including Primary and Secondary Schools. It suggests that the term education used in this Entry includes only school education and that too imparted in Primary and Secondary Schools. Had that not been the case, the subject Technical training and vocational education would not have found mention at Entry No. 18 of Schedule XI. Whereas, NIT provides higher education and as such it cannot be said to be covered under Entry No. 17 of Schedule XI of Constitution of India.
- (v) The pure services received by the NIT includes services such as manpower supply services, security services, horticulture services, civil maintenance and electrical maintenance etc. Whereas, Entry No. 3 of exemption Notification 12/2017- Central Tax (rate) mentions **"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."**



- 2.2 The higher education imparted by NIT, Kurukshetra neither falls under the subjects assigned to Panchayats under Article 243G nor does it fall under

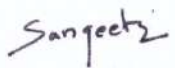
those assigned to Municipalities under Article 243W Indian Constitution. Moreover, Panchayats (Gram Panchayats, Block Panchayats and Zila Panchayats) have no connection whatsoever with these services received by NIT, Kurukshetra. Neither the tender for services are floated by Panchayats nor is the payment being made by them. The Panchayats have been created for rural areas whereas Municipalities look after urban affairs. The NIT, Kurukshetra, located within the Municipal boundaries of Kurukshetra, does not even have the remotest link with the Panchayats. In this manner, the provisions of Entry No. 3 of exemption notification does not apply in case of the applicant.

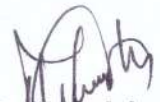
3. Finding:

- 3.1 In light of the submissions made by the applicant, both written as well as oral, and the statutory provisions, the Authority for Advance Ruling is of the unanimous view that the pure services received by the applicant are not exempt from payment of tax under the CGST/HGST Act, 2017 and are taxable.

Ordered accordingly.
To be communicated.

19.03.2019
Panchkula.


(Sangeeta Karmakar)
Member CGST


(Madhubala)
Member SGST

Regd. AD/Speed Post

✓ M/s National Institute of Technology,
NIT Campus, Kurukshetra.



o/c
Copy to:

1. The Commissioner, Central Goods & Service Tax, Panchkula Commissionerate, SCO 407-408, Sector-8, Panchkula (Haryana).
2. Assistant Commissioner of Goods & Service Tax, Division Kurukshetra, Gaba Building No. 1, Near Croma Hotel, NH-44, Pipli, Kurukshetra-136131.
3. Deputy Excise and Taxation Commissioner (ST), Kurukshetra.