

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU
No.207, 2nd FLOOR, PAPJM BUILDING, No.1, GREAMS ROAD,
CHENNAI 600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE TNGST ACT, 2017**

Members present:

Shri Balakrishna S, I.R.S., Additional Commissioner/Member (CGST), Office of the Commissioner of GST and Central Excise, Audit II Commissionerate, Chennai - 600 034.	Shri B.Suseel Kumar, B.E., MBA., Joint Commissioner/Member (SGST), Authority for Advance Ruling, Tamil Nadu, Chennai - 600 006.
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Advance Ruling No. 14/ARA/2025, Dated: 30.04.2025

- 1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.*
- 2. In terms of Section 103(1) of the Act, 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.*

GSTIN Number, if any / User id	33AAALK2566M1ZW
Legal Name of Applicant	M/s. KANNIVADI TOWN PANCHAYAT
Registered Address / Address provided while obtaining user id	No.117, Town Panchayat Office, Kannivadi Main Road, Canara Bank, Kannivadi, Tiruppur – 639 202.
Details of Application	GST ARA – 01 Application Sl. No. 17/2024/ARA, dated 16.09.2024.
Jurisdictional Officer	State: Dharapuram Assessment Circle Tiruppur Division
Concerned Officer	Center: Salem Commissionerate, Erode – 1 Division
<p>Nature of activity(s) (proposed / present) in respect of which advance ruling sought for</p> <p>A Category</p> <p>B Description (in brief)</p>	<p>Service Provision</p> <p>M/s Kannivadi Town Panchayat is a “Panchayat” as defined under clause (d) of article 243 of the Constitution and hence covered under the definition of Local Authority defined in clause (69) of Section 2 of the CGST Act, 2017. The activities provided by the applicant includes, Renting of immovable property service, Mandap keeper service etc. They are also rendering functions entrusted to a Panchayat under Article 243G of the Constitution.</p> <p>One such activity is that they have given the right to collect entry fee of weekly market to the tender contractor. Based on the tender amount agreed, the tenderer was accorded ‘right to collect fee for entry and sell vegetables, fruits, birds and animals etc. for vendors/farmers/ public in the open space/temporary tents. The tender contract is for a period of three years as per the tender notice. As per the contract, the activity provider is the ‘Town Panchayat’, activity availer is the tender contractor who succeeded in the tender process and the activity is right to collect the</p>

	<p>entrance fee in the weekly market as per the prescribed conditions of the tender. The consideration is the amount determined and confirmed in the tender process. The main condition is that the entrance fee collected from the public/onion merchants/farmers should be as per the amount prescribed by the Town Panchayat and the receipt for such use is issued in the name of the Town Panchayat by the tender contractors. The applicant requires clarifications as to whether their activities are covered under Eleventh Schedule under Article 243G of the Constitution and if so whether they are eligible to claim the benefit under Notification No. 14/2017-CT(Rate) dated 28-06-2017 on the ground that their activity is not a service.</p>
Issue/s on which advance ruling required	Applicability of Notification issued under the provisions of the Act.
Question(s) on which advance ruling is required	<p><u>Query 1:</u> Whether the activity of leasing of weekly market to the tender contractors for the purpose of collection of fee on the 'week market days basis' from the merchants/farmers/public for usage of the open space for selling of fruits/vegetables/domestic animals/birds etc., is an activity covered under the function entrusted to Panchayat under the ELEVENTH SCHEDULE under Article 243G as a local authority in which they are engaged as public authority.</p> <p><u>Query 2:</u> If the above activity is not be treated as a supply of service and in that case the same is covered as an activity which is not a service as per Central Tax Notification No. 14/2017 – Rate, dated 28.06.2017 as amended as well as under State Tax Tamil Nadu G.O. (Ms.) No. 75, dated 29.06.2017 – GST as amended and as a result Central Tax and State Tax are not chargeable for the said activity.</p>

At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *parimateria* and have the same provisions in like matters and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2. M/s. Kannivadi Town Panchayat (hereinafter '**the Applicant**') submitted a copy of payment receipt vide reference No.24073300285612 on 18.07.2024 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. The online application form for advance ruling was filed on 27th Aug, 2024 and the physical application was 16th Sep, 2024 as mandated under Rule 107A.

3. The applicant in the statement of relevant facts has narrated as below:

- M/s Kannivadi Town Panchayat is a Panchayat as defined under clause (d) of article 243 of the Constitution and hence covered under the definition of Local Authority defined in clause (69) of Section 2 of the CGST Act, 2017.
- The activities provided by the applicant includes, Renting of immovable property service, Mandap keeper service etc. Hence, they are registered under GST with GSTIN: 33AAALK2566M1ZW. They are also rendering functions entrusted to a Panchayat under Article 243G of the Constitution.
- One such activity is that they have given the right to collect entry fee of 'weekly market' to a tender contractor.
- Based on the tender amount agreed, the tenderer was accorded 'right to collect fee for entry' to sell vegetables, fruits, birds and animals etc., for vendors/farmers/public in the open space/temporary tents.
- The tender contract is for a period of three years as per the tender notice. As per the contract, the activity provider is the Town Panchayat, activity availer is the tender contractor who succeeded in the tender process and the beneficiary is the common public who uses the facility. The nature of activity

is 'right to collect the entrance fee' for entry into the weekly market as per the prescribed conditions of the tender. The consideration is the amount determined and confirmed in the tender process.

- The main condition is that the entrance fee collected from the public/Onion merchants/farmers should be as per the amount prescribed by the Town Panchayat and the receipt for such user is issued in the name of the Town Panchayat.
- The applicant requires clarifications as to whether their activities are covered under Eleventh Schedule to Article 243G of the Constitution and if so whether they are eligible to claim the benefit under Notification No. 14/2017-CT(Rate) dated 28-06-2017 on the ground that their activity is not a service.

4. On interpretation of law the applicant has quoted the definitions of 'principal' (Section 2(88)), 'agent' (Section 2(5)), 'consideration' (Section 2(31)), 'supplier' (Section 2(105)) and 'taxable supply' (Section 2(108)) which are relevant to the advance ruling sought by them.

- As per Section 7(2) of the CGST Act, 2017

Notwithstanding anything contained in sub-section (1),-

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

- As per Notification No. 14/2017-CT (Rate) dated 28th June, 2017, "*Services by way of any activity in relation to a function entrusted to a Panchayat under Article 243G of the Constitution (or to a Municipality under Article 243W of the Constitution), is not a service*".
- The activity of the applicant will fall under the functions entrusted to a panchayats under the Eleventh Schedule to Article 243G of the constitution under (22) *Markets and Fairs* out of 29 functions listed under the schedule.
- The applicant quoted some of the Sections of The Tamilnadu District Municipalities Act, 1920 relating to '*Provision of Cart-stands, Powers, Authority and responsibilities of the Municipalities, public servant etc.*'

- The applicant has cited the decision of AAAR, Tamilnadu orders AAAR/21/2021(AR) dated 01.12.2021 and AAAR/20/2021 (AR), dated 01.12.2021.

Comments by State and Centre Authorities:

5. The applicant falls within the administrative jurisdiction of 'STATE', and the State Jurisdictional Authority vide his letter dated 16.11.2024 has offered remarks and stated that no adjudication process is pending or finalized in respect of the applicant. The Central Jurisdictional authority in his letter dated 18.11.2024 has stated that no action has been initiated by them on any issue under GST. However, they have furnished a copy of order vide OIO No.05/2023-AC-Erode-I, dated 19.07.2023, a confirmed arrears for the legacy period, on the same issue, as per records available, applicable Service Tax was demanded for "Renting of immovable property service" for the period 01.04.2016 to 30.06.2017.

Personal Hearing:

6.1 The applicant was offered personal hearing to appear in person on 27.03.2025 which was sent through RPAD on 18.03.2025 and the same was duly acknowledged by the applicant. Personal hearing was held on 27.03.2025. Shri. K. Sankaranarayanan, M.Sc, BL, Advocate & Authorised Representative of the Applicant appeared for the personal hearing. Authorised Representative reiterated the submissions made in their original application. Authorised Representative further stated that the applicant is covered under the definition of "Panchayat" as defined under Article 243 of the Constitution and hence covered under the definition of 'local authority' defined in clause 69 of Section 2 of the CGST/TNGST Act, 2017. Authorised Representative explained the applicant's activity and informed that they have given the "right to collect entry fee of weekly market". The contract is for the period of three years and contractor is required to collect the fees as per the amount prescribed by the Town Panchayat and the receipt issued in the name of the said Panchayat.

6.2 In the additional submissions furnished by Authorised Representative, they have enclosed four decision of TNAAR on similar issue and prayed that the

above decisions may be considered in providing clarification to the query raised by them.

7. DISCUSSION AND FINDINGS:

7.1 We have carefully examined the submissions made by the applicant in their advance ruling application and the submissions made during the personal hearing. The applicant claims that they are covered under the definition of "Panchayat" as defined under Clause (d) of Article 243 of the Constitution. They are rendering taxable services namely, Renting of immovable property service and Mandap keeper service. They are providing the **functions entrusted to a Panchayat under Eleventh Schedule to Article 243G of the Constitution**. They are rendering these functions directly as well as through contractors, by way of tender process. One such activity done through tender contractor is collection of entry fees for selling vegetables, fruits, birds and animals etc. for vendors/ farmers/ public in the open space/temporary tents on the days fixed for weekly market days.

They claim that the activity of giving the right to collect entry fees in the weekly market as per the prescribed conditions of tender.

7.2. The applicant required advance ruling on

- i) Whether the activity of leasing of weekly market to the tender contractors for the purpose collection of fee on the week market days basis from the merchants/ farmers/ public for usage of the open space for selling of fruits / vegetables / domestic animals / birds etc. is an activity covered under the function entrusted to Panchayat under the ELEVENTH SCHEDULE under Article 243G as a local authority in which we are engaged as public authority.*
- ii) If so the above activity shall not be treated as a supply of service and in that case the same is covered as an activity which is not a service as per Central Tax Notification No. 14/2017 – Rate, dated 28.06.2017 as amended as well as under State Tax Tamil Nadu G.O. (Ms.) No. 75, dated 29.06.2017 – GST as amended and as a result Central Tax and State Tax are not chargeable for the said activity.*

7.3 In the instant case, the applicant had sought ruling on the 'right given to the contractors to collect entry fee" from for vendors/farmers/public, to sell vegetables, fruits, birds and animals etc. in the open space/temporary tents. Based on the tender process, the successful bidder/contractor was awarded the contract of 'right to collect fees' by the Panchayat for a period of three years, where, the contractor is allowed to collect daily entrance fees from vendors/farmers/public in the open space/temporary tents with certain conditions specified while awarding the contract.

7.4 As per the conditions of the contract, the fee collected from the public/onion merchant/farmers by the tender contractor is prescribed by the Panchayat and the receipt for such entry fee issued by the contractor, to the vendors/farmers/public, will be in the name of the Panchayat only.

7.5 As per Section 7(2) of the CGST Act, 2017: -

Notwithstanding anything contained in sub-section (1),-

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

7.6 Notification 12/2017-CT (Rate) dated 28-06-2017 exempts intra-state supply of services by charging '**Nil**' rate of tax as per the list of activities appended in the Table. Serial No. 4 of the Table where, '*Services by Central Government, State Government, Union territory, local authority of governmental authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution*' is one such activity where the government had provided exemption from payment of tax.

Notification No.14/2017-CT(Rate) dated 28-06-2017, states that the activities of transaction undertaken by Central or State or local authority engaged as public authority and engaged in the services in relation to functions entrusted to 'Panchayat' under article 243G of the constitution shall neither be

treated as supply of goods not supply of services. The notification is reproduced below.

In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:-

“Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution.”

2. This notification shall come into force with effect from the 1st day of July, 2017.

7.7 Article 243G of the Constitution of India prescribes the powers, authority and responsibilities of Panchayats and lists the functions entrusted to them in the Eleventh Schedule to the article. Of the Twenty Nine functions of a Panchayat listed, the activity of the applicant would fall under **“22. Market and Fairs”**.

7.8 From the detailed submissions made by the applicant, pertaining to supply, we find that their supply is not related to goods, but there is rendering of services. The next step would be to find out whether the services rendered by them are in relation to any function entrusted to a Panchayat under Article 243G of the Constitution.

7.9 By the above notifications and subsequent amendment, if the activities of transactions by the Central Government or State Government or Union Territory or any local authority, if engaged as a ‘public authority’ and does the functions entrusted to ‘municipality’ or ‘panchayat’ under article 243W or 243G of the Constitution, all such activity are out of the purview of the taxable net and shall be treated neither as supply of goods nor as supply of services. One such activity is provision of ‘Markets and Fairs’ by the panchayat, done through tender contractor is collection of entry fees for sell vegetables, fruits, birds and animals etc. for venders/ farmers/ public in the open space/temporary tents on

the days fixed for weekly market days, which will fall under Sl. No.22 of the functions entrusted to a Panchayat.

8. The purpose of providing certain functions entrusted to the Panchayat will not change the essential characteristics envisaged under the Article irrespective of the person providing the services entrusted. Only for administrative and operational convenience, the functions entrusted to a panchayat under the Article are being provided. It is important to determine whether the activities provided by the contractor is the same function entrusted to a panchayat in the Constitution and to ensure that the intention of the provisions contained in the Constitution is fulfilled. Thus, there is close link or association between the activity and the functions. It is not the proportionality of the activity relating to the function entrusted, but the implications of the legislative assessment of the terms 'in relation to' is more tilted towards nexus, inseparability and identity of the activities involved with the functions and not merely on other parameters. Hence, the transaction between Panchayat and Contractor is clearly an activity/transaction undertaken by the local authority, engaged as public authority. Hence, the requirement stated in Section 7(2)(b) of the Act are clearly met. Hence, the activity undertaken by the corporation is an activity covered under the Notification No. 14/2017-CT(Rate) dated 28-06-2017, as amended as 'neither a supply of goods nor a supply of services' and out of purview of GST and the notification is available for the Contractor also provided the same are rendered as back to back services to the applicant.


9. 'Back to back contract' or agreement is a one where a main contractor pass on his obligations, responsibilities and liabilities to their sub-contractors bound by the same terms and conditions. Since a government cannot involve directly in all the functions entrusted to them, they may enter into back to back contract either partially or fully to complete the functions in a timely manner. Mainly this type of back to back contracts are provided to the sub-contractors to ensure smooth execution of the process without any hustle.

10. Based on the above discussion, we rule as under.

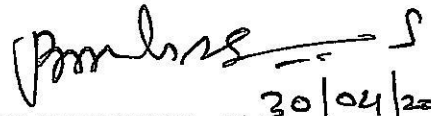
RULING

Based on the facts, records and evidences submitted along with the application, the queries are answered as follows.

- (i) The activity of leasing, to the tender contractor, the right to collect entry fees, for sell vegetables, fruits, birds and animals etc. for venders/ farmers/ public in the open space / temporary tents on the days fixed for weekly market days would be covered under the function entrusted to Panchayat under Article 243G of the Constitution as a local authority engaged as public authority;
- (ii) Notification No. 14/2017-CT(Rate) dated 28-06-2017 as amended by Notification No. 16/2018-CT(Rate) dated 26th July, 2018 issued in terms of Section 7(2)(b) of CGST/TNGST Act, 2017, is very much available to claim as the activity is 'neither supply of goods nor supply of services'.


(B. SUSEEL KUMAR)
Member (SGST)




(BALAKRISHNA. S)
Member (CGST)

To
M/s. KANNIVADI TOWN PANCHAYAT
GSTIN: 33AAALK2566M1ZW
No. 117, Town Panchayat Office,
Kannivadi Main Road,
Canara Bank, Kannivadi, Tirupur – 639 202.

//by RPAD//

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.
3. The Commissioner of GST & Central Excise,
Coimbatore Commissionerate.

Copy to:

1. The Assistant Commissioner (TNGST),
Dharapuram Assessment Circle.
No. 130-138, Jawulikadai Street,
Dharapuram – 638 656.
2. Master File/ Spare – 2. +