

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)

(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

ARN No.	AD270120050662K
GSTIN Number, if any/ User-id	27AADCM4072C1ZR
Legal Name of Applicant	M/s. Maharashtra Ex-Servicemen Corporation Ltd.
Registered Address/Address provided while obtaining user id	'Raigad'; Opp. War Memorial, Ghorpadi, Pune 411001.
Details of application	GST-ARA, Application No. 105 Dated 06.02.2020
Concerned officer	Division VI, Commissionerate PUNE-I
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	<p>Maharashtra Ex-Servicemen Corporation Ltd. (MESCO Ltd.), the applicant, is an organization fully owned & Controlled by the Government of Maharashtra.</p> <p>MESCO Ltd is formed by Govt Resolution No : /1099/2390/244 /99/28 Mantralaya, Mumbai-400032 dated, 18.01.2002 for the re-settlement of Ex Servicemen of Indian Defence Forces (i.e. Army, Navy and Air Force) and opening employment opportunities after their retirement from the Defence forces.</p> <p>MESCO Ltd is providing security services to various Govt., Semi-Govt., Central PSUs, State PSUs offices including various Municipal Corporations e.g. Nagpur Municipal Corporation, Amravati Municipal Corporation, Aurangabad Municipal Corporation, Kolhapur Municipal Corporation, Latur Municipal Corporation, Parbhani Municipal Corporation, Solapur Municipal Corporation etc...</p>
Issue/s on which advance ruling required	➤ Applicability of notification issued under the provision of the Act
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 105/2019-20/B- 33

Mumbai, dt. 15.03.2022

PROCEEDINGS

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

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST

Act and MGST Act” respectively] by **M/s. Maharashtra Ex-Servicemen Corporation Ltd.** , the applicant, seeking an advance ruling in respect of the following questions.

Whether the Chapter No. 99, Sr. No. 3 of the Exemption Notification No. 12/2017 is applicable to MESCO Ltd. for the pure services i.e. Security Services rendered to various sites of Municipal Corporations in relation to functions entrusted to it under Article 243 W of the Constitution of India, thereby exempting as a service provider from the whole of GST?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression ‘GST Act’ would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

2.1 Maharashtra Ex-Servicemen Corporation Ltd, the applicant is an organization fully owned & controlled by the Government of Maharashtra, formed by Government Resolution No : /1099/2390/244 /99/28 Mantralaya, Mumbai-400032 dated 18th January, 2002 for the re-settlement of Ex-Servicemen of Indian Defence Forces (i.e. Army, Navy and Air Force) and opening employment opportunities after their retirement from the Defence forces.

2.2 The Applicant is providing security services to various Government, Semi-Govt., Central PSUs, State PSUs offices including various Municipal Corporations e.g. Nagpur Municipal Corporation, Amravati Municipal Corporation, Aurangabad Municipal Corporation, Kolhapur Municipal Corporation, Latur Municipal Corporation, Parbhani Municipal Corporation, Solapur Municipal Corporation etc.

2.3 The subject application is filed to know Whether the Exemption Notification No. 12/2017 – Central Tax (Rate) dated 28/06/2017 (Entry No. 3 of the Notification) is applicable to the applicant for providing of “Pure Services” i.e. Security Services rendered to secure & safeguard the assets of various sites of Municipal Corporations in relation to functions entrusted to Municipality under Article 243 W of the Constitution, thereby exempting the applicant as a service provider from the whole of GST.

2.4 The security services are provided in the form of providing security guards to various sites of the Municipal Corporations to protect the assets and safeguard its property, against which bills are



charged on monthly basis. All the sites are inter alia involved in relation to any functionality entrusted to Municipality under article 243W of the constitution and impugned service is pure service as contemplated in chapter 99 of the exemption notification.

B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

2.5 In view of the aforesaid facts, the applicant is of the opinion that the security services provided by applicant to Nagpur Municipal Corporation are exempted from GST, in view of the Notification No. 12/2017 -Central Tax (Rate) dated 28/06/2017 (Sl. No.3) as the said Security Services are Pure Services (being provided without any material) and are being provided to municipalities in relation to the functions entrusted to them under article 243W of the Constitution of India. The applicant is not charging GST on the invoices raised to Nagpur Municipal Corporation.

2.6 The condition of the notification that services should be provided to Municipality is satisfied by the applicant. The next condition of the notification i.e. services should be in relation to functions entrusted to the municipalities under article 243W of the constitution is also satisfied by the applicant. Hence, applicant is of the view that Security Services provided by it to Municipal Corporation are exempt from GST.

Additional Submission dated 20.10.2021:-

2.7 100% Equity of the Corporation belongs to the State Government of Maharashtra. The Audit of the Corporation is done as per Section 139 of the Companies Act 2013 (Section 619 in the erstwhile Companies Act) by the Comptroller and Auditor General of India. The Corporation is a "State Instrumentality" and falls under the "Other Authorities of State" within the meaning of the Article 12 of the Indian Constitution.

Statement Containing the applicant's interpretation of law and / or facts, as the case may be

2.8 In view of the aforesaid facts the applicant is of the opinion that the security services provided by applicant to all the Municipal Corporations are exempted from GST, in view of the above referred Notification.

CASE LAW SUPPORTING THE APPLICANT'S CLAIM:-

2.9 In Similar case of M/S National Security Services Ltd. bearing GST No. 27AEHPM7276H1Z2 authority for Advance Ruling has given decision in favour of the applicant. In the said case National Security Services Ltd. was providing security services to various sites of Pimpri Chinchwad Municipal Corporation (known as PCMC) such as Hospitals, water supply sites, Purification of plants etc. All these services are covered under article 243W of the constitution of India as



functions entrusted to Municipality. It was held by the Hon. Authority for Advance Ruling Mumbai bench that the above services are covered under SI no. 3 of the Notification no.12/2017 of Central tax (Rate) and therefore exempt from GST.

- 2.10 Applicant is also having the similar nature of service as already decided by the AAR therefore applicant sought relief from paying GST on the services provided by it to various Municipal corporation.

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The jurisdictional/concerned officer, in his reply has only reproduced the GST ARA Order in case of M/s. NATIONAL SECURITY SERVICES (58/2018-19)

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 04.02.2021. Shri. Pritesh Vaghela, CA & Authorized representative of applicant was present and made submissions for admission of the application. Jurisdictional Officer Shri.Prashant Patil, Deputy Commissioner of CGST, Pune-1 was also present.

4.2 The application was admitted and Final e-hearing was held on 22.10.2021. The Authorized representative of the applicant, Shri. Pritesh Vaghela, learned CA was present and made submissions in support of applicant's contention that its supply of services was exempted under GST Laws. The Jurisdictional officer Shri. P. Shrikanth, Assistant Commissioner CGST, Div-VI, Koregaon, Pune was also present.

4.3 The Applicant was asked to provide details of transactions or exact nature of services for which security is provided with the copies of purchase orders, bills etc. and partywise, activitywise (for what purpose security is provided) and the value wise details. The concerned jurisdictional officer was asked to file written submission, if any. Applicant was asked to provide details of all services provided, to prove that the activities of applicant are covered by Article 243W of the constitution.


- 4.4 The matter was heard.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have gone through the facts of the case, documents on record and the submissions made by both, the applicant as well as the jurisdictional officer.



- 5.2 The only issue before us is whether the supply of security services by the applicant to the various Municipal Corporations are exempted from GST under the provisions of Exemption Notification No. 12/2017 – Central Tax (Rate) dated 28/06/2017 (Entry No. 3 of the Notification).
- 5.3 The applicant is of the opinion that the security services provided by it to all the Municipal Corporations are exempted from GST and has made submissions supporting its view. In support of its contention, the applicant has also cited the decision of this authority given in the case of Advance Ruling Application filed by M/s National Security Services.
- 5.4 Since the applicant's questions pertains to the applicability of the provision of Sr. No. 3 of Exemption Notification No. 12/2017 – Central Tax (Rate) dated 28/06/2017, we reproduce the relevant provision as under:-



Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate %	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 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

It is clearly seen from a reading of the said Sr.No. 3, that, exemption is extended to ***"Pure servicesprovided to or local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution."***

- 5.5 From the submissions made by the applicant particularly with respect to the fact that no material is being provided during the supply of the impugned security services, we find that the impugned services provided by the applicant are in the nature of "pure services".
- 5.6 It is also seen from the submissions made, that the impugned question is raised only with respect to the impugned services supplied to the various Municipal Corporations who can be considered as local authorities.

5.7 However, the applicant has not mentioned or enumerated the functions of the Municipal Corporations in relation to which the impugned services are provided. The applicant has made a sweeping and blanket submission that its services which are in the nature of pure services and are provided to the various Municipal Corporations in relation to functions entrusted to Municipality under Article 243 W of the Constitution. Further, inspite of having been asked during the course of the final hearing, the applicant has not provided details of transactions or exact nature of functions of the said Municipal Corporations, for which security is provided. They have not submitted copies of purchase orders, bills etc., party wise details, activity wise details (for what purpose security is provided) and other relevant details.

5.8 The Municipal Corporations may also be involved in various performing functions, for example: leasing of grounds/premises for exhibitions, marriages, etc. which are not functions entrusted to a Municipality under Article 243 W of the Constitution. Therefore, in such cases, the impugned security services without supply of material i.e pure services, rendered to the Municipal Corporations by the applicant will not be exempt under the provisions of Sr. No. 3 of Exemption Notification No. 12/2017 – Central Tax (Rate) dated 28/06/2017.

5.9 In view of the above discussions, we are of the opinion that, that the applicant will be entitled to the benefit of Notification No. 12/2007-CT(Rate) dated 28.06.2017 in respect of the impugned activity only if the same is provided in relation to functions which have been entrusted to a Municipality under article 243W of the Constitution. If the impugned activity/services are not provided in relation to functions which have been entrusted to a Municipality under article 243W of the Constitution, then in such a case the applicant will not be entitled to exemption under Sr. No. 3 of Exemption Notification No. 12/2017 – Central Tax (Rate) dated 28/06/2017.

06. In view of the above deliberations, we pass an order as under:

ORDER

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

For reasons as discussed in the body of the order, the question is answered thus –

Question: - Whether the Chapter No. 99, Sr. No. 3 of the Exemption Notification No. 12/2017 is applicable to MESCO Ltd. for the pure services i.e. Security Services rendered to various sites of Municipal Corporations in relation to functions entrusted to it under Article 243 W of the Constitution of India, thereby exempting as a service provider from the whole of GST.



Answer:- The exemption under Sr. No. 3 of the Exemption Notification No. 12/2017 is available to the applicant for the pure services i.e. Security Services rendered to various sites of Municipal Corporations **only** if such pure services are supplied to the Municipal Corporations, in relation to functions entrusted to such Municipal Corporations under Article 243 W of the Constitution of India.




RAJIV MAGOO
(MEMBER)


T.R. RAMNANI
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint Commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made, before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.