

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 1st floor, B-Wing, Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Ms. P. Vinitha Sekhar, Addl. Commissioner of Central Tax, (Member)

(2) Mr. A. A. Chahure, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAFCC6264J1ZE
Legal Name of Applicant	CORE PROJECT ENGINEERS & CONSULTANTS PRIVATE LIMITED
Registered Address/Address provided while obtaining user id	105, Sainirman Apartment, 1st Floor, Shegaon Road, Amravati - 444604
Details of application	GST-ARA, Application No. 32 Dated 26.07.2019
Concerned officer	Dy. Commissioner. of S.T.(E-002) Amravati.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Service Provision ,
B Description (in brief)	Services provided to the Municipal Corporation
Issue/s on which advance ruling required	i Classification of Goods and/or service or both ii. Applicability of a notification issued under the provision of the Act v. Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

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”] by M/s. CORE PROJECT ENGINEERS & CONSULTANTS PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following questions.

- 1. Whether the services provided by the Applicant are covered under Clause 1 & 2 of Twelfth Schedule of Article 243W?*
- 2. Whether the services provided by the applicant fall under the Exemption Notification No. 12/2017 dated 28th June, 2017 (Entry No. 3 of Exemption Notification) as amended from time to time as the services are in the nature of pure labour services.*

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, a reference to "GST Act" would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant is as under:-

- 2.1 M/s Core Project Pvt. Ltd., the Applicant, is providing Mapping Services to various Municipal Corporation & Councils. The main aim behind doing the map making activity is to identify unpermitted construction areas.
- 2.2 Applicant has submitted that the services provided by them are Pure Labour Services, provided to Government or Local authority or a Governmental authority by way of an 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.
- 2.3 Applicant has further submitted that they provide services which leads to Urban Planning & Town Planning. The applicant identifies the Properties & Customizes the Property Survey; does Tax Assessment & Property Document Management; Prepares Property Tax Management Information; Maintains Document Management System for all Properties.
- 2.4 The above activities performed by the applicant help the Government or local authority to do Town Planning, Urban Planning & Control the Land use by the general public.

2.5 Applicant has submitted that Clause 1 & Clause 2 of the Twelfth Schedule of Article 243W of the Constitution (Seventy Fourth Amendment) Act, 1992. are -

1. Urban Planning including Town Planning.

2. Planning of Land Use and Construction of Building.

- 2.6 Applicant has reproduced the various definitions of "Urban Planning", "Town Planning" & "Land Use Planning" by citing the Encyclopedia, and Oxford Dictionary, and have concluded that their activity is exactly the same i.e. pertaining to "Urban Planning", "Town Planning" & "Land Use Planning".
- 2.7 It is submitted that according to the Notification No. 12/2017- C.T. (Rate), intra-State supply of services of description as specified are exempt subject to the relevant conditions.
- 2.8 Further, it is submitted that "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 Zilla 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; (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; or (g) a Regional Council constituted under article 371A of the Constitution as per GST ACT 2017, and services provided to any government whether it is State or Central Government or Local Authority is exempted under Notification 12/2017 - for levy of GST if the said services provided are for the benefit of the public at large.

03. CONTENTION – AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-

“In the matter please refer advance ruling no GOA/GAAR/10of 2018-19/1737 dated 30.09.2019 given by Goa Authority for Advance Ruling in case of M/s. Sewerage and Infrastructural Development Corporation of Goa Limited. In the above matter it is held that services provided by appellant 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.”

04. HEARING

Preliminary hearing in the matter was held on 07.01.2020, Sh. Mayur Zanwar, C.A., appeared and requested for admission of their application. Jurisdictional Officer was not present but made written submissions.

The application was admitted and called for final hearing on 28.01.2020, Sh. Mayur Zanwar, C.A., appeared along with Ms. Simran Pinjani and Ms. Muskan Chandwani, both Assistants, and made oral and written submissions. Jurisdictional Officer was not present but made written submissions.

05. OBSERVATIONS

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

- 5.1 We find that the applicant's main query is whether in view of the submissions made, the services supplied by them would be covered under Clause 1 & 2 of Twelfth Schedule of Article 243W? and thus exempt under Entry No. 3 of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2018.



5.2 As per the submissions made, Applicant is providing Mapping Services to various Municipal Corporation & Councils which enables to identify unpermitted construction areas and helps the Government or local authority to do Town Planning, Urban Planning & Control the Land use by the general public, etc. Applicant's activities include identifying properties & Customizing the Property Survey, conducting of Tax Assessment & Property Document Management, Preparation of Property Tax Management Information and Maintaining of Document Management System for all Properties.

5.3 We find that the above question of the applicant is in respect of the Serial No. 3 of the Notification as below:-

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 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

5.4 In view of the above facts, we are required to ascertain if the applicant's services are eligible for exemption as per the Serial No 3 of the Notification referred above. For this we are required to ascertain the nature of exact services being provided in the present case by the applicant and also whether the said services are in relation to any function entrusted to a municipality under Article 243 W of the Constitution.

5.5 The functions entrusted to a municipality under Article 243 W are as under:-

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.

5.5 We further find that the Twelfth Schedule (Article 243W of the Constitution (Seventy-Fourth Amendment) Act, 1992) reads as under:

- 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.**



5.6 In view of the above referred legal provisions that would require examination in respect of eligibility of the applicant in respect of exemption as referred in Notification No. 12/2017-CT(Rate) dated 28.06.2018, we first of all examine the exact nature of services being provided by the applicant to the various Municipal Corporation & Councils.

5.7 We find that the applicant in their submissions have submitted details of the activities being undertaken by them which are; providing Mapping Services to various Municipal Corporation & Councils which enables them to identify unpermitted construction areas and helps the Government or local authority to do Town Planning, Urban Planning &

Control the Land use by the general public, etc.; identifying properties & Customizing the Property Survey; conducting of Tax Assessment & Property Document Management; and Preparation of Property Tax Management Information and Maintaining of Document Management System for all Properties.

- 5.8 From the detailed submissions made by the applicant pertaining to supply rendered by them to various Municipal Corporation & Councils, we find that their supply does not envisage supply of goods. In other words, we observe that, there is rendering of pure services in the subject case. The next step would be to find out whether services rendered by them are in relation to any function entrusted to a Municipality under Article 243W of the Constitution.
- 5.9 We find that the Services are provided by the applicant are in relation to Urban planning including town planning and Planning of land- use and construction of buildings in as much as all the said activities help the local authorities to do Town Planning, Urban Planning & Control the Land use by the general public. We find that the Services supplied by them are covered under Article 243 W of the Constitution, as functions entrusted to Municipality. Hence the provisions as per Sl. No. 3 of the Notification No. 12/2017 - Central Tax (Rate) dated 28/06/2017 as amended applies in their case and therefore, the Subject Services being Pure Services, provided by the applicant to the various Municipal Corporations and Councils are in relation to afore said functions entrusted to the said local authority and exempt from GST.
- 5.10 We have no doubt that the services provided by the applicant to the various Municipal Corporation & Councils are actually aiding and helping the said Municipal Corporation & Councils to perform the functions entrusted to them under Article 243W of the Constitution.
- 5.11 In view of the above, we observe that the applicant is rendering Pure Services to various Municipal Corporation & Councils and the said Pure Services are rendered in relation to the functions entrusted to the said Municipal Corporation & Councils under Article 243W of the Constitution.
- 5.12 It is clearly seen from a reading of Sl No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28/06/2017, 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."*
- 5.13 In the subject case the applicant is providing pure services (without the supply of goods), to the various Municipal Corporation & Councils. We find that the said services are in relation to any functions entrusted to a Municipality under article 243W of the



Constitution. Hence we find that the applicant is entitled to the benefit of Notification No. 12/2007-CT-(Rate) dated 28.06.2017.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows :

ORDER

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

NO.GST-ARA- 32/2019-20/B- 35 Mumbai, dt. 17/03/2020

For reasons as discussed in the body of the order, the questions are answered thus –

Question – 1:- Whether the services provided by the Applicant are covered under Clause 1 & 2 of Twelfth Schedule of Article 243W?

Answer :- Answered in the affirmative.

Question –2:- Whether the services provided by the applicant fall under the Exemption Notification No. 12/2017 dated 28th June, 2017 (Entry No. 3 of Exemption Notification) as amended from time to time as the services are in the nature of pure labour services.

Answer :- Answered in the affirmative.



A. A. CHAHURE
(MEMBER)

P. VINITHA SEKHAR
(MEMBER)

CERTIFIED TRUE COPY

Copy to:-

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

A. Chahure

**MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI**

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.