

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

GSTIN Number, if any/ User-id		27AAECN7738D1ZC
Legal Name of Applicant		M/s. Nagpur Waste Water Management Pvt. Ltd.
Registered Address/Address provided while obtaining user id		4 th floor, Madhu Madhav Tower, Laxmi Bhuvan Square Dharampeth, Nagpur, Maharashtra, 440010
Details of application		GST-ARA, Application No. 65 Dated 31.12.2020
Concerned officer		NAG-VAT-C-023
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service Provision, Office/ Sale Office
B	Description (in brief)	M/s. Nagpur Waste Water Management Private Limited, the Applicant is a Private Limited Company registered under the Companies Act as well as under the Central Goods and Services Tax Act, 2017 (CGST Act) and Maharashtra Goods and Service Tax Act, 2017 (MGST Act) w.e.f. 01.07.2017. Nagpur Municipal Corporation (NMC) is constituted under the city of Nagpur Corporation Act, 1948. Therefore, NMC is "Local Authority".
Issue/s on which advance ruling required		i) Classification of any goods or services or both ii) Applicability of a notification issued under the provisions of the Act.
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” respectively] by **M/s. Nagpur Waste Water Management Pvt. Ltd.**, the applicant, seeking an advance ruling in respect of the following questions.

- 1. Whether the “Tertiary Treated Water” supplied by the applicant to Maharashtra State Electricity Generating Co. Ltd. (MAHAGENCO) is taxable under the GST law?**
- 2. If yes, what will be the rate 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

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

M/s. Nagpur Waste Water Management Private Limited (referred as Applicant) is a Private Limited Company registered under Central Goods and Services Tax Act, 2017 (CGST Act) and Maharashtra Goods and Service Tax Act, 2017 (MGST Act) w.e.f. 01.07.2017. Nagpur Municipal Corporation (NMC) is constituted under the city of Nagpur Corporation Act, 1948. Therefore, NMC is “Local Authority”. The NMC is required to provide the services of management of sewage system within the city of Nagpur. NMC, in order to manage the sewage system of Nagpur city and to treat the sewage water generated in Nagpur City, has decided to set up and operate the Sewage Treatment Plant (STP) located at Bhandewadi, Nagpur. NMC has appointed the applicant, under PPP contract basis, for treatment of sewage water. The applicant is therefore awarded a contract dtd. 12th December 2014 to set up and operate the Sewage Treatment Plant (STP) located at Bhandewadi, Nagpur on Built Operate and Transfer basis (BOT basis). As per para 3.1 of agreement, as a consideration of contract of setting up and operating of STP, the applicant is being paid on the basis of agreed capital expenditure (CAPEX) and operating expenses (OPEX). The applicant is raising its bills in respect of CAPEX on quarterly basis and bills of OPEX on monthly basis at the pre decided rate. Applicable GST is charged on these bills by the applicant and paid by NMC. In addition, the

applicant has right to sale Treated Effluent/ Tertiary Treated Water to any person for non-potable application.

2. Maharashtra State Electricity Generating Company Ltd (Mahagenco) is a Limited Company registered under the Companies Act. NMC, Mahagenco and the applicant has entered into tripartite agreement did. 29.12.2017 for supply of Tertiary Treated Water (TTW) on daily basis. Under the agreement, the applicant is required to set up a Tertiary treatment plant (TTP) to further treat water from STP at Bhandewadi and supply the TTW to Mahagenco through pipeline laid by the applicant from its Bhandewadi TTP to Mahagenco's Koradi and Khaperkheda Thermal Power Plant. As per agreement the applicant will sell TTW to Mahagenco as per rate agreed under the contract. The water supplied is not a potable drinking water but is suitable for Industrial use.

3. Entire process, carried out by the applicant on sewage water so as to make it suitable to be supplied to Mahagenco for industrial use is as under:

People from Nagpur city use water for their domestic purposes and the sewage that is generated flows through three rivers, viz Nag, Pivali and Pohra, flowing through the city of Nagpur. This sewage contains organic matter with biological and chemical impurities. Nagpur Waste Water Management Pvt. Ltd. (NWW MPL), the private operator (the applicant) appointed by NMC and MAHAGENCO has built infrastructure to purify this sewage and supply purified water to MAHAGENCO power plants.

The sewage flowing through all the three rivers is arrested through the weirs & after removal of large size floating matter and sand particles, the same is pumped through pipeline at a centralized STP location at Bhandewadi, Nagpur. The sewage so brought at Bhandewadi is first fine screened to remove all trash. Then the sewage is passed through detirators to remove the silt & grid particles. Then the sewage is taken through gravity in tanks and oxygen is infused in the sewage to remove impurities through biological process. Chemicals like $FeCl_3$ and Chlorine too are mixed to remove the bacteria and impurities. Polyelectrolyte is further used for sludge treatment and dewatering the same. This partially purified sewage water is then passed through fiber disk filters to remove the suspended solids and dead biological matter to purify the sewage to the level that the power plants need. This purified sewage water which is TTW is then pumped to Koradi and Khaperkheda power plants through a pipeline. The TTW is used in the cooling towers of power plants. The following table explains the

parameters of the inlet raw sewage water and parameters of finally processed Tertiary Treated water.

Raw Sewage inlet Parameters and output parameters of TTP Plant.

S. No.	Parameters	Units	Inlet Raw Sewage Parameters for STP	Outlet Treated Sewage Parameter from STP-TTP
	Reference		As per Vol-II (Part 1 of 2), Project Requirement, Clause 1.8,	Schedule 4 of Tripartite Agreement between Mahagenco, NMC & NWWMP.
1	pH	-	6.8 – 7.8	6.8 – 7.8
2	BOD5	mg/l	350	< 5.0
3	Total Suspended Solids (TSS)	mg/l	400	< 5.0
4	Turbidity	NTU	-	< 5.0
5	Total Nitrogen (N)	mg/l	35	< 10
6	Total Phosphorus (TP)	mg/l	15	< 0.5
7	Total Coliform	MPN/100 ml	> 16,00,000	< 1000
8	Dissolved Oxygen	mg/l	-	> 2.0
9	Residual Chlorine	mg/l	-	0.2 – 0.5

4. The applicant has supplied "TTW" to Mahagenco effective from 05.06.2020 and after receipt of approval from Mahagenco raised its first invoice for this supply bearing No. NW/MHGN/2021/001 dated. 01.12.2020. The applicant, has charged the GST @18% (9% CGST and 9% SGST) on the value of supply of "TTW". However, Mahagenco has disputed the payment of GST on the ground that "TTW" is exempt from tax under Notification No. 02/2017-C.T.-(Rate) dtd.28.06.2017.

B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS

1. Under GST, tax on supply of goods is charged/chargeable based on the rates prescribed by the Central Government by way of Notification in the Official Gazette. Notification No. 1/2017-C.T. (Rate) dt. 28.06.2017 was issued to prescribe rate of tax under the CGST Act. Similar notifications are also issued under the SGST Act and IGST Act. Entry relating to water was notified in Schedule III of the Notification at Serial No. 24. The entry in notification is reproduced below: -

Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
	(3)	(4)	(5)	(6)
24	2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured.	9	Nil



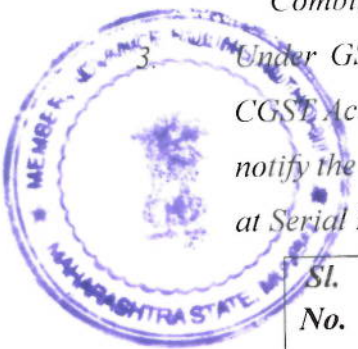
Combined rate (SGST & CGST)/ IGST will be 18%.
 Entry 24 of Schedule III of Notification No. 1/2017 C.T.-(Rate) dtd. 28-06-2017 which relates "Water" was subject to amendment vide Notification No. 06/2018- C.T.-(Rate), dt. 25-01-2018. Also new entry relating to water was inserted vide same Notification at Sr. No. 46B of Schedule II of the Notification. Effect of all above mentioned notifications w.e.f. 29.02.2018 on the entry 24 of Notification No. 1/2017 Central Tax (Rate) is as under:

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

(1)		(3)	(4)	(5)	(6)
Schedule II-6%	46 B	2201	Drinking water packed in 20 litres bottles	6	Nil
Schedule III-9%	24	2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening	9	Nil
			matter nor flavoured other than Drinking water packed in 20 litres bottles		

Combined rate (SGST& CGST)/ IGST is 12% and 18% respectively

Under GST, several services and goods were exempted by issuing notifications under the CGST Act and SGST Act. Notification No. 02/2017-C.T.-(Rate), dt. 28-06-2017 was issued to notify the exemptions on supply of goods under CGST Act. Entry relating to water was notified at Serial No. 99 of the Notification. The same is reproduced below: -



Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
(1)	(2)	(3)	(4)	(5)
99	2201	Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]	Nil	Nil

4. The combined reading of entries in (a) Notification No. 01/2017 C.T.-(Rate) dtd. 28-06-2017 as amended by Notification No.06/2018 C.T.-(Rate) dtd. 25.01.2018, and (b) Notification No. 02/2017 C.T.-(Rate) dtd. 28-06-2017, make it clear that water which is exempt from tax under Notification No.02/2017 C.T.-(Rate) is water simplicitor which is not:
(i) Aerated, (ii) Mineral, (iii) Purified, (iv) Distilled, (v) Medicinal, (vi) Ionic, (vii) Battery, (viii) De-mineralized, and (ix) Water sold in sealed container.

Drinking water sold in 20 liters packaging is taxable @12% and Aerated, mineral, purified, distilled, medicinal, ionic. Battery, de-mineralized and water sold in sealed container above 20 liter packaging is taxable @ 18%.

5. The water supplied by the applicant is a water obtained after the treatment to sewage water as defined in Para 3 of the statement of facts. In no case, TTW supplied by applicant can be called as aerated, mineral, distilled, medicinal, ionic, battery, demineralized water. It is also neither sold in sealed container nor in 20 liters package. If the TTW is considered as purified water then possibly it will not be exempted under Notification No. 02/2017 C.T.-(Rate) dtd.28.06.2017 and same would be taxable. However, if the TTW is not considered as purified water then it would be covered by notification No. 2/2017 C.T.-(Rate) under Entry 99 and therefore, would be exempt from tax.

6. Water Purification is the process to convert the normal or unpurified or raw water to Purified water. Dictionary meaning of Purification is "the removal of contaminants from something." Thus, Purified water means water on which any process has been carried out for removal of contaminants for making it fit for use. The table in para 3 of Statement of Facts here in above clearly shows that various contaminants has been removed, thus, purifying it to make raw sewage useful for Industrial purpose. In the present case, TTW is not fit for drinking use but it can be used for Industrial use.

7. If the "TTW" is considered as purified water and held as taxable in that case the same would be taxable @18% (9% SGST & 9% CGST)/ IGST under Entry 24 of Schedule-3 of Notification No. 1/2017 C.T.-(Rate) dtd.28.06.2017 as amended by Notification No. 06/2018 and C.T.-(Rate) dtd. 25.01.2018.

Additional Applicant's Submission (MAHAGENCO) on 13.01.2021

The Nagpur Waste Water Management Pvt. Ltd. (NWWMPL) has filed an application for advance ruling vide application reference no. AD271220014385J filed on 21/12/2020 to get

clarification about taxability of tertiary treated water supplied by them to Maharashtra state Power Generation Company Limited (Mahagenco).

In this reference, it is to state that, the tertiary treated water received by Mahagenco from =NWWMP is not completely fit and usable for the desired purpose of Mahagenco. Chemically, sewage water consists of water and various soluble and insoluble organic and inorganic matters. Tertiary treatment of such sewage water neither removes all the impurities nor purify the water completely. Tertiary treated sewage water is not a purest form of water for Mahagenco's use and it still contains impurities like Hardness, Alkalinity, Bacteria, viruses, TSS, phosphate, chlorides, silica etc. which may create multiple scaling and corrosion problems in system. Hence purification of this tertiary treated water needs to be done by way of Ozonisation, Chlorination, H₂SO₄ Dosing and chemical dosing process, to make it usable. Therefore, it is view of Mahagenco that this water is not purified water and hence GST will be applicable at "Nil" rate.

Also, it is to state the Mahagenco is the single consumer of the water supplied by NWWMP and therefore, the tax, if imposed, will be solely borne by Mahagenco. Since, Mahagenco is engaged in generation of electricity and electricity does not attract GST, Input Tax credit is not available to Mahagenco and therefore the GST paid on any procurement is additional cost to the company.

Mahagenco is a State Government owned company engaged in generation of power. Any increase in cost of Mahagenco will ultimately impact the general electricity consumers

In view of the foregoing submissions, it is requested to allow joint hearing and presence of representative of Mahagenco during the hearing of the above referred advance ruling application.

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The submissions made by the concerned officer are as under:-

- 3.1.1 As per agreement with NMC, applicant has built infrastructure to treat sewage water and discharge the same in river. Thereafter as per tripartite agreement with MAHAGENCO, applicant carried out the process on sewage water so as to make it suitable for supply to MAHAGENCO. Sewage water contains organic matter with biological and chemical impurities. Applicant purify this sewage water and supply to MAHAGENCO for use in the

cooling tower of power plant. The dispute is on the taxability of TTW. As per the applicant, it is exempt from tax under Sr. No. 99 Notification No. 02/2017-C.T. Rate) date-28.06.2017.


3.1.2 Sr. No. 99 Notification No. 02/2017-C.T. Rate) date-28.06.2017 makes it clear that water is exempt, other than following categories, namely,

- (1) Aerated ; (2) Mineral ; (3) **Purified** ; (4) Distilled ; (5) Medicinal ; (6) Ionic ;
(7) Battery ; (8) Demineralized and (9) Water sold in sealed container.

3.2 The applicant himself has claimed that they will be selling TTW which is ultimately a **purified water**. It can be explained as follows.

Tertiary treatment is the final cleaning process that improves waste water quality before it is reused, recycled or discharged to the environment. The treatment removes remaining inorganic compounds and substances such as nitrogen & phosphorus. Sewage treatment generally involves three stages called primary, secondary & tertiary treatment. In short, Tertiary treatment of water is process of **purification** and applicant is supplying purified water to MAHAGENCO. Hence applicant is not eligible for benefit under Sr. No. 99 of Notification No 02/2017 Central Tax (Rate) Dated 28.06.2017.

3.3.1 In context with second question raised by the applicant, the entry in notification 01/2017 is reproduced below.



Schedule	Sr. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
(1)	(2)	(3)	(4)	(5)	(6)
Schedule II- 6%	46 B	2201	Drinking water packed in 20 litres bottles	6	NIL
Schedule III- 9%	24	2201	Waters, including natural or artificial mineral waters	9	NIL

			and aerated waters, not containing added sugar or other sweetening matter nor flavoured other than Drinking water packed in 20 litres bottles.		
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3.3.2 The above entry in schedule III at Sr. No 24 under tariff head 2201 @ 9% includes a comprehensive entry of water which includes natural or artificial Aerated, Mineral, Purified water. Hence the TTW supplied by applicant to MAHAGENECO is taxable @ 9%.

04. HEARING

4.1 Online Preliminary e-hearing in the matter was held on 16.03.2021. Sh. Ashok Chandak CA appeared, and requested for admission of the application. Jurisdictional Officer Sh. Bawane was also present.

4.2 The application was admitted and called for final hearing on 20.04.2021 but due to administrative issues, the hearing was postponed. Online final hearing was held on 29.6.2021. Sh. Ashok Chandak CA, authorized representative appeared along with other authorized persons and made oral and written submissions. Jurisdictional Officer Sh. Harishchandra Shelke ACST, (D-008), Nagpur Division also appeared. He has made written submissions.

4.3 We heard both the sides.

05. DISCUSSIONS AND FINDINGS:

5.1 We have perused the records on file and gone through the facts of the case and the submissions made by the applicant and the department. The matter is related to applicant's impugned product, Tertiary Treated Water (TTW), whether it is taxable or not and the applicable tax rate thereon under the GST ACT.

5.2. M/s. Nagpur Waste Water Management Private Limited, the Applicant, has been awarded a contract, by the Nagpur Municipal Corporation (hereinafter referred as NMC) to set up and

operate a Sewage Treatment Plant (STP) located at Bhandewadi, Nagpur on Built Operate and Transfer basis (BOT basis). The applicant is raising its bills at pre decided rates as per the contract. Applicable GST on this bill is being charged by applicant and paid by NMC. In addition to that, the applicant also has right to sell the Treated Effluent/ Tertiary Treated Water (TTW) to any person for non-potable application. The applicant supplies such TTW to the Maharashtra State Electricity Generating Co. Ltd. (hereinafter referred as MAHAGENCO), Maharashtra. The impugned product is called as "Tertiary Treated Water" which is generated from the Sewage Treatment Plant (STP).

5.3.1 Applicant has submitted that, NMC, Mahagenco and the applicant have entered into tripartite agreement dated 29.12.2017 for supply of TTW on daily basis by the applicant to Mahagenco. As per the agreement, the applicant will sell 190 the TTW to Mahagenco as per rate agreed under the contract. The TTW supplied, is not potable but is suitable for Industrial use. The processes carried out by the applicant on sewage water so as to make it suitable to be supplied to Mahagenco for industrial use is mentioned in their application.

5.3.2 We find that the applicant has procured a contract from NMC to treat/purify the sewage that is generated and flows through the three rivers of the city of Nagpur.

5.4 We also find from the submissions made by the applicant that, different processes are carried out on the sewage water collected by the applicant, in order to purify the same for further use. The eventual product generated is purified sewage water and is called as '**Tertiary Treated water**' (TTW). Thereafter, the TTW is pumped to Koradi and Khaperkheda power plants of Mahagenco through pipelines, where it is used in the cooling towers of the power plants. The applicant has submitted the parameters of Raw Sewage inlet and output parameters of TTP Plant in their submissions

5.5 The applicant has raised a specific question asked about such '**treated water**' which is the forward supply of the applicant. We find that, 'water' is covered under Chapter heading 2201 of GST Tariff. We also find that there are two schedule entries for 'water' under Chapter headings 2201 under the CGST ACT. The first is Entry No. 99 of Notification No. 02/2017-Central Tax (Rate), dt. 28-06-2017 which is an exemption notification. The second is Entry No. 24 of Notification No. 1/2017-Central Tax (Rate) dt. 28.06.2017.

5.6.1 Sr. No. 99 of exemption Notification No. 2/2017 dt. 28.6.2017, is reproduced as below:

Sr. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
(1)	(2)	(3)	(4)	(5)
99	2201	Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]	Nil	Nil

5.6.2 The aforesaid entry at Sr. No. 99 reveals that, Chapter heading 2201 covers “water” other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container. The said entry and HSN speaks about only “**water**” wherein other category of waters mentioned therein, are not provided exemption from tax. The said entry therefore covers simple and natural type of water and further it does not contain water which has been subject to processes like purification, etc.

5.6.3 It is observed that the applicant has processed the sewage water which contains various kinds of organic and inorganic impurities like sand, silt, clay, chemicals, organisms, etc. The sewage water cannot be used, in any way, in its original form. Sewage water can be used only after it is purified and even the purified sewage water is not used for drinking, as submitted by the applicant. It is however found to have industrial uses. Such a sewage water is purified by applying different processes in the STP plant as mentioned by the applicant. Thereafter, such obtained water is called as purified water and is sold to the ‘MAHAGENCO’ for their industrial use. It is not used as potable or drinking water.

5.6.4 As per the parameters tested by the applicant, the properties of processed water generated from the sewage is different than the properties of the original sewage water received in the STP plant. Therefore in our view, Tertiary Treated Water is purified sewage water and since it is purified water, the same will not fall under Sr. No. 99 of Notification 02/2017-C.T. (Rate) dated 28.06.2017. Since the said entry at Sr. No. 99 mentions that water, other than **purified**, aerated, mineral, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed

container, only will get exemption, therefore the impugned product being **purified sewage water** will not be exempted.

5.6.5 The legislation does not expect, such purified water to be allowed for exemption from GST. We feel that the subject product is out of purview of this entry and hence the subject product is not covered under "water" as prescribed in the schedule entry no. 99 of Notification no. 2/2017-C.T. (Rate) dated 28.6.2017.

5.7.1 The second Entry No. 24 prescribed in Schedule III of Notification No. 1/2017-Central Tax (Rate) dt. 28.06.2017 is reproduced as below: -

Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
	(3)	(4)	(5)	(6)
24	2201	Waters , including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured.	9	Nil

5.7.2 It is further observed that the said Entry 24 of Schedule III of Notification No. 1/2017 which relates to "**Waters**" was amended vide Notifications No. 06/2018- Central Tax (Rate), dt. 25-01-2018. Also, new entry relating to water was inserted vide the said amendment Notification at Sr. No. 46B of Schedule II of the Notification. Effect of all above mentioned notifications with effect from 29.02.2018 is reproduced as under:

Schedule	Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
(1)		(3)	(4)	(5)	(6)

Schedule II- 6%	46B	2201	Drinking water packed in 20 litres bottles	6	Nil
Schedule III- 9%	24	2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured other than Drinking water packed in 20 litres bottles	9	Nil

5.7.3 On the perusal of above these notification entries, it is found that, “*Drinking water packed in 20 litres bottles*” are liable to tax 12% and the “*Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured other than Drinking water packed in 20 litres bottles*” are taxable and liable to tax @18% GST.

5.7.4 In the subject case, the water supplied by the applicant to Mahagenco is obtained after the treatment to sewage water as submitted by the applicant and the said water is not potable. Hence Entry No. 46 B which pertains to drinking water only, is not applicable to the impugned product.

5.8 The Dictionary meaning of Purification is “the removal of contaminants from something.” Thus, Purified water means water on which any process has been carried out for removal of contaminants for making it fit for use. As per the applicant’s submissions, it is clear that various contaminants are removed from the sewage water, thus purifying it to make purified sewage water useful for Industrial purpose. As per the contention of applicant ‘Tertiary Treated Water’ is not potable but it can be used for Industrial use. It is also submitted that the applicant is of the opinion that the supply of TTW by them to Mahagenco is taxable. We do not find any

reasons not to agree with the applicant's views. We are of the firm opinion that, the TTW supplied by the applicant is "purified Water" and is covered Entry No.24 of Notification No. 01/2017-C.T. (Rate) dated 28.6.2017.

5.9 Entry No. 24 of Schedule III of Notification No. 01/2017-C.T. (Rate) dated 28.6.2017, as amended, uses the word "**Waters**" including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured other than Drinking water packed in 20 litres bottles". The words 'waters' is used in plural form and further specifically mentions inclusion of different type of waters which are to be covered under the said Sr. No. 24. Thus, it is clear that different type of waters are covered in Entry No. 24, prescribed as "**waters**" and the same excludes the entries of '**water**' covered under Sr.No. 99 of Notification No. 02/2017-C.T. (R) dated 28.06.2021 and Entry 46B of Schedule II of Notification No. 01/2017-C.T. (Rate) dated 28.06.2017.

5.10 In view of the above discussions, we agree with views of applicant and hold that the impugned goods, called as "**Tertiary Treated Water**", is purified water which is sold to MAHAGENCO for its further industrial use and falls under Entry No. 24 of Notification No. 01/2017 mentioned above.

5.12.1 During the course of hearing, applicant has cited different case laws which are on record. Applicant's representative has argued and pointed that the expression "ejusdem generis" is to be followed which is mentioned in the case of Siddeshwari Cotton Mills Pvt. Ltd, decided by the Hon. Supreme Court on 17.1.1989 (relevant para is reproduced as below):

"The expression ejus-dem-generis, 'of the same kind or nature'--signifies a principle of construction whereby words in a statute which are otherwise wide but are associated in the test with more limited words are, by implication, given a restricted operation and are limited to matters of the same class or genus as preceding. If a list or string or family of genus-describing terms are followed by wider or residuary or sweeping-up words, then the verbal context and the linguistic implications of the preceding words limit the scope of such words".

5.12.2 We have considered applicant's contentions regarding the principal of construction of word as per the statute which are otherwise wide. From this judgment we have seen that the Hon'ble Supreme Court has also held that "It is necessary to be able to formulate the genus; for if it cannot be formulated it does not exist. 'Unless you can find a category', said Farwell L J, 'there is no room for the application of the ejusdem generis doctrine'".

5.12.3 It is further observed in the same order that *"The true scope of the rule of "ejus dem generis" is that words of a general nature (following specific and particular words should be construed as limited to things which are of the same nature as those specified. But the rule is one which has to be applied with caution and not pushed too far" ----"*.

5.12.4 In the present matter, we have considered the proper word as per the statute held for specific Schedule Entry to decide the GST Rate thereon. Therefore the contention of the applicant is not acceptable.

5.13 Considering facts of the case and provisions of specific notifications of entries under CGST ACT, the term '**waters**' is specifically prescribed for the levy of taxes under Entry No.24 of schedule rates. Eventually, we conclude and hold that the purified "Tertiary treated water" is covered under Entry No. 24.

5.14 Considering above facts, in our opinion, the water obtained from sewage is covered under term "**waters**". Hence it is taxable and same would be taxable @18% (9% SGST & 9% CGST) under Entry 24 of Schedule-III of Notification No. 1/2017 Central Tax (Rate) dtd.28.06.2017 as amended by Notification No. 06/2018 and Central Tax (Rate) dtd.25.01.2018.

6. In view of the above discussions, 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- 65/2020-21/21-22/B- 35

Mumbai, dt. 27.07.2021

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

Question 1: Whether the "Tertiary Treated Water" supplied by the applicant to Maharashtra State Electricity Generating Co. Ltd. (MAHAGENCO) is taxable under the GST law?

Answer: Answer is in the affirmative.

Question 2: If yes, what will be the rate of GST?

Answer: As per the above discussion made, the Tertiary Treated water is liable tax @18% (9% CGST and 9% SGCT)/IGST.



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 Principal Chief Commissioner of Central Tax, Churchgate, Mumbai
5. 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. The online facility to file an appeal is provided by the department on GST web portal. Appellant may be file an appeal on GST web portal.