

Order No:- ZD2712200135421

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) Ms. P. Vinitha Sekhar, Additional Commissioner of Central Tax, (Member)
(2) Mr. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAAW2535R1ZX
Legal Name of Applicant		M/s. Work Group Sushikshit Berojgar Nagrik Sewa Sahkari Sanstha Maryadit Amravati.
Registered Address/Address provided while obtaining user id		C/O. Azad Colony, Walgaon Road, Amravati - 444601
Details of application		GST-ARA, Application No. 89 Dated 07.01.2020
Concerned officer		State Tax Officer (AMR-VAT-C-001) AMRAVATI
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service Provision ,Works Contract
B	Description (in brief)	Applicant provides services to government regarding supply of manpower for cleaning the public urinals, collecting parking fees from the hawkers and common people, electricity meter reading, etc. The manpower belongs to the economically weaker sections of society such as scheduled caste and scheduled tribes.
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 this 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” respectively] by M/s. WORK GROUP SUSHIKSHIT BEROJGAR NAGRIK SEWA SAHKARI SANSTHA MARYADIT AMRAVATI., 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.*
3. *Whether the services provided by the applicant fall within the Government Works Contract Services on which GST rate was amended to 12% in the notification No. 20/2017.*

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, 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 made by the applicant are as under:-

- 2.1 M/s. Work Group Sushikshit Berojgar Nagrik Sewa Sahkari Sanstha Maryadit Amravati (Applicant), is engaged in supply of manpower belonging to the economically weaker sections of society, for; cleaning of public washrooms and restrooms; collecting rent from hawkers who use the municipal corporation area for selling goods on streets; collecting vehicle parking fees in the municipal corporation area; meter reading to the Maharashtra State Electricity Board (MSEB); printing of energy bills of consumers; setup of electricity connection in rural and urban areas and in government quarters and for Operation and Maintenance purpose to the MSEB. All these activities directly or indirectly help the Municipal Corporation to achieve its objectives as listed in the Maharashtra Municipal Corporation Act, 1966.
- 2.2 Applicant is engaged in activities enumerated in the 11th Schedule of the Indian Constitution like, *Rural electrification, including distribution of electricity* and is also engaged in activities enumerated in the 12th Schedule of the Indian Constitution viz., Planning for economic and social development, Public health, sanitation conservancy and solid waste management and Public amenities including street lighting, parking spaces, bus stops and public conveniences.



- 2.3 As per Notification No. 12/2017- C.T. (Rate), Intra-State supply of services of description as specified are exempt from so much of the central tax leviable thereon under sub-section (1) of Section 9 of the said Act, as is in excess of the said tax calculated at the rate unless specified otherwise, subject to the relevant conditions.
- 2.4 Clause 16 of Section 2 of the IGST Act, 2017, defines the expression “governmental authority” and as per Notification No. 20/2017, in the Table,- (i) against serial number 3, for item (iii) in column (3) and the entries relating thereto in columns (3), (4) and (5), the following was substituted, namely:-

Description	Rate
“(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, - (a); (b) Canal, dam or other irrigation works; (c) Pipeline, conduit or plant for (i) Water supply (ii) Water treatment, or (iii) Sewerage treatment or disposal.	12%
(iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,- (a) a road, bridge, tunnel, or terminal for road transportation for use by general public; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana; (c) a civil structure or any other original works pertaining to the “In-situ rehabilitation of existing slum dwellers using land as a resource through private participation” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers; (d) a civil structure or any other original works pertaining to the “Beneficiary led individual house construction / enhancement” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (e) a pollution control or effluent treatment plant, except located as a part of a factory; or (f) a structure meant for funeral, burial or cremation of deceased.	12%
(v) Composite supply of works contract as defined in clause (119) of section	12%



2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-	
(a) Railways, excluding monorail and metro;	
(b) a single residential unit otherwise than as a part of a residential complex;	
(c)	
(d)	
(e); or	
(f)	

1. **Providing labour for checking electricity flow through Accu check meter:**

Consumers of electricity who want their meters to be checked register their complaint with the MSEDCL, who outsources such work of checking meters. The work is the primary responsibility of MSEDCL and involves: Error testing and routine in-service testing of energy meters; investigating consumer metering complaints; etc.

2. **Partial Turnkey Contract with residential and Street light connections by HVDS System**

Applicant provides labour and material for the supply, test, transport, construction, erection, testing and commissioning of HVDS (high voltage distribution systems) Distribution Transformer Centres of varying capacities, release of Agricultural Pumps, Residential and Street light connections. Thus, applicant is responsible for connecting rural areas deprived of electricity. This work is also outsourced to applicant by MSEDCL. Materials used as per contract, are provided by applicant, for which payment is as per standard cost set by the authority as laid down in the agreement. Thus applicant is a pure agent so far as the material is concerned.

3. **Providing manpower for meter replacement**

Sometimes, consumers of MSEDCL lodge complaints regarding faulty meters. MSEDCL, for want of manpower, outsources such contracts. The appellant provides the manpower for the same, who visit the client/consumer site for error checking and replacement of meter.

4. **Providing manpower for setting up new connections**

Applicant is responsible for setting up of new connections in the regions where electricity connection is still pending or setting up of electricity connection in the new premises.

5. **Providing Technicians, Operators and Office assistants**



Applicant provides skilled, qualified staff for carrying on HT/LT, Distribution Transformer Centres for operation, maintenance and office work.

6. **Labour contract work for printing of Energy Bills**

Applicant provides staff for printing of energy bills of consumers.

7. **Contract for electricity installation in Staff Quarters**

Applicant provides labour, material for electrical installation in government staff quarters. Payment for the material used is as per the standard cost set by the authority and as laid down in the agreement. Applicant acts as the pure agent as far as the material is concerned.

8. **Providing staff for cleaning**

Applicant provides staff for cleaning of various government premises like, Government Hospitals, Government Schools, etc.

9. **Applicant provides manpower to Municipal Corporation for collecting parking fees from people who park their vehicles in the municipal corporation area.**

Applicant provides manpower Municipal Corporation for collecting rent from hawkers who use the municipal corporation area for selling goods on streets.

Applicant states that it only provides staff to Government, to carry out work entrusted to it as per the 12th Schedule to Article 243W of the Indian Constitution and which is the primary responsibility of the Government. Applicant has also cited Section 66A of the Maharashtra Municipal Corporations Act, 1949 and states that when any duty has been imposed on, or any function has been assigned to, a Corporation under this Act or any other law for the time being in force, or a Corporation has been entrusted with the implementation of a scheme, by the State Government or any other authority, (i) the Corporation may, either discharge such duty or perform such function implement such schemes by itself; or (ii) subject to such directions as may be issued and the terms and conditions as may be determined by the State Government, cause it to be discharged, performed or implemented by any agency: Provided that, the Corporation may also specify terms and conditions, not inconsistent with the terms and conditions determined by the State Government for such agency arrangements.

2.6 Applicant has reproduced Sl. No. 3 of Notification No. 12/2017- C.T. dated 28/06/2017, Article 243W of the Constitution of India and has submitted that their activities are covered under the 12th Schedule of the Constitution of India. Applicant has also relied upon Advance Ruling Judgment in case of M/s Sewerage & Infrastructural Development Corporation of Goa. Ltd., Ref GOA/GAAR/10 of 2018-19/1737, and in



view of all of the above, applicant has concluded that if any pure Services are provided to a Government Authority by way of any activity in relation to any function entrusted to a Panchayat or Municipality under Article 243G or Article 243W of the Constitution of India, then the same shall be exempted vide SI. No: 3 of the Notification No. 12/2017- Central Tax(Rate) dated 28th June and therefore they are eligible for exemption from payment of GST on the services supplied by them.

03. CONTENTION – AS PER THE JURISDICTIONAL OFFICER:

3.1 Applicant is supplying following services to Municipal Corporation and Maharashtra State Electric Distribution Company Ltd:

- a. Providing manpower for cleaning of public washrooms and restrooms
- b. Providing manpower for collecting rent from hawkers who use the municipal corporation area for selling the stuff on street.
- c. Providing manpower for collecting parking fees from people who park their vehicles in the municipal corporation area.
- d. Providing the staff to Maharashtra State Electricity Board for meter reading.
- e. Providing the staff for printing of energy bills of consumers for urban as well as rural divisions.
- f. Providing manpower and material for set up of electricity connection in rural and urban areas.
- g. Providing manpower and material for set up of electricity connection in government quarters.
- h. Providing Line staff to Maharashtra State Electricity Board for operation and Maintenance purpose.

3.2 Services mentioned at (c) above, appear to be covered under 12th Schedule of Article 243W of the Constitution of India while other services listed at a,b,d,e,f,g,h listed above do not appear to be covered under 12th schedule of the said Article 243W.

3.3 Regarding the second question, the following three conditions should be satisfied:

- A) Services should be of pure services and it should not involve any supply of goods.
- B) It should be provided to the Central Government, State Government, Government Authority, and Government entity.
- C) It must be any activity in relation to any function entrusted to
 - I) Panchayat under Article 243 G of the constitution.
 - II) Municipality under article 243W of Constitution.



- 3.3.1 Providing manpower and material for set up of electricity connection in rural and urban areas and providing manpower and material for set up of electricity connection in government quarters involves providing material and hence not qualified as pure services. Rest of services enumerated at a, b, c, d, e, and h are pure services.
- 3.3.2 Regarding second condition the Municipal Corporation is a local authority. Also, for this notification purpose “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 per cent. 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.” From the definition of Government Entity, Maharashtra State Electric Distribution Company Ltd appears to be Government entity.
- 3.3.3 As regard to the third condition the Services enumerated at (c) above, i.e. Providing manpower for collecting parking fees from people who park their vehicles in the municipal corporation area, appears to be activity in relation to any function entrusted to Panchayat and Municipality under the 11th Schedule and 12th Schedule of Article 243G and 243W respectively while other services listed at a, b, d, e, f, g, and h listed above does not appear to be covered under Eleventh Schedule twelfth schedule of Article 243G and 243W respectively.
- 3.3.4 Considering above 3 conditions, services provided by applicant mentioned at (c) Providing manpower for collecting parking fees from people who park their vehicles in the municipal corporation area as mentioned above appears to be eligible for exemption under notification 12/2017 (entry no 3).
- 3.4 In respect of the third question, vide Notification 20/2017 Government has amended the Notification 11/2017 inserted certain civil work related works contract taxable at rate of 12 percent. The services provided by the applicant does not fall within scope of this notification 20/2017 and hence does not qualify rate of 12%.

04. HEARING

- 4.1 Preliminary hearing in the matter was held on 06.02.2020. Sh. Mayur Zanwar, C.A., appeared and requested for admission of the application. Jurisdictional Officer did not appear.

- 4.2 The application was admitted. Final hearing was held on 25.02.2020. Sh. Mayur Zanwar, C.A., appeared, made oral and written submissions. Jurisdictional Officer Sh. Ujval Deshmukh, State Tax Officer (AMR-VAT-C-001), Amravati appeared and requested for time to make submissions which was made later. We heard both the sides.
- 4.3 Further, online e-hearing was also held on 10.11.2020, which was attended by Shri Mayur Zanwar CA of the applicant and Shri. Prafulla Gawande. STO, Amravati, VAT-(C-001). Applicant has made submission. We heard both the sides.

05. DISCUSSIONS AND FINDINGS:

- 5.1 We have gone through the facts of the case and submission given by the both the sides.
- 5.2 Applicant feels that their activities are covered under functions entrusted to a Panchayat under Article 243G or to a Municipality under Article 243W of the Constitution and it would be covered under Sr. No 3, Chapter 99 of Exemption Notification No. 12/2017 of CT (Rate) dated 28.6.2017 or Notification No. 20/2017, in the Table,- (i) against serial number 3, for item (iii) in column (3) and the entries relating thereto in columns (3), (4) and (5), - for levy of GST if the said services provided are for the benefit to the public at large.



- 5.3 We find that, applicant has received work orders for supply of goods or services or both, from the Municipal Corporation of Amravati, Maharashtra State Electricity Distribution Co. Ltd (MSEDCL) and Maharashtra Jeevan Pradhikaran (Water Supply) for the period 2019-20.

- 5.4 On perusal of the work orders, it is seen that applicant is only supplying manpower to Municipal Corporation and Maharashtra Jeevan Pradhikaran (water supply) whereas in respect of MSEDCL, in some cases they are supplying only manpower whereas in other cases, in addition to supply of manpower, they are supplying materials as well. Thus, in most cases pure services, in the form of manpower supply, are rendered by the applicant and only in a couple of cases, there is an element of composite supply of goods and services being provided.

- 5.5 The first question raised by the Applicant is whether their subject activities are covered under "Clause 1 & 2" of 12th Schedule of Article 243W of the Indian Constitution. Hence, we shall examine Clauses 1 & 2 of the 12th Schedule. Relevant Constitutional Provisions are as under:

- 5.5.1 Article 243W of the Constitution of India reads as under:

243W - Powers, authority and responsibility 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..."

- The functions covered by Clause 1 & 2 of the Twelfth Schedule of Article 243W of the Constitution (Seventy-Fourth Amendment) Act, 1992 is as under:-

1. Urban planning including town planning.

2. Planning of land- use and construction of buildings.

5.5.2 Article 243W of the Constitution, states the powers, authority and responsibility of Municipalities. It is seen that the Clause 1 of Article 243W is related to "Urban planning including town planning" and Clause 2 is related to "Planning of land- use and construction of buildings for municipalities". Urban planning, town planning and planning of land for use and construction of buildings for municipalities has a wider scope in respect to supply of services. It may consist of supply of different services which are not specifically incorporated therein.

5.5.3 In the subject case, as per the work orders submitted by the applicant we find that, for the services to fall under Article 243W of the Constitution, the said services should be supplied to Municipalities as and when outsourced to the applicant. Out of the three recipients mentioned by the applicant we find that only the Amravati Municipal Corporation, Amravati (AMC), is a municipality, established and set up as per the provisions of Article 243 P of Constitution of India and they are also performing the functions entrusted under Article 243W in public interest. Applicant is specially supplying services like providing manpower for cleaning, providing manpower for collecting of rent from hawkers and providing manpower for collecting of parking fees



to Amravati Municipal Corporation, which satisfies the definition of a “local authority” as provided under Section 2 (69) (b) of the CGST Act which is as under:-

(69) “local authority” means—

(b) a “Municipality” as defined in clause (e) of article 243P of the Constitution;

5.5.4 Applicant has submitted that, to the Amravati Municipal Corporation, they are providing: (1) manpower for collecting parking fees, (2) manpower for collecting rent from hawkers and (3) providing manpower for cleaning. These activities cannot be termed as activities related to Urban planning including town planning or Planning of land-use and construction of buildings, falling under Clause 1 & 2 of the 12th Schedule to Article 243W of the Constitution as mentioned above.

5.5.5 MSEDCL is not a municipality. It is an electricity distributing company and therefore supply of goods and services to MSEDCL cannot be considered as related falling under Clause 1 & 2 of Article 243W of the Constitution. Similarly, since Maharashtra Jeevan Pradhikaran (water supply) is not a municipality, supply of services to it, by the applicant, are also not related to Urban planning including town planning or Planning of land- use and construction of buildings. Therefore the said supply does not fall under Clause 1 & 2 of Article 243W of the Constitution.

5.5.6 In view of the above 5.5.1 to 5.5.5, we find that subject activities undertaken by the applicant will not fall under Clause 1 & 2 of the 12th Schedule to Article 243 W of the Constitution.

5.6 The next question raised by the applicant is whether the services provided by it falls under Entry No. 3 of Exemption Notification No. 12/2017 dated 28th June, 2017 as amended from time to time as the services are in the nature of pure labour services.

5.6.1 The relevant Entry No. 3 of Exemption Notification No. 12/2017 dated 28th June, 2017 is reproduced as under:-

Sr. No.	Tariff	Description of Services	Rate (percent)
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 [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	Nil

	the Constitution	
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5.6.2 For any supply to be covered under Sr. No. 3 mentioned in 5.6.1 firstly, the supply should be in respect of only Pure Services, secondly such Pure Services must be provided to the Central Government, State Government or Union territory or local authority or a Governmental authority [or a Government Entity] and finally such services should be provided 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.

5.6.3 The Municipal Corporation of Amravati can be considered as a Municipality. We will discuss whether MSEDCL and Maharashtra Jeevan Pradhikaran can be considered as a Governmental authority or a Government Entity.

5.6.4 Maharashtra State Electricity Board (or MSEB), a state-owned electricity regulation board operating within the State of Maharashtra, was formed on 20 June 1960 under Section 5 of the Electricity (Supply) Act, 1948. In accordance with Electricity Act 2003 of the Government of India, the Maharashtra State Electricity Board was restructured into 4 companies in 2005, one of which was MSEDCL, a public sector undertaking (PSU) controlled by the Government of Maharashtra. MSEDCL distributes electricity to the entire Maharashtra state except some parts of Mumbai city. Thus from the details as above, we find that MSEDCL is constituted and established by the State Government of Maharashtra to carry out the function of distribution of electricity and is therefore clearly covered under the definition of 'Government Entity'.



5.6.5 Now we shall discuss whether Maharashtra Jeevan Pradhikaran falls under the definition of Government Entity. Maharashtra Water Supply and Sewerage Board (MWSSB) was established as per MWSSB Act 1976 for Rapid development and proper regularization of water supply and sewerage services in the State. MWSSB was subsequently named as Maharashtra Jeevan Pradhikaran in 1997. The Principal responsibilities of Maharashtra Jeevan Pradhikaran according to MWSSB Act 1976 are : Planning, designing and implementation of water supply and sewerage schemes including facilitation for necessary financial provisions, As directed by the Government of Maharashtra (Government of Maharashtra), taking over any water supply as well as sewerage scheme for operation and maintenance, To establish service level bench marks for water supply and sewerage sector, To extend relevant support, regarding water

sector, to Government of Maharashtra as well as Local Self Governments, To support Government of Maharashtra to prepare Annual Plan and to establish / modify tariff / tax / cess structure in water sector. Therefore, the Maharashtra Jeevan Pradhikaran is also under the control of the Government of Maharashtra and can be considered as a 'Government Entity'.

5.6.6 Except in a couple of cases, the applicant is rendering Pure Services by way of supplying manpower. We also find that both, Maharashtra Jeevan Pradhikaran and MSEDCL can be considered as Government Entities. It is therefore required to be seen whether the supply of Pure services by the applicant can be considered as 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. Hence we shall discuss the supply of Pure Services rendered by the applicant as submitted by them.

5.6.7 The 12th Schedule to Article 243W of the Constitution enumerates the following activities:



- a) Urban planning including town planning.
- b) Regulation of land-use and construction of buildings.
- c) Planning for economic and social development:
- d) Roads and bridges,
- e) Water supply for domestic, industrial and commercial purposes.
- f) Public health, sanitation conservancy and solid waste management.
- g) Fire services.
- h) Urban forestry, protection of the environment and promotion of ecological aspects.
- i) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
- j) Slum improvement and up gradation.
- k) Urban poverty alleviation.
- l) Provision of urban amenities and facilities such as parks, gardens, playgrounds.
- m) Promotion of cultural, educational and aesthetic aspects.
- n) Burials & burial grounds; cremations, cremation grounds; and electric crematoriums.
- o) Cattle pounds; prevention of cruelty to animals.

- p) Vital statistics including registration of births and deaths.
- q) Public amenities including street lighting, parking lots, bus stops and public conveniences.
- r) Regulation of slaughter houses and tanneries.

5.6.8 Article 243 G of the Constitution is reproduced as under:-

243G: Powers, authority and responsibilities of Panchayats Subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and 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 Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule. The 11th Schedule to Article 243W of the Constitution enumerates the following activities:



1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.

26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.]

5.6.9 One of the activities entrusted to a Panchayat is "Rural electrification, including distribution of electricity", mentioned at Sr. No. 14 of the 11th Schedule. We observe that the activity of Rural Electrification including distribution of electricity is carried out by MSEDCL in whole of Maharashtra. It is therefore seen that MSEDCL would definitely be involved in Rural electrification and distribution of electricity therein. However it is seen that the State of Maharashtra also comprises of cities like Mumbai, Nashik, Nagpur, Pune, etc., which are not considered as Rural areas. From a perusal of the documents submitted by the applicant, we observe that they are supplying pure services to MSEDCL both, in Urban and Rural areas for example, P.O. No. 4710234130 dated 26.08.2019, issued to the applicant by the Executive Engineer, Urban Division, MSEDCL, Amravati states that the Work Contract is for L.T. Energy Bills with Digital Photo of LT Consumers on Pre-Printed A-4 size paper on both sides at Urban Division Office under Urban Division, MSEDCL, Amravati. Thus it is seen that the applicant is supplying pure services to MSEDCL in both, urban and rural areas. Further, the supply of pure services like, Providing labour for; checking electricity flow through Accu check meter; for meter replacement; providing technicians, operators and office assistants and contract work for printing of energy bills are not covered under Rural Electrification. These services are not rendered during distribution of electricity, rather these services are rendered for other works like bill printing. Replacing meters, etc. Hence, in our opinion the applicant is not supplying services, even though to a Government Entity, in relation to any activity mentioned in the Schedules to Article 243 G and Article 243 W of the Constitution and therefore are not eligible for exemption under Entry No. 3 of Exemption Notification No. 12/2017 dated 28th June, 2017. In a couple of cases the applicant is supplying material alongwith services, to MSEDCL and not being in the nature of pure services, such activity are also not eligible for exemption under Entry No. 3 of Exemption Notification No. 12/2017 dated 28th June, 2017.

5.6.10 Maharashtra Jeevan Pradhikaran was established for Rapid development and proper regularization of water supply and sewerage services in the State and its responsibilities are : Planning, designing and implementation of water supply and sewerage schemes



including facilitation for necessary financial provisions, taking over any water supply as well as sewerage scheme for operation and maintenance, To establish service level bench marks for water supply and sewerage sector, To extend relevant support, regarding water sector, to Government of Maharashtra as well as Local Self Governments, To support Government of Maharashtra to prepare Annual Plan and to establish / modify tariff / tax / cess structure in water sector.

5.6.11 Minor irrigation, water management, watershed development and drinking water are covered under 11th Schedule to Article 243G of the Constitution. Water supply for domestic, industrial and commercial purposes is covered under the 12th Schedule to Article 243W of the Constitution.

5.6.12 The activities mentioned in 5.6.11 above, are covered under the activities undertaken by Maharashtra Jeevan Pradhikaran which includes Planning, designing and implementation of water supply, taking over any water supply for operation and maintenance, To establish service level bench marks for water supply, To extend relevant support, regarding water sector, to Government of Maharashtra as well as Local Self Governments and to support Government of Maharashtra to prepare Annual Plan and to establish / modify tariff / tax / cess structure in water sector. The applicant is providing Manpower for taking photo meter reading, attending water complaints, water bill printing. These activities cannot be considered as activities in relation to water management, watershed development and drinking water and therefore the applicant is not eligible for exemption under Entry No. 3 of Exemption Notification No. 12/2017 dated 28th June, 2017.



5.6.13 Finally, in the case of Amravati Municipal Corporation, it is seen that the applicant is providing manpower for collecting Parking Charges and Rent from hawkers.

5.6.14 Collection of Rent from Hawkers is an activity which is commercial in nature and is not covered under any of the clauses of 12th Schedule, as mentioned above. They are in the nature of commercial activities undertaken by the Municipal Corporation and are not activities to be considered as falling under Articles 243G and 243W of the Constitution. Thus, when the applicant supplies manpower to collect rent from hawkers it is not providing pure services 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.

5.6.15 Clause (q) of the 12th Schedule mentioned above, mandates Municipal Corporations to provide Public amenities including street lighting, parking lots, bus stops and public conveniences. Applicant is providing manpower to the Amravati Municipal Corporation for collecting vehicle parking Charges in the Municipal Corporation area. This activity is in relation to functions and responsibilities as mentioned in of Clause (q) above and will be covered under Public amenities including parking lots, etc. Therefore, the applicant will be eligible for exemption under Entry No. 3 of Exemption Notification No. 12/2017 dated 28.06.2017 since in such a case, applicant is assisting the Municipality in providing/maintaining Public amenities including parking lots.

5.6.16 Further, the applicant, in Para 2 (a) of their submissions have stated that they are supplying manpower for cleaning of public washrooms and restrooms but it is not mentioned whether such services are provided to the Amravati Municipal Corporation. In their submissions, under the heading “Scope of Work”, they have not at all mentioned anything about providing manpower to the Amravati Municipal Corporation, for cleaning of public washrooms and restrooms. According to their submissions, under the head ‘Scope of Work’ Sr. Nos. 9 & 10, services to the Amravati Municipal Corporation providing manpower for collecting vehicle parking fees from people who park their vehicles in the municipal corporation area and providing manpower for collecting rent from hawkers who use the municipal corporation area for selling the stuff on street respectively. All other supplies mentioned under the head ‘Scope of Work’ relates to services rendered to MSEDCL. Also, as per the table of supply provided by them in their submissions, they have at Sr. no. 8 of the table, mentioned that they are providing to the Amravati Municipal Corporation, staff for cleaning. They have not mentioned whether it is staff provided for cleaning of public washrooms/restrooms. Hence a perusal of their submissions in its entirety do not reveal that such services of providing staff for cleaning of public washrooms/restrooms are supplied to Amravati Municipal Corporation. We are of the opinion that providing manpower for cleaning of public washrooms and restrooms, if provided Municipal Corporations, will be covered under Public health, sanitation conservancy and solid waste management /Public amenities including street lighting, parking lots, bus stops and public conveniences since these functions are entrusted to the Municipalities under Article 243 W of the Constitution. Since it is not forthcoming from the applicant’s submissions that, they are providing such services of providing staff for cleaning of public washrooms/restrooms to the Amravati Municipal



Corporation, the applicant will not be eligible for exemption under Entry No. 3 of Exemption Notification No. 12/2017 dated 28.06.2017.

5.7 The third question raised by the applicant is whether the services provided by it fall within the Government Works Contract Services on which GST rate was amended to 12% in the Notification No. 20/2017.

5.7.1 Applicant has reproduced the amendment made by Notification No. 20/2017 -Central Tax (Rate) to Notification no. 11/2017-Central Tax (Rate) dated 28th June 2017. Notification No. 20/2017 -Central Tax (Rate) is reproduced as under :-

Sl. No.	Chapter, Section or Heading.	Description of Service	Rate (per cent.)	Condition
1	2	3	4	5
	<i>Chapter 99</i>	<i>All Services</i>		
	<i>Section 5</i>	<i>Construction Services</i>		
	<i>Heading 9954 (Construction services)</i>	(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	9	-
		(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9	-
		“(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, - (a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); (b) Canal, dam or other irrigation works; (c) Pipeline, conduit or plant for	6	-





		(i) Water supply (ii) Water treatment, or (iii) Sewerage treatment or disposal.		
		(iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,- (a) a road, bridge, tunnel, or terminal for road transportation for use by general public; (b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana; (c) a civil structure or any other original works pertaining to the "In-situ rehabilitation of existing slum dwellers using land as a resource through private participation" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers; (d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (e) a pollution control or effluent treatment plant, except located as a part of a factory; or (f) a structure meant for funeral, burial or cremation of deceased	6	
		(v) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,- (a) Railways, excluding monorail and metro; (b) a single residential unit otherwise than as a part of a residential complex; (c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation,	6	

	<p>Government of India;</p> <p>(d) Low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under-</p> <p>(1) the “Affordable Housing in Partnership” component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>(2) any housing scheme of a State Government;</p> <p>(e) Post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) Mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>		
	<p>(vi) Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above.</p>	6	

5.7.2 Applicant has submitted that Entry No. (iii), (iv) and (v) are relevant to their case.

5.7.3 We find that in only two situations, the applicant is supplying goods as well as services to MSEDCL. Firstly, it provides labour and material for the supply, test, transport, construction, erection, testing and commissioning of HVDS (high voltage distribution systems) Distribution Transformer Centres of varying capacities, release of Agricultural Pumps, Residential and Street light connections Manpower for Setting up new connections. Secondly the applicant provides labour and material for electrical installation in government staff quarters.

5.7.4 We find that the composite supply undertaken by the applicant as mentioned in para 5.7.3 above does not fall in any of the categories of (iii) (iv) and (v) of Notification no. 20/2017 – C.T. (Rate), as mentioned by them because there is no Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017. In the subject case as seen from their submissions in respect of the supply carried out by the applicant, there is no “works contract” since there is no contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods



(whether as goods or in some other form) is involved in the execution of such contract. Therefore the question of availing the reduced rate of 12% GST does not arise at all.

- 5.8 Applicant has relied upon the Advance Ruling Judgment in case of M/s Sewerage & Infrastructural Development Corporation of Goa. Ltd. In the said case, the applicant i.e. M/s Sewerage & Infrastructural Development Corporation of Goa. Ltd. has been held to be a Government Entity, which has been appointed as the State-level nodal agency to take up the sewerage projects and it was held that the applicant is a Government Entity and the services provided by the applicant apparently fell in the list of services enumerated under Sr No 6 of the 12th Schedule of Article 243W of the Constitution. In the subject case, the applicant is not a Government Entity. Further, the subject matter before us is respect to supply of manpower services rendered by the applicant, which is not a Government Entity.
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- 89/2019-20/B- 62

Mumbai, dt. 15.12.2020

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:- As per above discussion , answered in the negative.

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:- As per above detailed discussion, except for the service of providing manpower to the Amravati Municipal Corporation for collecting vehicle parking fees, the other services provided by the applicant will not fall under under Entry No. 3 of Exemption Notification No. 12/2017 dated 28th June, 2017.



Question 3. Whether the services provided by the applicant fall within the Government Works Contract Services on which GST rate was amended to 12% in the notification No. 20/2017.

Answer:- Answered in the negative.



Ramnani
15-12-2020
T. R. RAMNANI
(MEMBER)

Vinitha
15/12/2020
P. VINITHA SEKHAR
(MEMBER)

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.

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.