

**AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH****Goods and Service Tax****O/o THE COMMISSIONER, COMMERCIAL TAX,****MOTI BUNGALOW,****MAHATMA GANDHI MARG, INDORE (M.P.) - 452007****e-mail :aar@mptax.mp.gov.in Phone : 0731- 2437315 fax. no. : 0731-2536229****PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING**  
**U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017****Members Present**

1. **Manoj Kumar Choubey**  
Joint Commissioner,

**Office of the Joint Commissioner of Commercial Tax, Indore Division-1**

2. **Virendra Kumar Jain**  
Joint Commissioner,

**Office of the Commissioner,CGST and Central Excise, Indore**

<b>GSTIN Number. If any/User-id</b>	<b>23AADAA2879H1ZU</b>
<b>Name and address of the applicant</b>	<b>M/s Atal Bihari Vajpayee Institute of Good Governance &amp; Policy Analysis (AIGGPA) SUSHASAN BHAWAN, OPPOSITE STF SHIV MANDIR , BHOPAL , BHADBHADA SQUARE , 462003</b>
<b>Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised</b>	<b>b) applicability of a notification issued under the provisions of the Act  e) determination of the liability to pay tax on any goods or services or both;</b>
<b>Present on behalf of applicant</b>	<b>Shri Navneet Garg, CA &amp; Shri Girish Trivedi, Chief Manager Finance appeared on behalf of the applicants for personal hearing on 05.02.2020</b>
<b>Case Number</b>	<b>28/2019</b>
<b>Order dated</b>	<b>02.03.2020</b>
<b>Order Number</b>	<b>07/2020</b>

**PROCEEDINGS****(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)**

1. The present application has been filed u/s 97 of the Central Goods and Services Act,2017 and MP Goods and services Act, 2017 (hereinafter also referred to CGST Act and SGST





Act respectively) by M/s Atal Bihari vajpayee Institute of Good Governance & Policy Analysis (AIGGPA) (hereinafter referred to as the Applicant), registered under the Goods & Services Tax.

2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

**3. BRIEF FACTS OF THE CASE:**

3.1 Atal Bihari Vajpayee Institute of Good Governance & Policy Analysis (AIGGPA) is established as a Society, registered under MP Societies Registrickaran Act 1973.

3.2 The Institute is registered under the MPGST/ CGST Act 2017 vide GSTIN-23AADAA2879H1ZU.

3.3 Atal Bihari Vajpayee Institute of Good Governance & Policy Analysis is part of Department of Public Service Management Department, Government of Madhya Pradesh.

3.4 The Institute's Governing Council is the apex body and is presided over by the Chief Minister of Madhya Pradesh. The Governing Body of the Institute comprises senior cabinet ministers from different departments of Government of MP, Chief Secretary and other Principle Secretaries. The Director General is the administrative and operational head. He is appointed by the Government of MP.

3.5 The Institute is registered u/s 12AA of the Income Tax Act 1961 since 01/04/2013, that exempts the Institute from income tax levies.

3.6 The AIGGPA is to act as a knowledge resource hub for promotion of good governance with the aim to;

- i) facilitate a multi-disciplinary network of governance,
- ii) to recognize and promote research, good practices, and overall improvement in practices of governance globally, with focus on Madhya Pradesh with the help of professionals, organizations/associations in the relevant areas.

3.7 To achieve these, the AIGGPA shall have the following objectives: -

- (a) In the Global-Local context, to act as a 'Think Tank' in the field of good governance; to analyze the policies of government and to assess their impact on the target group.
- (b) To analyze key issues in good governance, identify problems and to suggest solutions for them, develop action plans and support implementation of these plans.
- (c) To create a bank of "Best practices", methodologies and e-governance programmes and their dissemination.
- (d) To provide consultancy services towards improving the prevailing administrative system and required restructuring.
- (e) To identify those areas for change and reform that will make the most positive impact in improving administrative performance and achievement.
- (f) To provide institutional mechanisms to local, national and international institutions and stake-holders for people-centric administration.





- (g) To provide technical support and advisory services to local bodies, states, national and international institutions in the areas of programme structuring and implementation, action research, change management and administrative reform.
- (h) To conduct various courses related with Public Service Management.
- (i) Capacity Building of non Government Organisations.
- (j) Any other work assigned by the Governing Body and not covered in above objectives.

3.8 For achieving above said objectives, Institute undertakes impact evaluation, research works and study for various government departments on the matter of good governance and policy analysis which helps such department to make, review and improve the policies and take the appropriate decisions leading to the utmost benefit of the target beneficiaries.

For carrying on such research work institute engages experts of different domains, provide them all the requisite resources, and facilitate them remuneration and entitlements as per government rules. Such experts are hired from IIM, IIT, subject matter specialist from different fields and experienced retired senior officers.

**4. QUESTIONS RAISED BEFORE THE AUTHORITY:-**

The below question have been formed in relation to the services being provided by applicant to the recipients:-

4.1 Whether the amount recovered by the applicant from other government departments for doing research work and study, which help them make policies or understand its impact, chargeable to GST?

4.2 Whether Services provided by the applicant to other government department are covered under the entry no 8 of Exemption Notification No. 12/2017 Central Tax (Rate) dated 28th June 2017?

**5. CONCERNED OFFICER'S VIEW POINT:** The Joint Commissioner, CGST & Central Excise, Bhopal vide letter No.F.No.IV(16)06/Advance Ruling/Tech/BPL/2020 dated 05.03.2020 forwarded FAQ dated 24.08.2017 issued by the CBIC, New Delhi; wherein the department clarify applicability of GST in case of one Government/Local Authority provided services to other Government/local Authority in response to views called by the Authority of advance ruling on the application submitted by the Applicant.

**6. RECORD OF PERSONAL HEARING:**

Shri Navneet Garg, CA & Shri Girish Trivedi, Chief Manager Finance appeared on behalf of the applicants for personal hearing on 05.02.2020 and they reiterated the submissions already made in the application and Annexure with the application and also submitted the written submission specifically mentioning the eligibility for exemption granted under entry No 3 of Notification no 12/2017 CT (R) dated 28<sup>th</sup> June 2017. They also sought to submit copies of certain documents and requested that the same may be taken on record. Accordingly, the documents submitted have been taken on record for consideration.





**7. DISCUSSIONS AND FINDINGS:**

7.1 We have carefully considered the submissions made by the applicant in the application and also the documents submitted at the time of personal hearing. In view of above deliberations and on considering the various documents furnished by the applicant following are the findings. We proceed to examine the questions applied for by the applicant.

7.2 Coming to the first question; Whether the amount recovered by the applicant from other government departments for doing research work and study, which help them make policies or understand its impact, chargeable to GST? We need to dwell into the Exemption Notification No. 12/2017 CT(R) dated 28<sup>th</sup> June 2017.

7.3 Applicant claims that it is covered under Two Entries i.e. Entry No 3 of Notification No 12/2017 CT(R) dated 28<sup>th</sup> June 2017. Let us now examine this entry:-

7.4 Notification No 12/2017 dated 28<sup>th</sup> June 2017 contains entry No 3, which for the sake of convenience, is reproduced as under:-

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
(1)	(2)	(3)	(4)	(5)
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 <sup>1</sup> [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 the Constitution.	Nil	Nil

7.4.1 For claiming exemption under the Entry No. 3 of Notification No. 12/2017 (CTR) followings are the key conditions to be satisfied :-

- Pure Service.
- Exclusion of works contract and composite supply.
- Provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity.





- d. 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.
- 7.4.2 The Contracts are awarded to the applicant by various government departments, local authority or Government Entities and Governmental Agencies for impact evaluation, research works and study for various government departments on the matter of good governance and policy analysis is a **Pure Service Contract**.
- 7.4.3 Further the services provided by the applicant to other government departments, local authority or Government Entities and Governmental Agencies are **not covered in exclusion clause** pertaining to 'works contract service' or 'composite supplies involving supply of any goods'.
- 7.4.4 the applicant has submitted the list of total 63 projects being executed along with the name of the government department, local authority or Government Entities and Governmental Agencies for whom such project is being under taken. It is evident from the above said list that the applicant is providing services to government departments, Local Authorities or Government Entities and Governmental Agencies only.
- 7.4.5 Another condition to be satisfied is the activity **must be 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 to understand it better the article 243G & 243W are being reproduced as follows:-

**Article 243G in The Constitution Of India**

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**

**Article 243W in the Constitution Of India**

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



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(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

7.4.6 In both the articles of constitution of India i.e. 243G & 243W, the reference has been given to Schedule Eleven & Schedule Twelve hence it is pertinent to go through the items covered under both the schedules. Hence the Schedule Eleven & Schedule Twelve are reproduced as follows:-

#### **ELEVENTH SCHEDULE**

(Article 243G)

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.

#### **TWELVTH SCHEDULE**

(Article 243W)

1. Regulation of land use and construction of land buildings.



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2. Urban planning including the town planning.
3. Planning for economic and social development
4. Urban poverty alleviation
5. Water supply for domestic, industrial and commercial purposes
6. Fire services
7. Public health sanitation, conservancy and solid waste management
8. Slum improvement and up-gradation
9. Safeguarding the interests of the weaker sections of society, including the physically handicapped and mentally unsound
10. Urban forestry, protection of environment and promotion of ecological aspects
11. Construction of roads and bridges
12. Provision of urban amenities and facilities such as parks, gardens and playgrounds
13. Promotion of cultural, educational and aesthetic aspects
14. Burials and burials grounds, cremation and cremation grounds and electric crematoriums
15. Cattle ponds, prevention of cruelty to animals
16. Regulation of slaughter houses and tanneries
17. Public amenities including street lighting, parking spaces, bus stops and public conveniences
18. Vital statistics including registration of births and deaths

7.4.7 The applicant has attached the list of works undertaken by it, mentioning the item no of respective Schedule of Constitution of India against the each work being executed, in relation to which the pure services are being provided by the applicant to other government departments or local authority or a Governmental authority or a Government Entity.

7.4.8 Thus, works of pure services undertaken by applicant are covered in clauses of the Eleventh and Twelfth Schedule referred in article 243G and 243W of the Constitution.

7.4.9 Accordingly, we hold that the of works being undertaken by the applicant is in relation to the functions entrusted to Municipalities under article 243W and to Panchayats under article 243G of the Constitution, and, therefore, **it is exempt from tax being covered in Sr. No. 3 of Notification No. 12 of 2017-Central Tax (Rate), dated 28-6-2017** (as amended from time to time) issued under Central Goods and Services Tax Act, 2017 (CGST/Act), and corresponding notifications issued under Madhya Pradesh Goods and Services Tax Act, 2017 (MPGST Act).

Now let us examine the second question:-

7.5 Whether Services provided by the applicant to other government department are covered under the entry no 8 of Exemption Notification No. 12/2017 Central Tax (Rate) dated 28<sup>th</sup> June 2017?

Sl. No	Chapter, Section, Heading, Group or Service Code	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
8	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to another	Nil	Nil





	Central Government, State Government, Union territory or local authority; Provided that nothing contained in this entry shall apply to services- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers.		
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7.5.1 Entry No. 8 of notification no 12/2017 CT(R) is being reproduced here:-

7.5.2 Entry No. 8 prescribe for Services provided by the **Central Government, State Government, Union territory or local authority** to another Central Government, State Government, Union territory or local authority.

7.5.3 This entry grants exemption to services provided **by** Central Government, State Government, Union territory or local authority only. Hence to qualify for the exemption granted under Entry No 8 service provider must be government or local authority.

7.5.4 The Word government has been defined under the GST laws and the definition government covers Central Government and State Governments only. Here it is pertinent to note that the application is a society registered under MP Societies Registrikaran Act 1973 and has its own governing body being presided over by Chief Minister of State of Madhya Pradesh. Hence the applicant does not fall within the definition of Government or local Authority.

7.5.5 However the applicant falls within the ambit of definition of Government Entity as defined under clause (zfa) of notification no 12/2017, the same is being reproduced here-

(zfa) "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;]

7.5.6 Having carefully considered the Entry no 8 of Notification no 12/2017 CT(R), we hold that such Entry covers services provided **by** government or local authority only however the applicant does not cover within the definition of Government or Local Authority hence Services provided by the applicant to other government department are not covered under the entry no 8 of Exemption Notification No. 12/2017 Central Tax (Rate) dated 28<sup>th</sup> June 2017.

7.6 We also find it necessary to mention here that the classification decided by this Ruling shall be effective prospectively and this ruling shall not entail any right of the Applicant to claim refund of any tax which they may have paid prior to this Ruling.







## 8. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

- 8.1 In respect of Question 1 and additional submission made during the hearing regarding the eligibility for exemption granted under entry No 3 of Notification no 12/2017 CT (R) dated 28<sup>th</sup> June 2017, we hold that the amount recovered by the applicant from other government departments for doing research work and study, which help them make policies or understand its impact, shall be exempt subject to satisfaction of conditions laid down under Entry No. 3 of Notification No 12/2017 CT R dated 28th June 2017. Meaning there by it has to be seen for each and every work, whether the Pure Services are provided to 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 the Constitution. Hence, if all the conditions laid down under entry no 3 of notification no 12/2017 CT (R) are satisfied then the amount recovered by the applicant from other government departments for doing research work and study, which help them make policies or understand its impact, shall be exempt.
- 8.2 In respect of Question No.2, we hold that as the applicant does not qualify to be Central Government, State Government or local authority hence services provided by the Applicant to other government department are not covered under the entry no 8 of Exemption Notification No. 12/2017 Central Tax (Rate) dated 28th June 2017.
- 8.3 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

  
VIRENDRA KUMAR JAIN  
(MEMBER)

  
MANOJ KUMAR CHOUBEY  
(MEMBER)

Copy to:- NO. 28/2019 /A.A.R./R-28/18

Indore, date - 02.03.2018 सत्यप्रतिलिपि

1. M/s Atal Bihari Vajpayee Institute of Good Governance & Policy Analysis (AIGGPA) Sushasan Bhawan, Opposite STF Shiv Mandir, BHOPAL, 462003
2. The Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central



