

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU
No.207, 2nd FLOOR, PAPJM BUILDING, No.1, GREAMS ROAD,
CHENNAI 600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE TNGST ACT, 2017**

Members present:

Shri Balakrishna S, I.R.S., Additional Commissioner/Member (CGST), Office of the Commissioner of GST and Central Excise, Audit II Commissionerate, Chennai - 600 034.	Shri B.Suseel Kumar, B.E., MBA., Joint Commissioner/Member (SGST), Authority for Advance Ruling, Tamil Nadu, Chennai - 600 006.
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Advance Ruling No. 10/ARA/2025, Dated: 27.03.2025

1. *Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.*
2. *In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-*
 - (a) *on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.*
 - (b) *on the concerned officer or the jurisdictional officer in respect of the applicant.*
3. *In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
4. *Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*

GSTIN Number, if any / User id	33AAALT1624R1ZO
Legal Name of Applicant	M/s. TIRUPPUR CITY MUNICIPAL CORPORATION
Registered Address / Address provided while obtaining user id	Mangalam Road, Near Old Bus Stand, Tirupur - 641 604.
Details of Application	GST ARA - 01 Application Sl. No. 105/2023/ARA, dated 14.12.2023.
Jurisdictional Officer	State: Tiruppur Division Tiruppur-II Zone, Circle : Tiruppur Central-I Assessment Circle
Concerned Officer	Center: Coimbatore Commissionerate Division: Pollachi Range : Poolachi-II
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for A Category B Description (in brief)	Service Provider M/s Tiruppur Municipal Corporation is a Municipality as defined under clause (e) of article 243P of the Constitution and hence covered under the definition of Local Authority defined in clause (69) of Section 2 of the CGST Act, 2017. The activities provided by the applicant includes, Renting of immovable property service, Mandap keeper service etc. They are also rendering functions entrusted to a municipality under Article 243W of the Constitution. One such activity is that they have given the right to collect entry fee for onion daily market in respect of 19 Mandi (Shops/godown) to a tender contractor. Based on the tender amount agreed, the tenderer was accorded 'right to collect fee for entry and sell onions by the onion vendors in the Mandis (shops/godowns) on daily basis. The tender contract is for a period of three years as per the tender notice. As per the contract, the activity provider is the

	<p>'Municipal Corporation', activity availer is the tender contractor who succeeded in the tender process and the activity is right to collect the entrance fee in the onion market as per the prescribed conditions of the tender. The consideration is the amount determined and confirmed in the tender process. The main condition is that the entrance fee collection from the public/inion merchants/farmers should be as per the amount prescribed by the Corporation and the receipt for such use is issued in the name of the Corporation. The applicant requires clarifications as to whether their activities are covered under Twelfth Schedule to Article 243W of the Constitution and if so whether they are eligible to claim the benefit under Notification No. 14/2017-CT(Rate) dated 28-06-2017 on the ground that their activity is not a service.</p>
<p>Issue/s on which advance ruling required</p>	<p>Applicability of Notification issued under the provisions of the Act.</p>
<p>Question(s) on which advance ruling is required</p>	<p>Query 1: Whether the activity of leasing of 19 Onion mandis (Shops/Godown) to the tender contractor for the purpose of collection of fee on daily basis from the merchants/farmers/public for usage of shops for selling of onion on daily basis is an activity covered under the function entrusted to Municipality under Article 243W of the Constitution/Panchayat under Eleventh Schedule of Article 243G as a local authority in which they are engaged as a public authority.</p> <p>Query-2: If covered under the above Article of the Constitution, whether the activity is not a service as per Notification No. 14/2017-CT(Rate) dated 28-06-2017 as amended as well as under TNGST GO(Ms) No. 75 dated 29-06-2017 as amended and not chargeable to tax.</p>

1. At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *parimateria* and have the same provisions in like matters and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2. M/s. Tiruppur City Municipal Corporation (hereinafter '**the Applicant**') submitted a copy of Ledger making a debit entry vide reference No. DC3310230030813 on 09-10-2023 evidencing payment of application fees of Rs. 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017. The online application form for advance ruling was filed on 9th Oct, 2023 and the physical application was 14th Dec, 2023 as mandated under Rule 107A.

3. Statement of relevant facts as narrated by the applicant:

- M/s Tiruppur Municipal Corporation is a Municipality as defined under clause (e) of article 243P of the Constitution and hence covered under the definition of Local Authority defined in clause (69) of Section 2 of the CGST Act, 2017.
- The activities provided by the applicant includes, Renting of immovable property service, Mandap keeper service etc. Hence, they are registered under GST with GSTIN: 33AAALT1624R1ZO. They are also rendering functions entrusted to a municipality under Article 243W of the Constitution.
- One such activity undertaken by the applicant is that they have given the right to collect entry fee for onion daily market in respect of 19 Mandi (Shops/godown) to a tender contractor.
- Based on the tender amount agreed, the tenderer was accorded 'right to collect fee for entry' to sell onions by the onion vendors in the Mandis (shops/godowns) on daily basis.
- The tender contract is for a period of three years as per the tender notice. As per the contract, the activity provider is the 'Municipal Corporation', activity availer is the tender contractor who succeeded in the tender process and the beneficiary is the common public who uses the facility. The nature of activity is 'right to collect the entrance fee' for entry into the onion market as per the prescribed conditions of the tender. The consideration is the amount determined and confirmed in the tender process.
- The main condition is that the entrance fee collected from the public/Onion merchants/farmers should be as per the amount

prescribed by the Corporation and the receipt for such use is issued in the name of the Corporation.

- The applicant requires clarifications as to whether their activities are covered under Twelfth Schedule to Article 243W of the Constitution and if so whether they are eligible to claim the benefit under Notification No. 14/2017-CT(Rate) dated 28-06-2017 on the ground that their activity is not a service.

Statement containing the applicant's interpretation of law on the questions raised:

- The applicant quoted the definitions of 'principal' (Section 2(88)), 'agent' (Section 2(5)), 'consideration' (Section 2(31)), 'supplier' (Section 2(105)) and 'taxable supply' (Section 2(108)) which are relevant to the advance ruling sought by them.

- As per Section 7(2) of the CGST Act, 2017

Notwithstanding anything contained in sub-section (1),-

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

- As per Notification No. 14/2017-CT(Rate) dated 28th Jun, 2017, "Services by way of any activity in relation to a function entrusted to a Panchayat under Article 243G of the Constitution (or to a Municipality under Article 243W of the Constitution, is not a service".
- The activity of the applicant will fall under the functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the constitution under (c) *Planning for economic and Social development and (q) Public amenities including street light, parking lots, bus stops and public conveniences'* out of 18 functions listed under the schedule.
- Similarly, the functions entrusted to a Panchayat under the Eleventh Schedule (Article 243G) of the Constitution include '(22) *Markets and fairs'*.
- The applicant quoted some of the Sections of The Tamilnadu District Municipalities Act, 1920 relating to '*Markets, Butchers, Fishmongers, Hawkers'*.

- The applicant have cited the decision of AAAR, Tamilnadu order AAAR/212021(AR) dated 01-12-2021.

4. Comments offered by Assistant Commissioner(ST), Tiruppur Central-I Assessment Circle.

- The above activities or transaction undertaken by the applicant shall be treated neither as a supply of service nor a supply of goods as per Notification No. 14/2017-CT(Rate) dated 28-06-2017 as amended by Notification No. 16/2018-CT(Rate) dated 26-07-2018 in as much as they are specified functions entrusted to a Panchayat under Article 243G of the Constitution or to a Municipality under Article 243W of the Constitution and hence they are exempted from payment of GST.
- As per Notification No. 12/2017-CT(Rate) dated 28-06-2017, Sl. No. 8, Chapter 99, Services provided by the Central Government, State Government, Union Territory or local authority to other than Central Government, State Government, Union Territory or local authority is not exempted from GST.
- Hence the service recipient is a non-government body (i.e Contractor) and tax is liable to be paid by the Contractor.
- Further submitted that no show cause notice was/is issued from their office.

5. Comments offered by Joint Commissioner, Coimbatore CGST Commissionerate

- Joint Commissioner, Coimbatore Commissionerate have submitted that the same applicant on a application filed by them before AAR was given a ruling vide Order No. 15/ARA/2021 dated 28-04-2021 had ruled that 'Supply of rights held by the applicant to the contractors through the tender process is a supply made by the applicant to the contractors who are business entities for furtherance of business and is not an activity in relation to the functions entrusted under Article 243G/243W and therefore the consideration received from the successful contractors are liable to tax".
- Further, with regard to the applicability of the Notification, AAR ruled that the activity entrusted through the contractors, the contractors are the suppliers of the said services to the service recipient which is an exempted supply and hence refrained from ruling about the applicability of Notification.

- Aggrieved with the above order of AAR, the applicant preferred appeal before the Appellate Authority of Advance Ruling.
- Vide Order-in-Appeal No. AAAR/21/2021 (AR) dated 01-12-2021, AAAR ruled that the 'transaction between the Corporation and the contractor to be an activity/transaction in relation to activity/transaction undertaken by the appellant engaged as public authority and the same are covered under Notification No. 14/2017-CT(Rate) as amended. AAAR has held that the collection of Market fees daily/weekly collected for an open area through the contractors is treated as activity/transaction in relation to activity/transaction undertaken by the appellant engaged as public authority and the same is covered under Notification No. 14/2017-CT(Rate) as amended.
- On the same analogy, it is opined that the same will hold good on activity of leasing of onion mandis (constructed shop/godown) to the tender contractors for the purpose of collection of fee on daily basis from the merchants/farmers/public for usage of the shops on a daily basis used for selling onions.
- Joint Commissioner further stated that the questions raised in the Advance Ruling application are not pending or decided in any proceedings as per their records.

6. PERSONAL HEARING

Personal hearing was held first on 25-09-2024 and subsequently on 28-01-2025 due to change in the Advance Ruling Authority. Shri. K.Sankaranarayanan, M.Sc, BL, Advocate & Authorised Representative of the Applicant appeared for the personal hearing. AR reiterated the submissions made in their original application. The members asked AR to furnish copies of contract with tenderer and invoices evidencing collection of entry fee. Further, the members enquired whether the entry is fixed by Municipality or Tenderer.

7. DISCUSSION AND FINDINGS

7.1. The applicant claims that they are covered under the definition of "Municipality" as defined under Article 243P of the Constitution. They are rendering taxable services namely, Renting of immovable property service and Mandap keeper service. They are providing the **functions entrusted to a municipality under Twelfth Schedule to Article 243W of the Constitution.** They are rendering these functions directly as well as through contractors, by way of tender process. One such activity done through

tender contractor is collection of entry fees for onion daily market from the farmers/vendors/public, to sell onions in the 19 constructed onion mandis. They claim that the activity of giving the right to collect entry fees for 'onion daily market' in 19 constructed Mandis (Shops/Godowns), would fall under the activity entrusted to a municipality.

7.2. The applicant required advance ruling on

- (i) *Whether the activity of leasing of 19 onion mandis (Shops/Godowns) to the tender contractor for the purpose of collection of fee on daily basis from the merchants/farmers/public for usage of shops for selling of onion on daily basis is an activity covered under the function entrusted to Municipality under Article 243W of the Constitution/Panchayat under Eleventh Schedule of Article 243G as a local authority in which they are engaged as a public authority.*
- (ii) *If covered under the above Article of the Constitution, whether the activity is not a service as per Notification No. 14/2017-CT(Rate) dated 28-06-2017 as amended as well as under TNGST GO(Ms) No. 75 dated 29-06-2017 as amended and not chargeable to tax.*

7.3. It is pertinent to mention here that on an application filed by the same applicant to this forum seeking clarification on taxability and applicability of Notification No. 14/2017-CT(Rate) dated 28-06-2017 as amended, with regard to many services including the 'collection of daily market fees through tender contractor', rendered by them in the capacity of a 'Municipality', the Appellate Authority of Advance Ruling has overruled the decision of AAR and held that the collection of daily Market fees for an open area through the contractors is treated as activity/transaction in relation to activity/transaction undertaken by the appellant engaged as public authority and the same are covered under Notification No. 14/2017-CT(Rate) as amended.

7.4. In the present application, the applicant had sought ruling on the 'right given to the contractors to collect entry fee for daily market of 19 onion mandis constructed for use by the vendors/farmers/public'. Based on the tender process, the successful bidder/contractor was awarded the contract of 'right to collect fees' by the Municipality for a period of three years, where, the contractor is allowed to collect daily entrance fees from vendors/farmers/public for using the 19 constructed onion mandis.

7.5. As per the conditions of the contract, the fee collected from the public/onion merchant/farmers by the tender contractor is prescribed by the Municipality and the receipt for such entry fee issued by the contractor, to the vendors/farmers/public', will be in the name of the Municipal Corporation only.

7.6. As per the facts presented to us, the only difference in the facts of the earlier case is that, the previous ruling is for **daily open market fees** whereas present one is for **daily market fees for using the 19 constructed onion mandis.**

7.7. As per Section 7(2) of the CGST Act, 2017

Notwithstanding anything contained in sub-section (1),-

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

7.8. Notification 12/2017-CT (Rate) dated 28-06-2017 exempts intra-state supply of services by charging '**Nil**' rate of tax as per the list of activities appended in the Table. Serial No. 4 of the Table where,, '*Services by Central Government, State Government, Union territory, local authority of governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution*' is one such activity were the government had provided exemption from payment of tax.

Notification No. 14/2017-CT(Rate) dated 28-06-2017, states that the activities of transaction undertaken by Central or State or local authority engaged as public authority and engaged in the services in relation to functions entrusted to 'Panchayat' under article 243G of the constitution shall neither be treated as supply of goods nor supply of services.

In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:-

"Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution."

2. This notification shall come into force with effect from the 1st day of July, 2017.

7.9. Though the above notification specifically mentions 'Panchayat', vide Notification No. 16/2018-CT(Rate) dated 26th July, 2018 the Government

had made certain amendment to the above notification to include 'Municipality' also, as below.

In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.14/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 693(E), dated the 28th June, 2017, namely:-

In the said notification, in the first paragraph,-

(i) after the words "State Government", the words "or Union territory" shall be inserted;

*(ii) after the word "Constitution", **the words "or to a Municipality under article 243W of the Constitution"** shall be inserted. 2.*

This notification shall come into force with effect from 27th of July, 2018.

7.10 While Article 243G of the Constitution of India prescribes the powers, authority and responsibilities of Panchayats and lists the functions entrusted to them in the Eleventh Schedule to the article, Article 243W of the Constitution of India prescribes the powers, authority and responsibilities of Municipalities and lists the functions entrusted to them in the Twelfth Schedule to the article. Of the eighteen functions of a municipality listed, the activity of the applicant would fall under **"17. Public amenities including street lighting, parking lots, bus stops and public conveniences"** .

7.11 From the detailed submissions made by the applicant, pertaining to supply, we find that their supply is not related to goods, but there is rendering of services. The next step would be to find out whether the services rendered by them are in relation to any function entrusted to a municipality under Article 243W of the Constitution.

7.12 By the above notifications and subsequent amendment, if the activities of transactions by the Central Government or State Government or Union Territory or any local authority, if engaged as a public authority does the functions entrusted to 'municipality' or 'panchayat' under article 243W or 243G of the Constitution, all such activity are out of the purview of the taxable net and shall be treated neither as supply of goods nor as supply of services. The Onion mandis for effecting sale of onions is a convenient

facility provided to the public/farmers/merchants which will fall under Sl. No. 17 of the functions entrusted to a municipality.

8. The applicant for the sake of effective implementation of the functions entrusted to a municipality, has given the contract to the successful bidder with the set of conditions of the contract which have to be followed by the Contractor. As per the clarification submitted by the applicant vide letter dated 21-03-2025, they have further informed that,

- (i) It is only a daily market of Onion mandis,
- (ii) Only entry fees is collected for entry of bundle/basket/bag etc., in vehicles according to the size and weight and that the entry fee for the daily market is uniform for all items of vegetables including onion.
- (iii) There is no separate fee/entry fee for onion.
- (iv) Onion being a perishable item, to have protection from rain, 19 mandis are constructed by the Municipality.
- (v) No separate charges are collected for storage of onions in the 19 mandis. Any farmer/person can use the mandis according to space availability and is not allotted to any person permanently.
- (vi) After payment of entry fees, any farmer/person can use the 19 onion mandis till the disposal/sale of onions.
- (vii) Each mandi measures 20x16 feet and no monthly/weekly/daily rental are collected. Entry fees is collected as per the rates fixed by the municipal corporation and receipt for entry fee is issued in the name of the corporation by the contractor. Contractor cannot collect over and above the fee fixed by the Corporation as entry fee.
- (viii) The Onion Mandis is for daily market usage only and no GST on the contract amount is collected and paid to the Government.

9. Going by the facts presented to us, the primary difference with the one where appeal was decided by the appellate authority for the same applicant is that, earlier it was entry fee for daily **open market** and now it is **an entry fee for constructed mandis**. The activity of collection of entry fee for using Onion mandis by the vendors/farmers/public would fall within the ambit of functions entrusted under Article 243W of the Constitution. It cannot be said that the contractor is doing any other service or deviating from doing the contracted service not concerned with the functions indicated. The relationship between the Municipality and the contractor is very specific and has a direct correlation with the functions entrusted in the Article. The purpose of providing certain functions entrusted to the municipality will not change the essential characteristics envisaged under the Article irrespective

of the person providing the services entrusted. Only for administrative and operational convenience, the functions entrusted to a municipality under the Article are being provided. It is important to determine whether the activities provided by the contractor is the same function entrusted to a municipality in the Constitution and to ensure that the intention of the provisions contained in the Constitution is fulfilled. Thus, there is close link or association between the activity and the functions. It is not the proportionality of the activity relating to the function entrusted, but the implications of the legislative assessment of the terms 'in relation to' is more tilted towards nexus, inseparability and identity of the activities involved with the functions and not merely on other parameters. Hence, the transaction between Corporation and Contractor is clearly an activity/transaction undertaken by the local authority, engaged as public authority. Hence, the requirement stated in Section 7(2)(b) of the Act are clearly met. Hence, the activity undertaken by the corporation is an activity covered under the Notification No. 14/2017-CT(Rate) dated 28-06-2017, as amended as 'neither a supply of goods nor a supply of services' and out of purview of GST and the notification is available for the Contractor also provided the same are rendered as back to back services to the applicant.

10. 'Back to back contract' or agreement is a one where a main contractor pass on his obligations, responsibilities and liabilities to their sub-contractors bound by the same terms and conditions. Since a governmental cannot involve directly in all the functions entrusted to them, they may enter into back to back contract either partially or fully to complete the functions in a timely manner. Mainly this type of back to back contracts are provided to the sub-contractors to ensure smooth execution of the process without any hustle.

11. The Assistant Commissioner in his comment has stated that the service recipient is a non-government body (i. Contractor) and hence as per Notification No. 12/2017-CT(Rate) dated 28-06-2017. Sl. No. 8 Chapter 99, 'Services provided by the Central Government, State Government, Union territory or local authority is not exempted from GST. Hence, opined that the contractor is liable to pay tax. On the same argument, AAR has rejected the eligibility of Notification claimed by the applicant stating that the contractor is business entity and is liable to pay tax. The appellate authority, on the appeal filed against the said ruling of AAR however, has overruled the AAR's ruling and stated that the benefit of notification is available to contractor also as long as the same are rendered as 'back to back' services to the applicant.

12. Based on the above discussion, we rule as under.

RULING

Based on the facts, records and evidences submitted along with the application, the queries are answered as follows.

- (i) The activity of leasing, to the tender contractor, the right to collect entry fees on a daily basis, from merchants/farmers/public for 19 constructed onion mandis (shops/Godowns) would be covered under the function entrusted to Municipality under Article 243W of the Constitution as a local authority engaged as a public authority;
- (ii) Notification No. 14/2017-CT(Rate) dated 28-06-2017 as amended by Notification No. 16/2018-CT(Rate) dated 26th July, 2018 issued in terms of Section 7(2)(b) of CGST/TNGST Act, 2017, is very much available to claim as the activity is 'neither supply of goods nor supply of services'.


27/03/2025
(B. SUSEEL KUMAR)
Member (SGST)




27/03/2025
(BALAKRISHNA. S)
Member (CGST)

To
M/s. TIRUPPUR MUNICIPAL CORPORATION.
GSTIN: 33AAALT1624R1ZO
Mangalam Road,
Near Old Bus Stand, Tirupur – 641 604.

//by RPAD//

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.
3. The Commissioner of GST & Central Excise,
Coimbatore Commissionerate.

Copy to:

1. The Assistant Commissioner (TNGST),
Tiruppur Central-I Assessment Circle.
2. Master File/ Spare – 2.