

**AUTHORITY FOR ADVANCE RULING  
TAMILNADU ADVANCE RULING AUTHORITY  
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE  
GOODS AND SERVICES TAX ACT, 2017.**

**Members present are:**

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai.
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT) / Member (FAC),  
Enforcement / Inter-State Investigation Cell, Chennai-6.

**ORDER No.22/AAR/2018 DATED 28.11.2018**

GSTIN Number, if any / User id		33AAACA3912A1ZM
Legal Name of Applicant		Dr. AMIN CONTROLLERS PRIVATE LIMITED
Registered Address/Address provided while obtaining user id		120,3 <sup>RD</sup> Floor, Akbar Tower, Thambu Chetty, Parrys, Chennai - 600001 Tamil Nadu
Details of Application		Form GST ARA - 01 Application Sl. No. 36/2018/ARA dated 17.07.2018
Concerned Officer		State: The Assistant Commissioner(ST) Muthialpet Assessment Circle, Chennai. Centre:Chennai North -Egmore Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in Brief)	The Company provides third party Inspection Services
Issue/s on which advance ruling required		Applicability of Notification issued under GST Act
Question(s) on which advance ruling is required		Whether Notification No.12/2017 Central Tax (Rate) dated 28.06.2017 is applicable for the Services rendered by Dr. Amin Controllers Pvt.Ltd to Chennai Metro Water Supply & Sewage Board(CMWSSB) and Tamil Nadu Water Supply and Drainage Board(TWAD)?

**Note: Any appeal against the advance ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.**

**At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.**

Dr.Amin Controllers Private Limited, 120,3<sup>RD</sup> Floor, Akbar Tower, Thambu Chetty, Parrys, Chennai-600001, Tamil Nadu (hereinafter called the Applicant ) is providing Third Party Inspection Services to their clients viz., M/s. Chennai Metro Water Supply and Sewerage Board (CMWSSB) and M/s. Tamil Nadu Water Supply and Drainage Board (TWAD) for the water related projects. They are also rendering Consultancy Services to others and pay CGST taxes and SGST taxes duly, besides carrying on services to Common Effluent Treatment Plant. They are registered vide GSTIN: 33AAACA3912A1ZM.

They have sought Advance Ruling on:

1. Whether the services rendered by them to CMWSSB and TWAD is exempted under Sl.No. 3 of Notification No. 12/2017-CT (Rate) dated 28<sup>th</sup> June 2017.
2. As the Notification is effective from 01/07/2017- if Advance Ruling rules that the services are exempt, then for the Invoices already raised on the client with levy of 18% GST can be taken credit of SGST by issuing Credit Note.

The Applicant has submitted the Advance Ruling in Form GST ARA - 01 and had enclosed challan for payment of Fees of Rs 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2.1 The Applicant has stated that they are a Third Party Inspection Services Agency empanelled with CMWSB and TWAD (Clients). They render Third Party Inspection Services as per the work orders issued to them by their Clients from time to time. The Applicant has stated that, when Goods/ Materials are ordered /procured by TWAD/CMWSSB from various contractors in connection with a function of Municipality entrusted to them under Article 243W of the Constitution. The contractor places the order for purchase of materials from Manufacturers/Suppliers. Before the supply / delivery of materials, the Applicant has to conduct Third Party inspection of materials and submit a report to TWAD/CMWSSB. On the material goods being ready for delivery and inspection,

the TWAD/CMWSSB issue a work order, giving details of materials to be inspected, place of inspection and Fee charge etc. On completion of Inspection, the Applicant will raise the Invoice for the inspection made by the Applicant to TWAD/CMWSSB along with the inspection report. The Applicant has also submitted that the services rendered by them are "Pure Services", without involving any supply of goods/materials.

2.2. The Applicant has also stated that their Clients M/s. CMWSSB and M/s. TWAD have claimed Exemption from CGST/SGST under Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, with effective from 01.07.2017. As per Sl.No.3 "Pure Services" [excluding Works Contract] provided to Central Government/State Government/Union Territory/Local Authority/Government Authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution. In the pre-GST regime, M/s Itng Engineering (A division of the Applicant) was providing Third Party Inspection Services to M/s. CMWSSB and M/s. TWAD and when they raised Invoices along with Service Tax to the M/s. CMWSSB and M/s. TWAD, the clients denied to pay Service Tax claiming Exemption as per Sl.No.12(e) of Notification No. 25/2012 of Service Tax dated 20/06/2012 - "Services provided 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 -". The Applicant took the appeal before the Assessing Officer, Mumbai where an order was issued to them to pay the Service Tax stating that their services of Third Party Inspection are not covered under Sl.No 12(e) of Notification No. 25/2012 of Service Tax dated 20/06/2012.

In the light of the above, the Applicant has now sought Advance Ruling to clarify, Whether the services rendered by them to M/s. CMWSSB and M/s. TWAD are exempted under Sl.No. 3 of Notification No. 12/2017-CT (Rate) dated 28<sup>th</sup> June 2017.

3. The Applicant was heard in person. They stated that M/s. CMWSSB and M/s. TWAD are Government Authority and that they supply Services of Quality Inspection based on standards given by M/s. CMWSSB and M/s. TWAD, at the premises of the Manufacturer/Contractor, before materials are dispatched and the Applicant is paid a percentage of value of materials inspected. The Applicant submitted further information relates to nature of activities and a copy of Agreement dated 02.03.2016, confirming their empanelment with M/s. TWAD, the

type of services to be rendered, etc; Agreement dated 05.12.2016 confirming their empanelment with M/s. CMWSSB, the type of services to be rendered, etc; Work Order along with copy of Inspection report & Invoice of the work undertaken for M/s. CMWSSB and M/s. TWAD; M/s. CMWSS Act from Official Website link of M/s. CMWSSB and M/s. TWAD Act from the Official M/s. TWAD Website.

4.1 Submissions of the Applicant were verified. On verification of the Agreement, Work Orders with M/s. TWAD, it is seen that the Applicant was empanelled for conducting Third party Inspection for procurements of Pipes, Open Well Submersible Pump sets, Panel Boards, Transformer, Water Meters and other equipment supplied by the L&T Ltd., Chennai to M/s. TWAD under CWSIS to Vellore Corporation and various Municipalities and Towns of Vellore district required for implementing Water Supply Schemes and Sewerage Schemes to ensure quality assurance. The Applicant will also submit a final report on the quality of the equipment based on their inspections. The Applicant will be paid as a percentage of the value of materials inspected at various slabs. The invoice indicates the charges towards "Professional Fees" of various equipment indicating dates and places of Inspection, Description of equipment/materials.

4.2 On verification of the Agreement , Work Orders with CMWSSB, it is seen that the Applicant was selected was empanelled for conducting Third party Inspection for procurements of Pipes, Pump sets, Electronic Equipment, Chemicals of works involved in extension of Desalination, iron conveying water main from Medavakkam Junction to Alandur Water Distillation Station. The Applicant will also submit a final report on the quality of the equipment based on their inspections. The Applicant will be paid as a percentage of the value of materials inspected. The invoice indicates the charges towards "Technical Inspection Testing & Analysis Services" of various equipment indicating dates and places of inspection, description of equipment/materials.

4.3 The Applicant has also submitted CMWSSB Act and Annual Report, on verification of which, it is seen that it is a Board constituted by an act of Tamil Nadu State Legislature called Chennai Metropolitan Water Supply and Sewerage Act, 1978 with 100% contribution by way of Government ( by way of takeover of Assets and Liabilities from Chennai Municipal Corporation and Tamil Nadu Water Supply and Drainage Board) and controlled by Government by way of appointing Directors of the CWSSB Board to carry out the functions of supplying water for Domestic, Industrial and Commercial purposes as well as Sanitation Conservancy by way of disposal which is entrusted to a Municipality under Article 243W of the

Constitution. It is seen that the Minister and Secretary in charge of "Water Supply" are on the Board and on setting up of CMWSSB, the Local Authority was required to transfer all assets, liabilities, legal proceedings and properties relating to water and sewerage works to M/s. CMWSSB. It is seen from the Annual report that M/s. CMWSSB gets income from sale of water and charges on sewerage water by way of Water Tax, and Sewerage Tax, grants from the government etc.

4.4 The Applicant has also submitted TWAD Act, on verification of which it is seen that it is a Board constituted by an act of Tamil Nadu State Legislature called Tamil Nadu Water Supply and Drainage Board Act, 1970 with 100% contribution by way of Government and controlled by Government by way of appointing Directors of the TWAD Board. It is entrusted with the development of Water Supply and Sewerage facilities in Municipalities and Panchayats in the State of Tamil Nadu, except Chennai Metropolitan Development. It is seen that the Secretary in charge of "Municipal Administration and Water Supply" are on the Board and on setting up of TWAD, all assets, liabilities, legal proceedings and properties relating to Public Health Engineering and Municipal Works Department were transferred to TWAD.

5. The Advance Ruling is sought on the applicability of exemption under Sl.No. 3 of Notification No. 12/2017 Central Tax (Rate) dated 28<sup>th</sup> June 2017, to the Third Party Inspection services rendered by the Applicant to M/s. CMWSSB and M/s. TWAD under the two contracts. The facts of the case as stated by the Applicant is that they have entered into Agreement with M/s. CMWSSB and M/s. TWAD for rendering the services of Third Party Inspection on being empanelled. The Applicant has stated that M/s. CMWSSB and M/s. TWAD are of the view that Third Party Inspection Service are within the ambit of "Pure Services", as it is an activity in relation to any function entrusted to a Municipality under Article 243W of the Constitution and will not reimbursed the GST component of the invoice. The issue to be decided is Whether the Applicant is rendering "Pure Services" and Whether M/s. CMWSSB and M/s. TWAD are 'Governmental Authority' as defined in the Notification No. 12/2017 Central Tax (Rate) dated 28<sup>th</sup> June 2017.

6.1 The relevant extract of Sl.No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June 2017 and the relevant definitions are extracted below for ease of reference:

3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in	Nil	Nil
		relation to any function entrusted to a Municipality under article 243W of the Constitution.		

(zf) "governmental authority" has the same meaning as assigned to it in the *Explanation* to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017);

Explanation to Clause (16) of Section 2 of the Integrated Goods and Service Tax Act (IGST) is given as under:

*Explanation.*—For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body,—

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,

with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

This definition was later modified vide Notification No 32/2017- Central Tax (Rate) dt. 13.10.2017

"(ii) in paragraph 2, for clause (zf), the following shall be substituted, namely: - "(zf) **"Governmental Authority"** means an authority or a Board or any other body, - (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with 90 percent or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution."

From the above, it is evident that if any "Pure Services" are provided to a Governmental Authority by way of any activity in relation to any function entrusted to a Municipality under Article 243 W or a Panchayat under Article 243 G (from 13.10.2017) of the Constitution and that 'Governmental Authority' is an Authority or a Board set up by an Act of Parliament or a State legislature or established by the Government with 90 percent or more participation by way of equity or control to carry out any function entrusted to a Municipality under article 243 W of the Constitution, then the same is exempted vide Sl.No. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28<sup>th</sup> June 2017 referred above.

6.2 In the case at hand, M/s. CMWSSB is created vide The Chennai Metropolitan Water Supply and Sewerage Act, 1978 (Tamil Nadu Act 28 of 1978) with 100% contribution by way of Government (i.e. by way of takeover of Assets and Liabilities from Chennai Municipal Corporation and Tamil Nadu Water Supply and Drainage Board) and controlled by the Government by way of appointing Directors of the CMWSS Board, to carry out the functions of supplying water for Domestic, Industrial and Commercial purposes as well as Sanitation Conservancy by way of disposal of Sewerage. M/s. TWAD Board is a Board, constituted by an Act of Tamil Nadu State Legislature called Tamil Nadu Water Supply and Drainage Board Act, 1970 with 100% contribution by way of Government and controlled by Government by way of appointing Directors of the TWAD Board entrusted with the development of Water Supply and Sewerage facilities in Municipalities and Panchayats in the State of Tamil Nadu, except Chennai Metropolitan Development. The Twelfth Schedule or Article 243W of the Constitution list, the functions of the Municipality at Sl No 5 as "Water Supply for Domestic, Industrial and Commercial purposes" and at Sl No 6 as "Public Health, Sanitation Conservancy and Solid Waste Management". The Eleventh Schedule or Article 243G of the Constitution list the functions of the Municipality at Sl. No. 5 as "Water Supply for Domestic, Industrial and Commercial purposes" and at Sl No 6 as "Public Health, Sanitation Conservancy and Solid Waste Management". Thus, it is clear that in the Constitution list, the functions of the Panchayat at Sl. No. 11 as "Drinking Water" and at Sl. No. 23 as "Health and Sanitation". Thus, it is clear that in respect of services received in relation to functions pertaining to Municipality, M/s. CMWSSB and M/s. TWAD is a 'Governmental Authority' as defined under 2(zf) of the Notification No. 12/2017-CT (Rate) as amended. However, in respect of Services received in relation to functions pertaining to Panchayat, TWAD is a 'Governmental Authority' only from 13.10.2017 as defined under 2(zf) of the Notification No. 12/2017-CT (Rate) as amended.

6.3 On perusal of the scope of work in the empanelment Agreements furnished by the Applicant, we find that in one contract, the Applicant is selected for conducting Third Party Inspection for procurements of Pipes, Open Well Submersible Pump sets Panel Boards, Transformer, Water Meters and other equipment supplied by the L&T Ltd., Chennai to M/s. TWAD under CWSIS to Vellore Corporation and various Municipalities and Towns of Vellore district required for implementing Water Supply Schemes and Sewerage Schemes to ensure Quality Assurance. The Applicant will also submit a final report on the quality of

the equipment based on their inspections. The Applicant will be paid as a percentage of the value of materials inspected at various slabs. Therefore, the Applicant is rendering pure services to TWAD in respect of its functions with respect to Municipalities.

In the other contract with CMWSSB, it is seen that the Applicant was selected was empaneled for conducting Third party Inspection for procurements of Pipes, Pump sets, Electronic Equipment, Chemicals of works involved in extension of Desalination , iron conveying water main from Medavakkam Junction to Alandur Water Distillation Station. The Applicant will also submit a final report on the quality of the equipment based on their inspections. The Applicant will be paid as a percentage of the value of materials inspected. Therefore, the Applicant is rendering "Pure Services" to M/s. CMWSSB in respect of its functions with respect to Municipalities.

6.4 In view of the foregoing, in the two agreements furnished by the Applicant, the Applicant is supplying 'Pure Services' of Inspection to M/s. TWAD and M/s. CMWSSB which is a 'Governmental Authority" relating to Water Supply and Sewerage which are covered under Twelfth Schedule of Article 243 W of the Constitution. Therefore, the services rendered by the Applicant are exempted from CGST under Sl.No. 3 of the Notification No. 12/2017-CT (Rate) dated 28<sup>th</sup> June 2017 as amended and exempted from SGST under Sl.No. 3 of the G.O. (Ms) No. 73 dated 29.06.2017 No.II (2)/CTR/532(d-15)/2017 as amended.

7. The second question raised before us regarding raising of credit notes is of procedural nature and therefore not answered.

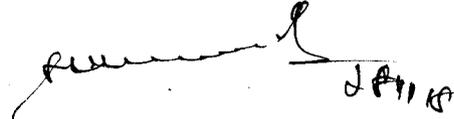
8. In view of the foregoing, we rule as under:

#### **RULING**

The activity of the Applicant as per the two contracts i.e. entered into with Tamil Nadu Water Supply and Drainage Board for conducting Third Party Inspection for procurements of equipment supplied by L&T , Chennai to TWAD under CWSIS to Vellore Corporation and various Municipalities and Towns of Vellore District required for implementing water supply schemes and sewerage schemes and entered into with Chennai Metro Water Supply and Sewage Board and Tamil Nadu

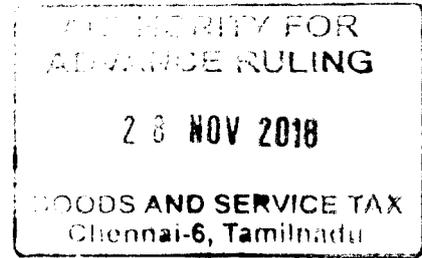
Water Supply and Drainage Board for conducting Third party inspection for procurements of equipment and chemicals of works involved in extension of Desalination , iron conveying water main from Medavakkam Junction to Alandur Water Distillation Station are exempted from CGST under Sl.No. 3 of the Notification No. 12/2017-CT (Rate) dated 28<sup>th</sup> June 2017 as amended and exempted from SGST under Sl.No. 3 of the G.O. (Ms) No. 73 dated 29.06.2017 No.II (2)/CTR/532(d-15)/2017 as amended.

  
Ms. Manasa Gangotri Kata, IRS  
Member

  
Shri. S. Vijayakumar, M.Sc.,  
Member (FAC)

To  
Dr. Amin Controllers Private Limited,  
120, 3<sup>rd</sup> Floor, Akbar Tower,  
Thambu Chetty, Parrys  
Chennai- 600 001

/By SPAD/



Copy Submitted to:

1. The Additional Chief Secretary / Commissioner of Commercial Taxes,  
II Floor, Ezhilagam, Chepauk, Chennai-600 005.
2. The Principal Chief Commissioner of GST & Central Excise,  
No 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Commissioner of GST & C.Ex.,  
Chennai North Commissionerate,  
26/1, Mahatma Gandhi Road,  
Nungambakkam, Chennai-600034
4. The Assistant Commissioner (ST)  
Muthialpet Assessment Circle,  
199, Thambu Chetty Street,  
Chennai 600 001.

5. Master File/ Spare-2.

