

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**  
**DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX**  
**5<sup>TH</sup> FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,**  
**CHENNAI -600 003.**

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

**Members present are:**

1. Shri B. Senthilvelavan, I.R.S., Additional Commissioner/Member,  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/ Member,  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6.

**ORDER No.36/ARA/2020 Dated: 03.11.2020**

GSTIN Number, if any / User id		33AACCS3411J1ZP
Legal Name of Applicant		M/s. Sumeet Facilities Limited
Trade Name of the Applicant		M/s. Sumeet Facilities Limited
Registered Address / Address provided while obtaining user id		403, Jeeva Colony, Udumalai Road, Kondarasampalayam Dharapuram, Tiruppur-638657
Details of Application		Form GST ARA - 001 Application Sl.No.12/2020 dated 01.06.2020
Concerned Officer		State: Assistant Commissioner(ST) Dharapuram Assessment Circle. Centre:Salem, Division: Erode I
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision.
B	Description (in brief)	The applicant is engaged in waste collection, segregation, treatment, transportation and disposal services.
Issue/s on which advance ruling required		1. Classification of services 2. Applicability of notification issued under the provisions of this act



Question(s) on which advance ruling is required	<p>1. What is the classification for supply of services by the Applicant relating to waste collection, segregation, treatment, transportation and disposal services under the service agreements entered with both concessionaries in terms of notification 11/2017- C.T.(Rate) dated 28<sup>th</sup> June 2017?</p> <p>2. Whether the activity of waste collection, segregation, treatment, transportation and disposal services carried out by the Applicant under the Service Agreements entered with both concessionaries is exempted from Goods and Services Tax in terms of entry no.3 of the Notification 12/2017- Central Tax (rate) dated 28.06.2017?</p>
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**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.

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Sumeet Facilities Limited, 403, Jeeva Colony, Udumalai Road, Kondarasampalayam Dharapuram, Tiruppur-638657 (hereinafter called the 'Applicant') is registered under the GST Vide GSTIN 33AACCS3411J1ZP. They are engaged in supplying services of Waste Management, Mechanized Road Sweeping, Business Support Staffing and other services relating to Integrated Facility Management. They have sought Advance Ruling on the following questions:

1. What is the classification for supply of services by the Applicant relating to waste collection, segregation, treatment, transportation and disposal services under the service agreements entered with both concessionaries in terms of notification 11/2017- C.T.(Rate) dated 28<sup>th</sup> June 2017?



2. Whether the activity of waste collection, segregation, treatment, transportation and disposal services carried out by the Applicant under the Service Agreements entered with both concessionaries is exempted from Goods and Services Tax in terms of entry no.3 of the Notification 12/2017-Central Tax (rate) dated 28.06.2017?

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan 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.

2.1 The applicant has stated that they are engaged in supplying services of Waste Management, Mechanized Road Sweeping, Business Support Staffing and other services relating to Integrated Facility Management to private sector entities as well as public sector entities and Governmental organizations. They have multistate presence in India in various States such as Maharashtra, Tamil Nadu, Andhra Pradesh, Gujarat, Karnataka, Chhattisgarh, Rajasthan and New Delhi. On 10th March 2020, they have entered into two separate Service Agreements for supply of waste collection, segregation, treatment, transportation and disposal services for the Greater Chennai Corporation with following entities:

(i) Sumeet Urban Services (Chennai) II Private Limited, Chennai

(ii) Sumeet Urban Services (Chennai) V Private Limited, Chennai

The services referred above will commence effective April 2020.

2.2 The applicant has stated that The Greater Chennai Corporation established under the Chennai City Municipal Corporation Act, 1919 (hereinafter referred as the 'Authority') invited proposals in June 2019 for implementing 'Collection and Transportation of Solid Waste, Street Sweeping Waste including Street Sweeping activities, Horticulture Waste and Collection and Storage of Domestic Hazardous Waste' in the following zones of the City of Greater Chennai - (i) 9, 10 and 13; (ii) 11, 12, 14 and 15. The Applicant and their foreign partner M/s Urbaser Company S. A. has responded and submitted their intent to bid proposals. The Authority accepted the bids and issued letter of Awards (LOA) in December 2019 for the specified zones of the City of Greater Chennai. Being the successful bidder, the applicant and their foreign partner has promoted and incorporated two special purpose vehicles (SPV or concessionaries) under companies Act 2013, as below:

i. M/s Sumeet Urban Services(Chennai) II Private Limited, Chennai



ii. M/s Sumeet Urban Services(Chennai) V Private Limited, Chennai

The authority accepted the request of the bidder to accept the two SPVs as the concessionaires to undertake and perform obligations and exercise rights of the bidder under the LOA for undertaking the project and entered into Concession Agreement with the SPV's Zone-wise separately on 24<sup>th</sup> February 2020. The Authority has granted and authorised the concessionaries to investigate, study, design, engineer, procure, finance, consent, operate and maintain the project and to exercise and enjoy the rights, powers, privileges, authorisations and entitlements as set forth in the said concession agreements. The obligations and activities to be carried out by the concessionaries are as below:

- Daily door to door/primary collection, segregation and transportation of the solid waste
- Collection and transportation of solid waste from canal/river banks
- Collection and transportation of waste from Bulk Generation
- Collection and transportation of Horticulture and Garden waste from public places
- Street sweeping, collection and transportation of solid waste
- Creating awareness about waste collection and disposal in the citizens of the project area by way of education and other programmes

Further, the applicant has stated that the concessionaires are responsible for procuring waste transport vehicles, cleaning/sweeping machinery and related consumables. The Concessionaries are to create/construct following project activities- Data Control room, Call Centre, Workshops, Parking sheds, Eco friendly charging points for e-rickshaw. The applicant has stated that the authority shall appoint the Consulting Engineering firm to monitor the work and performance of the Concessionaires. The concessionaries are to operate and maintain the project and if required modify, repair, retrofit make improvements to the project and project facility with the approval from the authority. The monthly payments to concessionaries by the authority are based on the waste quantity handled and comprises of two components, fixed payment and performance-based payment on the basis of specified formula and key performance indicators prescribed. The other relevant clauses stated by the applicant are that the Concession Agreement is entered for a period of eight years. The Concessionaires are to obtain all permits as required under applicable laws and ensure compliance thereunder. Guideline for social safeguard prescribed. Specifications for Decentralised Procuring Units, Bio



Metrication Units and Plastic Shredding Units prescribed. The Concessionaires are to set up an automated Management Information System (MIS) for effective monitoring of the project and are to set up 24x7 complaint redress system for handling complaints related to the project. The Concessionaires have to make arrangements for engagements of all staff, manpower and labour with appropriate qualifications and experience, local or otherwise, and also make arrangements for their payment and extending facilities and relevant compliance applicable under labour and related laws. Zone wise minimum manpower requirements prescribed to ensure the proper operation and conduct of the Project and Project Facilities- Sweepers; Waste collector; Driver and operator for project vehicles, compactors and tippers, bin washes, other project machinery; Helpers for refresh compactors and above project vehicles and machinery; Managers, Assistant Managers and supervisors.

2.3 The Applicant has stated that the Concessionaires propose to outsource the part of the work to them. The Applicant *inter alia* engaged and experienced in the field of Waste Management, Mechanized Road Sweeping and other services relating to Integrated Facility Management has been identified by the Concessionaires as service provider. In the above background, the Concessionaires have entered into Service agreement with the Applicant on 10<sup>th</sup> March 2020 for providing back to back part of services of waste collection, treatment and disposal services which are required to be performed by the Concessionaires under the Concession Agreements. Though, two separate service agreements have been entered into between each of Concessionaire and the Applicant, various clauses relating to duties, responsibilities and the work to be done by each of them is same and identical.

2.4 The Obligations and activities to be carried out by the Concessionaires to the Authority are as under

- ◆ To procure and deploy complete infrastructure requested by the Authority including but not limited to vehicles along with e-rickshaws and cleaning machinery and its maintenance from time to time.
- ◆ To deploy drivers and operators for waste transport vehicles and cleaning machinery except e-rickshaws drivers.
- ◆ To provide fuel for waste transport vehicles, carry out repairs and maintenance and insurance waste transport vehicles along with e-rickshaws and cleaning machinery.



- ◆ To create, construct, operate and maintain the Project Facilities as per the Concession Agreement.
- ◆ To prepare draft plan of execution on yearly basis and monthly basis and get the same reviewed and approved by the Authority.
- ◆ To create awareness amongst people to handle waste and marketing activities as per the Concession Agreement.

Whereas, Obligations and activities to be carried out by the Applicant are as under:

- ◆ Daily door to door / primary collection of waste
- ◆ Segregation of the collected waste as per the norms
- ◆ Support in transportation of solid waste
- ◆ Collection and support in transportation of solid waste from canal / river banks
- ◆ Collection and support in transportation of waste from Bulk Generation
- ◆ Collection and support in transportation of Horticulture and Garden waste from public places
- ◆ Street sweeping, collection and support in transportation of solid waste

2.5 The applicant has stated that they have to ensure sufficient number of sweepers, waste collectors, drivers for e-rickshaws, helpers for project vehicles and machinery with appropriate qualifications and experience, local or otherwise . They have to make their own arrangements for payment and extending facilities to the manpower /labour deployed on the project along with fulfilment of statutory compliance, obtaining license /permissions if any, registration under any laws and maintaining records, registers and documentation under the provisions of various Laws. Service charges/fees payable by the Concessionaires to the Applicant is on per tonnage basis of the waste collected, segregated, transported and disposed off. Further, the same are agreed to be paid on monthly basis and are subject to penalty for deficiency by the Applicant and may be reviewed upward or downward with mutual consent.

2.6 The applicant on their interpretation of law in respect of the question raised by them has stated that as per the terms of contract with Concessionaires, they will carry out the work of waste collection, segregation, treatment, transportation and disposal in the city area of Greater Chennai Corporation. The Obligation is to



ensure deployment of sufficient numbers of sweepers, waste collectors, drivers for e-rickshaws, helpers for project vehicles and machinery with appropriate qualifications and experience to carry out the work of waste collection and disposal but not limited to mere supply particular number of manpower to the Concessionaires. The manpower deputed by them will not work under control and supervision of the Concessionaires but work under their control and supervision and that this is substantiated on perusal of the clause relating to consideration which is based on the handling of waste collected, segregated, transported and disposed off on tonnage basis and not on the headcount basis. The applicant has stated that the Services provided by them under the Service agreements with the concessionaries are appropriately classifiable under SAC/Heading 9994 – Waste Collection, treatment and disposable services of the Annexure to Notification 11/2017- CT(R) dated 28.06.2017. They have further stated that the services are covered under entry 32(ii) of Notification No. 11/2017- C.T.(Rate) dated 28<sup>th</sup> June 2017 and liable to GST @ 18%(CGST9% +TNGST 9%) unless exempted otherwise .

2.7 On their understanding about the exemption from payment of GST for services supplied under the Service Agreements with Concessionaries, they have stated that they are not going to procure, create and construct the Project Facilities and assets; Various consumables such as brooms, bins, uniforms, masks, hand gloves, disinfectants and cleaning chemicals/soap etc to be used while carrying out the work of waste collection and disposal will not be procured by them but made available to them by the Concessionaires; Thus, the services provided by them are Pure Services. The Greater Chennai Corporation is covered as Specific entity i.e. Local Authority as per Section 2(69) of the CGST Act, 2017 and Services provided by them under the Service Agreements with Concessionaires in capacity of the sub-contractor are covered as 'Services provided to the Greater Chennai Corporation'. The applicant has stated that the waste collection and disposal service to be provided by them under Service Agreements with the Concessionaires is in fact provided to the Authority and not to the Concessionaires as they have been appointed as back to back Service Provider to carry out part of the work of waste collection, segregation, treatment, transportation and disposal services which is otherwise supposed to be performed by the Concessionaires under the Concession agreement; that where the main contractor/service provider, back to back, outsources the work to sub-



contractor/sub-service provider, then the services of sub-contractor have to be treated as provided to the ultimate client and not to the main contractor; there are no two separate services provided, i.e., sub-contractor to main contractor and by the main contractor to the ultimate client.; the exemption at Sl.No. 3 to Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, which exempts 'Pure Services provided to the local authority', do not prescribe that the services have to be provided directly to the local authority and the entry also do not mention that the services provided in capacity of sub-contractor are not eligible for exemption. Hence, the applicant is of the view that their services are being provided to the Authority only and not to the Concessionaires and are exempted from payment of GST as per Sl.No.3 of Notification 12/2017, CT (R) dated 28.06.2017. In order to substantiate their interpretation, the applicant has made reference to the following case laws:

- Advance Ruling No. KAR ADRG 39/2019, dated 16.09.2019, IN RE: V.K.Building Service Pvt Ltd [2019(31) G.S.T.L.321(A.A.R.-GST)]
- MAH/AAAR/SS-RJ/15/2018-19, dated 03.01.2019 in Appeal No. MAH/GST-AAAR-15/2018-19[2019(23)G.S.T.L.473(App.A.A.R.-GST)]
- Order No.09/2018, dated 09.08.2018 in case No. 11/2018, IN RE: ANKIT TANDON AND ENTERPRISES & TOLLWAYS PVT LTD[2018(17) G.S.T.L.499(A.A.R.-GST)]
- KAR ADRG 93/2019, dated 27.09.2019, IN RE: QUATRO RAIL TECH SOLUTIONS LIMITED[2019(31)G.S.T.L. (A.A.R.-GST)]
- AAR Uttarakhand in Ruling No.10/2018-19, dated 22.10.2018 in Application No.11/2018-19, IN RE: NHPC LIMITED[2018(19)G.S.T.L. 349(A.A.R.-GST)]

2.8 The applicant has referred to the following recommendation of GST Council in its 25<sup>th</sup> Meeting held on 18.01.2018:

"To reduce GST rate (from 18% to 12%) on the Works Contract Services (WCS) provided by sub-contractor to the main contractor providing WCS to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity, which attract GST of 12%. Likewise, WCS attracting 5% GST, their sub-contractor would also be liable @ 5%".

They have stated that similar issue also came up before Advance Ruling Authority of Uttarkhand in the case of NHPC and the Appellate Authority has observed that



sub-contractors of the supply in question are exempted from the payment of GST in as much as the main contractor is exempt from GST.

2.9 The applicant has further stated that the services provided by them are by way of activities in relation to function entrusted to a Municipality under article 243 W of Constitution and the exemption is available for the same vide the following entry no.3 of Notification 12/2017 CT(R) dated 28.06.2017.

“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 relation to** any function entrusted to a Municipality under article 243W of the Constitution”.

The applicant has opined that the phrase “in relation to” in the above entry are having a very wide connotation and all the activities including waste collection and disposal work subcontracted by main contractor to the sub-contractor, which is relatable to function entrusted to a municipality under article 243W of the Constitution will also get covered under the said phrase. They have referred to the interpretation of the expression “in relation to” and “Pertaining to” by the Apex Court in the case of Doypack Systems (Pvt) Ltd Vs UOI[1988(36) E.L.T.201(S.C.)] and has stated that the work relates to Public health, sanitation conservancy and solid waste management and therefore the GST exemption is justified

2.10 The applicant has further stated that the Activities of Waste Management services are held as exempted by various Advance Ruling Authorities and have quoted the following:

- AAR West Bengal in the case of Singh Transport Agency[2019(31) G.S.T.L.161(A.A.R.-GST)]
- AAR Karnataka in the case of Roopesh Kumar[2019(30)G.S.T.L275(A.A.R.-GST)]
- AAR West Bengal in the case of Mahendra Roy [2019(29)G.S.T.L. 533(A.A.R.-GST)]
- AAR West Bengal in the case of Time Tech Waste Solutions Private Limited[2019(27)G.S.T.L.45(A.A.R.-GST)]



- AAR, West Bengal in the case of Indrajit Singh[2019(25) G.S.T.L. 590(A.A.R.-GST)]
- AAR Rajasthan in the case of Municipal Corporation Pratapgarh[2019(24)G.S.T.L.301(A.A.R-GST)]
- AAR Tamilnadu in the case of Tamilnadu Water Investment Company Limited[2019(21)G.S.T.L 342(A.A.R-GST)]

2.11 They have also stated that Sovereign functions of local authority are also exempt under GST, in their instant case though the entry in Sl.No.3 of Notification 12/2017 CT(R) is relevant, entries in Sl.No 3A to 9 of the notification clearly specifies that various activities and services performed by Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity which are in nature of Sovereign functions entrusted by constitution of India are exempt from GST. They have stated that during Pre-GST regime, the CBEC has also clarified that the activities assigned to and performed by the sovereign/public authorities under the provisions of any law are statutory duties and therefore such activities assigned to and performed by a sovereign/public authority under the provision of any law, do not constitute taxable services. They have referred to CBEC Circulars 89/7/2006-S.T, dated 18<sup>th</sup> December 2006 and 96/7/2007 S.T dated 23/08/2007.They have also relied on the following decisions:

- Selvel Media Services Private Limited Vs. Municipal Corporation of City of Ahmedabad[2016(45)S.T.R166(Guj.)]
- Dy. Commissioner of Police, Jodhpur Vs. Commissioner of C.Ex. & S.T., Jaipur-II[2017(48)S.T.R.275(Tri-Del.)]
- Instrumentation LTD Vs. Commissioner of C.Ex. & S.T., Lucknow[2016(45)S.T.R.182(Tri-All)]
- Commr of C.Ex, Nashik Vs. Maharashtra Industrial Development Corporation[2018(9)G.S.T.L372(Bom.)]

They have stated that the service provided by them relating to waste collection and disposal is basically sovereign function entrusted by the Constitution of India on Local Authority. Therefore, the activities carried by them in relation to waste collection and disposal are in the nature of sovereign function of Local Authority. In view of all the above facts and case laws explained herein, the applicant is of the view that activities performed by them are sovereign, mandatory and statutory



functions, duties and the same is carried out in public interest without any profit intent. Hence, the same do not constitute provision of any taxable service and are not liable to GST.

2.12 The applicant has stated that the “doctrine of purposive interpretation” has to be adopted in this case, which is based on the understanding that the authority is supposed to attach that meaning to the provisions which serve the purpose behind such a provision and the same was upheld by the Hon’ble Supreme Court and have relied on the following decisions:

- Shriram Vinyl & Chemical Industries Vs. Commissioner of Cus. Mumbai[2001(129) E.L.T. 278(S.C.)]
- CC(Prev) Gujarat V. Reliance Petroleum Ltd[2008(227)E.L.T.3 (S.C.)]
- Collector of C.Ex. Vs. Himalayan Co-Op. milk Product Union Ltd [2000(122) E.L.T. 327(S.C.)]

The applicant has stated that where such services are sub-contracted on back to back basis, the purpose of the exemption would be truly followed and implemented only by way of allowing the said exemption to all service providers in a chain, whether main contractor or sub-contractor. In view of the above, they have stated that supply of pure services whether by the Concessionaires(i.e. Main contractor) or by them(sub-Contractor) are ultimately provided to the Authority and the same are exempted from GST in terms of entry No. 3 of the Notification No. 12/2017-C.T.(Rate) dated 28<sup>th</sup> June 2017.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the appellant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media vide e-mail dated 03.07.2020. The applicant consented and the hearing for admission of the application was held on 06.08.2020. The authorised representative participated in the hearing. He reiterated the submissions made along with their application which is in detail. As all the agreements and other documents have been furnished along with the application, the authority decided to extend another hearing only if any further information is required.

3.2 Further, the applicant vide their e-mail dated 14<sup>th</sup> October 2020 submitted that no additional submissions would be made by them in the matter. They stated



that they have recently commenced their activities and requested to issue the ruling as early as possible.

4. The central jurisdictional authority reported that there are no pending proceedings in the applicant's case on the issues raised by the applicant in the ARA application in their jurisdiction.

5. The State Jurisdictional authority who has the administrative jurisdiction over the applicant has stated that the supply of pure services by the applicant are ultimately for the purpose of and provided to the Greater Chennai Corporation (i.e., the local authority).;As the activities of waste collection and disposal are in relation to function entrusted to a Municipality under article 243W of the Constitution of India, the same appears to be exempted from payment of GST in terms of entry No.3 of Notification No. 12/2017-C.T.(Rate) dated 28<sup>th</sup> June 2017 as claimed by the applicant. The State Tax Officer has further submitted that there is no show cause notice /or issue pending adjudication with them on the subject matter.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral submissions made at the time of Virtual hearing and the comments of the Jurisdictional Authority. The applicant has entered into two separate Service Agreements with Sumeet Urban Services(Chennai) II Private Limited, Chennai (SU II) and Sumeet Urban Services (Chennai) V private Limited Chennai (SUV), the concessionaires who have been awarded the work of waste collection, segregation, treatment, transportation and disposal in certain Zones of Greater Chennai Corporation(GCC), for supply of Daily door to door/primary collection of waste, segregation of the collected waste as per the norms, support in transportation of solid waste, Collection and support in transport of solid waste from canal / river banks; Collection and support in transportation of waste from Bulk Generation; Collection and support in transportation of Horticulture and Garden waste from public places; Street sweeping, collection and support in transportation of solid waste. The applicant has sought ruling on the following questions:

1. What is the classification for supply of services by the applicant relating to waste collection, segregation, treatment, transportation and disposal services



under the service agreements entered with both concessionaries in terms of notification 11/2017?

2. Whether the activity waste collection, segregation, treatment, transportation and disposal services under the service agreements entered with both concessionaries is exempted from Goods and Services Tax in terms of entry no.3 of the Notification 12/2017- Central Tax (rate) dated 28.06.2017?

7. From the submissions before us, we find that the question raised before us are the classification of the supply of service by the applicant and applicability of entry No.3 of Notification no. 12/2017-C.T.(Rate) to the said supply by them. The Questions raised are covered under Section 97(2)(a) & (b) of the CGST/TNGST Act 2017 and therefore admissible before this authority for consideration and pronouncement of ruling.

8.1 The facts of the case is that the applicant has entered into Service Agreements with the Concessionaires, who have been awarded the bid to carry out the work of 'Collection & Transportation of Solid Waste, Street Sweeping Waste(including Street Sweeping activities), Horticulture Waste and Collection & Storage of Domestic Hazardous Waste to the Designated Processing Facility/Dump Site/Depositing Centers of Greater Chennai Corporation on DBFOT basis(Design, Build, Finance, Operate & Transfer)' in certain Zones of Greater Chennai Corporation(GCC). The Concessionaires have entered into Service Agreement for providing back to back part of services of waste collection, treatment and disposal services. The works entrusted to the applicant as per the Service Agreement are

- Daily door to door / primary collection
- Segregation of the collected waste as per the norms
- Support in transportation of Solid Waste
- Collection and Support in transportation of solid waste from canal/river banks
- Collection and support in transportation of waste from Bulk Generation
- Collection and Support in transportation of Horticulture and Garden Waste from Public places
- Street Sweeping, collection and support in transportation of solid waste



Further, it is the responsibility of the applicant to ensure deployment of sufficient numbers of Sweepers, Waste collectors, drives for e-rickshaws, helpers for project vehicles and machinery with appropriate qualifications and experience, local or otherwise on their own account fulfilling the various statutory requirements relating to manpower/labour deployed, license requirements, etc and to maintain all records, registers and documentation regarding Service Provider's employees on the project as required.

8.2 The applicant has claimed that the services supplied by them are classifiable under SAC 9994. The Scheme of Classification of Services is provided in the Annexure to Notification No. 11/2017-C.T.(Rate) dated 28.06.2017. SAC 9994 as given in the said Annexure is extracted below:

629	<b>Heading 9994</b>		<b>Sewage and waste collection, treatment and disposal and other environmental protection services</b>
630	<b>Group 99941</b>		<b>Sewerage, sewage treatment and septic tank cleaning services</b>
631		999411	Sewerage and sewage treatment services
632		999412	Septic tank emptying and cleaning services
633	<b>Group 99942</b>		<b>Waste collection services</b>
634		999421	Collection services of hazardous waste
635		999422	Collection services of non-hazardous recyclable materials
636		999423	General waste collection services, residential
637		999424	General waste collection services, other nowhere else classified
638	<b>Group 99943</b>		<b>Waste treatment and disposal services</b>
639		999431	Waste preparation, consolidation and storage services
640		999432	Hazardous waste treatment and disposal services
641		999433	Non-hazardous waste treatment and disposal services
642	<b>Group 99944</b>		<b>Remediation services</b>
643		999441	Site remediation and clean-up services
644		999442	Containment, control and monitoring services and other site remediation services
645		999443	Building remediation services
646		999449	Other remediation services nowhere else classified
647	<b>Group 99945</b>		<b>Sanitation and similar services</b>
648		999451	Sweeping and snow removal services
649		999459	Other sanitation services nowhere else classified
650	<b>Group 99949</b>		<b>Others</b>
651		999490	Other environmental protection services nowhere else classified

The services undertaken by the applicant is classifiable as 'Waste Collection Services-999423/999424', 'Waste Treatment and Disposal services-999431' and 'Sanitation and similar services-999451' in as much as the applicant is involved only in collection of various garbage, Segregation of the garbage, street sweeping and supporting in transportation of the solid waste for treatment/ disposal. The classification can further be confirmed by referring the 'Explanatory Notes to the Scheme of Classification of Service', which indicate the scope and coverage of the



Scheme of classification of service and is a guiding tool for classification of services. The extracts of SAC 999423; 999424; 999431 and 999451 are as below:

**999423 General waste collection services, residential**

This service code includes:

- i. general collection of waste, garbage, rubbish, refuse, trash, and commingled materials from residential locations, including curbside collection, back door collection, or automated collection on a flexible or regular schedule

**999424 General waste collection services, other n.e.c.**

This service code includes:

- i. general collection of waste, garbage, rubbish, refuse, trash, and commingled materials from non-residential locations, on a regular or flexible schedule

**999431 Waste preparation, consolidation and storage services**

This service code includes:

- i. consolidation, temporary storage, and preparation of hazardous waste
- ii. consolidation and preparation of hazardous waste for transportation to an appropriate facility that processes waste
- iii. services of drop-off centres, transfer stations and container stations
- iv. ship-breaking
- v. dismantling of wrecks, such as cars, computers etc., in order to obtain and separate recoverable materials
- vi. consolidation, temporary storage and preparation of non-hazardous recyclable materials
- vii. transfer facility services of non-hazardous recyclable materials
- viii. recovery and preparation of non-hazardous recyclable materials, such as bailing, cleaning, sorting, volume reduction and similar preparation
- ix. and consolidation of recyclable materials, for transportation to an appropriate facility that processes recyclable materials
- x. consolidation, temporary storage and preparation of non-hazardous waste
- xi. transfer facility services for non-hazardous waste
- consolidation and preparation of non-hazardous waste for transportation to an appropriate facility that processes waste

**999451 Sweeping and snow removal services**

This service code includes:

- i. street sweeping and cleaning services
- ii. gritting and salting of roads
- iii. snow ploughing and removal
- iv. runway sweeping and snow removal services
- v. runway vacuuming services

From the above, it is evident that

- General collection of waste, garbage, refuse, etc from the residential and non-residential locations on a regular or flexible schedule is covered under 999423/999424
- Consolidation, transportation of various waste are covered under 999431;

- Street Sweeping and cleaning service is covered under 999451

Accordingly, we hold that the services supplied by the applicant are classifiable under SAC 9994 of Annexure to Notification No. 11/2007-C.T.(Rate) dated 28.06.2017.

9.1 On the applicability of the exemption at Sl.No. 3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, the contention of the applicant are:

- Services supplied by them are covered as 'Pure Services'
- GCC is covered as specified entity i.e., 'local authority'
- Services provided by them under Service Agreements with Concessionaires in capacity of the sub-contractor are covered as 'Services provided to GCC'
- Services are by way of activities in relation to function entrusted to a Municipality under Article 243W of the Constitution
- Use of phrase 'in relation to' in the exemption entry has made the meaning and scope wide and all incidental or ancillary and direct or indirect services are covered under exemption
- Activities of Waste Management Services are already held as exempted
- Sovereign functions of local authority are also exempt from GST
- The "doctrine of Purposive interpretation" as adopted by Courts while interpreting exemption entries

9.2 Before going further, the entry based on which the exemption is claimed, entry no.3 of Notification 12/2017 CT(R) dated 28.06.2017 is examined as under:

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Con diti on



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 relation to any function entrusted to a Municipality under article 243W of the Constitution	NIL	NIL
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On a cogent reading of the above, it is seen that the entry is applicable to

- All Pure Services;
- Provided to the Central/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 ;
- A Municipality under Article 243 W of the Constitution.

Thus, the entry applies to Pure services provided to the defined clause of service recipients and the services are to be of any activity in relation to any function entrusted to a Panchayat/Municipality under Article 243 G/243W of the Constitution.

9.3 In the case at hand, it is stated by the applicant that the supply made are the services covered under SAC 9994 and the concessionaires are responsible for the goods and consumables needed for the provision of such service. In Para 8 above, it is held by us that the supply of the applicant is covered under SAC 9994 and the applicant makes 'Supply of Pure Services'

9.4 The Service Agreement is entered into by the Applicant with the Concessionaires who are registered Companies and do not belong to the class of Service receivers to whom, when such services are provided, the exemption under the said entry applies. It is the contention of the applicant that GCC is a Local Authority and services provided by them in the capacity of the sub-contractor are covered as 'Services provided to GCC'. Greater Chennai Corporation is a Local

Authority and the same needs no discussions or findings. However, as per the service agreement the services provided are only pertaining to Greater Chennai Corporation and not provided to GCC but the applicant is providing the service only to the concessionaries who are the recipient of the services.

9.5 The Applicant claims that they have been appointed as back to back service provider and in such a position, the services of sub-contractor are to be treated as provided to the ultimate client and not to the main contractor and the GST rate applicable to the main/principal contractor will be applicable to the sub-contractor; In this connection, it is seen that while the Concessionaires are entrusted with Design, Build, Finance, Operate and Transfer (DBFOT) of the Project of 'Solid Waste Management' in the specified Zones of the GCC, only part of the project involving only 'Pure Service' has been entrusted to the applicant under the Service Agreement. Hence, the applicant cannot be stated to have been appointed as back to back contractor. This is further established with the fact that the supply of the Concessionaires to GCC does not involve only 'Pure Services' in the DBFOT Schema of the project awarded whereas the supply envisaged by the applicant is "Pure Services". When the nature of supply made by the main contractor to the ultimate client and the sub-contractor to the main contractor is itself different, this claim of the applicant is baseless and out of context. The applicant has relied on rulings pronounced by GST Advance Ruling Authority of different States. Advance Ruling is applicable only to the person seeking the ruling and the jurisdictional officer and cannot be applied to any case. However, the applicability of the rulings relied upon are discussed as under:

S. No.	AAR reference	Case details	Remarks
1.	2019(31)G.S.T.L.321(A.A.R-GST) In RE: V. K. Building Services Pvt. Ltd: Advance Ruling No.KAR ADRG 39/2019 dated 16.09.2019	Assessee, a Sub-contractor with main contractor provided Construction of Residential Complex Services to Bangalore Development Authority-It is held the works of Main Contractor covered under 3(vi) of the Notification and that of Sub-contractor covered under entry 3(ix) which specifically covers the works done by Sub-contractors for those works under 3(vi) of the Notification No. 11/2017	The Notification specifically states at entry 3(ix), that the works covered under 3(vi) if undertaken by sub-contractor stands covered under 3(ix). <b><u>This has no relevance to the case at hand</u></b>



2	2019(23)G.S.T.L.47 3(App.A.A.R-GST) In RE: Shree Construction. Order No. MAH/AAAR/SS- RJ/15/2018-19 dated 03.01.2019	Assessee in the capacity of sub-contractor has undertaken works of works- contract for the works pertaining to Railways- covered under entry 3(v) of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017	Entry at 3(v) referred do not specify the class of service provider to whom it applies. The entry is specific to the composite supply of works contract pertaining to railways including monorail and metro. <b><u>This has no relevance to the case at hand</u></b>
3	2018 (17) G.S.T.L. 499 (A.A.R -GST- Madhyapradesh) In RE: Ankit Tandon and Enterprises & Tollways Pvt Ltd. Order No. 9/2018 dt. 09.08.2018	Assessee in the capacity of Sub-contractor claimed exemption under Sl.No. 23 of Notification No. 12/2017- C.T.(Rate) dated 28.06.2017	Entry at 23v) referred do not specify the class of service provider to whom it applies. The entry is specific to the Service by way of access to a road or a bridge on payment of toll charges. <b><u>This has no relevance to the case at hand</u></b>
4	2019 (31) G.S.T.L. 620 (A.A.R-GST) In RE: Quatro Rail Tech Solutions Limited. Advance Ruling No. KAR ADRG 93/2019 dated 27.09.2019	Assessee in the capacity of sub-contractor has undertaken works of works- contract for the works pertaining to Railways- covered under entry 3(v) of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017	Entry at 3(v) referred do not specify the class of service provider to whom it applies. The entry is specific to the composite supply of works contract pertaining to railways including monorail and metro. <b><u>This has no relevance to the case at hand</u></b>
5	2018(19)G.S.T.L 349 (A.A.R-GST Uttarakhand) In RE: NHPC Limited Ruling No. 10/2018-19 dated 22.10.2018	The case deals with Entry 9(c) of Notification No. 12/2017- C.T.(Rate) dated 28.06.2017 as amended and the ruling has held that all the conditions including the class of service providers and service receivers stipulated is fulfilled. Further, the Authority has referred to the GST recommendations on the rates specified on the Works Contract and its applicability to Main- Contractor /Sub-contractor	The discussions and the ruling relates to Works Contract Services which is not the case at hand. In respect of WCS, there is a specific entry under Notification No. 11/2017- C.T.(Rate) as amended when the works are undertaken in the capacity of sub-contractor. <b><u>This has no relevance to the case at hand</u></b>
6	2019(23)G.S.T.L 249(A.A.R-GST uttarkhand) In RE : NHPC Ruling No. 17/2018-19 dated 30.01.2019	The question raised is whether the exemption available to the Main-contractor under WCS is applicable to Sub-contractor	The Ruling in the said case is not available and Finality not reached. Hence Not Applicable.



9.6 We further find that the applicant has stated that the services supplied by them are by way of activities in relation to function entrusted to a Municipality under Article 243 W of the Constitution and has claimed that the exemption is available for the functions. It is their claim that the word 'in relation to' has a very wide connotation and all their activities are relatable to the functions entrusted to Municipality under Article 243 W. The word of the notification is to be read homogeneously. The entry states that the Pure Services provided to the said class of recipients by way of activity entrusted to Panchayat/Municipality. The notification does not exempt just the services which are activities in relation to the functions entrusted to Municipalities but specifies the class of recipients also. In as much as the recipient of the service of the applicant do not fall in the specified class of recipients, we do not find merit in this claim of the applicant.

9.7 The applicant has stated that 'Activities of Waste Management Services are already held as exempted' under entry Sl.No.3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended. In this connection they have relied on Ruling of various Advance Ruling Authority. As already stated, the Advance Ruling is applicable only to the applicant and the Jurisdictional Authority of the said applicant and cannot be applied to all cases. However, on perusal of the relied upon rulings, it is seen that the facts of the cases dealt with is the supply made directly to the Municipal corporations/Government entities and the facts are not the same and in that count also cannot be applied to the present facts.

9.8 The applicant relying on the provisions existed in the Pre-GST Regime and drawing attention to entries under Sl.No. 3 to 9 of the Notification No. 12/2017-C.T.(RATE) in the GST regime, has stated that the intention of the law makers is to exempt various activities and services performed by the Central/State Government, Local authority, Governmental authority or Government Entity and which are in the nature of sovereign functions entrusted by the Constitution. They have also referred to the decisions of judicial fora during the pre GST regime and claimed that it is held that the activities done in Public interest, undertaken as mandatory and statutory function do not attract service tax. It is their contention that the Local authority has entrusted the functions relating to waste collection and disposal to the concessionary or even further to the sub-contractor and such an arrangement do not convert such sovereign function to non-sovereign function. As



per the service agreement entered between the concessionaries and the applicant, the applicant has to carry out work of waste collection, segregation, treatment, transportation and disposal services, which is a part of the project entrusted to the Concessionaires by GCC. The scope of service provided may broadly be in relation to a function entrusted to the Municipality under Article 243W in as much as solid waste management is listed at Sr.6 in the Twelfth Schedule (Article 243 W) of the Constitution but what is to be seen according to us is whether all the limbs of the said entry of the exemption notification is fulfilled by the applicant.

9.9 The applicant has further stated that the “doctrine of purposive interpretation” has to be adopted in their case. They have relied on certain Apex court decisions. On a perusal of the decisions quoted, though it is emphasized that an exemption notification should be construed directly, interpretation of the same would depend upon the nature and extent.

9.10 The applicant has further stated that where such services are sub-contracted on back to back basis, the purpose of the exemption would be truly followed and implemented only by allowing the said exemption to all service providers in a chain, whether main contractor or sub-contractor. This contention does not have merit in itself. In the connection, it might be logical to refer the observation of case of Karnataka Appellate Authority for Advance Ruling in the case of M/s Nurserymen Co-operative Society Limited wherein in similar facts the exemption under entry no 3 & 3A of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 is claimed. The relevant observation is extracted below:

*“14.....It is a well settled law that exemption notifications are to be interpreted strictly as to their eligibility. One cannot be influenced by extraneous factors while determining a person’s eligibility to an exemption notification. Therefore, on a strict interpretation of the entry Sl.No. 3 and 3A, we hold that the supply of services by the sub-contractors to the Appellant is not eligible for the benefit of exemption under either Sl.No. 3 or 3A of Notification No. 12/2017 CT® dated 28.06.2017.”*

9.11. To summarize, the words of the entry at S.No.3 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 are very clear in that the class of service providers is clearly mentioned. If the intention of the legislature is to exempt ‘Pure Services by way of any activity entrusted to Panchayat/ Municipality under the Article 243 G /243 W of the Constitution’, then the class of recipients will not be



mentioned in the description as is available in certain entries of the said Notification(entry No. 23/ 3(v), for example). Again if the intention of the legislature is to tax/exempt a supply when made by a Sub-Contractor, such intention is explicitly stated as available in entry 3(ix) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended. In this connection, we find that Hon'ble Supreme Court in **Commissioner of Central Excise, Trichy vs. Rukmani Pakkwell Traders [(2004) 11 SCC 801]**, has stated that :

"It is settled law that exemption notifications have to be strictly construed. They must be interpreted on their own wording. Wordings of some other notification are of no benefit in construing a particular notification"  
(emphasis added)

Thus, it is a well settled position that the exemption notification must be interpreted on their own wordings. In the case at hand, the entry at Sl.No. 3 is explicit in its application in as much as the class of recipient and the type of activities are mentioned. On plain reading of the said entry, it is specified that only services provided to Central Government, State Government or union territory or local authority or a Governmental authority will be exempted, which is not the case in hand. Therefore we hold that the supply made by the applicant under the Service Agreement is not eligible for exemption in terms of entry No.3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017

10. In view of the above, we rule as under:

#### RULING

1. The supply of services by the applicant relating to waste collection, segregation, treatment, transportation and disposal services under the Service Agreements entered with both concessionaries are classified under SAC 9994 in terms of Notification No. 11/2017 C.T.-(Rate) dated 28.06.2017

2. The activity undertaken by the applicant under the Service Agreements entered with both concessionaries are not exempted from Goods and Services Tax in terms of entry no.3 of the Notification 12/2017- Central Tax (rate) dated 28.06.2017 for the reasons stated in Para 9 above.

  
Shri Kurinji Selvaan  
(Member SGST)

  
Shri B. Senthilvelavan  
(Member CGST)

AUTHORITY FOR  
ADVANCE RULING

U 3 NOV 2020

GOODS AND SERVICE TAX



To  
Sumeet Facilities Limited  
403, Jeeva Colony, Udumalai Road,  
Kondarasampalayam Dharapuram,  
Tiruppur-638657 // By RPAD//

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,  
II Floor, Ezhilagam, Chempauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & Central Excise, Salem Commissionarate,  
No:1, Foulkes compound Anaimedu, Salem 636 001.
4. The Assistant Commissioner (ST),  
Dharapuram Assessment Circle,  
130/138, Javulikadai Veethi.  
Dharapuram - 638 656.
5. Master File/ Spare-2

