

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH 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. Thiru. Senthilvelavan B., I.R.S
Member/ Additional Commissioner,
Office of the Commissioner of GST & Central Excise, Chennai -34

2. Thiru. KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A.,
Member/ Joint Commissioner (ST)/
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 20 /AAR/2021 DATED: 18.06.2021

GSTIN Number, if any / User id		33AAAA15004R1Z0
Legal Name of Applicant		M/s. Indian Institute of Management, Tiruchirapalli.
Registered Address/Address provided while obtaining user id		Indian Institute of Management, Pudukottai Main road, Chinna sooriyur village, Tiruchirapalli
Details of Application		GST ARA- 01 Application Sl.No.08/2020ARA dated 17.03.2020
Concerned Officer		State: Assistant Commissioner(ST) Thiruverumbur Assessment Circle. Centre: Trichy Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		Service recipient
A	Category	Service recipient
B	Description (in Brief)	The applicant are an educational institution of excellence established in the year 2011 with the objectives of imparting high quality management education and training, conducting industrial and management research etc. The Government of India notified the Act in the Gazette of India on

		<p>31st January 2018. Now by the enactment of the Indian Institute of Management Act 2017, IIMT is a body corporate as per Section 4 of the said Act coming under the supervision and control of the Ministry of Human Resources Development of India. In the course of discharging the functions as per the IIMT Act 2017, the applicant engages certain suppliers to provide certain services like pure labour services and supply of composite services.</p>
Issue/s on which advance ruling required		<ol style="list-style-type: none"> 1. Liability to tax under this Act 2. Applicability of Notification issued under the provisions of this Act
Question(s) on which advance ruling is required		<ol style="list-style-type: none"> 1. Whether Indian Institute of Management, Tiruchirappalli (IIM) is a Government Entity under GST Law. 2. If the answer to question is in the affirmative, whether <ol style="list-style-type: none"> 2.1 The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 2017. 2.2 Whether the applicant is required to discharge Liability on reverse charge basis on supply of services as per Section 9(3) and 9(4) of the CGST Act, 2017. 2.3. Whether the entry provided as under is applicable <ol style="list-style-type: none"> A) Serial No.3/3A of Notification 12/2017 is available to IIMT. B) Composite supply of works contract provided to the applicant is covered by Serial No.3 (vi) of Notification 11/2017 dated 28th June 2017.

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.

M/s. Indian Institute of Management, Tiruchirapalli.,(hereinafter called the 'Applicant/ IIMT') are registered under GST with GSTIN. 33AAAA15004R1Z0. The applicant has sought Advance Ruling on:

1. Whether Indian Institute of Management, Tiruchirapalli, Tiruchirappalli(IIM) is a Government Entity under GST Law.
2. If the answer to question is in the affirmative, whether
 - 2.1 The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 2017.
 - 2.2. Whether the applicant is required to discharge Liability on reverse charge basis on supply of services as per Section 9(3) and 9(4) of the CGST Act, 2017.
 - 2.3 Whether the entry provided as under is applicable

A) Serial No.3 of Notification 12/2017 is available to IIMT.

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

3A – Chapter 99 – Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 percent of the value of the said composite supply provided to the Central Government, State Government or Union Territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution.

B) Composite supply of works contract provided to the applicant is covered by Serial No.3 (vi) of Notification 11/2017 dated 28th June 2017.

The Applicant has submitted the copy of application in Form GST ARA - 01 and also 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 an educational institution of excellence established in the year 2011 with the objectives of imparting high quality management education and training, conducting industrial and management research etc. The institute was established under the auspices of the Ministry of Human Resources Development (MHRD), Government of India as a premier educational institution and is renowned in India for its management education programmes. They were registered as a society with the Registrar of Societies, Tamilnadu and is recognized world over as an institution of higher learning and seat of academic excellence in the field of management. The Indian Institute of Management Act, 2017 was passed and it received the assent of the President on 31st December, 2017 with an objective to declare certain institutes of Management (IIMT is one among the schedule annexed to the Act) to be Institutions of National Importance with a view to empower these Institutions to attain global excellence in management, management research and allied areas of knowledge and to provide certain other matters connected therewith or incidental thereto. The Government of India notified the Act in the Gazette of India on 31st January 2018. Now by the enactment of the Indian Institute of Management Act 2017, IIMT is a body corporate as per Section 4 of the said Act. The Institutes of management are directly under the supervision and control of the Ministry of Human Resources Development of India. In the course of discharging the functions as per the IIMT Act 2017, the applicant engages certain suppliers to provide certain services like pure labour services and supply of composite services.

2.2 On the Interpretation of Law the applicant has stated that they are a Government entity in view of the following:

*“Government Entity” means an authority or a board or any other body including a society, trust, corporation,
(i) set up by an Act of Parliament or State Legislature; or*

(ii) established by any Government, with 90 per cent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.”

The applicant has stated that the initial corpus fund of the institute is provided by the Government of India by way of Grants. Thus, it can be seen 100% of the initial corpus (akin to share capital in case of the body corporate) is fully provided by the Government of India. They have submitted few relevant extracts of IIM Act 2017 as under:

“9. (1) Every Institute shall be a not-for-profit legal entity and no part of the surplus, if any, in revenue of such Institute, after meeting all expenditure in regard to its operations under this Act, shall be invested for any purpose other than for the growth and development of such Institute or for conducting research therein

21. For the purpose of enabling the Institutes to discharge their functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to every Institute such sums of money in such manner as it may think fit.

22. (1) Every Institute shall maintain a Fund to which shall be credited—

a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(3) Each Institute shall create a corpus fund for long term sustainability of the Institute, to which shall be credited such per cent. of the net income of the Institute and donations made specifically towards such corpus fund as the Central Government may in accordance with the provisions of the Income tax Act, 1961, notify.

23(3) The accounts of every Institute shall be audited by the Comptroller and Auditor General of India.

(5) The accounts of every Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.”

2.3 In view of the aforementioned facts, the applicant is of the view that they are a Government entity as defined under Notification 12/2017 CT (Rate) dated 28.06.2017 and the service received by them by way of pure labour service and composite service shall be covered by Serial No 3 & 3A of Notfn.12/2017 and Serial No.3(vi) of Notification no.11/2017 CT(Rate) dated 28.06.2017. They have also stated that being a Government entity they will be governed by TDS provisions as per Section 51 of CGST Act 2017 and they are entitled for exemption under Sl.No.3

& 3A of Notification 12/2017 as they are rendering educational services which is covered under Twelfth Schedule under Article 243W as well as in Eleventh Schedule under Article 243G of Constitution of India. They have stated that being a Government entity and a registered person under GST law they are required to discharge tax liability as per Notification 13/2017 CT (Rate) dated 28.06.2017.

3.1 Due to the prevailing pandemic situation and in order not to delay the proceedings, the applicant was addressed through the email address mentioned in their application to seek their willingness to participate in the digital hearing vide email dated 06.07.2020. The applicant consented and the hearing for the admission of application was held on 06.08.2020. The authorized representative, Shri. V. Ramkumar, appeared for the hearing. He reiterated their written submissions and they were asked to furnish the following:

1. Gazette Notification notifying llMT as corporate body.
2. Details of Board of Governors with equity on control and finance
3. Write up on the goods/ services envisaged for which applicability under Section 9(3)/9(4) and applicability of Sl.No.3/3A.

It was also recorded that on receipt of above another hearing may be extended for deciding on the admission of the application.

3.2 In furtherance to the above hearing, the applicant vide their letter dated 13.09.2020 submitted the Copy of Indian Institute of Management Act, 2017. They also stated the following:

- i. In respect of works contract service the tenders for construction is issued by CPWD and the amount payable for the construction will be paid by the applicant to the CPWD. The contractor who executes the work will claim GST on taxable value from CPWD and the same will be paid by the applicant.
- ii. The applicant is availing security services and paying GST for the same. There are certain security agencies which are not limited companies and the payment made by them are liable to GST under reverse charge mechanism.
- iii. In respect of legal fee paid to the advocate, the applicant is liable to pay GST under reverse charge mechanism. There are also certain services which are covered under Notification 13/2017 for the applicant is liable to pay under reverse charge mechanism.

3.3 The applicant was reminded vide letter dt. 5.11.2020 of the Registry to submit a copy of the Gazette notification notifying IIMT as a corporate body, Details of Board of Governors with equity on control and finance, a write-up on the goods/Services envisaged for which applicability under Section 9(3)/9(4) and applicability of Sl.no.3/3A, which was asked to be furnished during the hearing and not submitted till that date. In reply the applicant vide their letter received on 09.12.2020, submitted as below:-

- 1) Enclosing herewith the Indian Institute of Management Act of 2017.
- 2) Works Contract service.
 - a. The tender for construction of buildings are issued by CPWD on behalf of Indian Institute of Management, Trichy and the amount payable for the construction will be paid by them to CPWD
- 3) S.No.3 and 3A of Notification No. 12/2017 is applicable to them as said below:

Sl.No.	Description	Remarks
1.	They are availing services in nature of Pure services such as labour contract for maintenance of building and plant and machinery. They also pay for services in nature of man power supply and security services.	Sl. No. 3 of the Exemption Notification No: 12/2017 is applicable to the supply. Currently they are paying GST on the above services.
2.	The construction service which involves supply of goods and services which are in nature of composite supply and works contract are provided to them for which payment is made by them to CPWD. The value of the material portion does not exceed 25% in respect of the above said contracts	Sl.No. 3A of exemption Notification 12/2017 is applicable to the above said work.
3.	They are availing security services and paying GST on them. In respect of certain security agencies which are not Body Corporate, they are liable to pay GST under reverse charge mechanism via S.No. 14 of Notification No. 29/2019, this is covered u/s.9(3)	
4.	In respect of legal fees paid to advocates they are liable to pay GST under reverse charge mechanism via S.NO. 2 of Notification No. 13/2017. This is covered	

	U/s.9(3)	
5.	In respect of online education journals and periodicals provided to educational institution by the person located in non-taxable territory, they are exempted from payment of IGST for this imports in terms of SL. No. 10 of the Notification No; 09/2017IT(R) dated 28/06/2017. Hence they are liable to pay IGST on online non education journals and periodicals imported under reverse charge mechanism. This is covered under Notification 10/2017.	
5	Section 9(4) is not applicable to them	

3.4 The write up submitted by the applicant was found lacking in stating the scope of work, terms and conditions of work, payment and the sample invoices/contract. A letter dt. 10.12.2020 was sent to them asking them to furnish the said details. In reply the applicant submitted vide letter dt.11.01.2021, sample of contracts/invoices pertaining to Labour contract/Security services/Manpower supply services and vouchers of legal fees paid by them. In respect of list of security service providers and their registration status the applicant has remarked Nil and has not submitted the list so called for. Regarding the invoice copies of online periodicals/journals said to have been provided to the applicant by persons located in non-taxable territory they have stated 'Nil' and have not submitted any such evidence.

3.5 After scrutinizing the documents submitted, Applicant was again addressed vide letter dt.25.02.2021 by the Registry asking for details of service providers both registered and unregistered along with GSTIN Number for registered providers and they were informed that the question no.3 on eligibility of Sl.No.3/3A of Notification no. 12/2017 –C.T (Rate) dt. 28.06.2017 was not admissible as they are the service recipient and advance ruling cannot be sought in their capacity as service recipients. They were offered an opportunity to file their remarks on the admissibility of the said question with the list of service providers within 7 days. In reply to the said letter, applicant has submitted that they, as service receivers are liable to pay tax on Reverse charge Mechanism and hence they should be treated as suppliers of goods undertaken or proposed to be undertaken for the purpose of

ruling under Section 95A and their application for ruling on Sl.No.3/3A of the said notification should be admitted.

4.1. The state jurisdictional authority, who has the administrative jurisdiction over the applicant, has forwarded his comments on the questions that

➤ the applicant is:

(i) Set up by an Act of Parliament or State Legislature; or

(ii) Established by any Government,

With 90 percent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority. Hence it will be governed by TDS provisions as per section 51 of CGST Act 2017;

➤ the applicant will be liable to discharge the GST Liability under RCM as per Notification No; 13/2017 for the supplies specified in the notification;

➤ the supplies to Governmental Authority or Entity in relation to any function entrusted to Panchayat under Article 243G or in relation to any function entrusted to a Municipality under article 243W of the Constitution is to be decided by the Advance Ruling Authority ;

➤ the AAR may decide on the applicability of the notification No.11/2007 dated 28.06.2017.

5.1 The center jurisdictional authority, has concurred with the submissions of the applicant and has stated that they have no other comments to offer. They have also stated that no proceeding is pending against the applicant.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant, all the additional submissions made during the hearing and thereafter and the submissions of the Jurisdictional authorities. The applicant is an educational institution established with the objective of imparting high-quality management education and training. They have been established under the Indian Institute of Management Act, 2017 and in the course of discharging functions entrusted, they have been engaging suppliers to provide certain services like pure labour services and supply of composite services. They have sought ruling on the following questions:

1. Whether Indian Institute of Management, Tiruchirappalli (IIM) is a Government Entity under GST Law.

2. If the answer to question is in the affirmative, whether

2.1. The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 2017.

2.2. Whether the applicant is required to discharge Liability on reverse charge basis on supply of services as per Section 9(3) and 9(4) of the CGST Act, 2017.

2.3 Whether the entry provided as under is applicable

A) Serial No.3/3A of Notification 12/2017 is available to IIMT.

B) Composite supply of works contract provided to the applicant is covered by Serial No.3 (vi) of Notification 11/2017 dated 28th June 2017.

7.1 Prima facie, the admissibility of the application before this authority, under Section 95/97(2) of the GST Act is taken up. Applicant in their application has stated that they are recipient of service. Further, they have stated that the liability to pay tax is fastened on them under 'Reverse Charge' vide notification issued under Section 9(3) of the GST Act vide their letter dated 25.03.2021 and Section 9(4) is not applicable to them vide their letter dt.09.12.2020. They have submitted that they are receiving services such as security and Legal services on which tax becomes payable on reverse charge. Hence in cases the liability to pay the tax to the exchequer is fastened on them, they become the tax payer and claimed that the questions raised are admissible for extending the ruling sought for.

7.2 The relevant legal provisions are discussed as under:-

"Section 9(3) of the GST Act: The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Section 95. Definitions of Advance Ruling.— In this Chapter, **unless the context otherwise requires,—** (a) —advance ruling means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

Section 103: Applicability of advance ruling.— (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter 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. (2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

From the above provisions, it is found that

- as per Section 9(3) of the ACT, the provisions of this Act shall apply to such recipient as if he is the person 'liable for paying the tax in relation to supply of such goods or services or both;
- chapter dealing with the provisions of Advance Ruling, starts with the wordings 'unless the context otherwise requires'
- definition of 'Advance ruling' means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.
- The ruling applies only to the applicant, jurisdictional authority and the concerned authority

It is apparent from the above that as per S. 9(3), the provisions of the Act is applicable to recipient as if he is the person 'liable for paying the tax in relation to supply of such goods or services or both' and the provisions of 'Advance Ruling' is applicable to an applicant only with regard to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. Thus, advance ruling cannot be sought by a person who is a recipient of the supply of goods or services, when the ruling sought relates to the classification/taxability of such supply received by them. However, the expression, 'unless the context otherwise requires' read with S. 9(3) provides for admission of application from service recipients in cases where the question relates to determination of the liability to pay tax on any goods or services.

7.3 In this case, the ruling is sought on the issues relating to

- Whether they are 'Government entity' and therefore liable to deduct tax on the supplies received by them as notified, vide Notification No.50/2018 dt. 13.09.2018 as a TDS authority (Q.1 & 2.1);
- Whether they are required to pay tax under 'Reverse Charge Mechanism' as notified under the provisions of Section 9(3) of the Act(2.2).

and hence the application is admissible with respect to these two questions. The applicant vide their letter dated 09.12.2020 has stated that Section 9(4) of the Act is not applicable to them, therefore that part of the Question 2.2 is not taken up for consideration.

7.4 With regard to the admissibility of Q.2.3 above, Applicant has questioned as follows:-

Whether the entry provided under Sl.No.3/3A of the Notification no.12/2017-Central Tax (Rate) dt. 28.06.2017 is available to them. Entry Sl No.3/3A is reproduced for 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 (or a Government Entity) by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

3A – Chapter 99 – Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 percent of the value of the said composite supply provided to the Central Government, State Government or Union Territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution. “

and

Whether Composite supply of works contract provided to the applicant is covered by Serial No.3 (vi) of Notification 11/2017 dated 28th June 2017.

The applicant has contended that they are entitled for exemption under Sl.No.3 & 3A of Notification 12/2017 as they are rendering educational services which is

covered under Twelfth Schedule under Article 243W as well as in Eleventh Schedule under Article 243 G of Constitution of India; and that the exemption is claimed in respect of pure services such as security services, man power services, etc/composite services, which has goods component as 25% or less, received by them and they may be liable to pay the tax under RCM; They seek their eligibility to preferential rate at 3(vi) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 in respect of works contract service provided to them by CPWD. As discussed in para 7.2 above, ruling can be sought by recipient of a supply, who are made liable to pay tax under Section 9(3) only with regard to determination of their liability to pay or not and such recipients cannot seek ruling on the applicability of an exemption notification/preferential rates on such supplies received by them. Therefore, the Question 2.3 is not admissible and not admitted.

8.1 Applicant has sought ruling whether IIMT is a Government entity under the GST law. They have submitted that they are a Government entity in as much the Indian Institute of Management is an educational institution originally registered as a society with the Registrar of Societies in the year 2011. The Indian Institute of Management Act,2017 was passed with an objective to declare certain institutes of management to be institutions of national importance and now IIMT is a body corporate as per Section 4 of the said Act.; that IIMT is under the direct supervision and control of the Ministry of Human Resources Development of India; that the corpus fund of the institute(Akin to share capital in case of the body corporate) was initially provided by the Government of India by way of Grants and it is stipulated in the Act that every institute shall maintain a fund to which shall be credited all moneys provided by the central Government; that their accounts be audited by the Comptroller Auditor General of India.; applicant has submitted copy of gazette no.45 dt.31.12.2017 publishing the Indian Institute of Management Act,2017. The term Government entity has been defined in Notification no.32/2017 – Central Tax (Rate) dt 13.10.2017 as follows:

[(zfa) "Government Entity" means an authority or a board or any other body including a society, trust, corporation, (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.]

From the submissions of the applicant, it is noted that the applicant institute was originally established in the year 2011 as a society registered with the Registrar of Societies, Tamilnadu under the auspices of the Ministry of Human Resources Development with the Chairman to be appointed by the Central Government, two representatives including a financial advisor nominated by the Department of Higher Education, Ministry of HRD, Four representatives from Industry, commerce, labour and thrust areas nominated by the Central Government, Two representatives nominated by the State Government from departments concerned including Chief Secretary of Tamilnadu etc.. The IIM Act 2017 was enacted wherefrom the applicant becomes an entity set up by an Act of Parliament in as much as the said Act in S.3 defines 'existing institute' as that specified in Column 3 of the schedule i.e., Indian Institute of Mnagement, Tiruchirappalli, a society registered under the Tamilnadu Societies Registration Act,1975 and 'Institute' under the Act specified in Column 5 of the Schedule i.e, Indian Institute of Management, Tiruchirapalli . Further the institute was initially and also after the enactment of the IIM Act, has been receiving funds from the central Government by way of fund which substantiates the requirement of more than 90% financial participation from the central or state Government. Thus the IIMT satisfies the conditions prescribed to be held as 'Government entity' under the CGST Act 2017 which we do so.

8.2. The next question whether the applicant is liable to deduct Tax, as per section 51 of the CGST Act, 2017 is taken up for consideration.

Section51: the Government may mandate (a) a department or establishment of the Central Government or State Government; or (b) local authority; or (c) Governmental agencies; or (d) such persons or *category* of persons as may be notified by the Government on the recommendations of the Council, to deduct tax at the rate of one per cent on account of CGST and one percent on account of SGST from the payment made or credited to the supplier where the total value of the supply under a contract exceeds two lakh and fifty thousand rupees (excluding tax payable under the GST Acts).

Notification no.50/2018 dt. 13.09.2018 was issued to include (a) 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 fifty-one per cent or more participation by way of equity or control, to carry out any function. From these provisions, it is observed that the applicant being a body set up by an Act of Parliament with more

than 51% participation by way of funding, is liable to deduct TDS from their suppliers under Section 51 of the said Act read with Notification No. 50/2018 dated 13.09.2018.

8.3 Now we take up the question whether the applicant is liable to discharge tax on reverse charge basis on supply of services as per Section 9(3) of the CGST Act, 2017. Legal provisions of Section 9(3) is as under:-

“9(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

From the above provisions, it is found that the services/goods, as a class will be notified to be charged under RCM under Section 9(3). In this regard, Notification no.13/2017 dt. 28.06.2017 is examined in respect of services received by the applicant namely, security and Legal services. The said notification provides as follows in respect of security services:-

Sl. No	Category of Supply of Services	Supplier of service	Recipient of Service
14	Security Services (Services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to,- (i)(a) a Department or Establishment of the Central Government or State Government or Union Territory; or (b) local authority; or (c) Governmental agencies; Which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.	Any person other than a body corporate	A registered person, located in the taxable territory.

From the above provisions, it is found that the security services provided by any person other than a body corporate, received by a registered person is taxable by RCM. In this case, the applicant is registered under GST. In respect of security services they have submitted copies of Tax invoices no.BNTNTR10000262/20 DT. 01.08.2020 and No. BNTNTR10000426/20 DT.05.10.2020 raised by M/s. Security & Intelligence Services India Ltd bearing GSTIN No.33AAECS3538A1ZU. From the invoices submitted by them, it is seen that the service provider is a registered Private Limited company and so the tax liability will vest on the service provider only in such cases. Further, the applicant has not submitted the list of all the service providers along with their constitution as called for during the hearing and thereafter. Thus, the applicant has not furnished any other documentary evidence to the effect that security services are provided to them by any other person other than a body corporate. Hence in respect of security services being received from a body corporate the applicant is found not to be liable under RCM to pay tax as per the documentary evidences submitted by them.

8.4 In respect of legal services received by them, the provisions of Notification no.13/2017 cited supra are as follows:-

Sl.No	Category of Supply of Services	Supplier of service	Recipient of Service
2	<p>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</p> <p>Explanation.- "Legal Service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.</p>	An individual advocate including a senior advocate or firm of advocates	Any business entity located in the taxable territory.

As per the above provisions, any business entity is liable to pay tax under RCM on the legal fees paid to any individual advocate or a firm of advocates. Applicant has submitted copies of invoices bearing nos. 001/2020-2021 dt. 29.04.2020 and

001/2020-2021 dt.04.06.2020 for amounts of Rs.45000/- and Rs. 1,50,000/- respectively for the services received from Shri. S. K. Mani, Advocate. As per the above provisions, the applicant is found to be liable to pay tax under RCM on the legal fees paid by them.

8.5 In respect of online education journals and periodicals provided to the applicant by the person located in non-taxable area, they had claimed that they were exempted from payment of IGST and that they are eligible to pay tax under RCM. They have not further submitted any documentary proof for this claim and have stated that Nil documentary evidence is available with them. So this claim is not considered for ruling for want of documents. Thus the applicant is found liable to pay tax under Section 9(3) of the Act in respect of legal services availed by them based on the documentary evidences submitted by them.

9. Therefore, we rule as under:

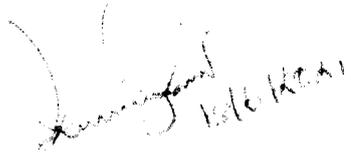
RULING

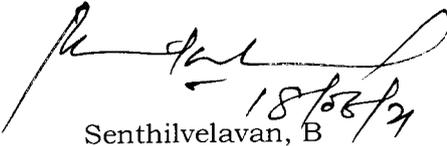
1. The Indian Institute of Management, Tiruchirappalli (IIM) is a Government Entity Under GST Law.

2.1 The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 2017 read with Notification No. 50/2018-C.T dt. 13.09.2018.

2.2. The applicant is required to discharge Liability on reverse charge basis on supply of services as per Section 9(3) of the CGST Act, 2017, in respect of Legal services received by them for which documentary evidence was submitted.

2.3 (A&B). The Question 2.3 is not admissible for the reasons stated in Para 7.4 above and therefore not admitted.


Kurinji Selvaan V.S.,
Member, TNGST


Senthilvelavan, B
Member, CGST

To

M/s. Indian Institute of Management,
Pudukottai Main Road, Chinna Sooriyur Village,
Tiruchirappalli – 620024.

// BY SPEED POST WITH ACK.DUE //

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, Chepauk, Chennai – 600 005.

Copy to:

3. The Commissioner of GST & Central Excise, Trichy Commissionerate,
No. 1, Williams Road, Cantonment, Trichy 620 001.
4. Assistant Commissioner, Thiruverumbur Assessment Circle,
Government Multi Storeyed Buildings
Kauamalai, Thiruchirappalli – 620 020.
5. Master File/ Spare – 2.