

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**  
**INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,**  
**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:**

Thiru Senthilvelavan B. I.R.S,  
Additional Commissioner/Member  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34

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

**ORDER No. 22 /AAR/2021 DATED: 18.06.2021**

GSTIN Number, if any / User id	33AAATN5491Q1ZZ
Legal Name of Applicant	National Institute of Technology, Tiruchirappalli.
Trade Name of the Applicant	National Institute of Technology, Tiruchirappalli.
Registered Address/Address provided while obtaining user id	National Institute of Technology, Tiruchirappalli-620015
Details of Application	GST ARA- 01 Application Sl.No.09/2020 ARA 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 recipients

B	Description (in Brief)	<p>The applicant, National Institute of Technology, Tiruchirappalli (NITT) was started as a joint co-operative venture of the Government of India &amp; Government of Tamilnadu in 1964 with a view to catering to the needs of man-power in technology for the country. NITT is covered under the National Institute of Technology Act, 2017. In the course of discharging the functions as per the NIT, 2007, the applicant engages 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"> <li>1. Liability to tax under this Act</li> <li>2. Applicability of Notification issued under the provisions of this Act</li> </ol>	
Question(s) on which advance ruling is required	<ol style="list-style-type: none"> <li>1. Whether National Institute of Technology, Tiruchirappalli (NITT) is a Government Entity under GST Law.</li> <li>2.If the answer to question is in the affirmative, whether <ol style="list-style-type: none"> <li>a. The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 2017.</li> <li>b. 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.</li> </ol> </li> <li>3. Whether the entry provided under <ol style="list-style-type: none"> <li>A. Sl.No3, 3A of Notification 12/2017 is applicable to them.</li> <li>B. Composite supply of works contract provided to the applicant is covered by Sl.No.3(vi) of Notification 11/2017 dated 28.06.2017.</li> </ol> </li> </ol>	

**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. National Institute of Technology, Tiruchirappalli-620015 (hereinafter called the Applicant/ NITT) are registered under GST with GSTIN.33AAACZ8255D1ZD. The applicant has sought Advance Ruling on the following questions:

1. Whether National Institute of Technology, Tiruchirappalli (NITT) is a Government Entity under GST Law.
2. If the answer to question is in the affirmative, whether
  - a. The applicant is liable to deduct tax at source (TDS) under Section 51 of the CGST Act, 2017.
  - b. 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.
3. Whether the entry provided under
  - A. Sl.No3, 3A of Notification 12/2017 is applicable to them.
  - B. Composite supply of works contract provided to the applicant is covered by Sl.No.3 (vi) of Notification 11/2017 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 their institute NITT was started as a joint and co-operative venture of the Government of India and the Government of Tamil Nadu

in 1964 with a view to catering to the needs of man-power in technology for the country. They were subsequently covered under the schedule of the National Institute of technology Act, 2007, and was declared as an Institution of National importance and to provide for instructions and research in branches of engineering, technology, management, education, sciences and arts and for the advancement of learning and dissemination of knowledge in such branches and for certain other matters connected with such institutions. They are under the direct supervision and control of the Ministry of Human Resource Development of India and the Board of Governors is constituted by the ministry of HRD and the latest Board of Governors was reconstructed in the year 2011. In the course of discharging the functions as per the NIT Act, 2007, the applicant engages suppliers to provide certain services like pure labor services and supply of composite services.

2.2. On 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 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. They have 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 from the NIT Act, 2007, are as under

9 (1) The president of India shall be the **Visitor** of every Institute.

(2) The visitor may appoint one or more persons to review the work and progress of any institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary un respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions within reasonable time.

Further clause 11 of the Act mandates that the chairperson of the Board of Governors is to be nominated by the Visitor.

20. 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.

21(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;

(2) All moneys credited to the fund of every Institute shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

26(1) The first Statutes of each Institute shall be frame by the Central Government with the prior approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

They have stated that under clause 26(4) a new Statute amending or repealing the existing Statutes shall have no validity unless it has been assented to by the Visitor. In addition, the Central Government shall establish a Central body to be called "the Council" for coordination of all Nation Institutes of Technologies. The council shall have the Minister in charge of technical education as ex officio chairman of the council. In view of the above, the applicant has stated that NITT is a Government entity as defined under Notification No. 12/2017- Central Tax (Rate) dated 28<sup>th</sup> June 2017.

2.2 The applicant has relied upon the ruling of AAR Uttarakhand: In RE: IT Development Agency, wherein it was held that IIT, Mumbai falls under the definition of Government in terms of Section 2(53) of CGST Act 2017. In view of the cited ruling, the applicant has stated that the constitution and management of NITTs are identical to IITs and hence are to be treated as Government/ Government entities, hence, the services received by them by way of pure labor services and composite services shall be covered by serial No.3 and 3A of the said Notification and also Serial No. 3 (vi) of Notification 11/2017 dated 28<sup>th</sup> June 2017. Further, being a Government entity, they will be governed by TDS provisions as per section 51 of CGST Act 2017 and they are entitled to be charged with NIL rated tax as per serial no: 3 and 3A of Notification No.

12/2017- Central Tax (Rate) as they are rendering educational services which finds a place in Twelfth Schedule under article 243G of the Constitution of India. Also, the applicant has stated that as a Government entity and a registered person under the GST law they are required to discharge tax liability as per Notification No. 13/2017-Central Tax (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 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 and they applicant was asked to furnish the following;

- 1) NIT Act with relevance to NITT
- 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 s.no.3/3A.
- 4) Write up on the pure labour service and composite services likely to be undertaken for which the clarification has been sought.

It was also decided that on receipt of above another hearing may be extended.

3.2 In furtherance to the above hearing, the applicant vide their letter dated 13.09.2020 submitted the following:

- Copy of National Institute of Technology act of 2017.
- The applicant has stated the following:
  - i. In respect of works contract for National Institute of Technology, the tenders for construction are issued by CPWD and the amount payable for the construction is issued by CPWD and the amount payable for the construction will be paid by us to CPWD. The contractor who executes the work will claim GST on the taxable value from CPWD and the same will be paid by them.
  - ii. The applicant is availing the Security services and paying GST on them. There are certain Securities agencies which are not Limited Companies and the payment made to them are liable to GST under Reverse Charge Mechanism.

iii. In respect of legal Fees paid to advocates, they have stated that they are liable under Reverse Charge Mechanism to pay the GST. There also certain services which are covered under Notification No; 13/2017 for which they are liable to pay under Reverse charge Mechanism.

3.3 The Registry issued a notice to the applicant on 05.11.2020 seeking write up on goods/services envisaged for which applicability of Sl.No.3/3A was asked to be furnished.

3.4 In response to the notice the applicant vide their letter received on 9.12.2020 submitted the following facts.

- Works Contract service: The tender for construction of buildings are issued by CPWD on behalf of National Institute of Technology, Trichy and the amount payable for the construction will be paid by us to CPWD
- S.No. 3 and 3A of Notification No. 12/2017 is applicable to them as said below:

Sl.No.	Description	Remarks
1.	We are availing services in nature of Pure services such as labour contract for maintenance of building and plant and machinery. We 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 we 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 us for which payment is made by us to CPWD. The value of the material portion does not exceed 25% in respect of the above said contracts	S.No. 3A of exemption Notification 12/2017 is applicable to the above said work.
3.	We are availing security services and paying GST on them. In respect of certain security agencies which are not Body Corporates, we 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 we are liable to pay GST under reverse charge mechanism via S. NO. 2 of Notification No. 13/2017. This is covered U/s. (3)	
5.	In respect of online education journals and periodicals provided to educational institution by the person located in non-taxable we 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 we are liable to pay IGST on online non education journals and periodicals imported under reverse charge mechanism. This is covered under Notification 10/2017.	
6	Section 9(4) is not applicable to them	

3.5 The Registry vide their letter dated 10.12.2020 issued a notice to the applicant seeking a detailed write up on scope of work, terms and conditions of work and payment, sample contracts /invoices. Further in respect of ruling sought under Section 9(3) of CGST Act 2017 the applicant was asked to furnish the details of security agencies/ service providers with their constituents along with sample bills/invoices, sample bills for legal fees paid to advocate, invoice copies for online non educational journals/periodicals provided to them by person located in non-taxable territory.

3.6. In response to the cited letter, the applicant furnished the following documents:

- i. Sample invoice copies, tender document for Labour contract/Security services/Man power supply services

ii. List of inward services availed by them from proprietors, sample invoices and tender document.

iii. Copy of cheque voucher for legal fees/expenses paid.

3.7. On perusal of the above documents the registry issued a notice on 25.02.2021 seeking details of list of service providers both registered and unregistered with their constituents for which the applicability of provisions of Section 9(3)/9(4) has been sought by them. It was also informed that q.no.3 of their application is on eligibility of Sl.no.3/3A of Notification 12/2017 CT(Rate) in respect of services received by them. Since Advance Ruling can be sought only in respect of services undertaken or proposed to be undertaken as per Section 95(a) of the Act, the above question is not admissible.

3.8. In response to the cited letter, the applicant submitted the following vide their letter dated 25.03.2021.

- Advance ruling was sought by them mainly in respect of supplies received by them as receiver considering the eligibility of Sl.No.3 & 3A of Notification 12/2017 as raised in Q.No.3 of their application.
- While filing the application it clearly requires to specify if the application has been made under the category of Service receiver or provider, they have applied under the category service receiver. They have also submitted that they are liable to pay tax under the reverse charge mechanism. Hence, they should be treated as supplier of goods undertaken or proposed to be undertaken for the purpose of Section 95(a) of the Act and application for ruling for ascertaining the eligibility of Sl.No.3/3A of the Notification 12/2017 may be admitted.

4.1 The State Jurisdictional officer submitted the following comments in respect of the question raised by the applicant.

- The applicant is a Government entity under GST law, hence governed by TDS under 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.

➤ National Institute of Technology, Tiruchirappalli (NITT) is an educational institution providing education in branches of engineering, technology, management, education, sciences and arts and for the advancement of learning and dissemination of knowledge in such branches and for certain other matters connected with such institutions. For the query on applicability of Sl.No 3(Vi) of notification 11/2017 , the AAR may decide on the applicability of the above notification.

5 The Centre Jurisdictional officer informed that there are no proceedings pending against the applicant on the issue raised by the Advance Ruling Authority.

6. We have carefully examined the written submission arguments made by the applicant at the time of hearing, further submission and submission made by the respective jurisdictional authority. The applicant, National Institute of Technology, Tiruchirappalli( NITT) was started as a joint co-operative venture of the Government of India & Government of Tamilnadu in 1964 with a view to catering to the needs of manpower in technology for the country. NITT is covered under the National Institute of Technology Act, 2007. In the course of discharging the functions as per the NIT, 2007, the applicant engages suppliers to provide certain services like pure labour services and supply of composite services. They have sought ruling on the following questions:

1. Whether National Institute of Technology, Tiruchirappalli( NITT) 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 28<sup>th</sup> 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 Pure 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 28<sup>th</sup> 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 NITT is a Government entity under the GST law. They have submitted that they are a Government entity in as much the NITT was started as a joint and co-operative venture of the Government of India and

Government of Tamilnadu in the year 1964 with a view to cater to the needs of manpower in technology for the country; they were subsequently covered under the Schedule of the National Institute of Technology Act,2007 and was declared as an Institution of national importance ; that NITT is under the direct supervision and control of the Ministry of Human Resources Development of India and the Board of Governors is constituted by the HRD Ministry; 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.34 dt.06.06.2007 publishing the National Institute of Technology Act,2007 . 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 1964 as a society registered with the Registrar of Societies, Tamilnadu under the auspices of the Ministry of Human Resources Development with the Minister of HRD being the Chairman, Board members will be Education Secretary of Ministry of HRD, Principal Advisor, Planning commission, Secretary, Chairman, UGC, Department of Science& Technology. Director General of CSIR will be the educational advisor and financial advisor will be from Ministry of HRD, two representatives from Industry will be nominated by the Central Government. The NIT Act, 2007 enacted wherefrom the applicant becomes an entity set up by an Act of Parliament in as much as the said Act in S.3 (c) defines 'corresponding institute' as that specified in Column 3 of the schedule i.e., National Institute of Technology, Tiruchirapalli, a society registered under the Tamilnadu Societies Registration Act, 1975 and 'Institute' under the Act specified in Column 3 of the Schedule i.e, National Institute of Technology, Tiruchirapalli. Further the institute initially and also after the enactment of the NIT 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 NITT 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.

*Section 51: 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	<p>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,-</p> <p>(i)(a) a Department or Establishment of the Central Government or State Government or Union Territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies;</p> <p>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</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p>	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.240/CISB/20-21 dt. 31.10.2020 raised by M/s. CIS Bureaus Facility Services Pvt Ltd bearing GSTIN No.33AACCC6334Q2ZE. 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 the list of providers of security services other than the one mentioned above. 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 bills bearing nos.136 dt. 19.11.2020 and 570 dt.13.03.2020 for amounts of Rs.39,766/- and Rs. 1,50,000/- respectively for the services received from Shri.K. Srinivas Murthy, Advocate and Shri.G.Rajagopalan, Additional Solicitor General-India. 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 educational 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 in respect of non-educational journals. It is observed that the Notification No. 2/2018-Integrated Tax (Rate) dt. 25th January, 2018 inserted the following to notification no.9/2017-IGST(R) dt. 28.06.2017

*" (c) against serial number 10, in the entry in column (3), after item (b), the following item shall be inserted, namely: - "(ba) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of- 2 (i) pre-school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course;"*

Applicant have stated that such online education journals and periodicals provided to them are exempt from IGST vide the above entry and therefore they are liable to pay tax by RCM on online non-education journals. They have submitted copy of application for remittance in Foreign exchange for GBP 1,656/- (British Pound Sterling) towards renewal subscription to Emerald e-journal for the period from 01.10.2020 to 30.09.2021. But they have not submitted whether the said journal is educational or non-educational in nature. However if the subscription is towards online non-educational journals, the exemption is not applicable and NITT is liable to pay tax under RCM.

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

#### **RULING**

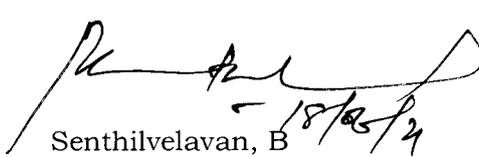
1. The National Institute of Technology, Tiruchirappalli (NITT) is a Government Entity under GST Law.

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 .In respect of security services Reverse charge mechanism will not apply as the services have been provided by a body corporate only as evidenced by the documents submitted by the applicants.

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. National Institute of Technology,

Tiruchirappalli -620015

**// 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(ST)  
Thiruverumbur Assessment Circle,  
Government Multi Storeyed Buildings  
Kauamalai, Thiruchirappalli – 620 020.
5. Master File/ Spare – 2.

