



**TELANGANA STATE AUTHORITY FOR ADVANCE RULING  
CT Complex, M.J Road, Nampally, Hyderabad-500001.  
(Constituted under Section 96(1) of TGST Act, 2017)**

**Present:**

**Sri J. Laxminarayana, Additional Commissioner(Grade-I) (State Tax)**

**Sri B. Raghu Kiran, IRS, Joint Commissioner (Central Tax)**

**A.R.Com/34/2018**

**Date.16-12-2019**

**TSAAR Order No. 01/2019**

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

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**1.** M/s. BSNL, Office of CGMT, TS Circle, Door Sanchar Bhavan, Nampally, Abids, Hyderabad – 500001(hereinafter referred to as ‘the applicant’), registered under GSTIN No. 36AABCB5576G1ZM has filed an application in Form GST ARA-01 under Section 97(1) of Central Goods and Services Tax Act, 2017 and the Telangana Goods and Services Tax Act, 2017 (hereinafter referred to as “the CGST Act and TGST Act” respectively) read with Rule 104 of Central Goods and Services Tax Rules, 2017 & Telangana Goods and Services Tax Rules, 2017(hereinafter referred to as “the CGST Rules and TGST Rules” respectively) seeking Advance Ruling on the following issues:

- (i) *Whether the supply of telephone service to Greater Hyderabad Municipal Corporation (GHMC) is exempted? and*
- (ii) *Telephone invoices are to be issued with/without GST?*

**2.** At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression ‘GST Act’ would mean CGST Act and TGST Act.

**3. The facts of the case having a bearing on the questions:**

- a. The applicant are providing telecommunication service to GHMC-Hyderabad, Telangana.
- b. Invoices are being issued by the applicant to GHMC with GST at the applicable rate of 18% and GST amounts are being remitted by the applicant to Government as per the notifications issued from time to time.
- c. GHMC objected to pay GST, stating that they are exempted as per entry No. 3 of CGST Notification No. 12/2017-(R) dated 28<sup>th</sup> Jun 2017 opining that the telephone services are being used for performing functions under article 243W of Constitution.
- d. As such advance ruling has been sought for (i) as to whether the supply of telephone service to GHMC is exempted and (ii) Telephone invoices are to be issued with/without GST?

**4. Personal Hearing:**

A personal hearing was held on 09-11-2018 at 12.00 noon, Ms. D.V Janaki, DGM Authorised representative of M/s. BSNL, appeared for the personal hearing. Nevertheless, due to administrative exigencies, the Orders were not released. Further Government Go. Rt.No.312, Revenue (CT.II) Department, Dt. 05.11.2019 have appointed Sri B. Raghu Kiran, IRS, Joint Commissioner (Central Tax) as member in place of Sri V. Srinivas, IRS, Additional Commissioner (Central Tax). Hence another notice was issued to the applicant to appear for Personnel Hearing on 04-12-2019.

The Authorised representative Ms. D.V. Janaki, DGM & Mr. L. Hari Babu, JAO reiterated the facts mentioned above.

**5. Discussion & findings:**

**5.1** We have gone through the facts of the case, documents on record and submissions made by the applicant.

**5.2** The relevant portion of the Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 (Notification No. 12/2017-(Telangana) State Tax (Rate), dated 30-6-2017) is reproduced below:

“.....  
 In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely :-  
 .....

<b>Sl. No.</b>	<b>Chapter, Section, Heading, Group or Service Code (Tariff)</b>	<b>Description of Services</b>	<b>Rate (Per cent.)</b>	<b>Condition</b>
(1)	(2)	(3)	(4)	(5)
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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.	Nil	Nil

**5.3** From the above, it is evident that a service will be exempted from GST, if the same is

- (i) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or Government Entity;
- (ii) pure service (excluding works contract service or other composite supplies involving supply of any goods); and
- (iii) provided 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.

**5.4** In terms of Sec. 2(69) of the CGST Act, the recipient of the service i.e. GHMC falls within the definition of ‘local authority’ and hence the services provided by the applicant are said to have been rendered to the local authority.

**5.5** Further “pure services” which has been mentioned in Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 has been explained in Q. No. 25 of FAQ on ‘Govt. Services’ issued by CBEC which is reproduced as under :-

“In the context of the language used in the Notification, supply of services without involving any supply of goods would be treated as ‘supply of pure services’. For example, supply of manpower for cleanliness of roads, public places, architect services, consulting engineering services, advisory services and like services provided by business entities not involving any supply of goods would be treated as supply of pure services. On the other hand, let us take the example of governmental authorities awarding the work of maintenance of street lights in a municipal area to agency which involve apart from maintenance, replacement of defunct lights and other spares. In this case, the scope of the service involves maintenance work and supply of goods, which falls under the works contract services. The exemption is provided to services involves only supply of services and not for work contract services”.

**5.6** The applicant have not produced any evidence by way of contract/agreement/other document during written/oral submissions suggesting that the services provided by them do not involve any supply of goods. In the absence of the same it cannot be held that the services provided by the applicant are “Pure Services”.

**5.7** Further, we undertake to examine as whether the services provided by the applicant are actually used by GHMC in relation to the functions covered by 243W. This makes it pertinent to refer to Article 243W of the Constitution which is reproduced hereunder:-

**“243W.** Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow -

- (a) the *Municipalities* with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to -
  - (i) the preparation of plans for economic development and social justice;
  - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- (b) the *Committees* with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.”

As can be seen from the above, Article 243W of the Constitution which discusses the powers, authority and responsibilities of a Municipality, refers to the functions listed under the Twelfth Schedule as may be entrusted to the above authority.

**5.8** The Twelfth Schedule under the Article 243W *ibid* lists the following functions: (1) Urban planning including town planning; (2) Regulation of land-use and construction of buildings; (3) Planning for economic and social development; (4) Roads and bridges; (5) Water supply for domestic, industrial and commercial purposes; (6) Public health, sanitation conservancy and solid waste management; (7) Fire services; (8) Urban forestry, protection of the environment and promotion of ecological aspects; (9) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded; (10) Slum improvement and upgradation; (11) Urban poverty alleviation; (12) Provision of urban amenities and facilities such as parks, gardens, playgrounds; (13) Promotion of cultural, educational and aesthetic aspects; (14) Burials and burial grounds; cremations, cremation grounds; and electric crematoriums; (15) Cattle pounds; prevention of cruelty to animals. (16) Vital statistics including registration of births and deaths; (17) Public amenities including street lighting, parking lots, bus stops and public conveniences and (18) Regulation of slaughter houses and tanneries.

**5.9** As stated earlier, in order to be eligible for exemption under entry No. 3 of the Not. No. 12/2017- CT (R), the service must be by way of any activity in relation to any of the aforesaid functions. It appears that the telephone services are basically used by the personnel of the GHMC in their offices and provision of the said services has no relation whatsoever to the above mentioned functions. The Hon'ble High Court of Bombay, while interpreting the phrase ‘in relation to’ in the case *M/s Indian National Shipowners’ Association vs UOI* held that “*the expression in relation to, though*

*expansive, has to be read in context and cannot be given such a vast meaning so as to cover any activity, howsoever remotely connected, if there is some element of display or exhibition of the same. The definition has to be interpreted, in a sense appropriate to the phrase defined and to the general purpose of enactment*". It was concluded thereunder that the services rendered by a person must have a direct or a proximate relation to the subject matter of the taxing entry and the context in which the words 'in relation to' are used has to be borne in mind to judge the extent of the scope of an entry which may be of wide amplitude.

**5.10** It is also pertinent, in this context, to note the judgement of the Hon'ble Supreme Court in the case Commissioner of Customs (Import), Mumbai vs. Dilip Kumar & Company wherein it was held that "*exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification*".

**5.11** Applying the ratio of the above judgements to the present case, it can be concluded that telephone services provided by the applicant cannot be regarded as pure services and these cannot be held as the activities in relation to any of the functions entrusted under Article 243W of the Constitution on the strength of the words "in relation to". In their application & enclosures also, the applicant has not adduced/provided any substantiation to show establish the category.

**5.12** Accordingly, we hold that the services provided by the applicant are not eligible for exemption as provided for under entry No. 3 of the Not. No. 12/2017-CT(R) dated 28.06.2017(as amended).

**6.** Since the services provided by the applicant are taxable services, the tax invoices issued by the applicant should indicate the amount of tax which shall form part of the price at which such supply is made as required under Sec. 33 of the CGST Act, 2017.

**Advance Ruling**

**7.** In view of the observations stated above, the following rulings are issued :

<b>Question</b>	<b>Advance Ruling issued</b>
(i) <i>Whether the supply of telephone service to Greater Hyderabad Municipal Corporation (GHMC) is exempted under entry No. 3 of Not. No. 12/2017-CGST (R), dated 28.06.2017?</i>	<i>Supply of telephone service to Greater Hyderabad Municipal Corporation (GHMC) is not exempted under entry No. 3 of Not. No. 12/2017-CT(R), dated 28.06.2017.</i>
(ii) <i>Telephone invoices are to be issued with/without GST?</i>	<i>The tax invoices should be issued indicating the amount of tax.</i>

Sd/- J. Laxminarayana  
ADDL. COMMISSIONER (State Tax)

Sd/- B. Raghu Kiran  
JOINT COMMISSIONER (Central Tax)

To,  
M/s. BSNL, Office of CGMT, TS Circle,  
Door Sanchar Bhavan, Nampally, Abids,  
Hyderabad – 500001.

Copy submitted to :  
1. The Commissioner (State Tax) for information.

Copy to:  
1. The Joint Commissioner (State Tax), Abids.  
2. The Assistant Commissioner(State Tax), Abids.

//t.c.f.b.o//

Additional Commissioner (ST)(Policy)