

GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
---	---

ADVANCE RULING NO. GUJ/GAAR/R/13/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/47)
Date: 27.01.2021

Name and address of the applicant	:	M/s. Ahmedabad Municipal Transport Service, 1 Transport House, Jamalpur, Ahmedabad-380022
GSTIN/ User Id of the applicant	:	24AAALA1563C1ZV
Date of application	:	04.11.2020
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	<i>b)</i> applicability of a notification issued under the provisions of this Act; <i>e)</i> determination of the liability to pay tax on any goods or services or both; <i>f)</i> whether applicant is required to be registered.
Date of Personal Hearing	:	23.12.2020
Present for the applicant	:	Hardik Shah, CA

M/s. Ahmedabad Municipal Transport Service is registered under GST and having a GSTIN: 24AAALA1563C1ZV, has filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fees of Rs. 5,000/- each under the CGST Act and the GGST Act.

2. M/s. Ahmedabad Municipal Transport Service (hereunder referred to as 'AMTS' or 'the Applicant') is engaged in rendering passenger transportation services and runs public buses in the city of Ahmedabad within the limits of Municipal Corporation. The Constitution of Applicant is 'local authority' for GST registration as well as erstwhile Service Tax registration.

3. The applicant submitted that the roots of bus services in Ahmedabad dates back to year 1940 wherein very first resolution # 476 was passed by the Municipality on June 10, 1940 in the General Board meeting to begin transport services. The main purpose of the transport service was to avoid the population density in city area and thereby to provide affordable means of transportation facility for the citizens staying far from the main city area. The profit motive was not there at all at any stage.

4. The applicant submitted that until the year 1950, the transport department was considered as a section of Municipality. However, in the year 1950 a separate transport fund created and accordingly, separate accounts of

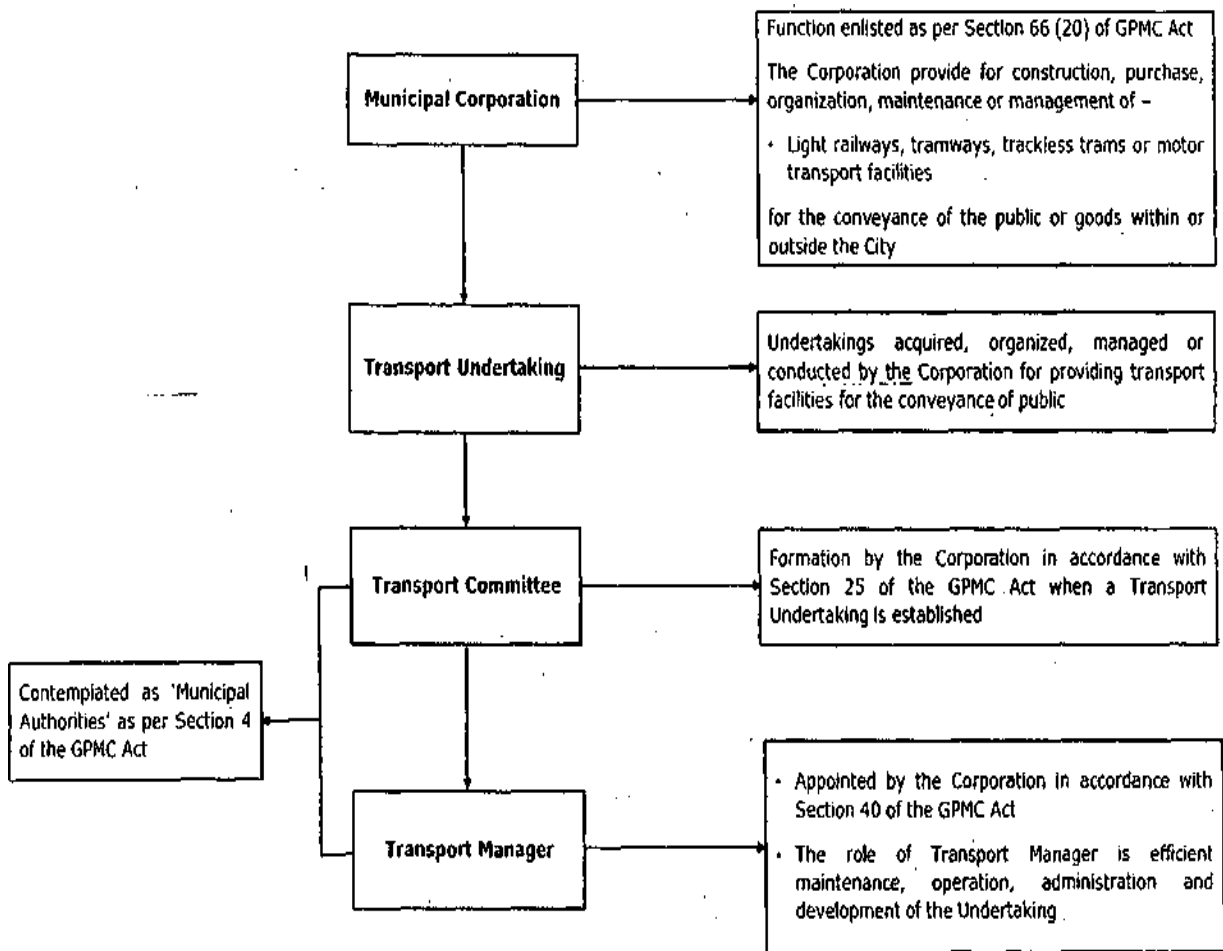
AMTS service were started to be maintained. The first AMTS estimate Budget-'B' was presented in the General Meeting of Municipal Corporation by transport committee through standing committee in Dec. 1950.

5. Since the creation of a separate transport fund, AMTS is managed by Transport Manager under transport committee and Municipal Corporation in accordance with the powers derived from the Gujarat Provincial Municipal Corporations Act, 1949 (hereafter referred as 'GPMC Act').

6. The applicant submitted that "Local authority" as per GPMC Act means the Corporation of a City, a municipality for a municipal borough, a nagar panchayat, or as the case may be, a gram panchayat; and includes, where such Corporation, municipality or panchayat has been superseded or dissolved, the person or persons appointed to exercise the powers or to perform the functions of such Corporation, municipality or panchayat.

7. Further, the applicant submitted that the Corporation, as per GPMC Act, means the Municipal Corporation of the city. Thus, on conjoint reading, the municipal corporation can be contemplated as local authority. In light of this, it is essential to understand control & management and administration & funding of AMTS as per GPMC Act, which is reproduced hereunder for ease of understanding.

Control & management of AMTS

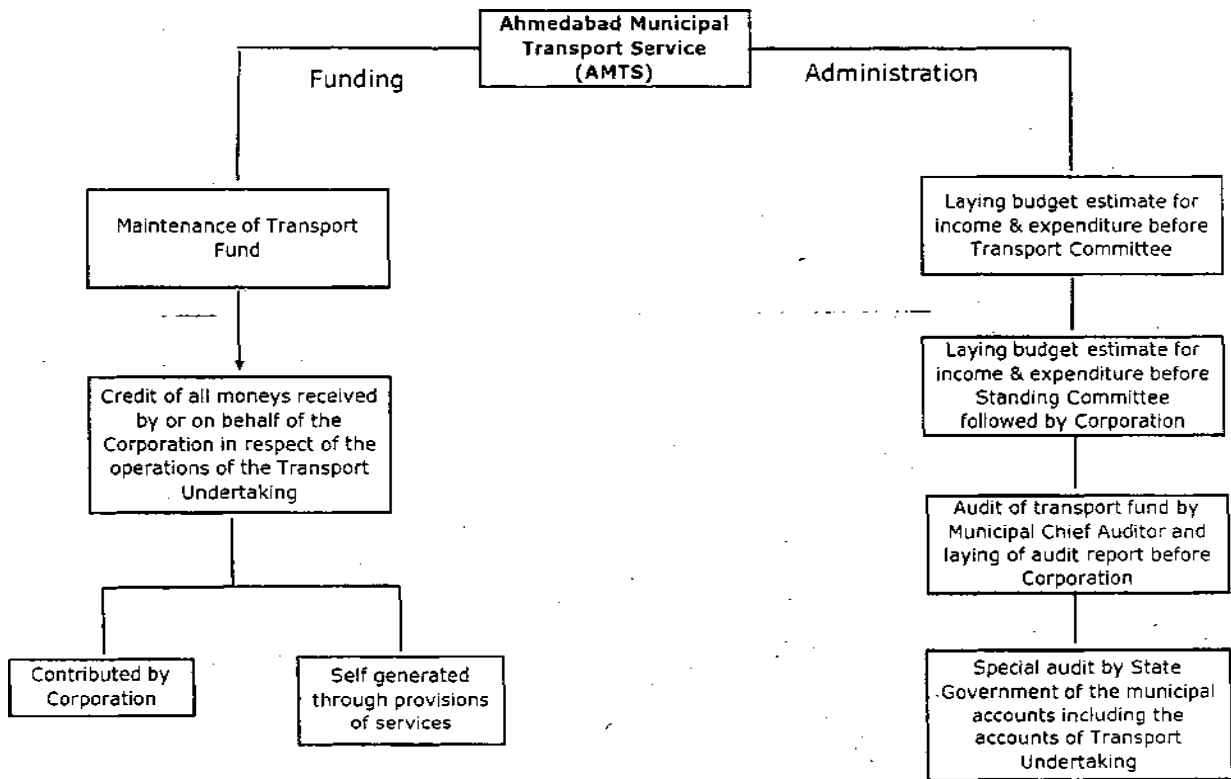


8. The term transport undertaking has also been defined under the GPMC Act which reads as under:

(70) "Transport Undertaking" means all undertakings acquired, organised, constructed, maintained, extended, managed or conducted by the Corporation for the purpose of providing mechanically propelled transport facilities, for the conveyance of the public and includes all moveable and immovable property and rights vested or vesting in the Corporation for the purposes of every such undertaking;

From the perusal of the above discussion in the GPMC Act, it can be construed that any undertaking managed by Municipal Corporation for the purpose of providing transport facilities for the conveyance of the public would be termed as a 'Transport Undertaking'. As AMTS is also being managed by Ahmedabad Municipal Corporation ('AMC'), the same would also qualify as a 'Transport Undertaking' as defined in the GPMC Act. .

Administration & funding of AMTS



9. In nutshell, the Applicant is an extended arm of the Municipal Corporation, which is governed by GPMC Act and does the activities as per the functions entrusted to Municipal Corporation.

Implications under GST law

10. The applicant submitted that from perusal of GST law, the Applicant understands that Sl. No. 3 of Notification no. 12/2017 - Central Tax (Rate) and Notification No. 9/2017 - Integrated Tax (Rate) wherein pure services provided to a Central Government, State Government or Union Territory or local authority or a Governmental Authority by way of any activity in relation to a function entrusted to a Municipality under Article 243W of the Constitution of India ('COI') is exempted.

11. The Applicant submitted that they believe that they would merit the category of Local Authority since it is managed by the Municipal Corporation under GPMC Act. Moreover, the Applicant believes that their activity of providing transportation services is covered under either of the following functions of Article 243W of COI:

- Provision of urban amenities and facilities such as parks, gardens, playgrounds;-
- Public amenities including street lighting, parking lots, bus stops and public conveniences;

And the services received by them in relation to / pertaining to transportation services should be eligible for exemption from payment of GST.

12. Accordingly, the applicant sought the Advance Ruling on the following question:

Part A- Whether AMTS would be qualified as 'Local Authority' as defined under the Central Goods and Services Tax Act, 2017?

Part B -Whether AMTS is liable to pay GST on procurement of security services received from any person other than body corporate under reverse charge mechanism, considering the exemption granted in Sl. No. 3 of Notification No. 12/2017 - Central Tax (Rate) or Sl. No. 3 of Notification No. 09/2017 - IGST (Rate)?

Part C -Whether AMTS is required to pay GST on advertisement services or the service recipient of AMTS is required to pay GST under reverse charge mechanism considering Notification No. 13/2017-Central tax (Rate) dated 28-06-2017?

Part D - Whether AMTS is required to be registered as a Deductor under GST as per the provision of Section 24 of the CGST Act?

Applicant’s interpretation of law and/or facts

13. In order to understand eligibility of exemption, the Applicant reproduce relevant extract of the exemption Notification as under, which is similar in both the Notifications.

Sl. No.	Chapter	Description of Service	Rate (Percent)	Condition
3	99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or	Nil	Nil

		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 243G of the constitution or in relation to any function entrusted to a Municipality under article 243W of the constitution.		
--	--	---	--	--

From perusal of above, the Applicant understands that in order to qualify for above referred exemption, it is essential to fulfill following conditions:

- The Applicant should merit category of Local Authority
- The services (procured) are by way of activity in relation to function entrusted to Municipality under Article 243W of 'COI'

Part A - Whether AMTS would be qualified as 'local authority' as defined under the Central Goods and Services Tax Act, 2017?

Classification as Local Authority

14. On the basis of the information/details, as provided in the statement of facts, the Applicant submitted that they are managed by AMC under GPMC Act.

15. The Applicant submitted that for analyzing the question being the subject matter, it would be relevant to refer the definition of the Local Authority as given under Section 2(69) of CGST Act, which has been reproduced hereunder,

"Local authority" means-

- (a) A "Panchayat" as defined in clause (d) of article 243 of the Constitution;
 - (b) A "Municipality" as defined in clause (e) of article 243P of the Constitution;
 - (c) A Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
 - (d) A Cantonment Board as defined in section 3 of the Cantonment Act, 2006;
 - (e) A Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
 - (f) A Development Board constituted under article 371 of the Constitution;
- or
- (g) A Regional Council constituted under article 371A of the Constitution

16. As per GPMC Act, "Local authority" means the Corporation of a City or a municipality for a municipal borough. Further, "Local Authorities" has been defined under Local Authorities Loans Act, 1914 as any person legally entitled

to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area.

17. The 'local fund' used in the above definition has been defined under Gujarat Treasury Rules, as (i) revenue administered by bodies which by law or rule having the force of law come under the control of Government, whether in regard to the proceedings generally, or to specific matter such as sanctioning of their budgets, sanction to the creation or filling up of particular appointments, the encashment of leave, pension or similar rules, (ii) The revenues of anybody which may be specially notified by Government as such.

18. AMTS is entrusted with a transport fund in which the transport manager would credit all the monies received through the conduct of transportation services and debit the fund towards expenses incurred by AMTS. Further, this transport fund is created with the funds given by Corporation as seed funding. It is important to note that the contribution is made by Corporation as a reason that management & maintenance of motor transport facility for general public is one of the important functions of Corporation. Even, if this is loss making operation, Corporation through AMTS has continued the same activity.

19. AMTS is established and managed by AMC, which is a municipal corporation, and AMTS would render transportation service as is entrusted to a municipal corporation.

20. Considering above, the Applicant observes that when an organization is set up by an Act of Parliament or constituted as Municipality under Article 243Q of COI and legally entitled to control or manage any local fund, can be classified as local authority.

21. Further, the Applicant refer to the ruling of Advance Ruling Authority in the case of Newtown Kolkata Development Authority ('NKDA') vide order number 42/WBAAR/2019-20 dated 06-03-2020. The facts in the ruling is similar to the facts in hand. The copy of ruling is enclosed herewith as Annexure-B.

22. In the said ruling, NKDA is a statutory authority constituted under the New Town Kolkata Authority act, 2007 for providing various civic services and amenities within the local area of New Town, Kolkata. It provides civic facilities to the area like water supply, drainage, sewage, collection, removal and disposal of solid waste etc. The ruling was in favour of NKDA since it performs such functions as are listed under the Twelfth Schedule and entrusted to a Municipality under Article 243W of COI.

23. NKDA is legally entitled to or entrusted by the State Government with the control or management of a municipal or local fund.

24. Further, the Authorities for Advance Ruling upheld that NKDA would be considered as Local Authority if they satisfy the aforesaid tests for local authority as decided in Union Bank of India vs R.C. Jain(1981) 2 SCC 308.

25. The Applicant would like to further submit that in the judgement of Union of India vs. R.C.Jain (supra), it is decided that an entity would be considered as a "local authority" only if the following tests are satisfied :

Sr. No.	Condition	Whether conditions is fulfilled?
1.	Separate Legal existence	Yes. The first and foremost test that any entity should satisfy to be considered as local authority is that it should have a separate legal entity. The applicant has a separate legal entity and it would continue to exist irrespective of continuity of its members or directors.
2.	Functions in a defined area	Yes. The entity must function in a defined area and must ordinarily be elected wholly or partly, directly or indirectly by the inhabitants of the area. In the given case, AMTS is functioning in the municipal limit of Ahmedabad and the ultimate control of AMTS rests with the AMC which is elected by the residents of Ahmedabad.
3.	Power to raise funds	Yes. The entity must have power to raise funds in the furtherance of its activities and the fulfillment of the projects entrusted to it by levying taxes, rates, charges, fees etc. all of which may be in addition to the moneys provided by Government. What is essential is that the control and management of the fund must vest in the authority. In the instant case, AMTS is raising funds by way of charging fees for transportation services provided.
4.	Enjoys Autonomy	Yes. The entity must enjoy a certain degree of autonomy, which, though not complete, must be appreciable. The applicant enjoys certain degree of autonomy with freedom to decide for themselves questions of policy affecting the area administered by them
5.	Entrusted by a statute with functions which are usually entrusted to	Yes. The entity must be entrusted by Statute with such Governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality. The applicant renders transportation services for local conveyance and it is squarely covered in the functions enlisted in Twelfth Schedule

26. The Applicant submitted that in view of the above, they satisfy the tests for Local Authority as decided in the aforesaid judgment. Accordingly, AMTS would

be considered as 'Local authority' as per definition stipulated in Section 2(69)(c) of CGST Act.

Part B - Whether AMTS is liable to pay GST on procurement of security services from any person other than body corporate under reverse charge mechanism as per Notification no. 13/2017-Central tax (Rate) dated 28-06-2017, considering the exemption granted in Sl. no. 3 of Notification No.12/2017 - Central Tax (Rate) or Sl. no. 3 of Notification no. 09/2017 - IGST (Rate).

27. Before discussing details of services that are proposed to be-procured by AMTS, the Applicant has reproduced the second limb of exemption Notification as under in order to analyze the same.

The services (procured) are by way of activity in relation to function entrusted to Municipality under Article 243W of the Constitution of India

28. The Applicant submitted that first it is to analyze whether AMTS is considered to carry out any functions entrusted to municipality under Article 243W of COI.

Functions enlisted in Twelfth Schedule

29. The Applicant submitted that the Article 243W was inserted in the constitution of India while enacting the Constitution (Seventy-fourth Amendment) Act, 1992 in order to enable the Urban Local bodies perform effectively as vibrant democratic units of self - government. The extract of the Statement of Objects and Reasons is given as under:

"In many States local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersession and inadequate devolution, of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as vibrant democratic units of self-government. "

30. Article 243W of COI entrusts the Powers, authority and responsibilities of Municipalities and provision of the same has been reproduced below for easy reference:

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) Preparation of plans for economic development and social justice;

(ii) 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;

31. The Applicant reproduces the matters that are listed in the Twelfth Schedule, as under.

"1. Urban planning including town planning. 2. Planning 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 up-gradation. 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.** 18. Regulation of slaughter houses and tanneries."

32. The Applicant renders transportation services and believes that it is squarely covered in the following services specified in Twelfth Schedule :

- *Provision of urban amenities and facilities such as parks, gardens, playgrounds;*
- *Public amenities including street lighting, parking lots, bus stops and public conveniences;*

33. The term 'urban amenities' is not defined under Constitution of India. Hence, it has to be interpreted based on the trade parlance wherein urban amenities would, be all of the things that is valued in a community and include the- facilities—like educational, medical, transport, housing^ electricity, post and telegraph, telephone exchange, police station, fire station, community hall and library, cinema theatre, swimming pool,, stadium, open air theatre, religious building, Auditorium, parks, play grounds, water supply, drainage, sanitation, Burial ground etc.

34. The applicant believes that the transportation services rendered by it would be considered as provision of urban amenities and facilities listed under twelfth schedule.

35. Moreover, Section 91 of the Gujarat Municipalities Act (GMA'), attached as Annexure-C, mentions certain discretionary function entrusted to them. An extract of the Section 91 of GMA is reproduced hereunder:

*In the sphere of public works, (a) giving relief to, and establishing and maintaining relief works in time of famine or scarcity for, destitute persons within the limits of the municipal borough; (b) constructing, establishing or maintaining, public parks, gardens, libraries, museums, lunatic asylums, halls, offices, shops, markets dharmashalas, rest-houses, places of entertainment and homes for the disabled and destitute and other public buildings: (c) the construction, maintenance, management, organization or purchase of telephone lines, or for guaranteeing the payment of interest on money expended for the construction of a telephone line subject to the previous sanction of the Development Commissioner when the line extends beyond the limits of the municipal borough; (d) the construction, purchase, organization, maintenance, extension and **management of mechanically propelled transport facilities for the conveyance of the public**; (e) laying out, whether in areas previously built upon or not, new public streets and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof to abut on such streets; (f) planting and maintaining road-side and other trees; (g) the construction, maintenance, repairs, purchase of any works for the supply of electrical energy or gas; (h) the construction of sanitary dwellings for the poorer classes; (i) providing accommodation for all classes of servants employed by the municipality*

36. Considering the above discussions, the Applicant submitted that it is amply clear that rendering of transportation services is one of the functions of a Municipality.

37. Moreover, the Applicant submitted that the term 'in relation to' used in above exemption is very much wide enough to cover every kind of services that results in performance of the functions as mentioned in Article 243W of the COI either directly or indirectly. Even the services provided for enabling the organization to perform defined functions would also be covered as a reason of usage of words 'in relation to'. To substantiate this, the Applicant would like to refer to the judgement of Doypack Systems (P.) Ltd. vs. UOI as reported in 1988 (36) E.L.T. 201 (S.C.) wherein it was held that,

“the expression "in relation to" (so also "pertaining to"), is a very broad expression which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context. It also held that the expression "in relation to" has been interpreted to the words of wisest amplitude.”

38. The Applicant also relied on judgement of State Waqf Board Vs. Abdul Azeer sahib as reported in AIR 1968 Mad 79, wherein it was held that, *"in relation to" are words of comprehensiveness which might both have a direct significance as well as an indirect significance, depending on the context. They are not words of restrictive content and ought not to be so construed."*

39. Thus, from above, the Applicant submitted that the term 'in relation to' is very wide and the intention of the legislature is to encompass all those services which are provided so as to enable the organization to perform function entrusted in Article 243W of COL In present case, the Applicant believes all those services which are directly used for providing passenger transportation service or those service without which it is difficult to provide passenger transport service such as security services would be included within the term 'in relation to' and accordingly, would be covered within pure service as envisaged in the exemption Notification.

40. Apart from above, the Applicant place reliance on the recent Advance Ruling in the case of A. B. Enterprise vide order #GUJ/GAAR/R/2020/18 wherein the Applicant is engaged in supplying manpower for security and housekeeping to the Central Government, State Government and Local Authority. It is upheld in the AAR that these pure services would be eligible for exemption from payment of tax subject to the condition that the services provided to these entities mentioned above are provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India. Though the AAR is conditional, but the analysis of certain work order clearly suggests that if the service recipient i.e. Central Government, State Government, Local authority is involved in any functions as per Article 243G or 243W, then the pure services provided to them would be eligible for exemption from payment of tax.

41. Moreover, the Applicant relied upon the Advance ruling in the case of Shri Jayesh Anilkumar Dalai vide order # GUJ/GAAR/R/08/2019 whereby the Applicant is engaged in providing consultancy services in the field of structural, architectural and project management consultancy to various Local Authorities, Urban Development Authorities and other Government departments which are entrusted with the functions mentioned under article 243G and 243W of COI. The Authorities have pronounced that the services of the Applicant would be considered as "pure services" and eligible for exemption on fulfilment of the below mentioned conditions:

- *It excludes works contract service*
- *It excludes other composite supplies involving supply of any goods*
- *It is supply of services without involving any supply of goods*

42. The Applicant submitted that in addition to above, advance ruling authorities have upheld eligibility of above such exemptions in below mentioned rulings:

- *Rajasthan Authorities for Advance Rulings in the case of M/s PDCOR Limited, Jaipur(Raj) vide order no RAJ/AAR/2018-19/13 Dt. 25.08.2018*
- *Goa Authorities for Advance Rulings in the case of Sewerage & Infrastructural Development Corporation of Goa Ltd vide order # GOA/GAAR/10/ 2018-19 dated 30.09.2019*
- *West Bengal Authorities for Advance Rulings in the case of Shri Sumitabha Ray vide order no. 27/WBAAR/2019-20 Dt. September 23, 2019*
- *Karnataka Authorities for Advance Rulings in the case of Sri Roopesh Kumar vide order # KAR/AAR/101/2019-20 dated 27.09.2019*
- *West Bengal Authorities for Advance Rulings in the case of M/s Arihant Dredging Developers Private Limited vide order # 49/WBAAR/2019-20 dated June 10, 2019.*

43. The Applicant submitted that based on discussion above, the security of a transport undertaking is of utmost importance considering possibility of unfortunate events that may threaten the safety of Vehicles.

44. The applicant further submitted that the fact is that security is vital for safe-keep of undertaking and it can be ensured only by way of keeping enough security measures and procedures in place; that security service has direct nexus with the transportation service, being one of the functions of Municipality. Even, in Ruling of A.B. Enterprise (supra), it is upheld that supply of manpower for security service would be eligible for exemption from payment of tax. Therefore, same would be eligible for exemption and the Applicant would not be liable to make payment of tax under reverse charge mechanism.

Part C -Whether AMTS is required to pay GST on advertisement services or the service recipient of AMTS is required pay GST under reverse charge mechanism considering Notification No. 13/2017-Central tax (Rate) dated 28-06-2017?

45. The Applicant submitted that they are also providing advertising services wherein the clients / recipients wanted to advertise their products or services on various parts of buses. For such advertisement, AMTS would recover certain amount and AMTS would issue invoice levying GST on such amount of advertisement charges.

46. From perusal of Notification No.13/2017 - Central Tax (Rate), the Applicant understands that services supplied by local authority to business entity is covered within reverse charge mechanism i.e. the business entity would be required to pay tax. The relevant clause of Notification No. 13/2017 - Central tax (Rate) dated 28-06-2017 is reproduced hereunder:

Sl. No.	Category of Supply of Service	Supplier of Service	Recipient of Service
	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

47. The applicant submitted that considering above provision and discussion in Part A, they would merit classification of local authority and therefore, services supplied by AMTS would be subject to reverse charge mechanism whereby the service recipient of AMTS would pay tax on the same.

Part D - Discussion on whether AMTS is liable to be registered as a deductor under GST

48. The Applicant submitted that under the GST Regime, TDS provisions have been made effective from October 01, 2018. From a combined perusal of Section 51 of the CGST Act, 2017 read with Notification No. 50/2018- Central Tax dated September 13, 2018, the list of persons required to deduct TDS inter-alia includes local authority.

49. The Applicant submitted that based on the above discussion they merit the classification of local authority. Therefore, the Applicant believes that they would be required to obtain registration as GST TDS deductor.

50. The Applicant submitted that without prejudice to above submission, they requests Your Honor to grant an opportunity of personal hearing in this matter in order to explain the matter more lucidly. The Applicant reserves their right to modify, rescind or alter any part of submissions and to place additional evidence in support of their contention at the time of personal hearing.

Personal Hearing

51. Personal hearing in the matter was held on 23.12.2020. Authorised representative of the company appeared on behalf of the applicant and re-iterated the submission made in the Application.

DISCUSSION & FINDINGS

52. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by their representative. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

53. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the GGST Act.

54. The facts of the case is that Ahmedabad Municipal Transport Service is engaged in rendering passenger transportation services and runs public buses in the city of Ahmedabad within the limits of Municipal Corporation. In the year 1950 a separate transport fund created and accordingly, separate accounts of AMTS service were started to be maintained. The first AMTS estimate Budget-'B' was presented in the General Meeting of Municipal Corporation by transport committee through standing committee in Dec. 1950. Since the creation of a separate transport fund, AMTS is managed by Transport Manager under transport committee and Municipal Corporation in accordance with the powers derived from the Gujarat Provincial Municipal Corporations Act, 1949.

55. The applicant submitted that the present application seeking Advance Ruling is in respect of the questions mentioned under Part- A to Part- D. Accordingly, we take up the one by one question on which applicant sought the Advance Ruling.

56. The first issue is here to decide whether the applicant i.e. AMTS would be qualified as "local authority" as defined under the CGST Act, 2017.

57. To decide whether the AMTS is local authority or other-wise, we refer to definition of the Local Authority as given under Section 2(69) of CGST Act, which has been reproduced hereunder,

"Local authority" means –

(a) A "Panchayat" as defined in clause (d) of article 243 of the Constitution;

(b) A "Municipality" as defined in clause (e) of article 243P of the Constitution;

(c) A Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) A Cantonment Board as defined in section 3 of the Cantonment Act, 2006;

(e) A Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) A Development Board constituted under article 371 of the Constitution; or

(g) A Regional Council constituted under article 371A of the Constitution

58. Further, “Local authority” as per GPMC Act means the Corporation of a City, a municipality for a municipal borough, a nagar panchayat, or as the case may be, a gram panchayat; and includes, where such Corporation, municipality or panchayat has been superseded or dissolved, the person or persons appointed to exercise the powers or to perform the functions of such Corporation, municipality or panchayat.

59. Section 2(69)(c) of the GST Act is similar to Section 3(31) of the General Clauses Act, 1897, which defines a local authority to mean a municipal committee, district board, body of port commissioners or **other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund**. In Agricultural Produce Market Committee Narela, Delhi [(2008) 9 SCC 434] the Apex Court has examined the context in which it has earlier interpreted the words ‘other authority’ in R.C. Jain (supra). The court adopted the test of ‘like nature’. As the words ‘other authority’ came after the words ‘Municipal Committee’, ‘District Board’ or ‘Body of Port Commissioners’, it took color from these earlier words. The purpose and object are, therefore, to cover those bodies, which are discharging municipal functions but are not covered by the definition of municipalities as required to be constituted under Art. 243Q of the Constitution [refer to the Apex Court judgment dated 12-10-2018 on Urban Improvement Trust (Case No. CA 10577 of 2018)].

60. It appears from the objects and reasons for formation of Transport undertaking within the Ahmedabad Municipal Corporation it intends to provide transport service within the city limit of Ahmedabad. Transport Service is an amenities provided to the citizen of the Ahmedabad city within the municipality limit and such public amenities are listed under the Twelfth Schedule and entrusted to a Municipality under Art. 243W of the Constitution. As per Article 243W of 12th Schedule of the Constitution the functions entrusted to the

municipality are as under.

- (a) Urban planning including town planning.
- (b) Regulation of land use and construction of building.
- (c) Planning for economic and social development.
- (d) Roads and bridges.
- (e) Water supply for domestic, industrial and commercial purposes.
- (f) Public health, sanitation conservancy and solid waste Management.
- (g) Fire services.
- (h) Urban forestry, protection of the environment and promotion of ecological aspects.
- (i) Safeguarding the interests of the weaker sections of society, including the handicapped and mentally retarded.
- (j) Slum improvement and upgradation.
- (k) Urban poverty alleviation.
- (l) Provision of Urban amenities and facilities such as parks, gardens, playgrounds.
- (m) Promotion of Cultural, educational and aesthetic aspects.
- (n) Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
- (o) Cattle grounds prevention of cruelty to animals.
- (p) Vital statistics including registration of births and deaths.
- (q) Public amenities; including street lighting, parking lots, bus stops and public conveniences.**
- (r) Regulation of slaughter houses and tanneries.

60.1 The term 'Public amenities' is not defined under Constitution of India. Hence, it has to be interpreted based on the popular parlance wherein public amenities would be all of the things that is valued in a community and include the facilities like educational, medical, transport, housing, electricity, post and telegraph, telephone exchange, police station, fire station, community hall and library, cinema theatre, swimming pool, stadium, open air theatre, religious building, Auditorium, parks, play grounds, water supply, drainage, sanitation, Burial ground etc. Therefore, the transportation services rendered by the applicant would be considered as provision of public amenities and facilities listed under Article 243W of 12th Schedule of the Constitution.

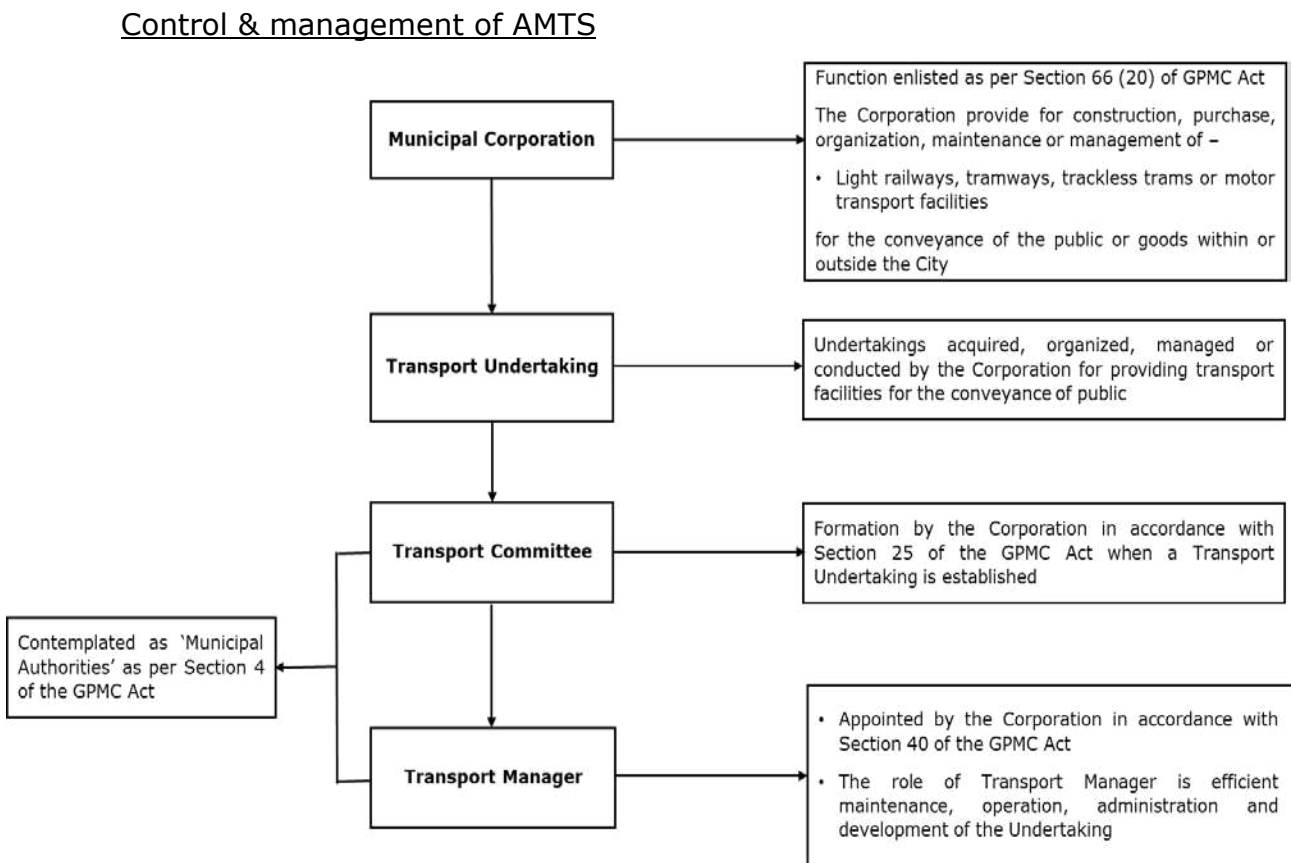
61. AMTS is, therefore, a statutory authority established to carry out the functions entrusted to a Municipality under Art. 243W of the Constitution. It is a body discharging municipal functions, although not a municipality as required to be constituted under Art. 243Q of the Constitution and is fit to be included as 'other authority' under Section 2(69)(c) of the GST Act. It will also be a local authority within the meaning of the above section of the GST Act if the Applicant is legally entitled to or entrusted by the State Government with the control or management of a municipal or local fund.

62. The GST Act does not define a local fund. Section 2 of the Local Authorities Loans Act, 1914, defines a local authority as a person legally entitled to control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area, and 'funds' used with reference to such a local authority includes any local or municipal funds. Local fund is defined under Gujarat Treasury rules, as *(i) revenue administered by bodies which by law or rule having the force of law come under the control of Government, whether in regard to the proceedings generally, or to specific matter such as sanctioning of their budgets, sanction to the creation or filling up of*

particular appointments, the encashment of leave, pension or similar rules, (ii) The revenues of anybody which may be specially notified by Government as such.

63. The applicant submitted that in the year 1950 a separate transport fund created and accordingly, separate accounts of AMTS service were started to be maintained. The first AMTS estimate Budget-‘B’ was presented in the General Meeting of Municipal Corporation by transport committee through standing committee in Dec. 1950. Since the creation of a separate transport fund, AMTS is managed by Transport Manager under transport committee and Municipal Corporation in accordance with the powers derived from the Gujarat Provincial Municipal Corporations Act, 1949. AMTS was entrusted with a transport fund in which the transport manager would credit all the monies received through the conduct of transportation services and debit the fund towards expenses incurred by AMTS.

64. For better understand control & management of AMTS as per GPMC Act, the following is reproduced hereunder for ease of understanding.



64.1. We find that the Section 4 of GPMC Act, 1949 defines, “**Municipal authorities charged with execution of the Act**” and same is produce here as under :

4. (1) The municipal authorities charged with carrying out the provisions of this Act are for each City :—
- (A) a Corporation;
- (B) a Standing Committee;

(C) a Municipal Commissioner;

and, in the event of the Corporation establishing or acquiring a Transport Undertaking;

(D) a Transport Committee;

(E) a Transport Manager

64.2 Appointment of “Transport Manager” is governed by Section 40 of GPMC Act, 1949 which is read as under:

Appointment of Transport Manager.

40. (1) In the event of the Corporation acquiring or establishing a Transport Undertaking the Corporation shall, subject to the approval of the 1[State] Government, appoint a fit person to be the Transport Manager of the Transport Undertaking.

(2) The Transport Manager Shall receive such monthly salary and allowances as the Corporation shall from time to time, with the approval of the 1 [State] Government determine:

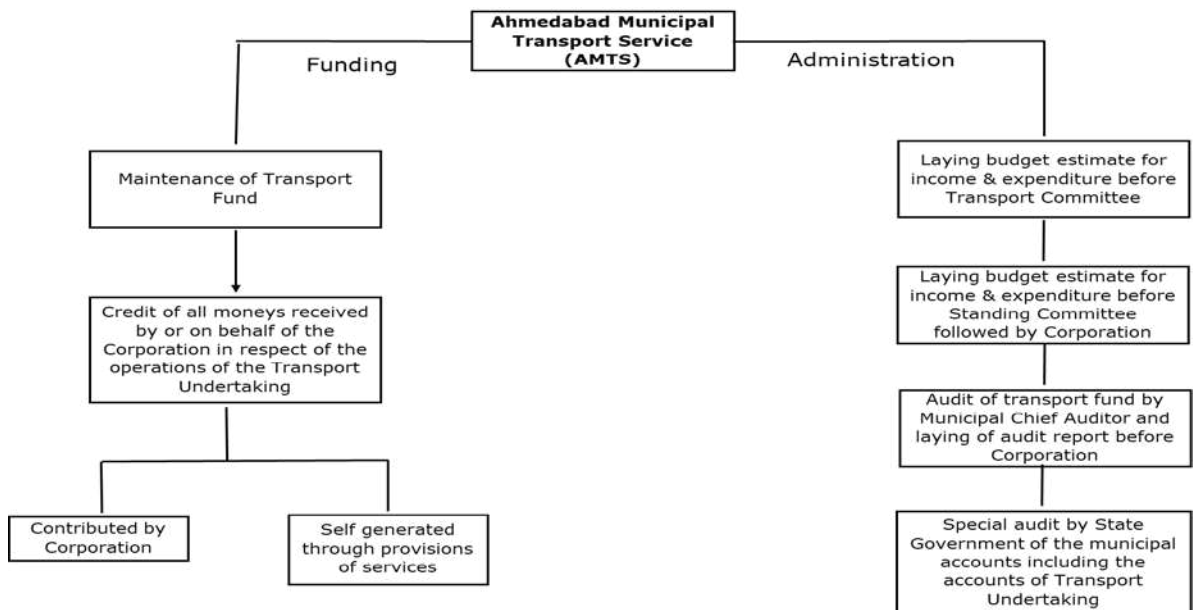
Provided that the salary of the Transport Manager shall not be altered to his disadvantage during his period of office.

64.3 Further, “Transport Undertaking” is defined under Section 70 of GPMC Act which is read as under:

(70) "Transport Undertaking" means all undertakings acquired, organised, constructed, maintained, extended, managed or conducted by the Corporation for the purpose of providing mechanically propelled transport facilities for the conveyance of the public and includes all moveable and immovable property and rights vested or vesting in the Corporation for the purposes of every such undertaking;

65. For better understanding the Administration and funding of AMTS is defined as under:

Administration & funding of AMTS



66. From the perusal of the above discussion it can be construed that “Ahmedabad Municipal Transport Service” is a transport undertaking of “Ahmedabad Municipal Corporation” which is formed in terms of the provision

of GPMC Act. Accordingly, Transport Manager under transport committee was appointed as per the provision of GPMC Act. The fund of the AMTS is managed by Transport manager through transport Committee under the supervision of AMC. In view of the above the Applicant i.e. AMTS is an extended arm of the Municipal Corporation which is governed by GPMC Act and does the activities as per the functions entrusted to Municipal Corporation.

67. The above discussion establishes that Ahmedabad Municipal Transport Service (AMTS), is a statutory authority discharging municipal functions (although not a municipality as required to be constituted under Art. 243Q of the Constitution), is legally entitled to and entrusted by the State Government with the control or management of a local fund as defined in Gujarat Treasury. In view of the above discussion we hold that Ahmedabad Municipal Transport Service (AMTS) can be termed as a local authority under Section 2(69)(c) of the GST Act.

68. Now we take up the **Second question** of the applicant which is regarding the liable to pay GST on procurement of security services received from any person other than body corporate under reverse charge mechanism, considering the exemption granted in Sl. No. 3 of Notification No. 12/2017 - Central Tax (Rate) or Sl. No. 3 of Notification No. 09/2017 - IGST (Rate).

69. To examine whether the AMTS is liable to pay GST under Reverse Charge Mechanism, we have to refer the Sl. No. 3 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 which read as under :

Sl. No.	Chapter	Description of Service	Rate (Percent)	Condition
3	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 243G of the constitution or in relation to any function entrusted to a Municipality under article 243W of the constitution.	Nil	Nil

69.1 As per the above Notification, **Pure Service provided to the** 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 243G of the

constitution or **in relation to any function entrusted to a Municipality under article 243W of the constitution** is not liable to GST.

69.2 In the discussion of question No.1, we have already held that AMTS is “local authority” in terms of Section 2(69) of CGST Act, 2017 as such the applicant i.e. AMTS renders transportation services and it is squarely covered in the following services specified in Article 243W of 12th Schedule of the Constitution functions entrusted to the municipality, are as under:

- *Provision of **urban amenities and facilities** such as parks, gardens, playgrounds;*
- ***Public amenities** including street lighting, parking lots, bus stops and public conveniences;*

70. We find that the term ‘in relation to’ used in above exemption is very much wide enough to cover every kind of services that results in performance of the functions as mentioned in Article 243W of the Constitution Of India either directly or indirectly. Even the services provided for enabling the organization to perform defined functions would also be covered as a reason of usage of words ‘in relation to’. To substantiate this, we refer to the judgement of **Doypack Systems (P.) Ltd. vs. UOI as reported in 1988 (36) E.LT. 201 (S.C.)** wherein it was held that, the expression “in relation to” (so also “pertaining to”), is a very broad expression which pre- supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context. It also held that the expression “in relation to” has been interpreted to the words of wisest amplitude. The term “relating to” expands the scope of the entry. The terms have been interpreted by the Supreme Court in the case of CCE V/s Rajasthan State Chemical Works 1999(55) ELT 444 (SC) and Union of India V/s Ahmedabad Electricity Co. Ltd. 2003(158) ELT 3(SC), wherein it has been held that such words widen and expand the scope, meaning and content of expressions.

71. Thus, from above, it can be stated that the term ‘in relation to’ is very wide and the intention of the legislature is to encompass all those services which are provided so as to enable the organization to perform function entrusted in Article 243W of Constitution Of India. In the instant case Security Service is necessary to provide the passenger transport service without any hurdle. The security of a transport undertaking is of utmost importance considering possibility of unfortunate events that may threaten the safety of Vehicles. The fact is that security is vital for safe-keep of undertaking and it can be ensured only by way of keeping enough security measures and procedures in place. Thus, the security service has direct nexus with the transportation

service. Accordingly, security services would be included within the term ‘in relation to’ and would be covered within pure service as envisaged in the exemption Notification No.12/2017-CT (Rate) dated 28.06.2017.

72. Now, we refer to principal Notification No. 13/2017-CT (Rate) dated 28.06.2017 wherein specified service are liable for payment of GST under Reverse Charge Mechanism by taxable person. The said principal Notification was amended vide Not. No. 29/2018-CT (Rate) dated 31.12.2018 vide which Security Service was included in the principal Not. No. 13/2017-CT (Rate) and is liable for Reverse Charge. Not. No. 29/2018-CT (Rate) dated 31.12.2018 is read as under:

Not. No. 29/2018-CT (Rate) dated 31.12.2018

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
14.	<p>Security services (services provided by way of supply of security personnel) provided to a registered person :</p> <p>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”;

72.1 As per the above Notification Reverse Charge Mechanism on Security Service provided to local authority by any other person other than body corporate is not applicable. Therefore, the applicant being a “local authority” in terms of Section 2(69) of CGST Act, 2017 as discuss in above Para’s is not liable for payment of GST under Reverse Charge Mechanism on receipt of Security Service.

73. Now we take up the **third question** that whether the applicant is required to pay GST on advertisement services or the service recipient of AMTS is required pay GST under reverse charge mechanism considering Notification No. 13/2017-Central tax (Rate) dated 28-06-2017?

74. We find that the applicant is also providing advertising services wherein the clients / recipients wanted to advertise their products or services on various parts of buses. For such advertisement, AMTS recover certain amount and issue invoice levying GST on such amount of advertisement charges.

75. The applicant i.e. AMTS is considered as “local authority” in terms of Section 2(69) of CGST Act, 2017 as discussed in the aforementioned para. Therefore, in terms of Sl. No. 5 of Notification No. 13/2017-CT (Rate) dated 28.06.2017, Services supplied by *the Central Government, State Government, Union territory or local authority to a business entity located in taxable territory* is liable to payment of GST under reverse charge mechanism. Sl. No. 5 of Notification No. 13/2017-CT (Rate) dated 28.06.2017 is read as under:

S.No.	Category of Supply of Services	Supplier of service	Recipient of Service
5	<p><i>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -</i></p> <p><i>(1) renting of immovable property, and</i></p> <p><i>(2) services specified below-</i></p> <p><i>(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority;</i></p> <p><i>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</i></p> <p><i>(iii) Transport of goods or passengers.</i></p>	<p><i>Central Government, State Government, Union territory or local authority</i></p>	<p><i>Any business entity located in the taxable territory</i></p>

75.1 In view of the Sl. No. 5 of the Notification No. 13/2017-CT (Rate) dated 28.06.2017 applicant being a “local authority” is providing advertisement service to the business entity, accordingly as per the aforesaid Notification applicant is not liable to payment of GST but under reverse charge mechanism

recipient of Service is liable to payment of GST.

76. Now, we take up the **fourth question** of the applicant that whether AMTS is required to be registered as a Deductor under GST as per the provision of Section 24 of the CGST Act.

77. To examine whether the applicant is required to be registered as a Deductor under GST we refer the Section 24 of CGST Act, 2017 which is read as under:

Compulsory registration in certain cases

24. Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—

(vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

Section 51 of CGST Act, 2017 is read as under :

Tax deduction at source.

51. (1) Notwithstanding anything to the contrary contained in this Act, 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,

(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Govt. of India vide Notification No. 33/2017-Ct dated 15.07.2018 and Not. No. 50/2018-CT dated 13.09.2018 has specified the category of person under clause (a), **(b)** and (c) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act,, namely:

(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 51% or more participation by way of equity or control, to carry out any function;

(b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);

(c) Public sector undertakings

The Central Government vide Notification No. 50/2018-CT (Rate) dated 13.09.2018 hereby appoints the 1st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force with respect to persons specified under clauses (a), **(b)** and (c) of sub-section (1) of section 51 of the said Act and the persons specified under clause (d) of sub-section (1) of section 51 of the said Act.

78. The applicant is considered as “local authority” under Section 2(69) of CGST Act, 2017 as discussed in aforementioned para. In view of the clause (b) of Section 51 of the CGST Act, 2017 local authority is compulsorily required to take GST Registration for the purpose of deduction of TDS on the payments made to the supplier of taxable goods and/or services. Govt. of India vide Notification No. 50/2018-Ct dated 13.09.2018 has specified the category of person which includes local authority to whom TDS is to be deducted. Therefore, we hold that the applicant being “local authority” is required to obtain registration as GST TDS deductor in terms of Section 51 of CGST Act, 2017.

79. In view of the above discussion we rule as under:

R U L I N G

Q. A Whether AMTS would be qualified as 'Local Authority' as defined under the Central Goods and Services Tax Act, 2017?

Ans. The applicant merits qualification as “Local Authority” as defined under the Central Goods and Service Tax Act, 2017.

Q. B Whether AMTS is liable to pay GST on procurement of security services received from any person other than body corporate under reverse charge mechanism, considering the exemption granted in Sl. No. 3 of Notification No. 12/2017 - Central Tax (Rate) or Sl. No. 3 of Notification No. 09/2017 - IGST (Rate)?

Ans. Negative in view of the above discussion.

Q. C Whether AMTS is required to pay GST on advertisement services or the service recipient of AMTS is required to pay GST under reverse charge mechanism considering Notification No. 13/2017-Central tax (Rate) dated 28-06-2017?

Ans. The service recipients of AMTS are required to pay GST under reverse charge mechanism on advertisement service in view of the above discussion.

Q. D Whether AMTS is required to be registered as a Deductor under GST as per the provision of Section 24 of the CGST Act?

Ans. Affirmative in view of the above discussion.

(SANJAY SAXENA)

(MOHIT AGRAWAL)

MEMBER

MEMBER

Place: Ahmedabad

Date: 27.01.2021.