

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd& 4th Floor, VanijyikKar GST Bhawan, North Block Sector-19,
Atal Nagar, District-Raipur (C.G.) 492002

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

Members Present are

Smt. Sonal K. Mishra Joint Commissioner O/o Commissioner, State Tax (CGGST), Raipur, Chhattisgarh	Shri Abhinav Agrawal, Additional Commissioner O/o Principal Commissioner CGST & Central Excise, Raipur (C.G)
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Subject:-Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 application from M/s Call Me Services, C-101/5, First floor, Tagore Nagar, Raipur-492001, Chhattisgarh holding GSTIN-22ADEPB9688C1ZQ (here in after referred to as the applicant), as to Whether the services provided by them in relation to maintenance of various colonies developed by Chhattisgarh Housing Board (herein referred to as CGHB) and not handed over to the local authority by CGHB are exempt under Sl. No. 3 of the Exemption Notification GST Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 as amended from time to time.

Read :-Application dated 03.09.2022 (Challan details furnished on 20.9.2022) from M/s Call Me Services, C-101/5, First floor, Tagore Nagar, Raipur-492001, Chhattisgarh ,GSTIN-22ADEPB9688C1ZQ.

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/09/2022

Raipur Dated 09/12/2022

M/s Call Me Services, C-101/5, First floor, Tagore Nagar, Raipur-492001, Chhattisgarh(here in after referred to as the applicant) holding GSTIN-22ADEPB9688C1ZQ, has furnished and application dated 3.9.2022 in form ARA-01 under section 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling regarding GST exemption on the services provided in relation to maintenance of various colonies developed by CGHB and not handed over to the local authority by CGHB under Sl. No. 3 of the Exemption Notification GST Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 as amended from time to time. Thereafter the applicant under their e-mail dated 20.9.2022 furnished the



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details of challans evidencing payment of fees stipulated for obtaining an advance ruling under sub-section (1) of section 97 of CGST Act, 2017 read with Rule 104 of Central Goods and Service Tax Rules, 2017 in the manner specified in section 49 ibid. Thus, the application complete in all respect has been filed by the applicant on 20.9.2022.

2. Facts of the case: -

- 2.1 The Applicant herein is M/s Call Me Services, Prop Raj Kumar Bothra, is having its registered office at C-101/5, 1st Floor, Tagore Nagar, Raipur (C.G.), GSTIN: 22ADEPB9688C1ZQ.
- 2.2 The Applicant herein is engaged in Manpower Supply, Contract staffing, Security Guards and Business Auxiliary Services.
- 2.3 The Applicant has been awarded a contract by Chhattisgarh Housing Board (herein referred to as CGHB) for providing services in relation to maintenance of various colonies developed by Chhattisgarh Housing Board at Atal Nagar, Naya Raipur and not handed over to the local authority for its maintenance.

3 Contentions of the applicant: -

- 3.1 That, CGHB is a public sector undertaking of the Government of Chhattisgarh. It is a board constituted under Chhattisgarh Housing Board Act, 1972 (No. 3 of 1973). After formation of the state of Chhattisgarh in November 2000, Housing Board was among the several Boards and Corporations liquidated by the Government. Later, however, the Government in 2004 revised its earlier decision and formed Chhattisgarh Housing Board vide notification no. 177/3236/32/2003 dated 12/12/2004. Chhattisgarh Housing Board is the main arm of the Government of Chhattisgarh for giving effect to its housing schemes and for implementing the Government's schemes under social housing.
- 3.2 That, since CGHB is a board constituted in terms of Chhattisgarh Housing Board Act which carries out functions entrusted by the State Government, the same would qualify as per the definition of "Local Authority".
- 3.3 Further that, CGHB is also engaged in performing various functions required to be performed by Municipality under article 243W of the Constitution like slum improvement, up gradation and also facilities like solid waste management, water supply for domestic purpose etc. till the time the developed areas are officially handed over to the local authority for maintenance.
- 3.4 That, Since CGHB carries out the functions required to be performed by the municipality till the time the developed areas are officially handed over to the local authority for maintenance, therefore CGHB is acting as a municipality. Hence CGHB should also be considered as a municipality i.e local authority.
- 3.5 That, so the pure service contracts awarded by the CGHB for providing services in relation to maintenance of various colonies developed by Chhattisgarh Housing Board at Atal Nagar, Naya Raipur comes under Indian Constitution's Article 243W and Twelfth Schedule Services in relation to a function of



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Municipality. Hence exempt under Sl. No. 3 of Notification No. 12/2017 dated 28/06/2017.

4. Personal Hearing: -

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant in person, as requested by them and accordingly, Shri Alok Chopra CA and authorized representative of the Applicant, M/s Call Me Services, Prop Raj Kumar Bothra, attended the personal hearing in the matter before us on 31.10.2022. He submitted that they are seeking advance ruling as to Whether the services provided by them in relation to maintenance of various colonies developed by CGHB and not handed over to the local authority by CGHB are exempt under Sl. No. 3 of the Exemption Notification GST Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 as amended from time to time. Further that they have been awarded a contract by Chhattisgarh Housing Board (CGHB) for providing services in relation to maintenance of various colonies developed by Chhattisgarh Housing Board at Atal Nagar, Naya Raipur and not handed over to the local authority for its maintenance. Accordingly, it was his contention that pure service contracts awarded by the CGHB for providing services in relation to maintenance of various colonies developed by Chhattisgarh Housing Board at Atal Nagar, Naya Raipur comes under Indian Constitution's Article 243W and Twelfth Schedule Services in relation to a function of Municipality and hence exempt under Sl. No. 3 of Notification No. 12/2017 Central Tax (Rate) dated 28/06/2017. Accordingly, he reiterated the contention in the matter as made in their ARA01 and requested for a ruling in the matter.

5. The legal position, analysis, and discussion: -

At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

6. Section 96 of CGST Act, 2017, Authority for advance ruling, stipulates as under: -

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.



Section 97(2) of CGST Act, 2017 stipulates that: -

The question, on which the advance ruling is sought under this Act, shall be in respect of—

- (a) classification of any goods or services or both;*
- (b) applicability of a notification issued under the provisions of this Act;*
- (c) determination of time and value of supply of goods or services or both;*
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

Further section 103 of CGST Act, 2017 stipulates about the ruling pronounced as under: *–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.*

Thus, in view of the above section 103 of CGST Act, 2017, the ruling so sought by the applicant would be binding only on the applicant and on the concerned officer or the jurisdictional officer as stipulated above.

7. We have gone through the submissions made by the applicant and have examined the contentions raised by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) (b) of the CGST Act 2017 being a matter related to applicability of a notification issued under the provisions of this Act. We, therefore, admit the application for consideration on merits.

7.1 The jurisdictional Assistant Commissioner, State Tax Raipur Circle-06 in his reply Cno. /AC/Hc/2022/933 dated 25.11.2022 inter-alia opined that Chhattisgarh Housing Board CGHB is aboard constituted in terms of Chhattisgarh Housing Board Act, 1972 (No. 3 of 1973) and that the Government in the year 2004 formed CGHB vide Notification no. 177/3236/32/2003 dated 12.2.2004. It was further opined by the officer that the said supply provided by the applicant is covered under SAC 9985 and the same attract tax @18% (CGST 9% and SGST 9%). The Deputy Commissioner, CGST Division-IV, Raipur under his letter IV(16)42/Misc/Div-IV/RPR/2020-21/3248 dated 29.11.2022 furnished the comments of the jurisdictional Range officer, that the services mentioned in the application filed by the applicant will not cover under the exemption category as prescribed in sr. no. 3 of Notification no. 12/2017-CT(Rate)



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dated 28.6.2017 as CGHB will not fall under the category of Central Government, State Government, local authority, government authority etc. Further that the services provided to CGHB is not covered under the said exemption as the work should be entrusted to Panchayat or Municipality as per Constitution. It was thus opined that the taxpayer will have to discharge / pay tax at the applicable rate as per prevalent law.

8. The issues covered in the instant case in hand is regarding the applicability of exemption from GST on the services provided by the applicant, as stipulated under Sl. No. 3 of exemption Notification no. 12/2017-Central Tax (Rate) dated 28.6.2017 as amended.

We observe that the ruling sought by the applicant is whether the services provided by them in relation to maintenance of various colonies developed by Chhattisgarh Housing Board (CGHB) and not handed over to the local authority by CGHB are exempt under Sl. No. 3 of the Exemption Notification GST Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 as amended from time to time. The applicant in their application have submitted that they have been awarded a contract by Chhattisgarh Housing Board (CGHB) for providing services in relation to maintenance of various colonies developed by Chhattisgarh Housing Board at Atal Nagar, Naya Raipur and not handed over to the local authority for its maintenance. The applicant is of the opinion that pure service contracts awarded by CGHB for providing services in relation to maintenance of various colonies developed by Chhattisgarh Housing Board at Atal Nagar, Naya Raipur comes under Indian Constitution's Article 243W and Twelfth Schedule Services in relation to a function of Municipality and hence exempt under Sl. No. 3 of Notification No. 12/2017 Central Tax (Rate) dated 28/06/2017.

8.1 For ease of reference, the relevant portion of GST Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017 as amended by Notification No. 16/2021 - Central Tax (Rate) New Delhi, 18th November 2021 effective from 1st of January 2022 is reproduced here under: -

Government of India

Ministry of Finance (Department of Revenue)

Notification No. 12/2017- Central Tax (Rate) New Delhi, the 28th June, 2017

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:-

TABLE

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1			
2			
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 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
3A	Chapter 99	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State	Nil	Nil



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		Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.		
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9. Thus, from the above it gets abundantly clear that the services mentioned at Sr. no, 3 are eligible for the said benefit of Nil tax rate, provided all the stipulations mentioned therein under column (3) viz. under "Description of services "in its entirety, are necessarily fulfilled viz.

(i) the service falling under chapter Heading 99 should be Pure services (excluding works contract service or other composite supplies involving supply of any goods) and

(ii) the said pure service should be provided to the Central Government, State Government or Union territory or local authority and further,

(iii) the said pure service should be 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.

9.1 In the aforesaid context, it is seen that the phrase "pure services" has not been specifically defined in the CGST Act, 2017, however in common parlance any supply which is either deemed as supply of services under Schedule II of CGST Act, 2017 and which is not covered under the definition of "goods" shall be categorized as "pure services". The applicant has in their application informed that they have been awarded a contract by Chhattisgarh Housing Board (CGHB) for providing services in relation to maintenance of various colonies developed by Chhattisgarh Housing Board at Atal Nagar, Naya Raipur. Thus, the aforesaid activities can be categorized as "pure services" subject to the adherence of the exclusions mentioned therein in the notification viz. the same is not works contract service and other composite supplies involving supply of goods. This authority also finds on perusal of the copy of the documents furnished by the applicant relating to said tender notice issued by Chhattisgarh Housing Board (CGHB) that the said tender was for maintenance work for various colonies of CGHB. Further for the said provision of service, the applicant is supposed to provide related items / goods like ID cards, uniforms, cleaning instruments, safety belts, mops, cutter, spincer, chain saw, wire



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brush, spade, dumpcart, gumboot, gloves, trolley-rickshaw, water sprinkling apparatus, etc. along with related services.

We also observe that with a view to broaden this category, with effect from 25.1.2018 vide Sr. no. 3A to Notification no. 2/2018-Central Tax (Rate), composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided has been included. Thus, from 25.1.2018 composite supply of goods and services has also been included for the said benefit of Nil tax rate with the stipulation that the value of supply of goods constitutes not more than 25 per cent of the total value of the composite supply has been provided with principal supply of services. However, from the application it is unclear as to how much percentage of the value of composite services provided by the application consists of supply of goods.

9.2 Now coming to the second criterion, we find that the said supply of services should be provided to the Central Government, State Government or Union territory or local authority. It would not be out of place to mention here that services provided to Governmental authority, or a Government Entity stands excluded/omitted from Sr. no. 3 (and 3A) of the said Notification no. 12/2017-Central Tax (Rate) dated 28 June 2017 with effect from 1st of January 2022 vide Notification no. 16/2021-Central Tax (Rate) dated 18.11.2021.

9.2.1 To have a better appreciation of the issues involved, definitions of the above terms as provided under the CGST Act, 2017 are reproduced herein below:

(i) As per Section-2(53) of the CGST, Act, 2017, "Government" means the Central Government.

(ii) As per Section-2(53) of the CGST, Act, 2017, "Government" means the State Government.

(iii) As per Section 2(69) of the CGST, Act, 2017 "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 Cantonments 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;

As per Para2(zf) of the Notification No. 12/2017-CT(Rate), dated. 28.06.2017, "Government Authority "means 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 90% or more participants by way of equity or control, to carry out any function entrusted to a Municipality under Article 243W of the Constitution or to a Panchayat under Article 243G of the Constitution.

As per Para2(zfa) of the Notification NO. 12/2017-CT(Rate), dated. 28.06.2017, "Government Entity "means an authority or a board or any other body including a society, - (i). Set up by an Act of Parliament or a State Legislature, or (ii). Established by any Government, with 90% or more participants by way of equity or control, to carry out any function entrusted by the Central Government, State Government, Union Territory, or a local authority.

Further, as per clause (23) of section 3 of the General Clauses Act, 1897 the 'Government' includes both the Central Government and any State Government. As per clause (8) of section 3 of the said Act, the 'Central Government', in relation to anything done or to be done after the commencement of the Constitution, means the President. As per Article 53 of the Constitution, the executive power of the Union shall be vested in the President and shall be exercised by him either directly or indirectly through officer's subordinate to him in accordance with the Constitution. Further, in terms of Article 77 of the Constitution, all executive actions of the Government of India shall be expressed to be taken in the name of the President. Therefore, the Central Government means the President and the officers subordinate to him while exercising the executive powers of the Union vested in the President and in the name of the President. Similarly, as per clause (60) of section 3 of the General Clauses Act, 1897, the 'State Government', as respects anything done after the commencement of the Constitution, shall be in a State the Governor, and in an Union Territory the Central Government. As per Article 154 of the Constitution, the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or indirectly through officer's subordinate to him in accordance with the Constitution. Further, as per article 166 of the Constitution, all executive actions of the Government of State shall be expressed to be taken in the name of Governor. Therefore, State Government means the Governor or the officers subordinate to him who exercise the executive powers of the State vested in the Governor and in the name of the Governor.

9.2.2 Thus, by no stretch of imagination Chhattisgarh Housing Board (CGHB) could be termed as Government or local authority. Chhattisgarh Housing Board was formed under Chhattisgarh Housing Board Act vide notification no. 177/3236/32/2003 dated 12/12/2004. Chhattisgarh Housing Board is the main arm of the Government of Chhattisgarh for giving effect to its housing schemes and for implementing the Government's schemes under social housing. Therefore, CGHB



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can at best be covered under the definition of "Government Authority" or "Government Entity". However, the benefit of exemption to both "Government Authority" and "Government Entity" has been withdrawn with effect from 1st of January 2022 vide Notification no. 16/2021-Central Tax (Rate) dated 18.11.2021.

9.2.3 As per FAQ's issued on "Government Services" by Directorate General of Taxpayer Services:

Question 5: Are all local bodies constituted by a State or Central Law regarded as local authorities for the purposes of the GST Acts?

Answer: No. The definition of 'local authority' is very specific and means only those bodies which are mentioned as 'local authorities' in clause (69) of section 2 of the CGST Act, 2017. It would not include other bodies which are merely described as a 'local body' by virtue of a local law.

For example, State Governments have setup local developmental authorities to undertake developmental works like infrastructure, housing, residential & commercial development, construction of houses, etc. The Governments setup these authorities under the Town and Planning Act. Examples of such developmental authorities are Delhi Development Authority, Ahmedabad Development Authority, Bangalore Development Authority, Chennai Metropolitan Development Authority, Bihar Industrial Area Development Authority, etc. Such developmental authorities formed under the Town and Planning Act are not qualified as local authorities for the purposes of the GST Acts.

Question 6: *Would a statutory body, corporation or an authority constituted under an Act passed by the Parliament or any of the State Legislatures be regarded as 'Government' or "local authority" for the purposes of the GST Acts?*

Answer: A statutory body, corporation or an authority created by the Parliament or a State Legislature is neither 'Government' nor a 'local authority'. Such statutory bodies, corporations or authorities are normally created by the Parliament or a State Legislature in exercise of the powers conferred under article 53(3)(b) and article 154(2)(b) of the Constitution respectively. It is a settled position of law (Agarwal Vs. Hindustan Steel AIR 1970 Supreme Court 1150) that the manpower of such statutory authorities or bodies do not become officers subordinate to the President under article 53(1) of the Constitution and similarly to the Governor under article 154(1). Such a statutory body, corporation or an authority as a juridical entity is separate from the State and cannot be regarded as the Central or a State Government and also do not fall in the definition of 'local authority'. Thus,



regulatory bodies and other autonomous entities would not be regarded as the government or local authorities for the purposes of the GST Acts.

Question 9: Are various corporations formed under the Central Acts or State Acts or various government companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by special Acts covered under the definition of 'Government'?

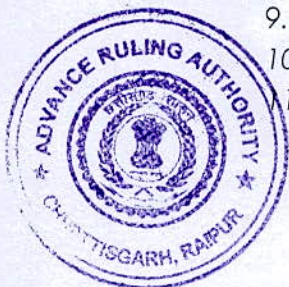
Answer: No. The corporations formed under the Central or a State Act or various companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by the State Acts will not be covered under the definition of 'Government' and therefore, services provided by them will be taxable unless exempted by a notification.

9.2.4 Thus, we conclude that the service recipient of the applicant in the instant case viz. Chhattisgarh Housing Board (CGHB) does not fall in the specified category of "Government", or "local authority" as defined above. The much important second criterion of the service recipient being "Government" or "Local authority, for availing the benefit stipulated therein as provided under Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017 as amended by Notification No. 16/2021 - Central Tax (Rate) dated 17.11.2021 effective from 1.1.2022, stands unfulfilled by the applicant.

9.3 The third decisive condition to be verified is whether the services provided by the applicant are 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

For better appreciation, the functions entrusted to the panchayats under Article 243G of the Constitution of India are reproduced herein below:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.



12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

The functions entrusted to the municipalities under 243W of the Constitution of India are reproduced hereunder:

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.



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17. Public amenities including street lighting, parking lots, bus stops and public conveniences.

18. Regulation of slaughter houses and tanneries.

The applicant is of the view that they are exempt from the liability of GST in terms of clause 3 of the Notification No 12/2017 supra, as they are providing services which are activities in relation to functions entrusted to a Municipality under article 243W of the Constitution.

Municipalities and Panchayats and other local authorities listed in Section 2(69) of the Central Goods and Services Tax act, 2017 carry out functions entrusted to them under articles 243W & 243G of the Constitution respectively. As discussed above, functions that may be entrusted to panchayats and municipalities are listed in Schedule 11 & 12 of the Constitution. Based on the work order furnished by the applicant, it is evident that the services in relation to maintenance of various colonies of Chhattisgarh Housing Board / provision of security guards can in no way be equated to the functions 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. Also supply of security guards as is forthcoming from the tender documents cannot be termed as functions 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.

9.4 The exemption under entry 3 (& 3A) of Notification 12/2017- Central Tax (Rate) dated 28.06.2017 as amended has been given on pure services & composite supplies procured by Central Government, State Government, Union Territories, or local authorities for performing functions listed in the 11th and 12th schedule of the constitution. As per the above statutory provision it is evident that to avail the benefit of the aforesaid exemption, three conditions should be satisfied. Firstly, pure services (excluding works contract service or other composite supplies involving any goods) should be provided, Secondly, it should be provided to the Central Government, State Government or Union territory or local authority and thirdly it should be an activity in relation to functions entrusted to a Panchayat under article 243G of the Constitution or in relation to functions entrusted to a Municipality under article 243W of the Constitution. From the above discussions the applicant is not satisfying any of the three mandatory conditions specified in the said notification.

Thus, from the above analysis, with regard to the question raised by the applicant, it can be concluded that the provision of services by the applicant to CGHB in relation to maintenance of various colonies of CGHB / provision of security guards etc. do not qualify for be benefit of Nil rate of GST as provided under Sr. no. 3 (3A) to Notification No. 12/2017- Central Tax (Rate) New Delhi, dated 28th June, 2017 as amended.



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10. Having regard to the facts and circumstances of the case and discussions as above, we pass the following order: -

ORDER

(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/09/2022

Raipur Dated 09/12/2022

The ruling so sought by the Applicant is accordingly answered as under:

RULING

The services provided by the applicant in relation to maintenance of various colonies developed by Chhattisgarh Housing Board (CGHB) and not handed over to the local authority by CGHB, is found not eligible for the benefit of Nil rate of GST provided under Sr. no. 3/3A of exemption Notification no. 12/2017-Central Tax (Rate) dated 28.6.2017 as amended by Notification no. 16/2021 -Central Tax (Rate) New Delhi, 18th November, 2021, effective from 1st of January 2022.

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Sonal K. Mishra
(Member)

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Abhinav Agrawal
(Member)



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