

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU
NO.206, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD,
CHENNAI -600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER
SECTION 98(4) OF THE TNGST ACT, 2017.**

Members present:

Smt. D. Jayapriya, I.R.S., Additional Commissioner/ Member(CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. A. Valli, M.Sc., Joint Commissioner/Member(SGST), Office of the Commissioner of Commercial Taxes, Chennai-600 006.
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Advance Ruling No.08/ARA/2024, Dated: 30.05.2024

- 1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed, is communicated.*
- 2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act 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.*
- 3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
- 4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*
- 5. The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (herein referred to as the Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.*

GSTIN Number, if any / User id		33AAACU5552C1ZQ
Legal Name of Applicant		M/s. United India Insurance Company Limited
Trade Name of Applicant(Optional)		M/s. United India Insurance Company Limited
Registered Address / Address provided while obtaining user id		No. 24, United India Insurance, 1st Floor, Whites Road, Royapettah, Chennai – 600 014.
Details of Application		Form GST ARA – 01 Application Sl.No.99/2023/ARA, Dated 31.10.2023
Concerned Officer		State: Large Tax Payers Unit – 2 Centre: Chennai North Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provider
B	Description (in brief)	1. The applicant is a Public Sector undertaking with majority shares held by Central Government. 2. The applicant is engaged in the business of providing all kinds of general insurance including health insurance. 3. The applicant provides services to all of the general public and also issues health insurance policies for large corporates and State Government as well.
Issue/s on which advance ruling Required		1) Applicability of a notification 2) Determination of time and value of supply of goods or services or both. 3) Admissibility of input tax credit of tax paid or deemed to have been paid 4) Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		Taxability Issue 1.1 Does the health insurance services provided to Tamil Nadu State Government (TNSG) by the Applicant is exempted from GST under the Serial Number 40 of the Notification No. 12/2017- Central Tax (Rate) dated 28th June 2017 and corresponding TNGST Notification (hereinafter jointly referred to as “the Notification”)?

1.2 If the Insurance services by the Applicant are held as exempted under Question 1.1 above, then consequently, is reinsurance of the health insurance policy also exempt in accordance with Serial No. 36A of the Notification 12/2017?

Alternate Questions - Valuation

If the Insurance services provided by the Applicant are held by this Hon'ble AAR as "Taxable" under Question 1.1 above, then the following questions arises on valuation.

2.1 What would be the Value of such Insurance Service by Applicant?

2.2 Specifically, can the amount received from the TNSG be treated as "subsidy" from State Government and consequently excluded from the Value of Supply in terms of Section 15 of the Act read with Section 2(31) of the Act.

2.3 The value of Re-insurance service by the Re-insurer to the Applicant would be full value of the reinsurance premium paid by the Applicant. Is this understanding, correct?

3. Alternate Questions - Input Tax Credit Issues

If the Insurance services by the Applicant are held as "Taxable" under Question 1.1 above and the amount received from the TNSG is held as subsidy and excluded from Valuation by this Hon'ble AAR under Question 2.1 and 2.2 above, then the following questions arises on ITC.

3.1 Since the Value of Reinsurance premium charged by the Reinsurer to the Applicant (& consequently the Input GST on the same) shall be more than the Value of the main insurance Service by the Applicant (& consequently the Output GST) – is full ITC on the Input GST is eligible to the Applicant.

3.2 Will ITC on the reinsurance premium still be eligible if the Value of Supply on the main insurance service is held by this Hon'ble AAR

	<p>as "zero" (due to entire amount received from TNSG is excluded from Value of supply as 'subsidy') for Question No. 2.1 and 2.2 above?</p> <p>3.3 Is any reversal of ITC is warranted in any of the above cases?</p>
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M/s. United India Insurance Company Limited, No. 24, United India Insurance, 1st Floor, Whites Road, Royapettah, Chennai – 600 014 (hereinafter called as 'the Applicant') is engaged in the business of providing all kinds of general insurance including health. They are registered under the GST Acts with GSTIN: 33AAACU5552C1ZQ.

2. The applicant have preferred this application seeking Advance Ruling on the following:

2.1 Taxability Issue

(1.1) Does the health insurance services provided by the Applicant to Tamil Nadu State Government (TNSG) is exempted from GST under the Serial Number 40 of the Notification No. 12/2017- Central Tax (Rate) dated 28th June 2017 and corresponding TNGST Notification (hereinafter jointly referred to as "the Notification")?

(1.2) If the Insurance services by the Applicant are held as exempted under Question 1.1 above, then consequently, is reinsurance of the health insurance policy also exempt in accordance with Serial No. 36A of the Notification 12/2017?

2.2 Alternate Questions-Valuation

If the Insurance services provided by the Applicant are held by this Hon'ble AAR as "Taxable" under Question 1.1 above, then the following questions arises on valuation.

(2.1) What would be the Value of such Insurance Service by Applicant?

(2.2) Specifically, can the amount received from the TNSG be treated as "subsidy" from State Government and consequently excluded from the Value of Supply in terms of Section 15 of the Act read with Section 2(31) of the Act.

(2.3) The value of Re-insurance service by the Re-insurer to the Applicant would be full value of the reinsurance premium paid by the Applicant. Is this understanding, correct?

2.3 Alternate Questions - Input Tax Credit Issues

If the Insurance services by the Applicant are held as "Taxable" under Question 1.1 above and the amount received from the TNSG is held as subsidy and excluded from Valuation by this Hon'ble AAR under Question 2.1 and 2.2 above, then the following questions arises on ITC.

(3.1) Since the Value of Reinsurance premium charged by the Reinsurer to the Applicant (& consequently the Input GST on the same) shall be more than the Value of the main insurance Service by the Applicant (& consequently the Output GST) – Is full ITC on the Input GST is eligible to the Applicant?

(3.2) Will ITC on the reinsurance premium still be eligible if the Value of Supply on the main insurance service is held by this Hon'ble AAR as "zero" (due to entire amount received from TNSG is excluded from Value of supply as 'subsidy') for Question No. 2.1 and 2.2 above?

(3.3) Is any reversal of ITC warranted in any of the above cases?

3.0 The Applicant submitted a copy of challan evidencing payment of application fees of Rs. 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

4.0 Statement of facts in brief:

- 4.1 The applicant submits that they are a Public Sector Undertaking with majority shares held by Central Government and are engaged in the business of providing all kinds of general insurance including health. The applicant is providing a group health insurance policy to Tamil Nadu State Government (herein after referred to as "the Service Recipient"/"TNSG") covering the health of the individuals and the families of the TNSG Employees and their dependent relatives. The applicant submitted sample policy document as Annexure 1.
- 4.2 The applicant submits that earlier without noticing the exemption notification, they had collected and remitted GST on the premium amount from TNSG and attached the Invoice issued to the Service Recipient containing the value of the services and GST charged as Annexure 2. That the TNSG has brought to the attention of the applicant that since the entire premium is paid by the State Government, the service shall be exempt under Serial Number 40 of the Notification No. 12/2017- Central Tax (Rate) dated 28th June 2017 and corresponding TNGST Notification.

Specific Facts about the Insurance to TNSG

- 4.3 The applicant stated that, the Policy is a health insurance policy of the employees (both retired and present) and also the relatives of such employees for which the premium is paid by the TNSG to the applicant. That each of the Employee, Retiree are given a health card containing their unique reference number and the list of their dependent who are eligible to make the claim.
- 4.4 The applicant submits that the entire premium is paid by the TNSG directly to the Applicant and the TNSG, for the purposes of full disclosure in this present application, has informed the applicant that it recovers some amount from the State Government Employees ranging from Rs.300 to Rs.500.

4.5 The applicant submits that they are not privy to the arrangement between TNSG (i.e., Service Recipient) and their employees and the applicant does not have any decision-making authority on whether at all any recovery is to be made by TNSG from their employees and quantum of such recovery. The applicant also submitted that there is no contractual relationship with the Employees of the TNSG and no payment flows from the Employees to the applicant.

Reinsurance

4.6 The applicant submitted that in terms of IRDA norms, the Insurance company has to undertake re-insurance – i.e., insuring the insurer (i.e., the applicant, in this case) –wherein the applicant shall pay reinsurance premium to another insurer (referred to as ‘Re-insurer’). That the Re-insurers are located both in India and outside India and if the Re-insurer are located outside India, the applicant promptly discharges GST liability under RCM for the services received.

4.7 The applicant submitted that in case of domestic Re-insurers, receives tax invoice with applicable GST. That they avail ITC on the GST paid in the Reinsurance premium (i.e., whether paid by the Domestic Re-insurer or by the Applicant itself under RCM in case of Foreign Re-insurer).

5.0 On interpretation of law, the applicant stated the following –

Exemption Notification

5.1 The applicant submitted that they are providing the Insurance Service to Tamil Nadu State Government covering the health of the individuals and the families of the individuals working as employees of the State Government and in this regard, in terms of Sl. No. 40 of the Notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 reads as follows:

40	Heading 9971 Or Heading 9991	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil
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5.2 The applicant submitted that in terms of the aforesaid exemption entry:

- a. Any insurance schemes.
- b. Provided to State Government (among other Governments)
- c. Where total premium is paid by the State Government

Is wholly and unconditionally exempt from GST.

Meaning of Service Recipient

5.3. The Applicant submits that Section 2(93) of the Act defines 'Recipient' as under:

(93) "recipient" of supply of goods or services or both, means--

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

5.4. The applicant submits that clause (a) deals with situation where consideration is present. Clause (b) and (c) deals with situation where consideration is absent. That in the present case, consideration is present and accordingly, Clause (a) is applicable – as per which – the person who is liable to pay the consideration will be treated as the 'Recipient' of the Service.

5.5. The applicant submits that in the present case, TNSG enters into the Policy with the Applicant and the TNSG is liable to pay the premium to the applicant and accordingly in terms of 2(93)(a) of the Act, TNSG is the Service Recipient. Thus, medical insurance policy (is covered under "any insurance") provided to TNSG (as TNSG is the Service Recipient as explained supra) and the entire premium is paid to the Applicant by the TNSG and consequently all the three conditions of Sl.40 of the Exemption Notification

5.6 The applicant submits that in their view, all the above conditions are satisfied and consequently, the insurance service provided by the Applicant to the TNSG is exempt from GST.

Circular in favour of the Applicant's view

5.7. The Applicant further submits that the Circular No.16/16/2017-GST dated 15.11.2017 has clarified as under:

3.	Is GST leviable on General Insurance policies Provided by a State Government to employees of the State government/Police personnel, employees of Electricity Department or students of colleges/ private schools etc.	It is hereby clarified that services provided to the Central Government, State Government, Union territory under Any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under Sl. No. 40 of
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	(a) where premium is paid by State Government and (b) where premium is paid by employees, students etc.?	notification No.12/2017-Central Tax (Rate). Further, services provided by State Government by way of General insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017- CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.
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5.8. The Applicant thus submits that the above Circular clearly clarifies that Insurance to Government Employees, whether managed by Government itself or any other person (insurance company) providing the Insurance Services are exempt from GST.

Reinsurance Exemption

5.9. The applicant further submits that they pay reinsurance premium to the Re-insurer and Sl.No. 36A of the Exemption Notification reads as follows:

36A	Heading 9971 or Heading 9991	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40.	Nil	Nil
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5.10. The applicant submits that in terms of the above Sl. No. 36A, any re insurance services of the Insurance Scheme covered under Sl.No 40 is exempt from GST. That in the present case, as stated supra, the Insurance Services by the Applicant to the TNSG are exempt under Sl.No 40 of the Exemption Notification and accordingly, the reinsurance Services are also exempt from GST and consequently no RCM is also applicable wherever the Re-insurer is located outside India.

Alternate Question-Valuation

5.11. The applicant further submits that without prejudice, for the sake of argument, it is assumed, but without admitting that it is held that the Insurance Service by the Applicant is taxable, then, only then the interpretation on Valuation arises. If it is held by this Hon'ble AAR that the services are exempt, then this question does not arise.

5.12. The applicant further submitted that in case the transaction is held taxable, the next question is what is the value of the said supply?

Section 2(31) of the Act defines consideration as follows:

“(31) consideration in relation to the supply of goods or services or both includes—

- (a) *Any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*
- (b) *the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:*

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply”

5.13. The applicant further submitted that from the above, it may be noted that the definition of the word consideration does not include any subsidy which is received from State Government.

5.14. The applicant submitted that Section 15(2) of the Act, which deals with Valuation reads as follows:

“(2) *The value of supply shall include—*

- (a) *any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;*
- (b) *any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;*
- (c) *incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;*
- (d) *interest or late fee or penalty for delayed payment of any consideration for any supply; and*
- (e) ***subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.”***

- 5.15. The applicant further submitted that thus, both the consideration definition and the valuation provision exclude subsidy received from Central and State Government (State Government, in the present case). And in the given case, if the above supply provided by the applicant is held astaxable for whatever reason, since the entire money received from the TNSG, it would mean that the same is a subsidy received for covering the health of the employees of the State Government and consequently will be excluded from the valuation.
- 5.16. The applicant submitted that without prejudice to above contention, at best (from Department perspective) and at worst (from the Applicant perspective), it can be contended that entire amount is not subsidised by the State Government since they receive some amount from their employees. For instance, the amount of premium collected is say Rs.1,000/- (which is received by the Applicant from the TNSG) and the amount received by the TNSG from their employees, is say Rs.40/-, then, at the bare minimum, Rs.960 (Rs.1000 Less Rs.40) should be considered as subsidy from the State Government and consequently GST, if any, can be levied only on Rs.40/-
- 5.17 The applicant further submitted that as stated supra, since the entire premium amount is only received from the State Government by the Applicant and the employees are not anywhere involved in the said transaction and also that the employees recovery by the TNSG is between the TNSG and its employees to which the applicant is not privy and consequently, the entire amount should be treated as subsidy and consequently the entire amount received shall be reduced as subsidy from Valuation and the Value of the taxable supply shall be NIL or Zero.

Alternate Question Input Tax Credit

- 5.18. The applicant submitted that similar to alternate question-valuation, without prejudice, if for the sake of argument, it is assumed, but without admitting that it is held that the Insurance Service by the Applicant is taxable, then, only then the interpretation on Input tax Credit arises. If it is held by the Hon'ble AAR that the services are exempt, then this question does not arise.
- 5.19 The applicant submitted further that in case the transaction is held as taxable, but the value is considered as NIL (or Rs.40, in the above) as the entire amount received from the TNSG is treated as 'Subsidy' (or only the portion borne by the TNSG is treated as subsidy), then the next question is what is value of supply of there-insurance service? That the value of the Re-insurance service is the transaction value and hence the entire re-insurance premium will be liable to GST (again, for sake of clarity, if the original insurance is treated as exempt, then reinsurance is also automatically exempted, this issue does not arise).
- 5.20. The applicant submitted that this leads to a situation where, the value of the Output Supply will be either NIL (Zero) or Rs.40 (as per the example above)

and consequently output GST may be Zero or Rs.7.20 (18% of Rs.40, in the above example), as the case may be. However, the reinsurance premium in this case, for instance, may be Rs. 800 and the GST thereon may be Rs.144 (18% of Rs.800).

5.21. The applicant further submitted that then the question is whether the Applicant is eligible to claim ITC on this Rs.144 (in the above example), when the Value of the Taxable Supply is Zero (or Rs.40, as the case may be) and the Output Tax Liability is Rs. Zero (Rs.7.20, as the case maybe).

5.22. The applicant reproduced Section 17(2) of the CGST Act which reads as follows:

"(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies."

and submitted that this question arises only when the transaction is regarded as "Taxable" which automatically means that output transaction is not exempt from GST.

5.23. The applicant reproduced the definition of exempt supply as follows:

"(47) "exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply"

By mentioning the above, the applicant stated that in terms of Section 2(47) of the Act, an exempt supply means any Supply:

- a. Whose Rate of Tax is NIL or
- b. Exempted under Section 11 of the Act.

5.24. The applicant submitted that in the present case (i.e., the insurance service is held to be taxable), then it attracts 18% Tax rate and hence NIL rate of tax does not apply and further, it is not exempted under Section 11 and consequently it does not fall within the ambit of exempt supply. And since the output supply is not exempt, no reversal of the ITC is warranted and consequently full ITC on the reinsurance premium can be availed by the Applicant.

5.25 The Applicant further submits that there is no provision in the GST Law that if the Output tax is NIL or less than the Input tax credit, then credit is denied. And accordingly, the fact that the output tax may be less (due to subsidy being reduced from consideration) will not affect the eligibility to claim full ITC on the Reinsurance premium.

5.26 On perusal, it is seen that the applicant has submitted the copies of the following documents -

- Copy of Group Health Policy
- Copy of Tax Invoice issued to the Commissioner of Treasuries and Accounts, Government of Tamil Nadu (Pensioners)
- Copy of Tax Invoice issued to the Commissioner of Treasuries and Accounts, Government of Tamil Nadu (Employees)

6.1 The applicant is under the administrative control of State Tax Authority. The Concerned authorities of the Centre and State were addressed to report if there are any pending proceedings against the applicant on the issues raised by the applicant in the Advance Ruling application and for the comments on the issues raised.

6.2 In pursuant to the above, the State jurisdiction Officer viz. the Deputy Commissioner (ST)-II, Large Taxpayers Unit stated that -

- The applicant Tvl. United India Insurance Company Limited have generated invoice to the name of 1). Commissioner of Treasuries and Accounts, Government of Tamil Nadu (Pensioners) and 2). Commissioner of Treasuries and Accounts, Government of Tamil Nadu (Employees) for NHIS Scheme. The taxpayer has charged tax at the rate of 18% from 2018-19 to 2022-2023 and reported in GSTR 1 in B2C column and paid taxes.
- On oral enquiry with the taxpayers and further scrutiny of connected invoices for the year 2023-2024 for the NHIS scheme, they have raised invoice against 1). Commissioner of Treasuries and Accounts, Government of Tamil Nadu (Pensioners) and 2). Commissioner of Treasuries and Accounts, Government of Tamil Nadu (Employees) as Nil rate by quoting Sl.No.40 of CBIC Notification No.12/2017-Central Tax(Rate), dt:28.06.2017.
- It is pertinent to note here that the taxpayer mentioned Sl.No.40 of the Notification No.12/2017, dt: 28.06.2017 for their sudden claim of Exemption unlike the previous assessment years.
- To understand the Sl.No.40 of the Notification No 12/2017, we have to analyse the aforesaid entry along with current scenario of NHIS. In this NHIS Scheme The Treasuries and Accounts department has collected premium amount for NHIS Scheme from Employee/Pensioners of Government of Tamil Nadu and paid to the Insurance provider i.e., applicant Tvl. United India Insurance Company Limited and applicant has issued invoice to Commissioner of Treasuries and Accounts, Government of Tamil Nadu (Pensioners) and 2). Commissioner of Treasuries and Accounts, Government of Tamil Nadu. Here service provider is Tvl. United India Insurance Company Limited and service recipient is each and every employee/pensioners. Moreover, premium has been paid by each and every employee/pensioners vide their every month salary but not paid by the Government. Government of Tamil Nadu has been collecting money from its service

employees/pensioners and has been paying it to service provider (i.e) applicant Tvl. United India Insurance Company Limited which is diametrically opposite to the definition mentioned in Sl.No.40 of the Notification no 12/2017,Central Tax(Rate), dt: 28.06.2017.

- Applicant Tvl. United India Insurance Company Limited exemption claimed based on Sl.No.40 of the said notification is not applicable to NHIS scheme because here total premium is not paid by the State Government, it has been paid by the each and every Government employees/pensioners. Moreover, the petitioner Tvl. United India Insurance Company Limited is claimed as per Circular No 16/16/2017-GST,dt:15.11.2017, in which services provided by State Government by way of General Insurance (Managed by Government) to employees of the State Government /Police Personal, employees of Electricity Department or Students are Exempted vide entry 6 of Notification No.12/2017-CT(R) which exempts service by State Government only.
- But this notification and Sl.No.6 also are not applicable to NHIS, because this scheme totally not managed by Tamil Nadu Government. For example other insurance schemes like 1) Tamil Nadu Chief Minister Comprehensive Health Insurance Scheme, 2) Tamil Nadu Government Cattle Insurance Scheme, 3) Agriculture Pump set Insurance Scheme ,4) Janata Personal Accident policy all are exempted under GST Act because all are managed by Government as per Circular No 16/16/2017-GST ,dt:15.11.2017,since services provided by State Government/Central Government by way of insurance managed by concerned Government.
- But in this present case each and every employee/pensioners of Government of TamilNadu contributed their premium amount from their every month salary, they are the direct recipient of service of health insurance scheme from the supplier /applicant/Tvl. United India Insurance Company Limited.
- In view of the above the applicant of this Advance Ruling cannot claim Exemption under Sl.No.40 of the Notification No 12/2017-Central Tax (Rate), dt.28.06.2017 as well as cannot claim re insurance exemption under Sl.No.36A as said notification. Moreover they have levied and collected GST for the same supply of service for NHIS at the rate 18% for the assessment years 2018-19, 2019-20, 2020-21, 2021-22, 2022-23 also. But for the assessment year 2023-24 they did not levy and collect 18 % GST for the same supply of service for the same NHIS and finally made revenue loss of Rs.108 Crore approximately, at 18% of tax payable amount to the Commercial Taxes Department which cannot be accepted under the TNGST Act 2017.
- At the outset the taxpayer /applicant/Tvl. United India Insurance Company Limited's claim of exemption for the service provided through NHIS scheme is totally liable to be rejected.

- Further it is certified that there is no pendency of proceedings for adjudication on this subject in LTU-DC -II section. It is said that some issues related to re-insurance scheme has been pending before the Central Government GST authorities from the Service Tax Act regime. It has to be verified from the Central Government authorities.

6.3. The Joint Commissioner (ST), Intelligence-II Chennai has also stated that no proceeding relating to the question raised by the applicant is pending in their jurisdiction.

6.4. The concerned Central authority vide letter GEXCOM/TECH/MISC/4603/2023-TECH dated 26.01.2024 submitted that the question raised in the application are not pending or has been decided in any proceedings in the case of the applicant and also offered the following comments:

- Comment on Q.1.1 - Services provided to the Central Government, State Government, Union Territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union Territory is Nil rated/exempted vide Sl.No.40 of Notification No.12/2017-CT (Rate) dated 28.06.2017, which was also clarified vide Sl.No.3 of Circular No.16/16/2017-GST dated 15.11.2017, however it is taxable in other scenario.

➤On examination of the attached document Annexure-1 & Annexure-2, it can be seen that the insurance policies issued by the United India Insurance Company Limited to Commissioner of Treasuries and Accounts, Govt. of Tamilnadu (Pensioners) for Group Health Policy and also bills to Commissioner of Treasuries and Accounts, Govt. of Tamilnadu (Pensioners), Financial and other related services (SAC-9971). From the above, it appears that the services provided by M/s. United India Insurance Company Limited to TNSG falls under the Sl. No.40 of the Notification No.12/2017-CT (Rate) dated 28.06.2017 and also clarified vide Sl. No.3 of Circular No.16/16/2017-GST dated 15.11.2017. Hence the answer of Q.1.1 is in affirmative.

➤Comment on Q.1.2 As Notification No.12/2017-CT (Rate) as amended vide Notification No.02/2018-CT (Rate) dated 25.01.2018, Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 was exempted with effect from 25.01.2018 and same is reproduced below; "(h) after serial number 36 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -"

(1)	(2)	(3)	(4)	(5)
36A	Heading 9971 Heading 9991	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36	Nil	Nil

From the above, answer of the Q.1.2. is in affirmative.

- Comment on Q.2.1. to Q.2.3 Since the reply of the Q.1.1 and Q.1.2. is in affirmative, hence no comments are offered in alternative question.
- Comment on Q.3.1 & Q.3.2-Since the reply of the Q.1.1 and Q.1.2. is in affirmative, hence no comments are offered in alternative question.
- Comment on Q.3.3 ITC may be restricted as per Section 16 & Section 17 of the CGST/TNGST Act, 2017, read with Section 20 of IGST Act, 2017 as made applicable in respect of nil/exempted.

7. **Personal Hearing:**

The Applicant was given an opportunity to be heard in person on 10.01.2024. Shri.Shiva Kumar, Advocate and the Authorised Representative (AR), Shri. V.P. Ranganathan, Chief Manager, Shri. P. Jagaseeswar, Manager and Shri. Sachin Kumar, Assistant Manager of M/s. United India Insurance Company Ltd. appeared for the Personal hearing and the Authorised Representative reiterated the submissions made in their application. When the members enquired about the names of the specific insurance schemes for which the advance ruling is sought, the AR replied that their query relates only to one scheme. i.e., Tamil Nadu Health Insurance Scheme. The members further enquired as to whether the entire premium is paid by the Tamil Nadu State Government, or whether any subsidy by the Government or subscription from the employees of the State Government are involved in this case. The Authorised Representative replied that the insured in this case is the Tamil Nadu State Government, and that the entire subscription is received from the State Government. In this regard, apart from the submissions made, he undertook to furnish the relevant documents relating to the receipt of premium from the Tamil Nadu State Government within a weeks' time.

Accordingly, they furnished the copies of the receipts of premium issued to the Commissioner of Treasuries and Accounts, Government of Tamil Nadu on 12.01.2024.

8.0 DISCUSSION AND FINDINGS:

8.1 We have carefully considered the submissions made by the applicant in their application, submissions made during the personal hearing and the comments furnished by the Centre and State Tax jurisdictional officers.

8.2 The Prime issue raised by the Applicant for ruling, before the Advance Ruling Authority is-

1. Does the health insurance services provided by the Applicant Tamil Nadu State Government (TNSG) is exempted from GST under the Sl.No.40 of Notification No.12/2017 Central Tax (Rate) dated 28th June,2017 and corresponding TNGST Notification.

In the statement of facts, the applicant stated that they are engaged in the business of providing all kinds of general insurance including health, providing a group health insurance policy to Tamil Nadu State Government (Service Recipient), covering the health of the individuals and the families of the Tamil Nadu State

Government employees and their dependent relatives. The Policy is a health insurance policy of the employees (both retired and present) and also the relatives of such employees for which the premium is paid by the Tamil Nadu State Government to the applicant. The applicant submits that each of the employee, retiree are given a health card containing their unique reference number and the list of their dependent who are eligible to make the claim. The applicant submits that the Tamil Nadu State Government for the purpose of full disclosure in this present application, has informed the applicant that it recovers some amount from the State Government employees ranging from Rs. 300 to 500 and the applicant is not privy to the arrangement between Tamil Nadu State Government and their employees. Further that the applicant does not have any decision making authority on whether at all any recovery is to be made by Tamil Nadu State Government from their employees and quantum of such recovery and that there is no contractual relationship with Employees of the Tamil Nadu State Government and no payment flows from the Employees to the applicant.

8.3 With the above factual matrix, the applicant vide the present application seeks ruling as to whether their supply of service would be eligible for exemption under Sl.No.40 of Notn.No.12/2017 Central Tax Rate dated 28.06.2017. The said entry of the Notn. No.12/2017 Central Tax (Rate) is extracted for sake of convenience.

Sl.No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
40	Heading 9971 or Heading 9991	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.	Nil	Nil

The said entry provides the following conditions to avail exemption:

- (i) Provision of service to the State Govt. / Central Govt/ Union Territory.
- (ii) Service being under any insurance schemes
- (iii) Premium is paid by the State Govt. / Central Govt./ Union Territory for such insurance scheme.

8.4 To examine further, it is pertinent to examine as to how the Health Insurance scheme is provided by the applicant to the Tamil Nadu State Government. On perusal of the Govt. of Tamil Nadu website (https://www.tn.gov.in/go_view/dept), it is seen that the finance department has made available various G.Os issued by them for New Health Insurance Scheme for their employees and pensioners for which the Government decides vide selection of a suitable Public Sector Health Insurance Company through National Competitive Bidding as in the case of New Health Insurance Scheme, 2014. Accordingly, a

notice inviting tender has been issued. The Tender Scrutinizing Committee, consisting of the Secretary to Government [Expenditure], Finance (Pension) Department, the Principal Secretary / Commissioner of Treasuries and Accounts and the Director of Medical and Rural Health Services, after invoking due procedure as per the Tamil Nadu Transparency in Tenders Act, 1998 and the Tamil Nadu Transparency in Tenders Rules, 2000, submitted its report to select the United India Insurance Company Limited, Chennai for implementing the New Health Insurance Scheme. The recommendation of the Tender Scrutinising Committee has been considered and the tender has been awarded to the United India Insurance Company Limited, Chennai. The said Company has executed an agreement with the Government of Tamil Nadu for the implementation of the New Health Insurance Scheme, for Employees, Pensioners (including spouse) / Family Pensioners. Thus, the service recipient for the New Health Insurance Scheme is Tamil Nadu Govt., but the beneficiaries are their Employees, Pensioners (including spouse) / Family Pensioners. The applicant has stated that the premium is paid by the Tamil Nadu State Government and not by the beneficiaries i.e., Employees, Pensioners (including spouse) / Family Pensioners.

8.5 It is relevant to note that the applicant has submitted their interpretation of law in which they referred to the provisions of recipient of supply of goods or services or both defined in clause (93) of section 2 of the CGST Act, 2017 which is extracted hereunder:

(93) "recipient" of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

The clause (a) of the above definition stipulates that the recipient is the person who is liable to pay the consideration where a consideration is payable for the supply of goods or services or both. In the case of the applicant, after due process of tender and entering into an agreement with Tamil Nadu Govt., has provided service under New Health Insurance Scheme to the Tamil Nadu Government, for which consideration is payable by the Tamil Nadu Government. It may be seen that the beneficiaries of the New Health Insurance Scheme has not entered into any contractual agreement with the applicant and hence the recipient of service is the Tamil Nadu Govt. only and the Govt. has accordingly discharged the obligation of consideration by way of premium to the applicant.

8.6 The applicant has also relied upon the Circular No.16/16/2017-GST, dated 15-11-2017 and the relevant portion is reproduced as under:

S. No.	Issue	Comment
3.	Is GST leviable on General Insurance policies provided by a State Government to employees of the State government/ Police personnel, employees of Electricity Department or students of colleges/ private schools etc. (a) where premium is paid by State Government and (b) where premium is paid by employees, students etc.?	It is hereby clarified that services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under Sl. No. 40 of notification No. 12/2017-Central Tax (Rate). Further, services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017- CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.

8.7. The relevant agenda discussed during the 23rd GST Council meeting held on 10-11-2017 has to be seen so as to ascertain the intention of the entry 40 Notification No.12/2017 Central Tax Rate, dated 28-06-2017. Hence, the agenda note relating to this issue is extracted below for sake of reference:

Agenda Item 6(x): Issues related to rate of tax on certain Services

S. No	Description of Services	Present GST rate	Requested GST rate	Justification	Comments
1.	State Insurance & Provident Fund Department (chapter 99)	18%	Nil	<p>A. General Insurance Policy where premium and service tax is paid by State Government:</p> <p>These schemes should be exempted from GST because premium and service tax regarding this scheme is paid by the State Government.</p> <p>B. General Insurance Policy where premium and service tax is paid by Employee:</p> <p>The above said insurance policies are related to the welfare of employees of</p>	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST. [Refer Sl. No. 40 of Table in notification No. 12/2017-Central Tax(Rate)] Further, services

			<p>the State Government / Police personnel, employees of Electricity Department therefore, it is proposed that these insurance policies should be exempted from GST.</p> <p>C. General Insurance Policy where premium and service tax is paid by Students of Colleges/ private schools:</p> <p>These insurance policies are related to student safety and welfare. Therefore, it is proposed that the above said insurance policies should be exempted from GST.</p>	<p>provided by State Government by way of general insurance to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017-CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.</p> <p>We may clarify accordingly.</p>
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The relevant minutes of the meeting is also extracted below:

Agenda item 6(x): Issues related to rate of tax on certain Services

41. *Introducing this Agenda item, the Secretary stated that it was proposed to exempt from tax, general insurance policies where total premium was paid by the State Government. It was further proposed to exempt from tax general insurance policy where total premium was paid by employees or by students of colleges/private schools.*

41.1. *The Secretary stated that with regard to the above, it was proposed to clarify that services provided to the Central Government, State Government, Union Territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union Territory are exempt from GST under serial no. 40 of Notification No. 12/2017- Central Tax (Rate). Further, service provided by the State Government by way of general insurance (managed by government) to employees of the State Government/ Police Personnel, employees of electricity department or students are exempt vide entry 6 of Notification No. 12/2017-Central Tax (Rate) which exempts Services by Central Government, State Government, Union Territory or local authority to individuals.*

8.8 On perusal of the agenda notes, minutes of the meeting and clarification issued, clearly establishes that the intention of the GST Council is to grant exemption on the general insurance services provided to the State Government, where total premium is paid by the Government and also in respect service

provided by the State Government by way of general insurance (managed by Government) to employees of the State Government/ Police Personnel, employees of electricity department or students. While the former fall under Sl. No.40 and the latter under Sl.No. 6 of the Notification No.12 /2017 Central Tax (Rate).

8.9 In the case of applicant, the supply of insurance is made only to the Government of Tamil Nadu for which total premium is paid by the Government and therefore it would be eligible for exemption under Sl. No.40 of the Notification No.12 /2017 Central Tax (Rate). It may be not relevant to the issue raised by the applicant but it is to be recorded here that Government of Tamil Nadu is managing the insurance scheme called New Health Insurance Scheme and therefore, the recovery made by the Government from employees/ pensioner would also be exempt, in terms of entry 6 of Notification No. 12/2017-Central Tax (Rate)

8.10 Further with regard to the question 1.2- *"If the Insurance services by the Applicant are held as exempted under Question 1.1 above, then consequently, is reinsurance of the health insurance policy also exempt in accordance with Serial No.36A of the Notification 12/2017?"*, we find that the applicant submitted that in terms of IRDA norms, the Insurance company has to undertake re-insurance – i.e., insuring the insurer (i.e., the applicant, in this case) –wherein the applicant shall pay reinsurance premium to another insurer (referred to as 'Re-insurer'). That the Re-insurers are located both in India and outside India and if the Re-insurer are located outside India, the applicant promptly discharges GST liability under RCM for the services received and in case of domestic Re-insurers, receives tax invoice with applicable GST. That they avail ITC on the GST paid in the Reinsurance premium (i.e., whether paid by the Domestic Re-insurer or by the Applicant itself under RCM in case of Foreign Re-insurer).

8.11 In this regard we find that the said question, where the applicant receives the reinsurance service from the domestic Re-insurers is outside the scope of Advance Ruling. We like to draw attention to the provisions of Section 95(a) of the CGST Act, 2017, which provides as follows;

95(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority [or the National Appellate Authority] to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 or of section 101C, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

8.12 In the aforementioned question, the supply of goods or services is not being undertaken or proposed to be undertaken by the applicant as the applicant is the recipient of reinsurance service and the supply is being undertaken or proposed to be undertaken by the suppliers of reinsurance service providers, located in India. Hence, we refrain from passing any ruling on the said question with respect to receipt of reinsurance service from domestic Re-insurers. However, with respect to receipt of re-insurance service from re-insurers located outside India, as the liability to pay tax lies with the applicant, this is answered and which is answered in affirmative in terms of exemption provided under Sl No. 36A of Notification

No.12/2017 Central Tax (Rate), dated 28-06-2017, as the supply of insurance service to Tamil Nadu State Government falls under entry 40 of Notification No.12/2017 Central Tax (Rate), dated 28-06-2017.

8.13 As the question No.1.1 is answered affirmatively, the alternate question No.2 and 3 need not be answered.

8.14 With regard to Question No.3.3 relating to any reversal of ITC is warranted in any of the above cases, the applicant has not provided any detailed explanations on the circumstances under which reversal of input tax credit is warranted. However, as the CGST Act, 2017 itself provides for vivid answer in the provisions of sub-section (2) of section 17 of the CGST Act,2017 and also in Rule 42 of the CGST Rules,2017 the applicant can follow these provisions for reversal of input tax credit and no ruling is required therein.

Based on the above discussions, we rule as under:

RULING

Question No.1

1.1 Does the above supply, i.e., insurance services provided by the Applicant is exempted from GST under the Serial Number 40 of the Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017 and corresponding TNGST Notification?

Ruling: Yes.

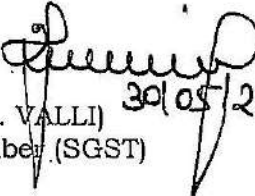
1.2 If the Insurance services by the Applicant are held as exempted under Question 1.1 above, then consequently, is reinsurance of the health insurance policy also exempt in accordance with Serial No.36A of the Notification 12/2017?

Ruling: With regard to Re-insurance service received from re-insurers located outside India, the same is **answered in affirmative**.

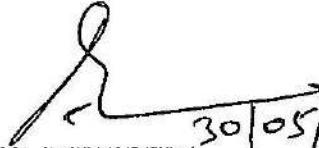
With regard to Re-insurance service received from domestic re-insurers, the question is **Not answered** as the same is out of scope of advance ruling.

Questions No.2 and 3

As the question No. 1 is answered affirmatively, these alternate questions does not survive and accordingly no ruling is given.


(A. VALLI)
Member (SGST) 30/05/2024




(D JAYAPRIYA)
Member (CGST) 30/05/2024

To

M/s. United India Insurance Company Limited,
1st Floor, No. 24, Whites Road, Royapettah,
Chennai – 600 014.

//by RPAD//

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Commissioner of GST & Central Excise,
Chennai North Commissionerate,
26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai-600034.
2. The Additional Commissioner (ST),
Large Tax Payers Unit,
Integrated Building for Commercial Taxes and Registration,
IV – Floor, Government Farm Village,
Nandanam, Chennai – 600 035.
3. The Deputy Commissioner (ST),
Large Tax Payers Unit - II
Integrated Building for Commercial Taxes and Registration,
IV – Floor, Government Farm Village,
Nandanam, Chennai – 600 035.
4. Master File / Spare – 1.