

Body

**AUTHORITY FOR ADVANCE RULING TSAAR Order No.28/2022, A.R.Com/31/2021, Dated 3rd June, 2022**

**TELANGANA STATE AUTHORITY FOR ADVANCE RULING**

**CT Complex, M.J Road, Nampally, Hyderabad-500001.**

**(Constituted under Section 96(1) of TGST Act, 2017)**

**Present:**

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

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE  
TELANGANA GOODS AND SERVICES TAX ACT, 2017.]**

1. M/s. Hyderabad Metropolitan Water Supply And Sewerage Board 1, 4, HMWSSB Buildings, Finance Wing, 1, Khairatabad, Hyderabad, Telangana, 500 004 (36AAALH0186J1Z3) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.

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

3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The concerned jurisdictional officer also raised no objection to the admission of the application. The application is therefore, admitted.

**4. Brief facts of the case:**

The applicant M/s. Hyderabad Metropolitan Water Supply and Sewerage Board have paid Medical insurance premium taken to provide health Insurance to the employees, pensioners and their family members and Vehicle insurance Policy taken to provide Insurance to the vehicles owned by the Board.

In their opinion they are exempt from paying GST in view of the Entry No. 3 of the Notification Number 12/2017 - Central Tax (Rate), dt 28th June, 2017, wherein it is provided that 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 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, the rate of GST is NIL. In their opinion being a governmental authority, the above entry No.3 is applicable to them. Hence this application.

**5. Questions raised:**

1. Does Medical insurance premium taken to provide health Insurance to the employees, pensioners and their family members, eligible for exemption as mentioned in Entry No. 3 of the Notification Number 12/2017 - Central Tax (Rate), dt 28th June, 2017.
2. Does Vehicle insurance Policy taken to provide Insurance to the vehicles owned by the Board, eligible for exemption as mentioned in Entry No. 3 of the Notification Number 12/2017 -Central Tax (Rate), dt 28th June, 2017.

**6. Personal Hearing:**

The Authorized representatives of the unit namely Smt. Kedareswari, CA and Sri. Rajaram, CA attended the personal hearing held on 10.03.2022. The authorized representatives reiterated their averments in the application submitted and requested to dispose their application on merits at the earliest.

**7. Discussion & Findings:**

Under the Article 243W of Constitution of India, local authority or a Governmental authority may be entrusted with the responsibilities for:

- i. Preparation of plans for economic development and social justice.
- ii. Performance of functions and implementation of schemes in relation to matters listed in 12th schedule.

Under the schedule 12 to Constitution of India, the functions and schemes are as follows:

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 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 ponds; 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.

Now under serial no. 3 of Notification No. 12/2017 pure services provided "in relation to any function" entrusted to a municipality under Article 243W of the Constitution of India is eligible for exemption from GST. Clearly the exemption should be directly related to the functions enumerated under Article 243W of the Constitution of India i.e., those functions listed under 12th schedule.

The Hon'ble Supreme Court of India in the case of Doypack Systems Pvt. Ltd. vs. Union of India (UOI) and Ors. (12.02.1988 - SC) AIR 1988 SC 782 clarified the meaning of the expression "in relation to" as follows:

"In this connection reference may be made to 76 Corpus Juris Secundum at pages 620 and 521 where it is stated that the term 'relate' is also defined as meaning to ring into association or connection with. It has been clearly mentioned that "relating to" has been held to be equivalent to or synonymous with as to "concerning with" and "pertaining to".

Similarly the Hon'ble Supreme Court of India in the case of Madhav Rao Jivaji Rao Scindia Vs Union of India AIR 1971 SC 530 observed that the expression "relating to" means to bring into relation or establish a relation. It was further clarified that there should be a direct and immediate link with a covenant and that there cannot be any independent existence outside such covenant.

By his own admission, the applicant is procuring medical insurance services to their employees and their family members. Thus there is no direct relation between the insurance services procured by the applicant and the functions discharged by them under Article 243W read with schedule 12 to the Constitution of India. Therefore these services do not qualify for exemption under Notification No. 12/2017.

Vehicle insurance policies procured by the applicant for the vehicles owned by the board qualify for exemption if they are directly used to provide services under Schedule XII of the Constitution. However if they are used for transportation of employees/board members/other persons they will not have direct relationship to functions discharged under Article 243W and therefore will not qualify for exemption under Notification No. 12/2017.

8. The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Does Medical insurance premium taken to provide health Insurance to the employees, pensioners and their family members, eligible for exemption as mentioned in Entry No. 3 of the Notification Number 12/2017 - Central Tax (Rate), dt 28th June, 2017.	No.
2. Does Vehicle insurance Policy taken to provide Insurance to the vehicles owned by the Board, eligible for exemption as mentioned in Entry No. 3 of the Notification Number 12/2017 - Central Tax (Rate), dt 28th June, 2017.	Yes, if the vehicles are directly used for to provide services under Schedule XII of the Constitution. No, if they are used for transportation of employees/board member/other persons with no direct relationship to functions discharged under Article 243W.

S. V. Kasi Visweshwar Rao

B. Raghu Kiran

ADDL. COMMISSIONER (State Tax )

ADDL. COMMISSIONER (Central Tax)

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

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