



**TELANGANA STATE APPELLATE AUTHORITY FOR ADVANCE RULING
(Goods and Services Tax)
1st Floor, Commercial Taxes Complex, M.J. Road, Nampally,
Hyderabad 500 001**

AAAR.COM/09/2022

Dated:02.11.2022

Order-in-Appeal No. AAAR/12/2022

*(Passed under Section 101 (1) of the Telangana Goods and Services Tax Act,
2017)*

Preamble

1. In terms of Section 102 of the Telangana Goods and Services Tax Act, 2017 (TGST Act, 2017 or the Act), this Order may be amended by the Appellate authority so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the applicant within a period of six months from the date of the order. Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made, unless the applicant or the appellant has been given an opportunity of being heard.
2. Under Section 103 (1) of the Act, this advance ruling pronounced by the Appellate 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. Under 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. Under Section 104 (1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-Section (1) of Section 101 has been obtained by the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the appellant as if such advance ruling has never been made.

Subject: GST – Appeal filed by M/s. Hyderabad Metropolitan Water Supply And Sewerage Board, 1, 4, HMWSSB Buildings Finance Wing, 1, Khairatabad, Hyderabad, Telangana - 500 004 (36AAALH0186J1Z3), under Section 100 (1) of TGST Act, 2017 against Advance Ruling TSAAR Order No.28/2022, dated 03.06.2022 passed by the Telangana State Authority for Advance Ruling - Order-in-Appeal passed – Regarding.

* * * * *

1. The applicant, M/s. Hyderabad Metropolitan Water Supply And Sewerage Board, 1, 4, HMWSSB Buildings Finance Wing, 1, Khairatabad, Hyderabad, Telangana - 500 004) (hereinafter referred to as M/s. Hyderabad Metropolitan Water Supply And Sewerage Board or the applicant). 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.

2. 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.

3. The applicant filed an appeal before the lower authority seeking advance ruling on the following questions.

(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.

Brief Facts:

4. After due Process of Law, the lower authority, vide its orders No. 28/2022, dt.03.06.2022, has given ruling as under:

Question	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.

5. Aggrieved by the order of the lower authority, present application has been filed by the applicant questioning the impugned order.

Whether the appeal is filed in time:

6. The applicant has informed in this application filed before this authority that the date of communication of advance ruling is 03.06.2022. the application is file on 03.07.2022. Hence, the application is found to be filed in time i.e. within thirty days from the date of communication of advance ruling.

Personal Hearing:

7. A personal hearing was held on 19.09.2022. Sri T.Rajendra Prasad, Authorised Representative and CA and Sri Kedareswary GM (F&A), Authorised Representative and appeared for the personal hearing during the course of

which the Id, Advocate reiterated the submissions made vide their written submissions dated. 30.07.2022.

Discussions & Findings :

8. The contentions of the applicant is examined, and came to conclusions as under:

Hyderabad Metropolitan water supply and sewerage board (The Board) was constituted on 1.11.1989 under the provisions of Hyderabad Metropolitan Water Supply and Sewerage Act 1989 (Act No . 15 of 1989), with the following Functions & Responsibilities in the Hyderabad Metropolitan Area.

- The Supply of potable water including planning, design, construction, maintenance, operation & management of water supply system.
- Sewerage, Sewerage Disposal and sewerage treatment works including planning, design, construction, maintenance, operation & management of all sewerage and sewerage treatment works.

From 01-07-2017 to 17-11-2021 :

As per Sl.No 3 of Central Tax(Rate) notification no 12/2017 dated 28-06-2017 the rate of tax on supply of following services is Nil:

Sl. No.	Chapter Section Heading Group or Service Code (Tariff)	Description of services	Rate (per cent.)	Condition
1	2	3	4	5
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority [or a Government Entity] by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	Nil

Inserted vide notification No. 2/2018 – Central Tax (Rate) dt 25.01.2018.

The definition of ‘Governmental authority’ is:

2[(zf) –**Governmental 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 per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.]

2 Substituted vide notification No. 32/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “governmental authority” has the same meaning as assigned to it in the Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017);”

However, the words Governmental Authority and Government Entity have been omitted vide Notification no:16/2021 Dt: 18.11.2021 w.e.f 01-01-2022.

Since Hyderabad Metropolitan water supply and sewerage board is a board set up by act of state legislature to carry out any function entrusted to a Municipality under article 243 W, it is a ‘Governmental authority’ as per the above definition.

The applicant has contended that the following supply of services to them are eligible for exemption under Sl.No 3 mentioned above:

- 1) Insurance services provided to the board for insuring their employees and employee family members.
- 2) Insurance services provided to the vehicles of the board.

The supply is exempt under sl.No 3 of the Notification No. 12/2017 Dt: 28-06-2017, provided that the following conditions are satisfied:

- 1) The services provided should be Pure services (excluding works contract service or other composite supplies involving supply of any goods)
- 2) The services provided should be by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.

- 3) After 01-01-2022, exemption is available only if it is provided to Central Government, State Government and Local Authority only

Since, insurance services are pure services; the condition at Sl.No 1 is satisfied.

Regarding condition at Sl. No 2: If the services procured by the board are by way of any activity in relation to any function entrusted to a Municipality (like water supply and sewerage), the supply is exempt from tax.

The insurance supplies made to the board for its employees and their family members are not in relation to any function entrusted to the municipality.

The word ‘in relation to’ will include only functions which are in direct relation to the entry like water supply and sewerage.’

The Constitutional Bench (five-judge bench) of the Supreme Court in the case of Commissioner of customs(import) , Mumbai Vs Dilip Kumar and Company & Ors (2018) 9 SCC 1 has held that the exemption notification should be interpreted strictly , It was held as follows:

“.....
 52.To sum up, we answer the reference holding as under -
 (1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.
 (2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.
 (3) The ratio in Sun Exportcase (supra) is not correct and all the decisions which took similar view as in Sun Export Case (supra) stands over ruled.

Hon’ble Apex court in its judgment in Navin Chemicals Mfg. and Trading Co. Ltd. Vs Collector of Customs (1993) 4 SCC 320 held that:

“...The phrase 'relation to' is, ordinarily, of wide import but, in the context of its use in the said expression in Section 129-C, it must be read as meaning a direct and proximate relationship to the rate of duty and to the value of goods for the purposes of assessment....”

Similarly, the Phrase ‘in relation to’ mentioned in Sl. No 3 of Central tax (rate) notification no 12/2017 is to be read as meaning a direct and proximate relationship to any function entrusted to a Municipality under article 243W of the Constitution in present case Water supply and sewerage.

The insurance services for employees and employees family members received by the applicant is not in direct and proximate relation to water supply and sewerage related function entrusted under Article 243W , hence the supply received by the applicant does not fall under Sl.No 3 of Central tax (rate) notification no 12/2017 and are not exempted.

The board also receives insurance services to vehicles which are used for transportation of water and sewerage management, since these vehicles are essential for performing the functions as entrusted in 243W of the constitution. The applicant is eligible for exemption under entry mentioned above. All other vehicles which are not used for performing the functions as entrusted in 243W of the constitution shall be taxable.

From 01--01-2022:

The above entry was amended Vide notification no 16/2021 – Central Tax(rate)dated 18-11-2021 against serial number 3, in column (3), in the heading “ Description of Services” , the words “or a Governmental authority or a Government Entity” is omitted;

From 18-11-2021, SL.No 3 is as below:

Sl. No.	Chapter Section Heading Group or Service Code (Tariff)	Description of services	Rate (per cent.)	Condition
1	2	3	4	5
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

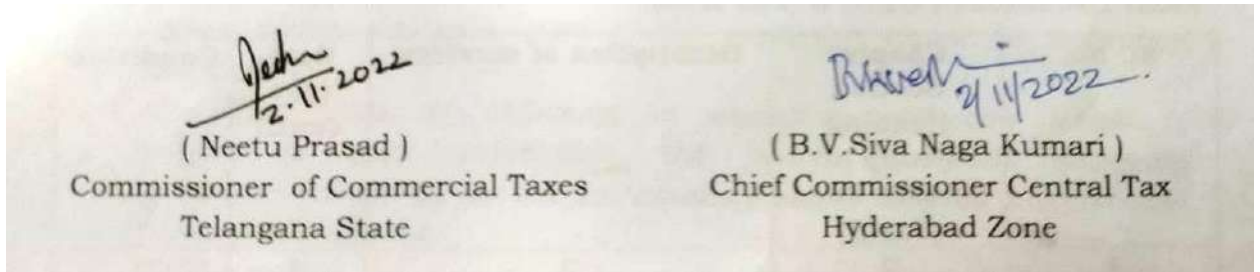
In view of the above from 18-11-2021, in view of the amendment mentioned above omitting the word 'Government authority', the services provided to the applicant are not eligible for exemption under Sl.No 3 of Notification no 12/2017 dated 28-06-2017.

13. In the light of the foregoing, we pass the following:

ORDER

Question	Ruling
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.

The order passed by the lower authority is upheld. The subject appeal is disposed accordingly.



(Neetu Prasad)
Commissioner of Commercial Taxes
Telangana State

(B.V.Siva Naga Kumari)
Chief Commissioner Central Tax
Hyderabad Zone

To
M/s. Hyderabad Metropolitan
Water Supply And Sewerage Board,
1, 4, HMWSSB Buildings,
Finance Wing, 1, Khairatabad,
Hyderabad, Telangana - 500 004.

Copy submitted to:

1. The Telangana State Authority for Advance Ruling, CT Complex, MJ Road, Nampally, Hyderabad- 500 001.
2. Chief Commissioner of Central Tax & Customs, Hyderabad Zone – for information and for forwarding copies of the order to the concerned / jurisdictional officer of Central tax.
3. Commissioner of State Tax, Telangana State – for information and for forwarding copies of the order to the concerned / jurisdictional officer of State tax.