

**GOA AUTHORITY FOR ADVANCE RULING**

[Constituted under Section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and Services Tax Rules, 2017]

**BEFORE THE BENCH OF**

Shri. Vishant S. N. Gaunekar, Additional Commissioner of SGST, Goa.  
Smt. Pallavi Gupta, Joint Commissioner of CGST, Goa.

**Advance Ruling No. GOA/GAAR/04 of 2023-24/** *4616* *21 30/01/2025*

Name of the Applicant	<b>Institute of Public Assistance (Provedoria)</b>
Address	Rua De Ourem, Mala, North Goa 403001
GSTIN	30AAALI0046E1D7
Date of Application	13.12.2023
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	<ol style="list-style-type: none"> <li>1. Whether leasing of the said premises to the Commissioner of Commercial Taxes by the Institute of Public Assistance (Provedoria) is considered as a 'supply' under GST?</li> <li>2. Whether the lease fee for office space given by the registered person to the Commissioner of Commercial Taxes vide Leave &amp; License agreement dated 22/10/2018 is exempted under Sr. No. 8 of Notification No. 38/1/2017-Fin (R&amp;C) (12/2017-Rate) dated 30<sup>th</sup> June 2017.</li> </ol>
Date of Personal Hearing	12.01.2024

Persons Present for Hearing	Shri Yatish G. P. Vernekar, Ld. Chartered Accountant along with Shri Swapnil Gaude, Accountant and Ms. Pancy Miranda, Accounts Clerk of the applicant taxpayer.
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### PROCEEDINGS

(Under Section 98 of the Goa Goods and Services Tax Act, 2017)

1. The present application has been filed under Section 97 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the 'SGST Act' and 'CGST Act') by the applicant Institute of Public Assistance (Provedoria), Rua De Ourem, Mala, North Goa 403001 seeking an Advance Ruling in respect of the following questions:

- b • Applicability of a notification issued under the provisions of the Act.
- d • Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term.

### BRIEF FACTS

2. **Applicants Background:**

2.1 Institute of Public Assistance (Provedoria), Rua De Ourem, Mala, North Goa 403001 holding GSTIN 30AAALI0046E1D7 is created by Legislative Diploma No. 1200 dated 07/08/1947 and is an autonomous body with juridical personality, enjoying administrative and financial autonomy under Legislative Diploma, 1984 dated 14/4/1960 owned by Government of Goa. (as per Constitution Document dated 14/4/1960 of "Institute of Public Assistance (Provedoria)". The Applicant is the absolute owner and in possession of the

Serra building at Altinho, Panaji, Goa admeasuring built area of 1399.33 sq.mtrs, on the first floor of the said building situated in the property surveyed under Chalta No. 136 of P.T. Sheet No. 67 of city survey of Panaji, within the limits of the corporation city of Panaji, Taluka Tiswadi, District North Goa, Goa. The Applicant has entered into Leave and License agreement with the Commissioner of Commercial Taxes on 22/10/2018 and permitted the Licensee to use the said premises for the pupose of running branch office of the Office of Commerical Tax Officer, in respect of which the applicant is seeking through the advance ruling for the purpose of determination of the following question:

**3. CLARIFICATION REQUIRED ON THE BELOW POINTS:**

- (i) Whether leasing of the said premises to the Commissioner of Commercial Taxes by the Institute of Public Assistance (Provedoria) is considered as a 'supply' under GST?
- (ii) Whether the lease fee for office space given by the registered person to the Commissioner of Commercial Taxes vide Leave & License agreement dated 22/10/2018 is exempted under Sr. No.8 of Notification No. 38/1/2017-Fin (R&C) (12/2017-Rate) dated 30<sup>th</sup> June 2017.

**4. INTERPRETATION OF LAW AND/OR FACTS BY APPLICANT**

4.1 As per section 7 of the CGST Act, 2017 "*The expression "supply" includes, -*

- a) *all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;"*

Hence the activity of providing office space falls under the scope of 'supply' under section 7 of the CGST Act, 2017

4.2 By way of Sr. No. 8 of Notification No. 38/1/2017-Fin(R&C) (12/2017-Rate) dated 30th June 2017 there is an exemption entry which could be considered relevant for the purpose of the issue under consideration.

4.3 The relevant Exemption entry is as under:

S.No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (percent)	Condition
8	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority: Provided that nothing contained in this entry shall apply to services- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers.	NIL	NIL

4.4 In order to check the applicability of the above exemption entry we need to check whether Provedoria fits into the definitions of Central Government, State Government, Union Territory or Local Authority. Let us locate these definitions one by one.

4.5 Definitions of Central Government, State Government & Union Territory are not defined in GST law. However, as per section 2(53) of the CGST Act, 2017, 'Government' means the Central Government. As per clause (23) of section 3 of the General Clauses Act, 1897 the 'Government' includes both the Central Government and any State Government.

#### 4.6 Central 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 officers 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.**

#### 4.7 State Government

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 a 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 officers 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.**

**4.8 Hence, we can conclude that Provedoria is neither a Central Government, a State Government nor a Union territory.**

4.9 Now let us check the definition of Local Authority.

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;
- (g) a Regional Council constituted under article 371A of the Constitution.

4.10 Since 'Providoria' does not fit into the above definition of local authority, in our considered view it is neither a Central Government nor a State Government nor a Union territory nor a Local Authority.

It is our humble submission that Providoria is an autonomous body and not covered under the definition of Central Government, State Government, Union Territory or local authority.

4.11 We would also like to bring on record the decision of Supreme Court on M/S. DILIP KUMAR AND COMPANY & ORS (CA NO. 3327 of 2007, dated 30.07.2018) which has concluded that, exemption notification should be interpreted strictly.

When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assesse and it must be interpreted in favour of the revenue.

4.12 Therefore, in our view leasing of the said premises to the Commissioner of Commercial Taxes by the Institute of Public Assistance (Providoria) is considered as supply under CGST Act, 2017. Further, with respect to chargeability of GST on commercial premises rented out to Commercial Taxes Department, there is no exemption available because Providoria does not fit into the exemption entry under Sr.No.8 of Notification No. 38/1/2017-Fin(R&C) (12/2017-Rate) dated 30<sup>th</sup> June 2017 as it is neither a Central Government nor a State Government nor a Union territory nor a Local Authority. Hence the above lease transaction is taxable under GST at 18%.

### **PERSONAL HEARING**

5. Shri Yatish G. P. Vernekar, Ld. Chartered Accountant and Shri Swapnil Gaude, Accountant and Ms. Pancy Miranda, Accounts Clerk of the applicant taxpayer duly authorized appeared for personal hearing held on 12/01/2024 before this authority and reiterated the points deliberated in written submissions made along with application.

### DISCUSSION AND FINDINGS

6. Upon careful perusal of the Advance Ruling Application and statement containing the applicant's interpretation of law and/ or facts, we find that the applicant Institute of Public Assistance (Provedoria) is an autonomous body constituted under Legislative Diploma no. 1200 dated 07/08/1947 and Legislative Diploma no. 1984 dated 14/4/1960 and is not covered under either the Central Government; State Government; Union Territory; or Local Authority for claiming exemption under entry at Sr. No. 8 of Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 and Notification No. 38/1/2017-Fin(R&C) (12/2017-Rate) dated 30/06/2017.

7. As per provisions of law mentioned at Para 4.6 and 4.7 above, there is absolutely no doubt that applicant taxpayer does not fall under the categories of the Central Government, State Government, Union territory Government and the only point is to form an opinion whether applicant comes under Local Authority.

8. The Local Authority covers the local bodies of self-governance and such other bodies which are laid down under Section 2(69) of the CGST Act, 2017 and Goa GST Act, 2017 (referencing at Para 4.9 above). The applicant as per its constitution is neither a 'Panchayat', 'Municipality', 'municipal committee' nor a 'cantonment board', regional council', 'district council', 'development board' constituted as per law mentioned at Para 4.9 above. Hence we find that the applicant is not covered under the definition of 'Local Authority' as laid down under section 2(69) of the CGST Act, 2017.

9. The applicant has relied upon the decision of Hon'ble Supreme Court in the case of Dilip Kumar and Company &ORS (CA NO. 3327 of 2007, dated

30.07.2018), but the ratio of said decision does not apply to present case, because there is absolutely no ambiguity in the language of entry no. 8 of exemption notification and Section 2(69) of GST law. Therefore, when there is no ambiguity of any sort, the question of benefit of ambiguity does not arise. Therefore, the ratio of said Supreme Court decision does not apply to present case. Even otherwise, as per said decision, if there is any ambiguity, the same has to be interpreted strictly in favour of Revenue and not the assessee.

10. In view of above facts, we are of the opinion that the applicant Institute of Public Assistance (Provedoria) is not covered for claiming exemption under entry at Sr. No. 8 of Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 and Notification No. 38/1/2017-Fin(R&C) (12/2017-Rate) dated 30/06/2017 and therefore said exemption is not applicable for the applicant.

11. Further it is clear from the leave and license agreement dated 22/10/2018 that the applicant has given the office space on lease and the said activity of leasing out of space is within the scope of the term 'supply' as per inclusion clause (a) of sub-section (1) of Section 7 of the CGST Act, 2017 which is reproduced below for ready reference:

**Section 7. Scope of supply.-**

- (1) For the purposes of this Act, the expression-"supply" includes-
- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, **rental, lease** or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

12. In view of the foregoing discussion and findings, we rule as follows:

**RULING**

**ADVANCE RULING UNDER SECTION 98 OF THE CGST/ GGST**

ACT, 2017.


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

1. **Whether leasing of the said premises to the Commissioner of Commercial Taxes by the Institute of Public Assistance (Provedoria) is considered as a supply under GST?**

YES, the same constitutes supply and tax is payable thereon.

2. **Whether the lease fee for office space given by the registered person to the Commissioner of Commercial Taxes vide Leave & License agreement dated 22/10/2018 is exempted under Sr. No. 8 of Notification No. 38/1/2017-Fin (R&C) (12/2017-Rate) dated 30<sup>th</sup> June 2017.**

No, the exemption under entry at Sr. No. 8 of Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 and Notification No. 38/1/2017-Fin(R&C) (12/2017-Rate) dated 30/06/2017 is not applicable to the applicant taxpayer since the applicant is not covered under the same.

  
23/01/2025

(Pallavi Gupta)  
Member

  
30/01/2025

(Vishant S. N. Gaunekar)  
Member

Dated: - 23/01/2025  
Place: - Panaji - Goa

**To,**

M/s Institute of Public Assistance (Provedoria),  
Rua De Ourem, Mala, North Goa, Goa- 403001.

GSTIN: 30AAALI0046E1D7

**Copy to:**

1. The State Tax Officer, Panaji Ward, Panaji–Goa.
2. The Dy. Commissioner of State Tax, Panaji Ward, Panaji–Goa.
3. The Commissioner of State GST, Panaji – Goa.
4. The Commissioner of Central GST, Panaji – Goa.
5. Office file.
6. Guard file.

# Goa Authority for Advance Ruling

Members: Mrs. Pallavi Gupta, Joint Commissioner CGST Goa [Member Centre]  
Mr. Vishant S. N. Gaunekar, Additional Commissioner SGST Goa [Member State]

Order Number: ZD3001250024662 / 4637

Date of order: 31/01/2025

Advance Ruling ARN: AD301223000899D

Date of ARN: 13/12/2023

Name of Applicant: INSTITUTE OF PUBLIC ASSISTANCE

Address of Applicant: -, RUA DE OUREM, MALA, 30, GANRG-403001

GSTIN / UIN / Temporary Id of Taxpayer: 30AAALI0046E1D7

Name and Designation of Jurisdictional Officer: -NA-

Name and Designation of Concerned Officer: Mr SABA KRISHNA PARAB, State Tax Officer

The matter(s) on which advance ruling is sought for, is/are:

1. **Applicability of a notification issued under the provisions of the Act**

2. **Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term**

## ORDER

The Applicant has filed an Application for seeking Advance Ruling before the Authority for Advance Ruling under section 97 of the **Central Tax, State Tax /UTGST Act, 2017** and the rules made thereunder.

**For Rejection of AR application** - In view of the observations, as mentioned in the attached Annexure, we find/do not find substance in this application and accordingly the application filed for seeking Advance Ruling is admitted/rejected under section 98 of CGST, SGST/UTGST Act, 2017.

**For Passing AR Order** - In view of the discussion and findings, the order is passed for the matter(s) listed above.

Please refer the Annexure, attached with this Order, to view the details of Order passed.

This is a system generated Order and does not require any signature.

Mr. Vishant S. N. Gaunekar, Additional  
Commissioner SGST Goa  
Member State

Mrs. Pallavi Gupta, Joint  
Commissioner CGST Goa  
Member Centre

Note(In case of Passing Order):

1. An appeal against this advance ruling lies before the Goa Appellate Authority for

Advance Ruling.

2. The Applicant or the department, as the case may be, being aggrieved of this decision may file appeal within 30 days of communication of this order.

Copy to

- 1 Concerned Officer
  - 2 Jurisdictional Officer
  - 3 Applicant
- (As applicable)