

**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. Lakshmi Radhakrishnan, Joint Commissioner of CGST, Goa.

**Advance Ruling No. GOA/GAAR/04 of 2024-25/ 2462**

Name of the Applicant	<b>Captain of Ports Department</b>
Address	<b>Captain of Ports Office Building, D. B. Road, Panaji, North Goa- 403001</b>
GSTIN	<b>30AAAGC0214M1Z4</b>
Date of Application	<b>12.02.2025</b>
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	<b>1. To understand the GST liability on Captain of Ports for various services provided by them?</b>
Dates of Hearing	<b>08.04.2025 &amp; 28.07.2025</b>
Persons Present for Hearing	<b>Shri Yatish G. P. Vernekar, Ld. Chartered Accountant along with shri. R. A Gupta, Hydrographic Surveyor of applicant.</b>

## PROCEEDINGS

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

The present application has been filed under Section 97 of the Central Goods and Services Tax, Act 2017 and the Goa Goods and Services Tax Act, 2017 (hereinafter referred to as the 'SGST Act' and 'CGST Act') by the applicant registered taxable person **Captain of Ports Department, Government of Goa, Captain of Ports Office Building, D. B. Road, Panaji, North Goa- 403001** seeking an Advance Ruling in respect of the following questions:

- Applicability of a notification issued under the provision of the Act.
- Determination of the liability to pay tax on any goods or services or both.
- 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 the term.

## BRIEF FACTS

### Applicants Background:

Captain of Ports Department, Captain of Ports Office Building, D. B. Road, Panaji, North Goa- 403001, is a registered taxable person and hold GSTIN **30AAAGC0214M1Z4**. The Applicant shoulders the responsibility of developmental works of Inland Waterways and Minor Ports of Goa by way of periodical hydrographic surveys, dredging of rivers, maintenance of lighthouses beacons, providing landing facilities for both passenger boats and cargo vessels at jetties etc. in respect of which the applicant is seeking through the advance ruling for the purpose of determination of the following question:

**CLARIFICATION REQUIRED ON THE BELOW POINTS:**

The applicant has sought advance ruling on the below points in advance ruling application.

1. To understand the GST liability on Captain of Ports for various services provided by them.

**Submission of the Applicant**

Captain of Ports, is a Department of the Government of Goa headquartered at Panaji - Goa. The Captain of Ports Department shoulders the responsibility of developmental works of Inland Waterways and Minor Ports of Goa by way of periodical hydrographic surveys, dredging of rivers, maintenance of lighthouses and beacons, providing necessary Navigational Aids to the Vessels, imparting training to the needy students who would like to build their career in Sea, providing landing facilities for both passenger boats and cargo vessels at jetties etc. The River Navigation Department, which is under the control of Captain of Ports, provides facilities to the passengers traveling across the rivers. Funds are provided by this Department to purchase ferries and for repairs and maintenance of the same to the River Navigation Department.

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. As per clause (8) of section 3 of the said Act, the 'Central Government', in relation to anything done or to be done after the commencement of the Constitution, means the President. As per Article 53 of the Constitution, the executive power of the Union shall be vested in the President and shall be exercised by him either directly or indirectly through officer's subordinate to him in accordance with the Constitution. Further,

in terms of Article 77 of the Constitution, all executive actions of the Government of India shall be expressed to be taken in the name of the President. Therefore, the Central Government means the President and the officers subordinate to him while exercising the executive powers of the Union vested in the President and in the name of the President. Similarly, as per clause (60) of section 3 of the General Clauses Act, 1897, the 'State Government', as respects anything done after the commencement of the Constitution, shall be in a State the Governor, and in 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.

Services rendered by Government are covered under the Reverse Charge Mechanism except a few where it comes under forward charge which are detailed in Notification No. 13/2017-CT (R) dated 28.06.2017 and Notification No. 10/2017-IT (R) dated 28.06.2017.

The above notification is applicable on the following services rendered by us for which we understand that we have to pay tax on forward charge

- Port Dues
- Vessel Hiring

In respect of Renting of Immovable Property Notification No. 3/2018- CT (R) dated 25.01.2018 applies and therefore it is an RCM service.

## INTERPRETATION OF LAW AND/OR FACTS BY APPLICANT

The Captain of Ports Department, are a registered taxpayer under GST and my registration number is 30AAAGC0214M1Z4. The Statement containing the applicant's interpretation of law and /or facts, is made as per enclosed **ANNEXURE B**. Same is reproduced below.

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;" After establishing the transaction is a supply, one need to check whether this supply is schedule III item or not, after this test, that supply goes to the test of exemptions which are given under section 11 of CGST Act, 2017. Under section 11, Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 (as amended from time to time) states that Government related Services provided to or by Central Government, state Government or union territory or local authority or a Government entity or Governmental authority are exempt. Following are the exemption entries relevant to our case.

Category	S.I No	Chapter Code	Description of Service	Rate	Condition
3. Government Related	5	Chapter 99	Services by a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.	NIL	NIL
	6	Chapter 99	Services by the Central Government, State Government, Union territory or local authority excluding the following services— (a)	NIL	NIL

			services 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; (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any service, other than services covered under entries (a) to (c) above, provided to business entities		
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Assessment on why services rendered by Captain of Ports falls within the definition of 243G. The services provided by the Central Government, State Government, Union Territory or local authority are exempt from tax. These include services provided by Government or a local authority or Governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W of the Constitution and services by a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution. Since Captain of Ports is entrusted by the State Government with one of the functions (Point Xiii) specified under section 243G of the constitution of India, it can be construed that all matters relating to it are exempt from GST. The functions entrusted to a Panchayat under the Eleventh Schedule to Article 243G of the Constitution are as under:

- (i) Agriculture, including agricultural extension.
- (ii) Land improvement, implementation of land reforms, land consolidation and soil conservation.
- (iii) Minor irrigation, water management and watershed development.
- (iv) Animal husbandry, dairying and poultry.

- (v) Fisheries.
- (vi) Social forestry and farm forestry.
- (vii) Minor forest produce.
- (viii) Small scale industries, including food processing industries.
- (ix) Khadi, village and cottage industries.
- (x) Rural housing.
- (xi) Drinking water.
- (xii) Fuel and fodder.
- (xiii) Roads, culverts, bridges, ferries, waterways and other means of communication.
- (xiv) Rural electrification, including distribution of electricity.
- (xv) Non-conventional energy sources.
- (xvi) Poverty alleviation programme.
- (xvii) Education, including primary and secondary schools.
- (xviii) Technical training and vocational education.
- (xix) Adult and non-formal education.
- (xx) Libraries.
- (xxi) Cultural activities.
- (xxii) Markets and fairs.
- (xxiii) Health and sanitation, including hospitals, primary health centers and dispensaries.
- (xxiv) Family welfare.
- (xxv) Women and child development.
- (xxvi) Social welfare, including welfare of the handicapped and mentally retarded.
- (xxvii) Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.

(xxviii) Public distribution system.

(xxix) Maintenance of community assets.

### **RCM on Services Received from Government**

The Central Government by exercising its powers under Section 9(3) of the CGST Act, 2017 and Section 5(3) of the IGST Act, 2017 has notified various goods and services on supply of which the recipient is liable to pay applicable GST. One of the services notified, vide Notification No. 13/2017-CT (R) dated 28.06.2017 and Notification No. 10/2017-IT (R) dated 28.06.2017, is the service received from the Government by the business entity

### **Applicability**

The term 'business entity' is not defined in the above notification. But reference can be taken from Notification No. 12/2017- CT(R) dated 28.06.2017, which provides that business entity means any person carrying out business. Thus, the aforementioned entry is applicable to all the person carrying on the business activity within the taxable territory.

### **Exceptions provided to the above.**

The Notification No. 13/2017-CT (R) dated 28.06.2017 and Notification No. 10/2017-IT (R) dated 28.06.2017, also provides certain exceptions i.e., the recipient is not required to discharge GST on receipt of the following services from the Central Government, State Government, Union Territory or Local Authority, in such a case tax is paid by the Central Government, State Government, Union Territory or Local Authority under forward charge. a) Services by Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union Territory or Local Authority; b)

Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; and c) Transport of goods or passengers.

### **Conclusion**

Hence from the above we can conclude that services provided by us in point (b) above are taxable under the forward charge mechanism, while the rest of the services rendered by us are exempt under GST including the list specified below and Renting of Immovable Property within Notification No 3/2018- CT (R) dated 25.01.2018 is covered under reverse charge mechanism

### **PERSONAL HEARING**

The personal hearings were held on 08/04/2025 & 28/07/2025. Shri Yatish G. P. Vernekar, Ld. Chartered Accountant was present along with Shri R. A. Gupta, Hydrographic Surveyor of the applicant, as duly authorized representatives for personal hearing before this Authority and they were heard on behalf of applicant.

During the last hearing held on 28/07/2025, the A.R. of applicant submitted the list of services containing 17 types of services that are being provided by the applicant Department and the Statutory provisions under which same are discharged as statutory functions. The said list is taken on record.

### **FINDINGS AND DISCUSSIONS**

The Applicant Captain of Ports is a Department of the Government of Goa, operating the Budget Head and incurring expenditure from the consolidated funds of the State of Goa. Therefore, there is no doubt that the legal status of the applicant is a State Government.

Being a State Government, the applicant would be eligible for exemptions under Entry No. 6 of Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017, in respect of services supplied in due discharge of its statutory duties and functions engaging itself as a Government.

As per Clause (b) of Entry No. 6 of said Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017, the services in relation to an aircraft or a vessel, inside or outside the precincts of a Port or an airport are excluded from this exemption and therefore is taxable.

Apart from the statutory duties and functions performed by the State Govt. Department, all other commercial activities (if any provided by Govt. Department) are not eligible for exemption.

The applicant department has placed on record the list of 17 types of different services supplied by the State Government Department, and amongst these services 13 services are claimed as being performed in due discharge of statutory powers/functions and the remaining 4 services are stated to be commercial in nature which are listed at sr. no. 8; sr. no. 13, sr. no. 14 and sr. no. 17 of the said list.

The State Government Department has further stated that for these 4 services listed at Sr. Nos. 8, 13, 14 & 17 of said list, the applicant department is already collecting GST and paying the same by filing monthly return in Form GSTR 3B.

In view of above facts, we find that the applicant Captain of Ports Department, being a State Government Department is eligible for exemption

under sr. no. 6 of said Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017 subject to the description of services given corresponding to said entry at Sr. No. 6 of the said Notification.

Based on the list of services provided by the applicant Captain of Ports, a State Government Department of Government of Goa, duly signed by the Head of Department (HoD) i.e. Captain of Ports, we find that the services mentioned at Sr. Nos. 8, 13, 14 & 17 are not eligible for exemption being commercial activities performed by the State Govt. Department and not engaging itself as a public authority. The services listed at Sr. Nos. 1 to 7; 9 to 12; 15 and 16 of the said list are eligible for exemption under Entry No. 6 of Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017.

As regards the claim made by the Department that they are exempted under Entry No. 5 as a Governmental Authority providing services by way of any activity in relation to any functions entrusted to a Panchayat under the Eleventh Schedule to Article 243G of the Constitution of India, the same is not acceptable for following reasons.

Firstly, for claiming any exemption under Entry No. 3 or 3A or 4 or 5 of said Notification 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017, the condition precedent is that the respective State Government by a Law/Statute passed by the Legislature has to **entrust** any or all functions listed in XIth Schedule under Article 243G or 243W of the Constitution to a Panchayat or a Municipality.

Once there is such a State Law **entrusting** particular subject/subjects listed in Eleventh Schedule to a local body, then irrespective of whether the services in relation to that activity are actually supplied by (1) Central Govt.; (2) State

Govt.; (3) Local Authority; or (4) a Governmental Authority, the services shall be eligible for exemption subject to the description of services as given in said Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017.

However, if any State Government has not entrusted/devolved such subjects/functions as listed in the Eleventh Schedule to the local bodies by enacting a Law, then these exemption are not applicable irrespective of whether the Govt. Department itself discharges such functions & duties.

In present case, in the State of Goa, the subject "Roads, culverts, bridges, ferries, waterways and other means of communication" listed at number (xiii) in the Eleventh Schedule of the Constitution of India has not been actually devolved / entrusted to the local bodies within the State of Goa, but this subject is continuing with the State Government of Goa. Therefore, the question of exemption under entries 3 or 3A or 4 or 5 of said Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017 does not arise.

However, as per Entry no. 6, read with Section 7 (2) of the GST Acts, only such activities or transactions undertaken by the Central Government, State Government or Local body are exempted if they are engaged as Public Authorities in supplying the services. By virtue of this, the 13 types of services listed at Sr. Nos. 1 to 7; 9 to 12; and 15 to 16 of the said list signed by applicant CoP attached to this Order as an Annexure are eligible for exemption under Entry No. 6 of Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017. The 4 services which are commercial in nature at sr. nos. 8, 13, 14 and 17 of said list are taxable.

**RULING****ADVANCE RULING UNDER SECTION 98 OF THE CGST/  
GGST ACT, 2017.**

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

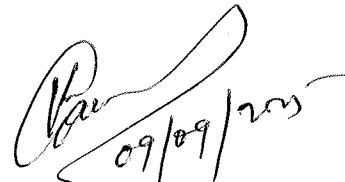
**Question: To understand the GST liability on Captain of Ports for various services provided by them?**

**Answer:**

Services provided by the Captain of Ports Department of Government of Goa, listed at Sr. Nos. 1 to 7; 9 to 12; and 15 to 16 of the said list signed by applicant Captain of Ports (CoP) and attached to this Order as an Annexure are eligible for exemption under Entry No. 6 of Notification No. 12/2017-Central Tax (Rate) dated 28<sup>th</sup> June, 2017. The remaining 4 services which are commercial in nature at sr. nos. 8, 13, 14 and 17 of said list are taxable at the rate of 18 %.



(Lakshmi Radhakrishnan)  
CGST Member



(Vishant S.N. Gaunekar)  
SGST Member

Dated: - 09 /09/2025  
Place: - Panaji, Goa

To,  
Captain of Ports Department, Government of Goa,  
Captain of Ports Office Building, D. B. Road, Panaji, North Goa- 403001

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.