



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Services Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present:

1. Sri. D. Ramesh, Additional Commissioner of State Tax (Member)
2. Sri. M. Sreekanth, Joint Commissioner of Central Tax (Member)

AAR No.10/AP/GST/2020 dated:05-05-2020

1	Name and address of the applicant	M/s. Zigma Global Environ Solutions Private Limited, Flat No.21, Jawaharlal Nehru Building, Vijayawada Municipal Corporation, Vijayawada-520001, Krishna District. (Andhra Pradesh)
2	GSTIN	37AAACZ8255D1Z5
3	Date of filing of Form GST ARA-01	11.12.2019
4	Date of Personal Hearing	19.12.2019
5	Represented by	Sri B. Venkateswaran, GST Consultant
6	Jurisdictional Authority –State	Assistant Commissioner (ST) Sitharampuram Circle, Vijayawada -II Division.
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) applicability of a notification issued under the provisions of this Act; and e) determination of the liability to pay tax on any goods or services or both;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub- section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

- 1.The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s Zigma Global Environ Solutions Private Limited (hereinafter referred to as applicant), registered under the Goods & Services Tax.



2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

3. Brief Facts of the case:

M/s Zigma Global Environ Solutions Private Limited, (hereinafter referred to as Applicant), are the service providers of Municipal Solid Waste (MSW) Management solutions. As an MSW Management company, Zigma Global offers solutions involving segregation, treatment, recycling of Municipal Solid Waste (MSW) and thus clearing MSW landfills. The services provided by Zigma are mandated under the solid waste management Rules 2016 and Central Pollution Control Board Guidelines for Disposal of Legacy Waste, February, 2019.

M/s Tirupati Smart City Corporation, Tirupati Municipal Corporation, 13-29-M9-1-00, Tilak Road, East Tirupati - 517501, Chittoor District, Andhra Pradesh (SPV), which is incorporated on 21.10.2016 as per G.O.Ms.No.258, Govt. of A.P have invited tenders for "Solid Waste Management Project – Remediation of Existing MSW Dumpsite at Ramapuram through Bio-Mining Process under implementation of the Smart City Mission in Tirupati" and M/s ZEGS was awarded with the project.

As per the Request for Proposal document (the "RFP"), the Tirupati Smart City Corporation Limited ("TSCCL") intends to enter into a "DESIGN-BUILD- OPERATE" (DBO) system contract with a Private Service Provider to implement the project on "Remediation of Ramapuram Dumpsite through Bio-mining process" (herein after referred as Project). The project would involve Design, Erection, Operation and Maintenance of the Bio-mining plant with an ultimate intention to reclaim the existing solid waste dumpsite in the said process in a scientific manner at Ramapuram dumpsite in TMC area.

Further as per, Volume 2: Scope of Work including Schedule of Supply, Functional & Technical Specifications are as under:

A. WORK REQUIREMENTS

1. SCOPE OF WORK – GENERAL

1.1 SORTING & SEGREGATION



- a. The Contractor after agreement should prepare and submit detailed project report covering a comprehensive Bio-mining & Reclamation Plan. This would also include a plan for reducing the inert should be treated properly as per MSW Rules 2016.
- b. The Contractor shall take necessary steps and processes that would bring in control of odour and leachate in the region.
- c. The Contractor shall set up sorting system flexible enough and convenient for segregation of dumped material.
- d. The Contractor should maximize the separation of recyclables viz. glass, metal etc. as well other components for generation of RDF from the dump site.
- e. The responsibility of the Contractor includes providing adequate number of sorting machines for achieving the daily target as per the capacity quoted in the bid.
- f. The Contractor will be required to provide at site storage facility for various wastes processed.
- g. The bidder shall handover any domestic hazardous waste, biomedical, C & D waste if found during excavation, sorting / segregation. He shall handover the waste to nearest biomedical, C & D facility, waste management facility. The Sanitary Inspector should make necessary arrangements to transport the same to the concerned.
- h. The bidder shall handover any valuable items like gold, diamonds and all precious metals other than iron scrap material to TSCCL

1.2 RECOVERY OF CITY COMPOST

- a. The Contractor should target to separate the compost from the biodegradable component of the solid waste at the dump site.
- b. The Contractor should ensure total stabilization of the waste dump so that it releases no offensive odours and generates no leachates, so as to have the reclaimed land fit for any other purpose including construction after the settling period as approved scientifically.
- c. The Contractor should take precaution of minimizing flies, rodents and birdmenace and fire hazards.
- d. The Contractor should as in above section deal with pre-process output such as RDF, while recyclables be sold to appropriate vendors. The pre-process and post composting process rejects shall be handled as per SWM Rules, 2016. The bidder should explore the possibility of minimizing the quantum of inert with alternatives. The accumulated inert /rejects should not sent for any other applications/uses.



- e. The plastic material segregated from the compost shall be handled as per Solid Waste Management Rules-2016.
- f. After the removal of dump, the site shall be reclaimed to its natural ground level.
- g. The transportation and storage of the inert material and the compost material shall entirely be under the scope of the bidder under this project.

1.2.1 SITE DEVELOPMENT & FACILITIES

- a. The TMC shall assist successful bidder in getting the access to the dumpsite with a license to the Contractor to implement the project "Remediation of Ramapuram Dumpsite through Bio-mining process" system.
- b. The Contractor should carry out necessary geotechnical surveys for considering the hydrological and flooding potential at sites, in order to mitigate any effect on the activities during bio-mining in terms of leachate transport.
- c. The site which shall be utilised for Machinery and material under Bio-Mining process shall be fenced or hedged and provided with proper gate to monitor incoming vehicles or other modes of transportation.
- d. Contractor should provide weighbridge to measure quantity of various components of waste at dumpsite is processed in terms of sorting and segregated materials, RDF, compost material, and inerts going out of the site.
- e. The Contractor shall also provide fire protection measures and safety equipment.
- f. The Contractor shall provide utilities such as drinking water facilities and sanitary facilities (preferably washing/bathing facilities for workers) and lighting arrangements for easy operations during night hours shall be provided and safety provisions including health inspections of workers at site shall be carried out.
- g. In order to prevent environmental impacts of the activities the Contractor as per the SWM Rules 2016 adopt guidelines for development of land fill as per Schedule- I of the Rules.
- h. Contractor shall set a soil and ground water baseline so that the same will be available to evaluate post Bio- mining and bioremediation/ reclamation of the site.
- i. Contractor shall monitor ground water quality, work zone air quality and ambient air quality monitoring within the site from authorized laboratories/agencies and submit the report on monthly basis.
- j. The Contractor shall monitor and measure noise levels at the site and interface of the facility with plant boundary and surrounding area.



1.2.2 OPERATION & MAINTENANCE OF INFRASTRUCTURE AND EQUIPMENT FOR 18 MONTHS

The Contractor shall be responsible for construction, operation of site, maintenance of transportation trucks, mechanical lifting arrangements to transfer the by-products into trucks, parking facilities, weighbridge, CCTV, hook loaders, on Design Build Operate (DBO) basis. The Contractor should maintain the facility and machinery in order to operate for the Contract period.

1.2.3 AWARENESS & EXTENSION ACTIVITIES

a. The Contractor shall undertake a mass awareness/ sensitization programme, in surrounding residential/ village area, so as to ensuring the local people are aware and taken into confidence of the bio-reclamation activities.

b. The Contractor shall create a sustained system of information, education and communication for Bio-Mining& reclamation through collaborations with expert institutions and civil societies and also disseminate through their own website.

c. The Contractor shall devise appropriate measures in consultation with expert institutions for Bio-Mining& reclamation and for sale of recycle products in the best possible manner.

d. The Contractor can keep a track of the progress of its activities and establish a database and update on a regular basis in-order to optimize its activities

e. The Contractor can coordinate with the TMC for successful engagement of this Contract.

f. The Contractor will involve community participation and discuss with the citizen community in order to ensure a free flow of information.

1.2 COMPLETION & EXIT

At the end of the Contract period, the Contractor will leave the site along with all his equipment and facilities used and handover the clean area and capped area of inerts without claiming any compensation of whatever nature.

4. Questions raised before the authority:

The applicant had filed an application in form GST ARA-01, Dt:11.12.2019, by paying required amount of fee for seeking Advance Ruling on the following issues, as mentioned below:



1. Classification of the services provided by the Applicant.
2. Whether services provided by the Applicant are exempted under Sl.No.3 of Notification 12/2017 dated 28.07.2017 as amended?
3. Whether the service recipient i.e., M/s. Tirupati Smart City Corporation is a "Governmental Authority" as per the definition of Notification No:12/2017 Central Tax (Rate) dt:28.06.2017.
4. Whether the Governmental Authority is liable to deduct TDS as per the provisions of section for the services rendered as state in the Application?

On Verification of basic information of the applicant, it is observed that the applicant falls under State jurisdiction of Assistant Commissioner (ST),Sitharampuram Circle, Vijayawada-II Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per the Sec. 98(1) of CGST /APGST Act 2017.

In response, remarks are received from the State jurisdictional officer concerned stating that there are no proceedings lying pending or passed relating to the applicant on the issue, for which the Advance Ruling sought by the applicant.

5. Applicant's Interpretation of Law and Facts

With reference to the classification of the services provided by the applicant, the predominant characteristic of the work is "Solid Waste Management" and the Applicant is of the view that the services rendered by them fall under **SAC Code No: 9994 "Sewage and waste collection, treatment and disposal and other environmental protection services"** and in particular **Group 99943-Waste treatment and disposal services** as per Annexure to Notification No: 11/2017 Central Tax (Rate) dt. 28.06.2017. With reference to the services provided by the Applicant, it is submitted that the services provided by the Applicant are exempted under Sl.No. 3 of Notification No: 12/2017 dated 28.7.2017 as amended.

The relevant portion of the Notification is appended as under:



S l. N o	Chapter, Section, Heading, Group Service Code (Tariff)	Description of Services	Rate (Percent)	Condition
3	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 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

From the scope of the services it is understood that the applicant is providing exclusively services only and don't supply any goods in what so ever manner.

With reference to the question whether M/s. Tirupati Smart City Corporation is a "Governmental Authority as per the definition of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017, the following submissions are made:

The "Governmental Authority" has been defined as under, as per Notification No.12/2017 Central Tax (Rate) dated 28.06.2017.

(zf) "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);

Further explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) reads as

(16) "non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Explanation. --For the purposes of this clause, the expression "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 ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;*

The functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution are as under:

- (a) Urban planning including town planning.*
- (b) Regulation of land-use and construction of buildings.*
- (c) Planning for economic and social development.*
- (d) Roads and bridges.*
- (e) Water supply for domestic, industrial and commercial purposes.*
- (f) Public health, sanitation conservancy and solid waste management.*
- (g) Fire services.*
- (h) Urban forestry, protection of the environment and promotion of ecological aspects.*
- (i) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.*
- (j) Slum improvement and up gradation.*
- (k) Urban poverty alleviation.*
- (l) Provision of urban amenities and facilities such as parks, gardens, playgrounds.*
- (m) Promotion of cultural, educational and aesthetic aspects.*
- (n) Burials and burial grounds; cremations, cremation grounds; and*
- (o) Cattle pounds; prevention of cruelty to animals.*
- (p) Vital statistics including registration of births and deaths.*
- (q) Public amenities including street lighting, parking lots, bus stops and public conveniences.*
- (r) Regulation of slaughter houses and tanneries.*

Regarding, M/s Tirupati smart city corporation limited, it is submitted that Andhra Pradesh government has floated Tirupati smart city corporation limited for the development of Tirupati as smart city as a Special purpose Vehicle (SPV). The SPV will be owned by the state government and the Tirupati Municipal Corporation on



50:50 ratio. The SPV will be governed by a board of directors and is answerable to union and state governments, Tirupati Municipal Corporation and all other stakeholders. The paid-up capital of the Special Purpose of Vehicle will be Rs.5 lakhs divided into 50,000 equity shares of Rs.10/- each. This paid up capital will be increased as and when the funds are released to the SPV. The share holding Tirupati smart city corporation limited is as under. (Copy of AP Govt GO is enclosed in the Annexure).

In the following cases the Hon'ble Advance Ruling Authority of Andhra Pradesh has considered the definition of the "Government Authority" as per Notification No: 12/2017 Central Rate dated 28/06/2017 as amended.

1. M/s Sealwel Corporation Private Limited, AAR No.03/AP/GST/2019 dated:30.01.2019.
2. M/s GVS projects Private limited AAR No.04/AP/GST/2019 dated:30.01.2019.
3. Amaravathi Metro Rail Corporation Limited AAR/AP/07(GST)/2018 dt. 02.07.2018.

The findings and decisions taken by the Hon'ble AAR is squarely applicable to the instant case of Tirupati Smart City Corporation Limited as the shareholding and control is 100% by Government of AP.

From the above it is understood that Tirupati smart city corporation limited squarely falls under the definition of "governmental authority" as per explanation to clause (16) of Section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017).

With reference to deduction of TDS as per the provisions of Section 51 of CGST Act and APSGST Act, 2017 for the services rendered as stated in the Application, the Applicant respectfully submit that application, the application respectfully submit that

As Section 51(1) of the Act read with Notification No: 50/2018 Central Tax, dated 13.09.2018, the persons specified below namely: -

- (a) 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 fifty-one per cent. or more participation by way of equity or control, to carry out any function;
- (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- (c) public sector undertakings.

Has to deduct tax at source on taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees.



In the instant case, M/s Tirupati smart city corporation limited falls within the above notification as specified persons. However, as stated in the preceding submissions, the services rendered by the Applicant are exempted from payment of GST as per Sl. No. 3 of Notification No: 12/2017 Central Rate dated 28/06/2017. Hence no amount needs to be deducted as per the provisions of Section 51 of Act, ibid.

The Hon'ble Advance Ruling Authority of West Bengal in the following cases has taken a similar view.

1. Singh Transport
2. Mahendra Roy
3. Time Tech Waste Solutions Private Limited
4. Indrajit Singh, carrying on business under the trade name M/s Maruti Enterprise

6. Record of Personal Hearing:

Sri B.Venkateswaran, GST Consultant, the authorized representative of the applicant appeared for Personal Hearing on 19.12.2019 and they reiterated the submission already made in the application.

7. Discussion and Findings:

We have examined the issues raised in the application. The taxability, classification of the services, applicable rate of tax, eligibility of exemption etc., for the Goods and Services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined.

The issue at hand is to decide the Classification of the services provided by the applicant.

From the record we find that the applicant is Municipal Solid Waste (MSW) Management Company, which offers solutions involving segregation, treatment, recycling of Municipal Solid Waste (MSW) and thus clearing MSW landfills. The applicant seeks clarity in this regard whether the nature of the activities of the applicant falls under **SAC Code No: 9994 "Sewage and waste collection, treatment and disposal and other environmental protection services"** as per Annexure to Notification No: 11/2017 Central Tax (Rate) dt. 28.06.2017. We concur with the opinion of the applicant after a thorough examination of the nature of the services of the applicant by classifying them under Sl.No.32 of Heading 9994 of Notification No: 11/2017 Central Tax (Rate) dt. 28.06.2017.

Subsequently now we examine whether services provided by the applicant is exempted under Sl.No.3 of Notification 12/2017 dated 28.07.2017 as amended

Sl.No.3 of the above notification describes 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.



There are multiple issues that are to be dealt under this entry as mentioned here under:

a) Whether the services rendered by the applicant are pure services.

The Services rendered by the applicant as seen from the record, are devoid of any incorporation of goods in the process of supply and the agreement copy between the applicant and Tirupati Smart City Corporation Limited reveals the same citing the approximate value of the work to be done under the agreement for a sum of Rs. 18,64,00,000/- (Rupees Eighteen Crore Sixty Four lakh only) for 2,00,000 MT (Contract Price). Hence, they are classifiable as pure services, excluding works contract service and other composite supplies involving supply of any goods.

b) Whether the service recipient i.e., M/s. Tirupati Smart City Corporation is a "Governmental Authority" as per the definition of Notification No:12/2017 Central Tax (Rate) dt:28.06.2017 as amended.

Now we examine whether the service recipient is a "Governmental authority" as examined under Section 2(16) of the IGST Act, or as defined vide Notification No. 31/2017 - Central Tax (Rate), dated: 13.10.2017, which reads as under;

"Explanation - For the purposes of this clause, the expression "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 ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a panchayat under article 243G or to a municipality under article 243W of the Constitution."*

Now we examine whether the TSCCL is qualified by the above conditionalities.

(i) Whether the applicant is set up by an Act of Parliament or a State Legislature?

The applicant does not fall under this category

(ii) (a) Whether it is established by any Government?

Tirupati Smart City Corporation Limited (TSCCL) is a Special Purpose Vehicle (SPV) created by the Government of Andhra Pradesh vide G.O.MS. NO. 258, Municipal Administration & Urban Development (UBS) Department dt: 21.10.2016

(b) Whether the applicant possesses 90% or more participation by the Government by way of equity or control.

As far as the 'equity' part is concerned, Tirupati Smart City Corporation Limited (TSCCL) is a limited company incorporated under the Companies Act, 2013 in which the Andhra Pradesh State Government and the Tirupati Municipal Corporation are the promoters having 50:50 equity share



holding, which substantiates more than 90% of participation of the Government. With reference to the 'control' wielded by the share holders, all of the share holders are Governmental Authorities nominated on the body of the TSCCL as mentioned here under;

- 1) Governor of Andhra Pradesh represented by Principal Secretary, MA & UD, GoAP.
- 2) Commissioner and Director of Municipal Administration, GoAP, Hyderabad.
- 3) Engineer –in- Chief, Public Health Department, GoAP.
- 4) Director of Town and Country Planning, GoAP.
- 5) Municipal Corporation of Tirupati represented by its Commissioner.
- 6) Additional Commissioner, Tirupati Municipal Corporation
- 7) Examiner of Accounts, Tirupati Municipal Corporation and
- 8) Superintending Engineer, Tirupati Municipal Corporation.

The composition of the body leaves no further doubts regarding the complete control wielded by the Government.

(c) Now we examine whether the functions carried out by TSCCL are meant to carry out any function entrusted to a panchayat under article 243G or to a municipality under article 243W of the Constitution."

The relevant function under which the services of the applicant as extended to the TSCCL fall under the category of the functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution is as under:

(f) Public health, sanitation conservancy and solid waste management.

Thus, the final condition is also satisfied.

Hence, services provided by the Applicant are exempted under Sl.No.3 of Notification No. 12/2017 dated 28.07.2017 as amended further by Notification No. 32/2017 - Central Tax (Rate), dated: 13.10.2017.

RULING

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

1) Question: Classification of the services provided by the Applicant.

Answer: The Services of the applicant fall under Sl.No.32 of Heading 9994 of Notification No: 11/2017 Central Tax (Rate) dt. 28.06.2017.



2) Question: Whether the service recipient i.e., M/s. Tirupati Smart City Corporation is a "Governmental Authority" as per the definition of Notification No:12/2017 Central Tax (Rate) dt: 28.06.2017.

Answer: The Service recipient is Government authority.

3) Question: Whether services provided by the Applicant is exempted under Sl.No.3 of Notification 12/2017 dated 28.07.2017 as amended?

Answer: Affirmative.

4) Question: Whether the Governmental Authority is liable to deduct TDS as per the provisions of section for the services rendered as state in the Application?

Answer: Does not arise, as the services are exempted.

**Sd/-D. RAMESH
(MEMBER)**

**Sd/- M.SREEKANTH
(MEMBER)**

//t.c.f.b.o//


Assistant Commissioner(ST)

**O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.**

TO

- 1) M/s. Zigma Global Environ Solutions Private Limited,
Flat No.21, Jawaharlal Nehru Building, Vijayawada Municipal Corporation,
Vijayawada-520001 Krishna District (A.P) **(By Registered Post)**.
- 2) M/s. Zigma Global Environ Solutions Private Limited,
Flat No.24, Kalaimagal Kalvi Nilayam Road, Erode, Erode District-638001,
Tamil Nadu State. **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Sitharamapuram Circle, Vijayawada-II Division. **(By Registered Post)**
2. The Superintendent of Central Tax, Indrakeeladri Range, CGST Amaravathi Division, Vijayawada. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada.



2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035 (A.P) **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

