

**GUJARAT AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/27/2021
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/14)

Date: 19.07.2021

Name and address of the applicant	:	M/s. Ahmedabad Janmarg Limited., Dr.Ramanbhai Patel Bhavan, Usmanpura, Ahmedabad-380013.
GSTIN of the applicant	:	24AAGCA6478F1ZM
Date of application	:	22.04.2021
Clause(s) of Section 97(2) of CGST/ GGST Act, 2017, under which the question(s) raised.	:	(b) applicability of a notification issued under the provisions of this Act; (e) determination of the liability to pay tax on any goods or services or both; (f) whether applicant is required to be registered;
Date of Personal Hearing	:	30.06.2021
Present for the applicant	:	Hardik Shah,CA & Rutvij Modi, CA.

A. BRIEF FACTS

1. M/s.AhmedabadJanmarg Limited (hereinafter referred to as ‘AJL’/‘the Applicant’ for the sake of brevity) is engaged in passenger transportation services and runs BRTS buses in Ahmedabad. The applicant is ‘Public Limited Company’. The applicant has submitted that in order to ease traffic situation in Ahmedabad, the Ahmedabad Municipal Corporation (AMC) launched Bus Rapid Transit System (BRTS) which became the first BRT project to receive JnNURM funding; that in order to ensure smooth rollout of BRTS in Ahmedabad, AMC incorporated Special Purpose Vehicle (‘SPV’) called Ahmedabad Janmarg Ltd (AJL) to run and operate buses under Rapid Transit System; that AJL operates and runs BRTS buses and is responsible to decide fares and maintain bus lanes and bus shelters.

2. The applicant has submitted that a resolution was passed by AMC on September 14, 2007 in the General Board Meeting to form AJL and it was decided that followingmembers would act as Chairman & Directors of AJL:

Chairman:

Municipal Commissioner, Ahmedabad

Directors:

Mayor of Ahmedabad

Chairman of Standing committee

Leader of Opposition

Deputy Commissioner of AMC

Transport committee chairman of AMTS

Additional Commissioner – Traffic Police, Ahmedabad

Chairman / CEO of AUDA

Secretary – Ministry of Urban Development, GOI

MLA (Ahmedabad)

Secretary – Ministry of Urban Development, GOG

Secretary – Ministry of Finance, GOG

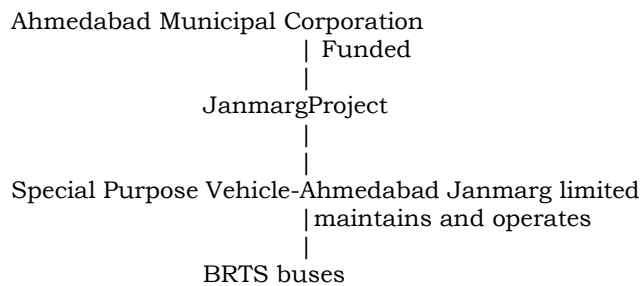
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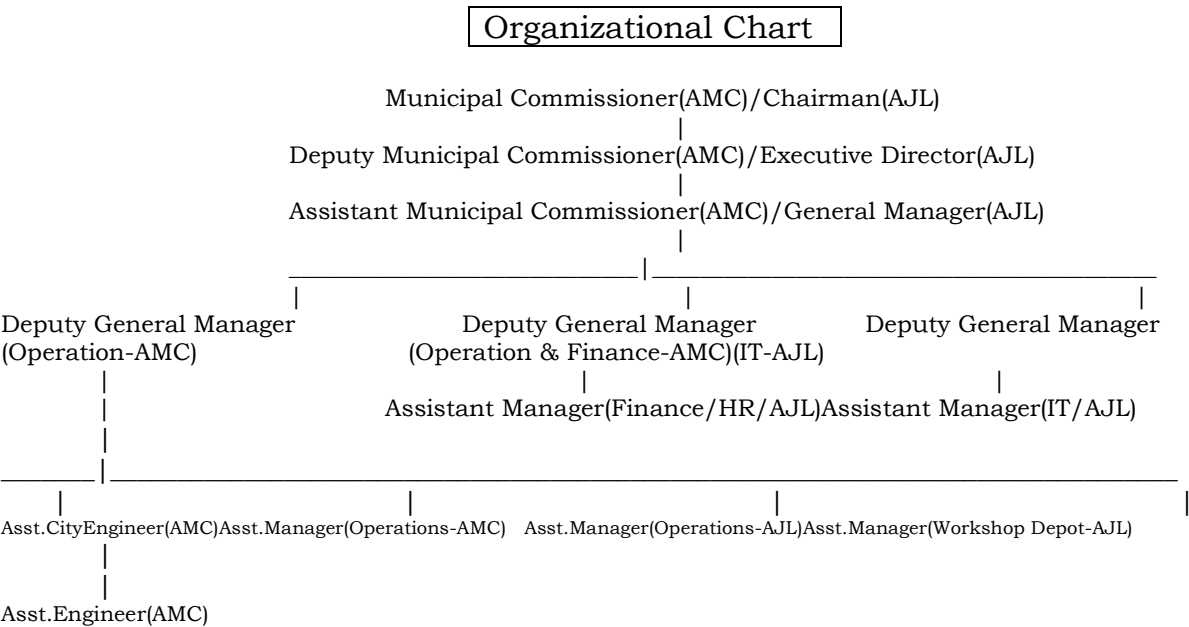
Representative from private sector

Representative from private sector

3. The applicant has submitted that Ahmedabad Municipal Corporation(AMC) is 100% shareholder of AJL i.e. AJL is nothing but a mere offshoot of AMC and for all practical purpose, AJL is an inseparable part of AMC; that theapplicant is an extended arm of the Municipal Corporation and does the activities as per the functions entrusted to Municipal Corporation. The incorporation of AJL has been summarized as follows:



4. The applicant has submitted the organization chart of AJL as follows:



5. The applicant has stated that majority of the employees that work for AJL are sent on deputation by AMC; that the Deputy/Assistant Municipal Commissioner of AMC is in-charge for the operation of AJL and in case he/she is posted to a different department of AMC, another Assistant Municipal Commissioner of AMC is given charge of the operations of AJL; that similarly, other AMC officers such as city engineers are deputed to AJL to carry out day to day activities; that since AJL is part of centrally funded scheme, various stakeholders are involved and the details of the key stakeholders are given; that the lead planning & implementing agency for all the practical purpose is AMC.

Team AJL
Lead Planning & Implement Agency
Ahmedabad Municipal Corporation (AMC)

Project Support
Ahmedabad Urban Development Authority (AUDA)
Gujarat Infrastructure Development Board (GIDB)
Urban Development & Urban Housing Department, Government ofGujarat
Ahmedabad City Traffic Police

6. The applicantsubmitted that in the eyes of AMC, AJL is one of the department of AMC which is evident from the AMC website; that the BRTS Project Division of Ahmedabad Municipal Corporation carries out the following functions:
Construction and maintenance of BRTS Road within AMC limits.
Construction and maintenance of Bus Shelter within AMC limits.

Construction and maintenance of Bus Depot within AMC limits
Construction and maintenance of Workshop within AMC limits.

7. The applicant has submitted that Ahmedabad Janmarg Ltd has won many accolades for the implementation of sustainable BRTS Operation at national as well as international level; that the entire credit for successful implementation of BRTS rests on the shoulders of AMC; that AMC with the help of its offshoot AJL created BRTS network; be it allotment of land for creating BRTS stations/providing space for parking of buses or managing day to day affairs of BRTS, AMC has played pivotal role, hence, the applicant believe AJL squarely falls under the definition of local authority as provided in the GST legislation.

8. The applicant submits that Sl. No. 3 of Notification no. 12/2017 – Central Tax (Rate) and Notification no. 9/2017 – Integrated Tax (Rate) exempts pure services provided to a Central Government, State Government or Union Territory or local authority or a Governmental Authority by way of any activity in relation to a function entrusted to a Municipality under Article 243W of the Constitution). as follows:

Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Service	Rate (percent)	Condi-Tion
(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

The Applicant submitted that to qualify for above exemption, it is to fulfill conditions: be a Local Authority and that services (procured) are by way of activity in relation to function entrusted to Municipality under Article 243W of Constitution.

8.1 The applicant submits they are Local Authority since it is managed by AMC and their activity of providing transportation services is covered under either functions of Article 243W of Constitution and therefore the services received by them in relation to/ pertaining to transportation services should be eligible for exemption from payment of GST:

Provision of urban amenities and facilities such as parks, gardens, playgrounds;Public amenities including street lighting, parking lots, bus stops and public conveniences;

8.2 The applicant submits that they are managed by AMC; that it would be relevant to refer to the definition of the Local Authority as given under Section 2(69)of CGST Act, which has been reproduced:

“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 Cantonment 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;or
- (g) A Regional Council constituted under article 371A of the Constitution

9. The ‘local fund’ used in the above definition has been defined under Gujarat Treasury rules, as: (i) revenue administered by bodies which by law or rule

having the force of law come under the control of Government, whether in regard to the proceedings generally, or to specific matter such as sanctioning of their budgets, sanction to the creation or filling up of particular appointments, the encashment of leave, pension or similar rules,(ii) The revenues of anybody which may be specially notified by Government as such; that AJL receives all its funds from AMC; that the AMC receives grants from various sources for operations/capital needs and deploys the funds to AJL for BRTS operations; that in one instance, AMC has managed to receive funds to purchase electric buses for BRTS operations; that considering that AJL manages the fund provided by AMC, AJL would be construed to control/ manage local or municipal fund; that AJL is established and managed by AMC, which is a municipal corporation, and AJL would render transportation service as is entrusted to a municipal corporation; that the applicant would also like to draw reference to Advance ruling order in the case of Ahmedabad Municipal Transport Service vide order number GUJ/AAR/R/13/2021 dated January 27, 2021 where the facts in the case were similar in hand wherein the applicant had sought an advance ruling on whether the Applicant qualifies to be a 'local authority' and while analyzing the definition of the term 'local authority', the AAR observed the following:

"In Agricultural Produce Market Committee Narela, Delhi [(2008) 9 SCC 434] the Apex Court has examined the context in which it has earlier interpreted the words 'other authority' in R.C. Jain (supra). The court adopted the test of 'like nature'. As the words 'other authority' came after the words 'Municipal Committee', 'District Board' or 'Body of Port Commissioners', it took color from these earlier words. The purpose and object are, therefore, to cover those bodies, which are discharging municipal functions but are not covered by the definition of municipalities as required to be constituted under Article 243Q of the Constitution (refer to the Apex Court judgment dated 12-10-2018 on Urban Improvement Trust (Case No. CA 10577 of 2018))."

9.1 Accordingly, it was observed that AMTS is a statutory authority established to carry out the functions entrusted to a Municipality under Article 243 of the Constitution, is a body discharging municipal functions although not a municipality required to be constituted under Article 243Q of Constitution and is fit to be included as 'other authority' under Section 2(69)(c) of the GST Act; that considering the above, the applicant wishes to submit that it is an extended arm of AMC incorporated to carry out municipal functions entrusted to Municipality and is also fit to be included as 'other authority' under Section 2(69)(c) of the GST Act.

9.2 The applicant has referred to the ruling of Advance Ruling Authority in the case of Newtown Kolkata Development Authority (NKDA) vide order number 42/WBAAR/2019-20 dated 6-03-20; Maharashtra Advance Ruling in the case of Vidarbha Infotech Private Limited wherein the facts of the case the applicant was providing services to Nagpur Environmental Services Limited (NESL) Nagpur.

10. The applicant submitted that it is essential for it to avail services of security contractors to ensure the safety of buses and smooth flow of traffic; that the transportation services rendered by it would be considered as provision of urban amenities and facilities listed under twelfth schedule; that the term 'in relation to' used in above exemption is wide enough to cover every kind of services that results in performance of the functions as mentioned in Article 243W of the COI either directly or indirectly; in case of Doypack Systems (P.) Ltd. vs. UOI-1988 (36) E.L.T. 201 (S.C.)- it was held that the expression "in relation to" (so also "pertaining to"), is a very broad expression which pre-supposes another subject matter; that these are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context; that it has also held that the expression "in relation to" has been interpreted to the words of wisest amplitude.

10.1 The Applicant cited case law-State Waqf Board Vs.Abdul Azeer sahib-AIR 1968 Mad 79. The applicant submits that services which are directly used for

providing passenger transportation service or those service without which it is difficult to provide passenger transport service such as security services would be included within the term ‘in relation to’ and accordingly, would be covered within’; that apart from the above, the applicant wishes to place reliance on the recent Advance Ruling in the case of A. B. Enterprise vide order #GUJ/GAAR/R/2020/18 wherein the Applicant is engaged in supplying manpower for security and housekeeping to the Central Government, StateGovernment and Local Authority and it was upheld in the AAR that these pure services would be eligible for exemption from payment of tax subject to the condition that the services provided to these entities mentioned above are provided by way of any activity in relation to any function entrusted to aPanchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India.

10.2 The applicant cited Advance Ruling orders:

GUJ/GAAR/R/08/2019 in the case of M/s.Jayesh Anilkumar Dalal.
Rajasthan Authorities for Advance Rulings in the case of M/s PDCOR Limited, Jaipur(Raj) vide order no RAJ/AAR/2018-19/13 Dt. 25-8-18.
Goa Authorities for Advance Rulings in the case of Sewerage & Infrastructural Development Corporation of Goa Ltd vide order # GOA/GAAR/10/ 2018-19 dated 30-9-19.
West Bengal Authorities for Advance Rulings in the case of Shri Sumitabha Ray vide order no. 27/WBAAR/2019-20 Dt. 23-9-19.
Karnataka Authorities for Advance Rulings in the case of Sri Roopesh Kumar vide order # KAR/AAR/101/2019-20 dated 27-9-19.
West Bengal Authorities for Advance Rulings in the case of M/s Arihant Dredging Developers Private Limited vide order # 49/WBAAR/2019-20 dated 10-6-19.

10.3 Based on discussion above, the applicant has submitted that security services are of importance for them considering possibility of unfortunate events that may threaten the safety of Vehicles; that security service has direct nexus with the transportation service, being one of the functions of Municipality and even in Ruling of A.B. Enterprise (supra), same would be eligible for exemption and the applicant would not be liable to make payment of tax under reverse charge mechanism.

11. The applicant has submitted that they are also providing advertising services wherein the clients/recipients wanted to advertise their products or services on various parts of buses and for such advertisement, AJL would recover certain amount from the recipient of services; that services supplied by local authority to business entity is covered within reverse charge mechanism; Notification no.13/2017 –Central tax (Rate) dated 28-6-17:

S.No.	Category of supply of services.	Supplier of service.	Recipient of service.
5.	Services supplied by the CentralGovernment, State Government,Union territory or local authorityto a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) 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 Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) Transport of goods or passengers.	Central Government, State Government, Union territory or Local authority	Any business entity located in the taxable territory.

12. The Applicant submits that under the GST Regime, TDS provisions have been made effective from October 01, 2018; that from a combined perusal of Section 51 of the CGST Act, 2017 read with Notification No. 50/2018-Central Tax dated September 13, 2018, the list of persons required to deduct TDS inter-alia includes local authority; that the applicant merit classification of local authority and therefore required to obtain registration as TDS deductor.

13. The applicant submits that if they do not qualify to be a 'local authority', can they be construed to be a 'government entity'. The term 'government entity' has been defined under Notification 12/2017 dated June 28, 2017 to mean as:

"Government Entity" means an authority or a board or any other body including a society, trust, corporation,

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government, with 90 per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

The term 'governmental authority' has also been defined under Notification 12/2017 dated June 28, 2017 to mean as under:

"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.

13.1 The applicant cited Ruling in case of Zigma Global Environ Solutions Private Limited (AAR No.10/AP/GST/2020 dated May 5, 2020; Shapoorji Pallonji & Company Private Limited (AAR #10/AP/GST/2021 dated February 25, 2021.

13.2 The applicant has submitted: it is established by government; AJL was constituted as SPV by the order of Municipality and therefore, it would be construed to be established by government; AJL is a 100% subsidiary of Ahmedabad Municipal corporation, which substantiates more than 90% participation by Government; to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority/Municipality under article 243 W of the Constitution or a Panchayat under article 243 G of the Constitution.

13.3 The applicant has submitted that it qualifies to be both a 'Government entity' and a 'Governmental authority'.

14. The applicant submitted the following documents on 2-7-21 vide email:

- (i) List of shareholders of the Ahmedabad Janmarg Ltd. as on 1-7-21.
- (ii) Copy of certificate of incorporation of Ahmedabad Janmarg Ltd.
- (iii) Letter dated NIL issued by the Municipal Commissioner to Principal Secretary of Gujarat requesting for Government approval for Registration of 'Ahmedabad Janmarg Ltd.
- (iv) Letters dated 12-2-07 and 25-10-07 issued by the Secretary of Ministry of Urban Development, Government of India to the Chief Secretary, Government of Gujarat regarding running of city bus services on PPP model.

B. Advance Ruling sought for the following Questions:

1. Whether AJL would be qualified as 'Local Authority' under the Central Goods and Services Tax Act, 2017?
2. Whether AJL is liable to pay GST on procurement of security services received from any person other than body corporate under reverse charge mechanism, considering the exemption granted in sl. no. 3 of Notification No. 12/2017 – Central Tax (Rate) or sl. no. 3 of Notification No.09/2017 – IGST (Rate)?
3. Whether AJL is required to pay GST on advertisement services or the service recipient of AJL is required pay GST under reverse charge mechanism considering Notification no. 13/2017-Central tax (Rate) dated 28-06-2017?

4. *Whether AJL is required to be registered as a Deductor under GST as per the provision of Section 24 of the CGST Act?*
5. *If AJL does not qualify to be local authority under Central Goods and Services Tax Act, 2017 in Part A, can be it construed to be a government entity or a governmental authority?*

C. Personal Hearing:

15. Shri Hardik Shah C.A. and Shri Rutvij Modi, C.A. appeared on 30-06-21 reiterated the contents of the application. The following copies were submitted-

- i. Letter dated 14-9-07 of the Municipal Commissioner regarding registration of Ahmedabad Janmarg Ltd. along with a proposed list of Board of Directors.
- ii. Letter dated 18-3-08 issued by the Deputy Secretary, Urban Development and Urban Housing Department, Sachivalaya, Gandhinagar addressed to the Municipal Commissioner of Ahmedabad Municipal Corporation regarding granting of approval of registration of Ahmedabad Janmarg Ltd.
- iii. Copies of following Rulings as cited above in brief facts:

Advance Ruling 2019-TIOL-236-AAR-GST dated 13-6-19 in case of M/s.Vidarbha Infotech pvt.ltd.

Advance Ruling No.GUJ/GAAR/R/13/2021 dated 27-1-21 incase of M/s. Ahmedabad Municipal Transport Service.

Advance Ruling No.GUJ/GAAR/R/2020/18 dated 19-5-20 in case of M/s. A.B.Enterprise.

Advance Ruling No.GUJ/GAAR/R/08/2019 dated 1-5-19 in case of M/s.Jayesh AnilkumarDalal.

AAR No.10/AP/GST/2020 dated 5-5-20 in case of M/s. Zigma Global Environ solutions pvt.ltd.

Supreme Court judgement dated 17-2-81 in the case of UOI &Ors. Vs. R.K.Jain&Ors.

AAR No.10/AP/GST/2021 dated 25-2-21 in case of M/s. Shapoorji Pallonji & Company pvt.ltd.

Supreme Court judgement dated 12-2-88 in the case of Doypack systems pvt.ltd. vs. UOI &Ors.

D.FINDINGS:

16. At the outset we would like to make it clear that the provisions of CGST Act and GGST Act are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the GGST Act.

17. We have carefully considered all the submissions made by the applicant.

18. We find that the Ruling to be pronounced hinges on whether AJL is a local authority/ Government Authority/ Government entity.

18.1 Local Authority as per Section 2(69) (c)of the CGST Act is defined as follows:

“Local authority” means –

(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;

18.2 We find that **the funds of AJL has not been notified as local/ municipal funds by any Legislative Act passed by Gujarat legislature or by Gujarat Treasury Rules.** Further, we do not find AMC to be the Central Government/ The State Government. We bear in mind that AJL has separate legal existence and is a legal person incorporated with Registrar of Companies with PAN no.AAGCA6478F. AJL is a Private limited Company and when Funds of any nature- be it local funds/ municipal funds or otherwise are granted to AJL, those funds in the hands of AJL become grants/ Revenue for AJL and unless the State Government notifies those grants or revenues now in the hands of AJL as a local/municipal fund, the grants/revenue of AJL does not merit to be termed local/municipal funds any longer . Suppose, (If) we agree with the submission of the applicant that AJL is a local Authority, then indirectly, this Authority is notifying the Revenues/grants in the hands of AJL as

local/municipal fund, which is illegal, for the competency to notify rests with the Gujarat State Legislature or vide the Gujarat Treasury Rules to notify the same. The wordings of the statute at Section 2(69) (c) CGST Act, for the definition of Local Authority is clear and precise. These wordings in a statute when clear, plain and unambiguous and only one meaning can be inferred, we are bound to give effect to the said meaning. We give due regard to the clear meaning of words and matter should be governed wholly by the language of the Statute. We cannot allow any scope for intendment. We find that our view of interpretation of the wordings, when clear and unambiguous, have to be given effect to, is in consonance and compliance to the Supreme Court Judgements, to name a few as follows, at the end of this paragraph. The ratio decidendi enunciated by the Apex Court may be applied to the wordings of the Statute to be given effect to.

- 2015 (324) E.L.T. 656 (S.C.) [para 31]
- 2011 (265) E.L.T. 14 (S.C.) [para 10]
- 1989 (40) E.L.T. 239 (S.C.) [para 11].
- 1978(2) ELT(J350)(SC) [para 5]
- CCE1995(77) ELT474(SC) [para 16]

We discuss an illustration to make clear our findings:

Let us consider, GST is collected by the Government and is deposited in the Government exchequer. The Tax collected is GST and its nature is Tax, levied as per Competent Authority. Now when this GST tax is disbursed to the various Departments of Government for various development work, the nature of funds transferred to various Departments of Government is no longer GST/Tax in the hands of the Departments, but it becomes the Revenues/ Grants in the hands of the Departments. Applying the illustration to the subject matter, Revenues/grants in the hands of AJL, a private limited company, having its separate legal existence vis-à-vis AMC, are no longer local/municipal funds. For by the definition of Section 2(69) (c)CGST Act, we find that AJL does not merit to be classified as local Authority.

19. The applicant cited decision dated 17-2-81 of the Apex Court in the case of Union Bank of India vs R.C. Jain (1981) 2 SCC 308 in support of their view that they are a 'local authority'. The issue in the said case was whether 'Delhi Development Authority' was a 'local authority' or otherwise. This decision cannot be made applicable to the instant case 'Ahmedabad Janmarg Ltd. is distinctly different from that of the 'Delhi Development Authority'. The facts of the case being different, further we also find that this decision pertains to the pre-GST era when 'Local authority' definition as per Section 2(69) (c) CGST Act, enacted by Competent Union Legislature was not existent when the order was passed. In GST era, we find that local authority has to be interpreted and defined as per definition available in the CGST law. We find it apt to refer to CBIC's Sectoral FAQ of Government Services which is reproduced herein as follows:

Question 5: Are all local bodies constituted by a State or Central Law regarded as local authorities for the purposes of the GST Acts?

Answer: No. The definition of 'local authority' is very specific and means only those bodies which are mentioned as 'local authorities' in clause (69) of section 2 of the CGST Act, 2017. It would not include other bodies which are merely described as a 'local body' by virtue of a local law. For example, State Governments have setup local developmental authorities to undertake developmental works like infrastructure, housing, residential & commercial development, construction of houses, etc. The Governments set up these authorities under the Town and Planning Act. Examples of such developmental authorities are Delhi Development Authority, Ahmedabad Development Authority, Bangalore Development Authority, Chennai Metropolitan Development Authority, Bihar Industrial Area Development Authority, etc. Such developmental authorities formed under the Town and Planning Act are not qualified as local authorities for the purposes of the GST Acts

20. Now we focus on Ahmedabad Janmarg limited's eligibility to be a Government Entity or a Government Authority. 'Government entity' has been defined at Notification 12/2017-Central Tax(Rate) dated 28-6-17(as amended from time to time) as follows:

"Government Entity" means an authority or a board or any other body including a society, trust, corporation,

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government,

with 90 per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority."

'Governmental authority' has also been defined at Notification 12/2017-Central Tax(Rate) dated 28-6-17(as amended from time to time) as follows:

"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."

20.1 We find that AJL has neither been set up by an Act State Legislature nor been established by the State Government of Gujarat. Government is defined at section 2(53), CGST Act as Central Government and at Section 2(53) GGST as Government of Gujarat. As per applicant's submission, AJL is constituted as SPV by the order of Municipality and the applicant submitted that it is subsidiary company of the Ahmedabad Municipal Corporation(AMC) which is not Government. We further refer to GST(sectoral series) FAQs on Government Services issued by CBIC, as follows:

Question 9: Are various corporations formed under the Central Acts or State Acts or various government companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by special Acts covered under the definition of 'Government'?

Answer: No. The corporations formed under the Central or a State Act or various companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by the State Acts will not be covered under the definition of 'Government' and therefore, services provided by them will be taxable unless exempted by a notification.

20.2 We therefore find no merit to consider AJL a Government authority/ Government entity.

20.3 We note that the relevant Notifications cited by AJL is relevant for consideration in case the matter involves Central Government/ State Government/local authority/Government entity/ Government authority. Thereby the case laws of Doypack Systems (P.) Ltd; State Waqf Board for meaning of the word 'in relation to' as appearing in the Entry No.3 of Notification No.12/2017-Central Tax(Rate) dated 28-6-17 is not attracted. They come into picture for reference, if AJL would qualify to be local authority/ government authority/ government entity. For this same reason, case laws of M/s. A. B. Enterprise; Shri Jayesh Anilkumar Dalal; Shri Sumitabha Ray; Sri Roopesh Kumar reliance placed by the applicant are misplaced. In the case law of Advance Ruling in M/s Arihant Dredging Developers Private Limited vide order No 49/WBAAR/2019-20 dated 10-6-19- Contract was for re-sectioning of river Jamuna which involves the earthwork in the excavation of the drainage channels and deposit of the excavated materials to locations outside the government land, a composite supply of various services, where excavation and re-excavation of the drainage channel is the principal supply. The facts of said Rulings is different from our facts in subject matter as AJL does not qualify to be Central Government or State Government or local authority or a Governmental Authority or a Government Entity. Also in the case of Advance Rulings in case of M/s PDCOR Limited, Jaipur(Raj) vide order no RAJ/AAR/2018-19/13 Dt. 25-8-18, JDA has been declared as a Governmental Authority on the grounds that it is formed under the Jaipur Development Authority Act, 1982, which is not the facts of our subject matter.

21. We refer to Section 24(vi)CGST Act, which read as follows:

24. Compulsory registration in certain cases

(vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

21.1 We draw our attention to Section 51, CGST Act, reproduced as follows:

“51.(1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

- (a) a department or establishment of the Central Government or State Government; or*
- (b) local authority; or*
- (c) Governmental agencies; or*
- (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,*

(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:”

21.2 We note that the applicant is not covered at a/b of Section 51(1) CGST Act. The Government vide Notification No.50/2018-Central Tax dated 13-9-18 specified persons under clause(d) of section 51(1)CGST Act as follows:

- “(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 percent, 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.”*

The applicant is therefore not covered at section 51(1)(d) CGST Act. For Government agencies meaning, we refer to Wikipedia for common meaning of the term, as follows:

“government or state agency, sometimes an appointed **commission**, is a permanent or semi-permanent organization in the machinery of government that is responsible for the oversight and administration of specific functions, such as an administration. There is a notable variety of agency types. Although usage differs, a government agency is normally distinct both from a department or ministry, and other types of public body established by government. The functions of an agency are normally executive in character since different types of organizations (*such as commissions*) are most often constituted in an advisory role—this distinction is often blurred in practice however, it is not allowed.

A government agency may be established by either a national government or a state government within a federal system. The term is not normally used for an organization created by the powers of a local government body. Agencies can be established by legislation or by executive powers. The autonomy, independence, and accountability of government agencies also vary widely. The term *agency* in India has several meanings; for example, the Cabinet and the parliament Secretariat describes itself^[3] as a "*nodal agency* for coordination amongst the ministries of the Govt. of India". Most notably as an international feature, what appear to be independent agencies (*or apex agencies*) include some that have active roles for Ministers: such as, the National Security Council, the Indian Council of Agricultural Research, and the Planning Commission, which is chaired ex officio by the Prime Minister.

(source:https://en.wikipedia.org/wiki/Government_agency)”

By common parlance of the term Government agency as cited above and further even by applying the Eiusdem Generis Rule to the four clauses of section 51(1) CGST Act, we do not find merit to club AJL as a Government agency as at Section 51(1)(c) CGST Act.

22. We find that the applicant has cited certain Rulings of the Advance Ruling Authority. The applicant cited Advance Ruling(West Bengal) Order No.42/WBAAR/ 2019-20 dated 16-3-20 in case of New Kolkata Development Authority(NKDA), it was on record that NKDA has been formed under the NKDA Act to perform municipal functions. NKDA has submitted to the Advance Ruling Authority, a copy of letter issued by the Principal AG(A&E), West Bengal to the PAO, Kolkata Pay and Accounts Office-III informing the latter that it has given approval to **NKDA to operate a Local fund**. Para 4.10 of the said Ruling reads '*NKDA is a statutory authority discharging municipal functions(although not a municipality as required to be constituted under Art 243Q of the Constitution) within the territorial jurisdiction of New Town, Kolkata, is legally entitled to and entrusted by the State Government with the control or management of a local fund as defined in TR.6.29 of WBTR*'. NKDL case facts are different with present facts of AJL. The applicant cited Advance Ruling No.2019-TIOL-236-AAR-GST dated 13.06.2019 in the case of Vidarbha Infotech Private Limited. We observe that the applicant placed reliance on cases pertaining to different persons which have different constitution and establishment and are different from it in legality and as a person. Further as per law as stipulated in Section 103, CGST Act, Advance Rulings pronounced shall be binding only on the applicant who had sought it in respect of any matter referred to in Section 97(2) CGST Act for Advance Ruling and the concerned officer or the jurisdictional officer in respect of the applicant. The applicant without establishing that its revenues are notified as local/municipal funds by the competent authority cannot make a case by misplaced reliances on other Advance Rulings as per said section 97(2) CGST Act.

22.1 With reference to AAR No.10/AP/GST/2020 dated May 5, 2020 in the case of M/s.Zigma Global Environ Solutions Private Limited, the service recipient-Tirupati Smart City Corporation Limited (TSCCL) was termed as 'Governmental authority' as it was created by the Government of Andhra Pradesh. With reference to AAR No.10/AP/GST/2021 dated February 25, 2021 in the case of M/s. Shapoorji Pallonji & Company Private Limited, the applicant was supplying services to Greater Visakhapatnam Smart City Corporation Limited (GVSCCL) and AAR ruled GVSCCL is a 'Government entity' as it was created by Government of Andhra Pradesh. These facts are different from facts of subject matter. We hold that AJL has misplaced reliance by citing other Advance Rulings pronounced in case of different persons.

23. In Conspectus of aforementioned findings, we pronounce the Ruling:

RULING

1. Ahmedabad Janmarg ltd. is **not** a Local Authority.
2. Ahmedabad Janmarg ltd is liable to pay GST on security services under RCM, as per relevant Notification.
3. Ahmedabad Janmarg ltd is liable to pay GST on advertisement services supplied by it.
4. Ahmedabad Janmarg ltd is not required to be registered as a Deductor under GST.
5. Ahmedabad Janmarg ltd is **not** a Government Entity/ Governmental Authority.

(SANJAY SAXENA)
Member(S)

(ARUN RICHARD)
Member(C)