

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH**Goods and Service Tax****O/o THE COMMISSIONER, COMMERCIAL TAX,****MOTI BUNGALOW,****MAHATMA GANDHI MARG, INDORE (M.P.) - 452007****e-mail : aar@mptax.mp.gov.in Phone : 0731- 2437315 fax. no. : 0731-2536229****PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING**
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017**Members Present**1. Manoj Kumar Choubey
Joint Commissioner

Office of the Commissioner of Commercial Tax, Indore Division-1

2. Shri Virendra Kumar Jain
Joint Commissioner

Office of the Commissioner CGST and Central Excise, Indore

GSTIN Number. If any/User-id	23AADCM7397N1ZU
Name and address of the applicant	M/S MADHYA PRADESH PASCHIM KSHETRA VIDYUT VITRAN CO.LTD. Address –Chief Financial Officer, MPPKVVCL, GPH Compound Pologround, Indore (M.P.)
Point on which advance ruling sought	b. applicability of a notification issued under the provisions of this Act; e. determination of the liability to YES pay tax on any goods or services or both
Present on behalf of applicant	Mr. Anirudh Tiwari, Accounts Officer
Case Number	23.../2019
Order dated	16/01.2020

Order No.

04/2020

PROCEEDINGS

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)

1. M/s MADHYA PRADESH PASCHIM KSHETRA VIDYUT VITRAN CO. LTD.CHIEF FINANCIAL OFFICER, MPPKVVCL, GPH COMPOUND POLOGROUND, INDORE(M.P.) (hereinafter referred to as the Applicant) is engaged in



supply and distribution of electricity. The Applicant is having a GST registration with GSTIN 23AADC7397N1ZU.

2. The provisions of the CGST Act and MPGST 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 MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE –

3.1 M/s Madhya Pradesh Paschim Kshetra Vidyut Vitran Company Limited (herein after referred to as the applicant) is engaged in supply and distribution of electricity and registered with GSTIN with GSTIN – 23AADC7397N1ZU.

3.2 The applicant for the above purpose carry work of distribution of electricity and electrification work in rural area also.

3.3 The applicant is availing services from M/s Primeone work force Private Limited for supply of Unskilled, Semi Skilled and Skilled manpower required for various work having direct nexus with distribution of electricity under the jurisdiction area of Indore and Ujjain commissionerate.

4. QUESTION RAISED BEFORE THE AUTHORITY

The applicant wishes to know the applicability of provision of S. No. 3 of the table of Notification no. 12/2017, Central Tax (Rate), Dated – 28/06/2017 on services received by the applicant from M/s Primeone work force Private Limited being Pure services (Excluding works contract services or others composite supplies involving supply of any goods).

5. DEPARTMENT VIEW POINT – The Concerned Officer is of the view that the work for which the applicant has asked clarification comes under category of exempted service.

6. RECORD OF PERSONAL HEARING -

Shri Anirudh Tiwari, Accounts Officer appeared for personal hearing on and they reiterated the submission already made in the application and attached additional submission which goes as follows –

6.1 The Company Madhya Pradesh Paschim Kshetra Vidyut Vitaran company Ltd. (MPPKVVCL) is wholly owned subsidiary of M.P. Power management Co. Ltd.



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6.2 The holding Company M.P. Power management Co. ltd. Is wholly owned by the Government of Madhya Pradesh.

6.3 Thus, the Government of Madhya Pradesh is having full control over MPPKVVCL and covers under Government Entity.

6.4 Further, the Government of Madhya Pradesh has entrusted the Company to carry out function of supply and distribution of Electricity in the area of Indore and Ujjain Commissionerate vide order no. 5555/RS/4/13/2001, Bhopal, Dated – 01/07/2002.

6.5 The Government of India, vide notification no. 12/2017 – Central Tax (Rate), Dated – 28th June 2017 notify the exempted services. Under this notification at S.no. 3 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.

6.6 The said notification has been amended time to time, till date 12 notifications are issued by the Government of India for making amendment thereof. The said amendment Notification are as follows –

- 1) Notification No. – 21/2017 – Central Tax (Rate), Dated – 22/08/2017.
- 2) Notification No. – 25/2017 – Central Tax (Rate), Dated – 21/09/2017.
- 3) Notification No. – 30/2017 – Central Tax (Rate), Dated – 29/09/2017.
- 4) Notification No. – 32/2017 – Central Tax (Rate), Dated – 13/10/2017.
- 5) Notification No. – 47/2017 – Central Tax (Rate), Dated – 14/11/2017.
- 6) Notification No. – 02/2018 – Central Tax (Rate), Dated – 25/01/2018.
- 7) Notification No. – 14/2018 – Central Tax (Rate), Dated – 26/07/2018.
- 8) Notification No. – 23/2018 – Central Tax (Rate), Dated – 20/09/2018.
- 9) Notification No. – 28/2018 – Central Tax (Rate), Dated – 31/12/2018.
- 10) Notification No. – 04/2019 – Central Tax (Rate), Dated – 29/03/2019.
- 11) Notification No. – 13/2019 – Central Tax (Rate), Dated – 31/07/2019.
- 12) Notification No. – 21/2019 – Central Tax (Rate), Dated – 30/09/2019.

6.7 vide Notification No. 32/2017 - Central Tax (Rate), Dated – 13/10/2017, the definition of Government entity was inserted, which is reproduced as under –

“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 90per cent. or more participation by way of equity or



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control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority."

6.8 Further, Vide notification no. 02/2018 - Central Tax (Rate), Dated – 25/01/2018, makes following amendment in the Notification no. 12/2017 - Central Tax (Rate), dated – 28/06/2017 –

(a) Against serial number 3, in the entry in column (3), after the words "a Governmental Authority" the words "or a Government Entity" shall be inserted;

(b) Inserting entry no. (3A) notified NIL GST rate for Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply 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.

6.9 In view of above, it is submitted that the provision referred above issued under notification no. 12/2017 – Central Tax (Rate), Dated – 28/06/2017 as amended by Notification No. – 32/2017 – Central Tax (Rate), Dated – 13/10/2017 and Notification No. – 02/2018 – Central Tax (Rate), Dated – 25/01/2018 is applicable on the Manpower services (Pure Services) received by the Company from M/s Primeone Work Force Private Limited.

7. DISCUSSIONS AND FINDINGS –

7.1 A careful reading of conditions laid down under the Exemption Notification makes it clear that exemption from GST is granted under Serial No 3 to the 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.

7.2 Pure service is not defined in the GST Act. However, it appears from the context that services involving no supply of goods are considered as pure service. The Applicant claims that the service received from M/s Primeone work force private limited does not involve supply of any goods while provisioning the services. Thus services are therefore, classifiable as pure service.

7.3 Also, we must look in the contention that the Applicant being recipient of service is a government entity or not. As per Notification No. 32/2017 - Central Tax (Rate), Dated – 13/10/2017, Government Entity is defined as under -



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"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."

7.4 The Company Madhya Pradesh Paschim Kshetra Company Ltd. (MPPKVVCL) is wholly owned subsidiary of M.P. Power Management Co. Ltd., carried out function of distribution of Electricity in the area of Indore and Ujjain Commissionerate as entrusted by the Government of Madhya Pradesh vide order no. 5555/RS/4/13/2001, Bhopal, Dated – 01/07/2002. Further, the holding Company M.P. Power Management Co. Ltd. is wholly owned by the Government of Madhya Pradesh.

7.5 The applicant had submitted the copy of Audited Annual Accounts of M/s M.P. Power Management Co. Ltd. for F.Y. 2015-16, during the proceedings. It is evident from the schedule of Equity Share Capital of the Annual Statement that 100% share capital of M/s M.P. Power Management Co. Ltd. is hold by Secretary (Energy), GOMP, Bhopal.

7.6 Thus, based on the above facts, it is concluded that the Government of Madhya Pradesh is having full control over the applicant M/s M.P. Paschim Kshetra Vidyut Vitran Co. Ltd. and the applicant is covered under the definition of Government Entity.

7.7 Before deciding the applicability of Sl No. 3 of the Exemption Notification, the functions of a Panchayat or a Municipality under the Constitution needs to be discussed. Article 243G of the Constitution discusses the Powers, authority and responsibilities of Panchayats, stating that "Subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government subject to such conditions as may be specified therein, with respect to.....(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule"

1	Agriculture including agricultural expansion
2	Land improvement, implementation of land reforms, land consolidation and soil conservation
3	Animal Husbandry, Dairying and poultry
4	Fisheries Industry
5	Minor irrigation, water management and watershed development
6	Social forestry and farm forestry
7	Small scale industries in which food processing industry is involved



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8	Minor forest produce
9	Safe water for drinking
10	Khadi, village and cottage industries
11	Rural housing
12	Fuel and fodder
13	Rural electrification, including distribution of electricity
14	Road, culverts, bridges, ferries, waterways and other means of communication
15	Education including primary and secondary schools
16	Non-conventional sources of energy
17	Technical training and vocational education
18	Adult and non-formal education
19	Public distribution system
20	Maintenance of community assets
21	Welfare of the weaker sections of the in particular of the schedule caste and schedule tribes
22	Social welfare, including welfare of the handicapped and mentally retarded
23	Family welfare
24	Women and child development
25	Markets and Fairs
26	Health and sanitation including hospitals, primary health centres and dispensaries
27	Cultural activities
28	Libraries
29	Poverty Alleviation Programmes

7.8 Now it is important to discuss the nature of work entrusted to the applicant. The applicant is entrusted for distribution of electricity in the commissionaires region of Indore and Ujjain. The applicant also carried out electrification work to develop distribution network for supply of electricity in the above region.

7.9 The work entrusted to the applicant as mentioned above is covered under the article 243G of the constitution as the function entrusted to the Panchayat i.e., Rural Electrification including distribution of Electricity. However, the applicant work is not covered under Article 243W of the constitution as the function entrusted to the municipality.

7.10 In view of above, it is concluded that the services received by the applicant from M/s Primeone work force Pvt. Limited fulfills the requisite criteria mentioned in S. No. 3 of the notification no. 12/2017 – Central Tax (Rate), Dated – 28/06/2017 as amended from time




to time and eligible for claiming benefit available under the said provision. But the benefit can be availed only in case of where services mentioned in S. No. 3 is received in area covered under Panchayat limits as the entrusted work is covered under article 243G of the constitution and not under article 243W of the constitution.


8. Ruling

8.1 The provision of S. No. 3 of notification no. 12/2017 – Central Tax (Rate), Dated – 28/06/2017 as amended by Notification No. – 32/2017 – Central Tax (Rate), Dated – 13/10/2017 and Notification No. – 02/2018 – Central Tax (Rate), Dated – 25/01/2018 is applicable on the services received by the applicant from M/s Primeone work force Private Limited being Pure services (Excluding works contract services or others composite supplies involving supply of any goods), in relation to function entrusted under Article 243G.

8.2 The benefit of exemption shall be limited to the services received in area covered under Panchayat limits.

8.3 The ruling is valid subject to the provisions under section 103 (2) until and unless declared void under Section 104 (1) of the GST Act.


(Virendra Kumar Jain)
(Member)


(Manoj Kumar Choubey)
(Member)

Copy to:- No.23/2019 /A.A.R./R-28/08 Indore, date - 16.01.2020

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

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