

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32, 5TH
FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD, CHENNAI - 600 003
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Thiru Senthilvelavan B., I.R.S Member/ Additional Commissioner,
Office of the Commissioner of GST & Central Excise, Chennai -34
2. Thiru KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A., Member/ Joint Commissioner (ST)
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 05 /ARA/2021 Dated: 26 .02.2021

GSTIN Number, if any / User id		33AAACN3562H1ZP
Legal Name of Applicant		New Tirupur Area Development Corporation Limited
Trade Name of The applicant		New Tirupur Area Development Corporation Limited
Registered Address / Address provided while obtaining user id		Polyhose Towers 1 st Floor 86 Mount Road Chennai Tamil Nadu.
Details of Application		03/ARA/2020 dated 22.01.2020
Concerned Officer		State : Assistant commissioner, Alandur Assessment Circle, Centre : Chennai South Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision
B	Description (in brief)	
Issue/s on which advance ruling required		1. Applicability of a notification issued under the provisions of this Act. 2. Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		Whether the following activities of the applicant is taxable or exempt ? a.Sale of water b.Sewage treatment charges c.Consultancy Services such Detailed Project Report (DPR), Project Management Consultancy (PMC) and any other infrastructure related consultancy to TCMC / GoTN

Incidental to main business activities

- c. Interest on receivable on delayed payments
- d. Disconnection Charges
- e. Reconnection charges
- f. Permanent disconnection charges
- g. Cheque Bouncing charges
- h. Non-Revenue – Service provided to Customer on New Connection works- Concept of No Loss No Gain, New Connection Shifting and other works

Note: Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub Section (1) of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. New Tirupur Area Development Corporation Limited, Polyhose Towers 1st Floor 86 Mount Road Chennai Tamil Nadu is a public limited company, promoted by TN Government, Tamilnadu Water Investment Company Limited(TWIC), and ILFS Ltd, is registered under the GST Act 2017 vide GSTIN No. 33AAACN3562H1ZP (hereinafter referred as 'Applicant' or 'NTADCL'). The applicant has sought Advance Ruling on the following questions:

- a. Whether the following activities will suffer GST or not

Main business activities:

- a) Sale of water
- b) Sewage treatment charges
- c) Consultancy Services such Detailed Project Report (DPR), Project Management Consultancy (PMC) and any other infrastructure related consultancy to TCMC / GoTN

Incidental to main business activities

- d) Interest on receivable on delayed payments
- e) Disconnection Charges
- f) Reconnection charges

- g) Permanent disconnection charges
 - h) Cheque Bouncing charges
 - i) Non-Revenue – Service provided to Customer on New Connection works- Concept of No Loss No Gain, New Connection Shifting and other works etc.
- b. The company abstracts raw water from river Cauvery and supplies to users in potable condition, whether the water treatment process undertaken by the company would fall within the meaning of the word “purification”
- c. Whether the GST Registration Certificate require amendment
- The applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST

2.1 The applicant has stated that the main objective of the Company was to promote infrastructure development activities in the area of water supply at New Tirupur.; They had implemented an integrated water supply project for the town of Tirupur.; In order to implement the integrated water supply and sewage treatment project for Tirupur City Municipal Corporation (TCMC), wayside villages and Tirupur Local Planning Area (TLPA), a Concession agreement was signed between the Government of Tamilnadu, Tirupur Municipality (now Corporation) and the applicant to implement a 185 million litre per day (MLD) water supply project expandable upto 250 MLD and a 15 MLD Sewage Treatment plant (STP) expandable up to 30 MLD at the total project cost of Rs.1023 crore.; By virtue of the Concession Agreement entered and the mere nature of the activity, NTADCL assumes the responsibility under Article 243 G and Article 243 W contemplated under the sixth schedule of the Constitution of India.; They had signed a water drawal agreement with TN Government for drawing raw water up to a Maximum of 185 Million Litres Per day from the river Cauvery for supply towards domestic and non-domestic purposes within the Tirupur Municipality.

2.2 The applicant has stated Notification 01/2017 includes **waters including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured.** Having the Word WATERS which is self-explanatory, that besides, water, and other water like mineral, aerated water is taxable. Notification No. 2/2017 – Central Tax dated 28th

June 2017 absolutely exempts as many as 149 items with defined Chapter/Heading/Sub-heading/tariff from intra-State supplies of such goods. This list of items covers items such as Printed books, newspapers, Condoms, live poultry, fish, meat, lassi, milk, plants, potatoes, tomatoes, onions and vegetables, fruits, **water**, salt, bread, electrical energy, firewood, bangles, raw silk, agricultural implements, hearing aids, etc. It is important to that here the word **WATER is appearing**. Therefore, this notification is in favour of them, whereby the WATER is exempt. Further the entire activity undertaken by them is in relation of the activity as per Article 243W and 243G, wherein under BOOT agreement, the entire infrastructure was created by TN GOVT through SPV which is the applicant and it will be later taken over by the TN Govt as where is basis. Therefore, as per the notification No. 14/2017- C.T.(Rate), the entire activity of the applicant is exempt from CGST/SGST/IGST

2.3 The applicant at present has taken a stand as per the following Notifications and has not considered for tax, the Notifications which are as follows

- a) Notification No. 2/2017 – Central Tax dated 28th June 2017
- b) Notification no 12/2017 dated 28th June 2017
- c) Notification NO.14/2017 dated 28th June 2017.

They had earlier approached Advocate and Consultant who had opined that they can avail the exemption as per the Notification. However in view abundant caution the Board of Directors has decided to approach this forum to have a Clarification and seek a Direction on the above query to render decision.

3.1 The applicant was extended an opportunity to be heard on 11.02.2020. The authorised representative appeared. They furnished a written submission and stated that they have entered into a Concession Agreement with Government of Tamil Nadu & Tirupur Municipality for supply of treated raw water lifted from cauvery River and supplied to water distribution stations. Similarly, Sewage water is received in sewage pumping station. Billing is done at meter at (WDS & SPS). They bill to the Tirupur Municipality Corporation. For textile industries, they are in charge of giving connection. They are fulfilling the obligation of Tirupur Municipal Corporation to supply portable water and do water treatment. The price to Municipal Corporation is fixed by the Municipal Corporation. For industries, they supply on cost based recovery. They stated that they are eligible for exemption at Sl. No. 3 of Notification No.12/2017 as they only render pure services and Sl. No.

4 as they are governmental authority. They submitted current share holdings pattern. They also submitted the Resolution for formation of the organization, MOA, AOA, Certificate of registration under companies Act. They undertook to submit Bulk Water Supply Agreement, service agreement and relevant agreement with Industries, Invoices for the consultancy agreement within two weeks and the State Jurisdiction Officer made their submissions.

3.2 In the written submission, they had inter-alia stated as follows:

- NTADCL is a Public Limited company promoted by GOTN, TWIC and ILFS Ltd as a Special Purpose Vehicle (SPV) with "an exclusive concession to provide the water treatment and supply service and sewage offtake and treatment service" for the Tirupur Municipal Corporation vide concession agreement dated 11th February 2000 between Government of Tamilnadu, Tirupur Municipality (now Tirupur City Municipal Corporation – TCMC) and NTADCL.
- By virtue of the Concession Agreement provided, NTADCL assumes the sovereign functions of Tirupur City Municipal Corporation under 243W read with the 12th Schedule of the Constitution of India more particularly, item nos. 1, 2,3, 5 & 6 of the Schedule and Article 243G under 11th Schedule item no.11 of the Schedule, which are applicable in vogue and the assessee's claim to be considered exemption of GST under Notification 12/2017 read with Sl.No.3 and 3A.
- NTADCL has been carrying on the following activities to TCMC & Merged Panchayat/ Wayside Village, TWAD board, Village Panchayat & Industries within Tirupur Local Planning Area (TLPA) agreed within the Concession Agreement
- Tirupur Municipality is a local authority as per Section 2(69)(b) wherein it includes Municipality as defined in Clause e of Article 243P of the Constitution. Further it is a Municipality as defined in Article 243Q of the Constitution. TCMC, a body corporate having perpetual succession formed under the Tamil Nadu District Municipalities Act, 1920 having its principal office at Tirupur, acting through the Commissioner, Tirupur Municipality.
- They had applied for a ruling in connection with the Pure service rendered to a governmental authority, 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.

- They are carrying on pure services, which is evident from the concession agreement, wherein the services has been clearly defined in Page No.17 of the Concession Agreement, which states that Service means "either or both of the Water Treatment and Supply Service, or the Sewage Offtake and Treatment Service". Therefore, this is considered as a pure service rendered to the Governmental authority viz., Tirupur Municipality (now Corporation).
- Notification No.12/2017 exempts vide Sl.No.3, 3A "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"
- They are carrying activity in relation to the Article 243W and 243G which are appearing in 12th Schedule Sl.No.1,2,3, 5 & 6 and 11th Schedule Sl.No.11. They are rendering pure services to a local authority by way of any activity in relation to Article 243W and 243G of the Constitution of India. Accordingly, it is claimed that the said services are exempted by availing the Exemption under Notification No.12/2017 read with Sl.No.3, 3A under Chapter 99.
- Pure services are defined in Schedule II clause 5. As per Schedule II Clause 5(e), (i) it is evident from the Concession Agreement that they are agreeing to the obligation "to do and act" by entering into the Concession Agreement ii) further the Company obtains a right to use the water from river Cauvery by way of a Bilateral Water Drawal agreement. As per the above interpretation, it is evident that what they are doing is a pure services for the purpose of qualifying exemption under Notification 12/2017 read with Sl.No.3, 3A under Chapter 99.
- As per the Concession Agreement they have inherited the functions of Tirupur Municipality in respect of supply of water and Sewage Offtake and Treatment Service and Tirupur Municipality and GOTN by virtue of the concession agreement has authorised them to **collect the Charges** for the Services rendered by them.

- Pure services: In support of the facts discussed under Schedule II Clause 5(e) and Clause 5(f) and established the facts and circumstances to qualify for consideration of exemption under Notification No.12/2017 read with Sl.No.3, 3A, they submit the following:
 - They have applied for a ruling in connection with the Pure service rendered to a governmental authority viz., TCMC 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. Hence, the eligibility to consider the service rendered “water treatment and supply service and sewage offtake and treatment service” under the Concession Agreement be allowed to be exempt under Notification 12/2017 read with Sl.No.3, 3A under Chapter 99.
 - By virtue of the exclusivity clauses under Concession Agreement, they obtained Construction Management and Supervision Consulting Services (CMSCS) vide Contract no.15223/2017/IHSDP-3 dated 02.12.2019 and the same could be brought within the ambit of “pure services” as it is an activity in relation to any function entrusted to a Municipality under Article 243W of the Constitution read with item 1, 2 & 3 of the 12th Schedule. Therefore, the CSMSC rendered by them would be exempt as per Notification No.12/2017 read with Sl.No.3, 3A under Chapter 99.
 - As the main activity listed under (a) to (c) falls within the ambit of Notification No.12/2017 read with Sl.No.3, 3A under Chapter 99, we believe that the activities incidental to main business under (d) to (i) would also be eligible for exemption under Notification No.12/2017 read with Sl.No.3, 3A under Chapter 99.
- They abstract raw water from river Cauvery and supply to users in potable condition as per the Concession Agreement. Though the activity is a pure service, in order to test the classification of “waters” under Notification 01/2017 Sl.No.24-Chapter No.2201 i.e., charging vide this notification but however the same is exempted vide Notification No.2/2017 vide Sl.No.99 – Chapter 2201, which is reproduced below:

“Water (other than aerated, mineral, purified, distilled, medicinal, ionic, battery, demineralised and water sold in sealed container)”

Whether the water treatment process undertaken by them would fall within the meaning of the word "purification" and if considered the Notification no: 01/2017 read with the exemption vide notification no: 02/2017, they believe that as they are supplying the raw water extracted by using the cleaning up process of dust particles and supplying in potable condition for the human consumption and industrial consumption without changing the original nature of the water, there is no purification involved as the basic nature of water remains same.

- Notification No. 2/2017 – Central Tax dated 28th June 2017 absolutely exempts as many as 149 items with defined Chapter/Heading/Sub-heading/tariff from intra-State supplies of such goods. This list of items covers items such as Printed books, newspapers, Condoms, live poultry, fish, meat, lassi, milk, plants, potatoes, tomatoes, onions and vegetables, fruits, **water**, salt, bread, electrical energy, firewood, bangles, raw silk, agricultural implements, hearing aids, etc. It is important to that here the word **WATER is appearing.** Therefore, this notification is in their favour, whereby the WATER is exempt.
- They have submitted the following decisions / case laws already available in support of claim
 - Order No.21/AAR/2018 dated 28.11.2018 in the case of Tamilnadu Water Investment Company Limited wherein the AAR had considered exemption for pure services provided to CMWSSB
 - M/s Kerala State Construction Corporation Ltd wherein the DPR, PMC services rendered to Panchayat was allowed to be exempt by AAR, Kerala
 - Egis India Consulting Engineers Private Limited wherein assisting in consultancy services to be provided to urban local bodies were exempted under 243G and 243W by AAR, Madhya Pradesh
- The case laws relied on the ratio for services rendered to local authority is exempt are as follows:
 - Arihant Dredging Developers Private Limited in AAR 1A/VBAAR/2019-20 dated 27 10612019, the water infrastructure development was exempted under 243G.
 - Madhya Pradesh Pashchim Kshetra Vidyut Vitaran Company Limited wherein the distribution of electricity was qualified to be exempted under 243G.

- [2019] 106 taxmann.com 391 Pioneer co-operative car parking Servicing and Construction Society Ltd wherein collection of parking fee in respect of municipal parking lots were considered to be exempt.
- Vidarbha Infotech Private Limited (GST AAR Maharashtra) wherein exemption was considered managing non-network of water tankers to provide water supply for domestic, industrial and commercial purposes at various locations in and around Nagpur city.
- The case laws relied on the ratio for services of Sewage waste management the following cases are as follows:
 - [2019] 106 taxmann.com 109 in the case of Indrajit Singh – Exemption provided for conservancy solid waste management for Howrah Municipal Corporation
 - M/s Dhananjay Kumar Singh – Exemption provided for solid waste management for Chatisgarh Housing Board.
- Further Simultaneous availment of two or more exemptions is permissible, as the beneficial notifications can operate in regard to the same Assessee and they can claim benefit of the notifications independently, as there are no saving clauses in the notification. This position is based on the Central excise case in JSW energy Ltd V UOI(2015) 321 ELT 664(Bom HC DB)
- The above notifications are in conditional based exemptions. It is to be noted that exemption cannot be denied on supposed intention of exemption authority, it has to be operated by the words which have been employed to effectuate the legislative intent. [Innamuri Gopalan vs State of AP 14 STC 742(SC)]

4.1 The applicant vide their letter dated 27.02.2020 submitted the following documents as undertook by them during the hearing on 11.02.2020:

1. Copy of Memorandum of Association and Articles of Association of the Company
2. Bulk Water Supply Agreement
3. Service Agreement (Town Panchayat)
4. Service Agreement (Rural Development)
5. Service Agreement (TWAD Board)
6. Bilateral Water Drawal Agreement
7. Contract for Consultants services with Tiruppur City Municipal Corporation

8. Copy of MOU between TCIID, TEA and ILFS Ltd dated 25.08.1994
9. Copy of Service Agreement for supply to Industrial Unit
10. A Note on Water treatment Plant of the Assessee
11. Copy of Invoice for supply of water to domestic/TCMC
12. Copy of Invoice for Supply of Water to Industry
13. Copy of invoice for Sewage Collection
14. Copy of invoice for Connection charges
15. Copy of invoice for Reconnection charges
16. Letter from TCMC stating NTADCL to carry the activity

They also filed Written Submission-2 along with the above documents wherein they have elaborated on

1. Note on Services Rendered to Government Agencies
2. Services Rendered to Industries within Tirupur Local Planning Area(TLPA) and Extended Area as per TCMC/GOTN approval

4.2 On the note on services rendered to Government Agencies, they inter-alia stated that:

- NTADCL is rendering water treatment and supply services and sewage offtake and treatment services on 24 / 7 /365 basis and consultancy services as and when required by Tirupur City Municipal Corporation (TCMC) by virtue of the Concession Agreement (CA) dated 11.02.2000. The following are the specific services rendered to Government agencies more specifically to TCMC, Tamilnadu Water Supply and Drainage Board (TWAD), Wayside villages and Panchayats on supply to domestic,:

- **Treatment and supply of potable water services to TCMC, TWAD, Wayside villages and Panchayats :** NTADCL is treating and supplying potable water to Government agencies like TCMC, TWAD, Wayside villages and Panchayats which are covered under Article 243W read with Item No.5 of 12th Schedule and Article 243G read with Item No.11 of 11th Schedule. As they are rendering pure services to the Government agencies, they seek exemption under Notification No.12/2017 Item No.3.

- **Offtake and treatment of sewage (only to TCMC) :** NTADCL is rendering offtake and treatment of sewage services to TCMC, which is covered under Article 243W read with Item No.6 of 12th Schedule. As NTADCL is rendering pure services to the Government agency they seek exemption under Notification No.12/2017 Item No.3.

- The activity mentioned below from (iii) to (iv) are ancillary to the above mentioned activity under (i). The above activity are pure services rendered to the Government agencies and accordingly they seek exemption under Notification No.12/2017 Item No.3 for the following services (iii) to (iv) as they are also pure services

○ **(iii) Interest on delayed payments as delay payment penalty as per**

the Service Agreements : As envisaged under the CA, a Bulk Water Supply Agreement (BWSA) is entered with TCMC and Service Agreements with other Government agencies. As per these agreements, NTADCL is eligible to charge the delay payment interest wherever the payment is received beyond the due date. Accordingly, NTADCL is charging these customers a delay period interest in the billing. As deliberated above in view of the pure services of the treatment and water supply, offtake and sewage treatments services are claimed as exempted vide Notification 12/2017 read with Item No.3, they seek exemption for the above under the same category.

○ **(iv) Connection services on no profit and no loss cost recovery**

basis: NTADCL has initially set up the entire infrastructure facility for water drawal, treatment, storage and distribution up to the point of supply and holds the entire assets including distribution network in the books of NTADCL. Whenever there are new connection requirements from TCMC or wayside villages, the same are provided by obtaining necessary advance from the authority. Any excess / short of advance received from the authority is adjusted by way of debit / credit note. As such, the incidence of provisioning of services in the instant case does not arise.

- **(v) Consultancy services to TCMC :** NTADCL gets certain consultancy services requirement from TCMC by virtue of the CA entered. Currently, they had obtained a "Construction Management and Supervision Consulting Services" contract from TCMC. This being a pure service to be rendered to a local authority i.e, TCMC under Article 243W read with 1, 2 & 3 of 12th Schedule of Constitution of India, they seek exemption under Notification 12/2017 read with Item 3.

4.3 On the SERVICES RENDERED TO INDUSTRIES WITHIN TIRUPUR LOCAL PLANNING AREA (TLPA) AND EXTENDED AREA AS PER TCMC/GOTN APPROVAL they inter-alia stated that:-

- The following specific services are rendered to industries within TLPA and extended areas as envisaged by CA and approval of GOTN:

Treatment and supply of water service : NTADCL is currently supplying water to industries within TLPA and extended area. Copies of the bill is enclosed as Annexure.

- Industrial water supply is part of obligation of CA, which is otherwise the responsibility of TCMC under Section 243W read with Item No.5 of the 12th Schedule which is carried out by NTADCL by virtue of CA provided. As the services rendered is a pure service within TLPA and extended areas on behalf of TCMC by obtaining CA, we claim the same is exempted under Notification 12/2017 read with Item 3.
- Being NTADCL considered to be a Governmental authority under Explanation to Section 2 Subsection 16 of IGST Act read with Section 2(27) of the Companies Act 2013 and applying the same as the Company with Government control and accordingly, considered to be a Governmental authority, they seek exemption for this supply of all its services under Notification 12/2017 read with Item 4
- The supply of water to industrial customers was deliberated in the previous hearing dated 11.02.2020 as Goods in view of royalty paid on the industrial water that amounted to purchase of water and accordingly, Hon'ble Member deliberated to bring the water supply as Goods within the purview of chargeability of GST. At this juncture, it is pertinent to note that the activity of NTADCL is a combined water supply and sewage treatment promoted by GOTN specifically to render the services stipulated under Article 243W read with Item No. 5& 6 of the 12th Schedule, they cannot take the water supply as a Goods in isolation and treat the same for chargeability of GST. Despite the fact explained above, even if the stand is considered, the potable water supplied is exempted vide Notification 2/2017 Item No 99. The fact of exemption of drinking water for public purposes was clarified vide Circular No.52/26/2018-GST. The Notification 12/2017 expressly categorized the "water" as NIL tax rate and the Circular No.52/26/2018-GST (Point No.6.3) clarifies the "water" other than

those excluded from Sl.No.99 of Notification 2/2017 would attract GST at NIL rate. The Circular No.52/26/2018-GST - Point No.6.3) is reproduced below:

Accordingly, supply of water, other than those excluded from Sl.No.99 of notification No.2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at "NIL" rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST.

As per the above, it is apparent that NTADCL is supplying potable water (drinking water) to TCMC, TWAD, Wayside villages, Panchayats and industries in the TLPA and extended areas for public purposes and the same is not supplied in sealed condition. Accordingly, even if the supply of water to industries interpreted as supply of Goods, the same is exempted under Notification 2/2017 Sl.No.99 read with Circular No.52/26/2018-GST. Copy of the Circular is enclosed

- It is submitted that the following activity mentioned below from (ii) to (vi) are ancillary to the above mentioned activity under (i). The above activity are pure services rendered which are covered under Article 243W read with Item No.5 of 12th Schedule and Article 243G read with Item No.11 of 11th Schedule. As they are rendering pure services to the Government agencies and accordingly they seek exemption under Notification No.12/2017 Item No.3 and therefore the following services (ii) to (vi) are also pure services

(ii) Interest on delayed payments : As per the Service Agreements entered with industries, NTADCL is eligible to charge the delay payment interest wherever the payment is received beyond the due date. Accordingly, NTADCL are charging these customers a delay period interest in the billing. As deliberated above in view of the pure services of the treatment and water supply to the industries within TLPA and extended areas by virtue of the CA and the exemption claimed vide Notification 12/2017 read with Item No.3, exemption vide Notification 12/2017 read with Item No.4 and exemption vide Notification 2/2017 Sl.No.99 read with Circular No.52/26/2018-GST, they seek exemption for this billing.

(iii) Cheque bouncing charges : Cheque bouncing charges is in the nature of penalty and the same is covered in the clarification provided under Circular No.102/21/2019-GST and accordingly, this is classified as supply of service only. Hence it is exempted along with the service exemption claimed above.

(iv) Connection / Reconnection charges : These are one time charges at the time of connection / reconnection envisaged under Service Agreements and being charged based on the cost and size of water meter to be provided to industrial customers.

(v) Permanent disconnection charges : This will be charged only when the customer requested to discontinue water supply permanently. The estimate is being raised based on site position individually for removal of pipeline and fittings. It is being executed after payment received from customer based on demand raised.

(vi) Non-revenue cost recovery basis: NTADCL has initially set up the entire infrastructure facility for water drawal, treatment, storage and distribution up to the point of supply and holds the entire assets including distribution network in the books of NTADCL. Whenever there are new connection requirements from industries, the same are provided by obtaining necessary advance from the respective industry. Any excess / short of advance received from the industry is adjusted by way of debit / credit note. As such, the incidence of provisioning of services in the instant case does not arise.

- As envisaged under the CA, NTADCL is obliged to render treatment and supply of potable water to industries within TLPA and extended areas by TCMC / Government of Tamilnadu (GOTN). By virtue of the CA read with Service Agreements entered with the industrial customers and in support of the exclusive CA given by GOTN/TCMC they render the pure service as contemplated under Article 243W read with Item 5 of 12th Schedule "Water supply for domestic, industrial and commercial purpose" on behalf of TCMC, who is otherwise responsible to supply water to industries under Article 243W read with Item 5 of 12th Schedule. This responsibility of TCMC was shifted in the hands of NTADCL by providing the CA. As such as NTADCL is empowered to perform the act of the Government authority in a specific manner with the guidance of CA and through Service Agreements

to the industries within the TLPA and extended areas, they seek exemption under Notification 12/2017 read with Item 3 being pure services rendered to industries.

- Despite the facts discussed above and eligibility of exemption, they would also like to seek shelter under Notification 12/2017 read with Item 4 reproduced below:

"Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution"

Governmental authority is defined under section 2(16) of IGST as an establishment promoted by a Government with 90% equity or control to carry out the function entrusted to a Municipality under Article 243W of the Constitution.

- Even though the provision emphasize a 90% or more participation by way equity or control, one can identify that any equity can be identified as percentage by virtue of the number of shares held but the word control cannot be limited with any percentage, means in practical sense, control cannot be defined in percentages as it deals with an act to influence the Board / policy / economic benefits of an Organization. Taking this view, they consider the reference from the Companies Act 2013. Section 2 (27), which defines the word "control" as follows:

"control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

Out of nine (9) Directors in the applicant Company, there are three (3) I.A.S. cadre Directors from GOTN and 2 Directors from SBI & IDBI that accounts for more than 50% Directors who have control over the Company on any policy making. IAS directors appointed under TWICL investor control the day to day management and policy decisions and have complete influence on the operating decisions.

- Further the term "control" is also defined as per AS 18, Related party means "at any time during the year, one party has an ability to:
 - Control the other party

- *Exercise significant influence over the other party in making financial and/or operating decisions*

**Control means:*

- 1. Ownership, direct or indirect, of more than 50% of the voting power of an enterprise,*
- 2 In case of company – control of the composition of the board of directors
In case of any other enterprise – control of the composition of the corresponding governing body*
- 3 Substantial interest in voting power and the power to direct the financial and/or operating policies of the enterprise*

As per the above, it is evident that NTADCL is being controlled by the Government and thus a Government authority under the GST act.

- According to the definition under the Companies Act 2013, the control on NTADCL by Governmental authority is well established. More particularly, in the instant case, NTADCL was formed by GOTN through the guidelines provided vide G.O.(Ms) No.119 dated 09.05.1995 wherein it has entrusted the formation of NTADCL through Tamilnadu Corporation for Industrial Infrastructure Development Limited (TACID) with a focus and objects listed vide Memorandum of Understanding dated 25.08.1994 between TACID, Tirupur Exporters' Association (TEA) and Infrastructure Leasing and Financial Limited (IL&FS). The main focus was to enhance Tirupur's industrial and export potential and the overall well-being of its population. GOTN vide its participation of appointed IAS officers in the Board, is maintaining control over the management of the Company and even though the Company is placed as a Special Purpose Vehicle (SPV) to execute the project in corporate – PPP model, it is a Governmental authority by virtue of the Company promoted specifically to execute the responsibility of TCMC's obligation under Article 243W in specific to execute the treatment & water supply and offtake & sewerage treatment services and to maintain the industrial water supply needs of Tirupur that accounts for overall 90% FOREX earnings to the exchequer from the Knitting industries. Even though NTADCL has been structured through a PPP model, for all practical purposes, the Company is being monitored and controlled by GOTN nominated IAS officers as Directors in the Board to ensure its smooth functioning and achieve the object of the GOTN and in fulfilling the

obligations of TCMC under Article 243W read with Item No.5 of the 12th Schedule to the domestic and industrial needs of Tirupur.

- Under the circumstances explained above, NTADCL is a Government authority as defined under Section 2 Subsection 16 of the IGST Act and accordingly seek entitlement to be considered as Government authority for the purpose of Item 4 of the Notification 12/2017 to extend exemption under this category.

5.1 The applicant was extended an opportunity to be heard again on 27.03.2020 but the same was not held due to COVID-19 conditions. Effective 19.05.2020, there was change in the authority and Shri. B. Senthilvelavan, Additional Commissioner was appointed as CGST Member of the Authority. In view of change in the Authority and due to the prevailing pandemic, the applicant was offered to be heard through Digital media and the applicant acceded to the same. Accordingly, the applicant was heard on 19.11.2020.

5.2 The authorized representative appeared for the hearing virtually. They referred to their submissions dated 11.2.2020 and 27.2.2020 and stated that they claim exemption under Sl.No. 3, 3 A of Notification No.12/2017 as they undertook combined water and sewage treatment entrusted in them through the Concession Agreement entered by them with Government Tamil Nadu and Tirupur Municipality. They stated that the industrial water supply made by them is as per the Concession Agreement and in the designated area only. On the incidental charges (Except connection charges), they stated that these are charges for the services rendered in extension of the Combined Water supply services. The connection Charges are recovered on cost recovery basis. They undertook to furnish the invoice raised by them in respect of Consultancy services for which ruling is sought by them under Para 3(C) of the Statement of Facts to the application. They further stated that they do not claim themselves as a 'Government Entity' as defined in the GST Law though they stress based on the Point of Control.

6.1 The applicant is under the administrative jurisdiction of Central Tax Authorities. The Central Jurisdictional authority vide their letter dated 19.03.2020 has stated that there are no proceedings pending in respect of the applicant. Regarding the taxability of the activities, they stated that

i. the applicant is supplying service to Tirupur City Municipal Corporation, a Government body. CBIC vide circular No.52/26/2018-GST issued from F.No.354/255/2018-TRU (part 2) dated 09.08.2018 has clarified the applicability of GST on various goods and services, viz., extracted below:

6.2 Attention is drawn to the entry at S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HS code 2201 attracts NIL rate of GST.

6.3 Accordingly, supply of water, other than those excluded from S. No. 99 of notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, would attract GST at "NIL" rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST.

They have opined that if it is pure service, the same will attract NIL rate of duty.

ii. Composite supply of works contract attracts 12% GST as per Sl.No 3(iii)(c) of Notification No. 11/2017-CT(Rate) dated 28.06.2017

iii. The applicant has stated that they also provide consultancy services relating to infrastructure in addition to sale of water, sewage treatment etc. in view of the above statutory provisions, it appears that the activities of the applicant are a part of composite supply made to Government attracting GST @12%.

7.1 The State Jurisdiction Officer vide their letter Rc.61/2020/A4 dated 10.02.2020 has submitted that the applicant is allotted to Central jurisdiction and no show cause notice is pending adjudication in their office on the subject matter. The State Tax Officer has offered the following comments:

- NTADCL has made a concession agreement with Government of Tamil Nadu and Tirupur City Municipal Corporation to develop, construct, operate and maintain a Water Supply Project and Sewerage facility for domestic and non-domestic purposes within Tirupur City Municipal Corporation, wayside villages, industrial units and also outside Tirupur City Municipal Corporation. Based on the agreement, the NTADCL has obtained rights to abstract raw water from Cauvery river in a specified manner and to develop, finance, design, construct, own, operate and maintain:

- (1) Water treatment infrastructure facilities
- (2) Water distribution system
- (3) Sewerage system
- (4) Sewerage treatment facilities

(As per schedule B of the concession agreement)

Using these facilities NTADCL is providing water treatment and supply, sewage off-take and treatment service. Upon termination of concession period, NTADCL has to transfer all the facilities to GOTN/Tirupur Municipality. The Total Cost of Project is being recovered from the purchasers (Tirupur City Municipal Corporation, Way side villages, Industrial units and other consumers) along with 20% returns in the concession period.

- Though the applicant is recovering their cost of the project in the name of water charge and sewage charge(Art 17 of the agreement), actually it is the consideration for the transfer of entire infrastructure facility built by the NTADCL to GOTN/ Tirupur City Municipal Corporation, maintenance in the concession period, water treatment and supply service, sewage offtake and treatment service ie. the total cost of the project. Hence the tax payer's supplies cannot be identified as merely sale of water or sewage treatment facilities or incidental activities. It is also stated in the SOF that the company's main objective is to promote infrastructure development activities in the area of water supply at Tirupur and implemented an Integrated Supply Project. Hence it is a composite supply by this company to GOTN/ Tirupur City Municipal Corporation.
- As per Notification no 12/2017, Central Tax(Rate), date 28.06.2017, **only** *services by Central Government/State Government/Union Territory/Local Authority or Government authority by way of any activity in relation to any function entrusted to a municipality under Art 243W of the constitution is exempted.* Exemption is allowed only when the services are supplied by the Government. But in this case, the supply is provided to the Government authority by the company for which exemption cannot be claimed. The company is receiving the consideration from Tirupur City Municipal Corporation or on behalf of Tirupur City Municipal Corporation. Hence, Art 243W does not have any role for the supplies made by the NTADCL. In addition, the infrastructure facility is also used for purchasers other than

Tirupur City Municipal Corporation. NTADCL is also selling unsold potable water through tanks outside Tirupur.

- The raw water abstracted from the river is not purified but treated for contaminants and unwanted residues so that it could be used for domestic and non-domestic purposes. Hence the process may be considered as water treatment and not water purification. The water is being treated and distributed through pipelines. So, it is not merely sale of water but also water distribution service.
- Consultation service provided to GOTN/Tirupur City Municipal Corporation cannot be considered as a distinct supply but a part of the Integrated Water project. In view of above, the supply may be classified into two categories and the rate of tax maybe levied as follows

1. Supply to Tirupur City Municipal Corporation:

Whatever services provided or infrastructural set up transferred to GOTN/Tirupur City Municipal Corporation should be treated as composite supply that attracts 12% as per the notification 11/2017, Central tax, dated 28.06.2017

2. Supply to other than Tirupur City Municipal Corporation:

Since there is no transfer of infrastructure set up the rate of tax applicable to the corresponding entries may be levied.

Sale of Water:

The consideration for water supply is received based on the quantity supplied and hence it may be considered as sale of water which attracts NIL rate as per Notification No.2/2017-Central Tax (Rate) dated 28.06.2017.

HSN Code	Description	Rate of tax
2201	Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]	NIL

Sewage treatment charge:

The service attracts 18% rate of tax as per Notification No.11/2017-Central Tax (Rate) dated 28.06.2017.

HSN Code	Description	Rate of tax
9994	Sewage and waste collection, treatment and disposal and other environmental protection services.	18%

The rate of tax for other Activities incidental to Main business activities may be levied as that of the main activity.

8.1 We have considered the application filed by the applicant and various submissions made by them as well as the comments of the State and Central Tax officers. The issues raised before us is regarding the taxability of GST on the charges received in respect of the following activities/supplies made by the applicant by virtue of the concession agreement entered into by them with Government of Tamilnadu(GOTN), Tiruppur Municipal Corporation (TCMC):

Main business activities:

- a) Sale of water
- b) Sewage treatment charges
- c) Consultancy Services such Detailed Project Report (DPR), Project Management Consultancy (PMC) and any other infrastructure related consultancy to TCMC / GoTN

Incidental to main business activities

- d) Interest on receivable on delayed payments
- e) Disconnection Charges
- f) Reconnection charges
- g) Permanent disconnection charges
- h) Cheque Bouncing charges
- i) Non-Revenue – Service provided to Customer on New Connection works- Concept of No Loss No Gain, New Connection Shifting and other works etc.

8.2 From the various submissions, we find that the applicant claims that they are supplier of Pure services to Governmental agencies and an organization promoted by Government of Tamil nadu (GOTN), M/s Tamil nadu Water Investment company Limited (TWIC) and M/s ILFS Ltd as a Special Purpose Vehicle (SPV) with “an exclusive concession to provide the water treatment and supply service and sewage off take and treatment service” for the Tirupur Municipal Corporation vide concession agreement(CA) dated 11th February 2000 between Government of Tamilnadu, Tirupur Municipality (now Tirupur City Municipal Corporation – TCMC) to execute the functions entrusted under Article 243W read with the item nos. 1, 2,3, 5 & 6 of 12th Schedule and Article 243G read with item no.11 of the 11th Schedule, with control by GOTN- IAS officials in the Board for continuous monitoring. They have claimed that the functions that are ought to be carried out by TCMC is entrusted to them by virtue of CA that implies they assume such functions that are otherwise to be rendered by TCMC and they have claimed total exemption for the above activities by applying Sl.No. 3,3a, 4 of Notification No.

12/2017-C.T.(Rate) dated 28.06.2017 and Sl.No. 99 of Notification No. 02/2017-C.T.(Rate) dated 28.06.2017 readwith Circular No. 52/26/2018-GST.

8.3 The State Tax Officer has opined that the taxpayer's supplies to TCMC, cannot be identified as merely sale of water or sewage treatment facilities or incidental activities but is a composite supply of providing Infrastructural set up transferred to GOTN/TCMC and attracts 12% as per the Notification No. 11/2017-C.T.(Rate) dated 28.06.2017; and in respect of supply to other than TCMC, sale of water attracts 'NIL' rate as per Notification No. 02/2017-C.T.(Rate) dated 28.06.2017 and Sewage treatment charges attracts 18% as per Notification No. 11/2017-C.T.(Rate) dated 28.06.2017. The rate of tax on the incidental activities to Main business activities are to be levied at the rate the Main activity is subjected to.

8.4 The Central Tax officer has opined that the applicant is supplying service to TCMC, a Government body. Hence, on the supply of water, it is stated that, if it is pure service, the same will attract NIL rate of duty. On the consultancy services relating to infrastructure it is opined that the same is a part of composite supply made to Government attracting GST @ 12%.

9.1 We find that the applicant is a Public Limited company registered as a company on 24.02.1995 with 1504 shares of which C.M.D, TACID holds 1 share and the rest are held by Non-Government entities. The main object of the company as per the MOA is 'To identify, formulate, promote, aid, assist, establish, manage and control schemes, projects or programmes for the provision and development of infrastructural facilitiesand other services of any description for the growth and development of industries and commerce or for any purpose whatsoever.....'. Articles of Association of the applicant defines "Project" as-

"Project" means the development, financing, design, construction, ownership, operation and maintenance of the Concession, and related Facilities, Systems, and subsequent transfer of the Facilities and Systems, and all activities incidental thereto, including, without limitation, engineering, testing, commissioning and insurance of the facilities and the Systems and the determination, levy, collection, retention and appropriation of the charges for the purpose of providing the Services within the Service Area in accordance with the terms of the Concession Agreement;

"Project Agreements" as

"Project Agreements" means:

- (i) The Concession Agreement;
- (ii) the Bulk Water Supply and Sewage Offtake Agreement between GOTN, TM and the company dated 11.02.2000 (the "BWSA")
- (iii) the construction contracts;
- (iv) the Interface Management and Wrap Agreement executed among, inter-alia, the EPC Contractors and the company, recording the obligations of the EPC Contractors, inter-se and with respect to the Company;
- (v) the Operation and Maintenance Agreement;
- (vi) the lease deed/s executed or to be executed for the sites;
- (vii) the Service Agreements to be executed prior to the Operations Date;
- (viii) any other material contract entered or to be entered into by the Company and which the Shareholders and the Lenders agree are to be treated as a Project Agreement

For the current proceedings, the applicant has furnished copy of the Concession Agreement(CA), Bulk Water Supply and Sewage Offtake Agreement (BWSA), Service agreements entered with Director of Town Panchayat, Director of Rural Development and TWAD; the Bilateral Water Drawl agreement with GOTN and Contract for consultant's services dated 02.12.2019 and have stated that based on the activities entrusted in them vide these agreements, they assume the sovereign functions of TCMC by providing water treatment and supply service and sewage offtake and treatment service and any other services such as providing of DPR and CMSCS executing under 243W read with the 12th Schedule of the Constitution of India and Article 243 G under 11th Schedule, thereby claimed exemption under Sl.No. 3 and 3A of Notification No. 12/2017.

9.2 On examining the above agreements, it is seen that in order to develop the water and related infrastructure for collection, treatment and disposal of waste water and other infrastructure at Tirupur, The Tirupur Area Development Programme (TADP) for the Tirupur Local Planning Area(TLPA) has been formulated by Tamilnadu Corporation for Industrial Infrastructure Development Limited(TACID). The TADP project scope included the following:

- a. Design, construction, operation and maintenance of a 185 MLD potable bulk water supply scheme to
 - Tirupur Municipality(TCMC)
 - Way side unions and villages within Tirupur Local Planning Area(TLPA)

- Industries located outside the TCMC
- b. Design and construction of a water distribution system for TCMC
- c. Design and construction of a sewage collection system for TCMC
- d. Design and Construction of on-site sanitation facilities for slums within TCMC
- e. Design, construction, operation and maintenance of sewage treatment & disposal system for TCMC

The applicant has been given the role of facilitating the provision of potable water, sewerage and low cost sanitation, within Tirupur and the Service Areas (wayside unions, villages, Industries) and a Concession Agreement has been entered into by the applicant with GOTN and TCMC on 11.02.2000. GOTN and TCMC have granted the applicant the concession for an initial period of thirty years to provide the services and for that purpose to develop, finance, design, construct, own, operate, maintain and transfer (BOOT) basis on strictly commercial principles on an integrated basis, the Water Treatment and Supply Facilities and Sewage Treatment Facilities including the right to draw water from the River Cauvery for the period thereof. The applicant is to

- provide a water abstraction, treatment and distribution service by putting up the Water Treatment Facility (WTF) for the purpose of supply of potable water to TCMC and other Purchasers outside the jurisdiction of TCMC at the Water Offtake Points;
- Provide Sewage offtake, treatment and disposal service by putting up the Sewage Treatment Facility (STF), for the purpose of offtaking, treating and disposing Sewage, delivered by TCMC at the Sewage Offtake Points;
- Put up the Water Distribution System (WDS) and Sewage System, which is to be transferred to TCMC upon issuance of Construction Completion Certificate

The applicant is to recover the Total Cost of Project alongwith Returns during the period of the Concession through the levy and collection of Charges on the purchasers in relation to the quantum of water supplied or Sewerage off-taken for treatment and disposal by the applicant and it has been stated that in the event of any shortfall, the term of the Concession is to be extended to ensure recovery of the outstanding Total Cost of Project and Returns due there on. The applicant has been given right to abstract Raw Water from River Cauvery upto a maximum of 250 MLD out of which upto a maximum of 48.70 MLD of Raw Water to be allocated for Domestic and Non-Domestic purposes within TCMC, upto a maximum of 165 MLD

for Industrial Units for Non-Domestic Purposes outside TCMC in the service Area and upto a maximum of 36.30 MLD of Raw Water for Domestic purposes to wayside Panchayat Unions and villages in TLPA and has been given absolute right to re-allocate the above mentioned quantities in the event that stated quantities for Domestic Purpose are not off taken or not paid for by TCMC and way-side Villages to other Purchasers within the service Area. The applicant vide Article 17 of the CA is entitled to determine the price of Potable Water, Price of Sewage Treatment , Connection fee, reconnection fee, security deposit in accordance with the agreement and charge the purchasers. Further under Article 3.4 (b) of the CA it has been granted by TCMC that the applicant will be first offered to develop, finance, design, construct, own, manage, operate and maintain any new facility(ies) in relation a service similar to the services within the Service Area without first offering to the applicant. Also, under Article 35.1 of the CA, it is stated that GOTN and TCMC agree that the execution, delivery and performance by them of the CA agreement, the project contracts and all other agreements, contracts, documents and writings relating to the CA constitute private and commercial acts and not public or governmental acts. Thus, it follows that:

- Concession agreement vests the right to draw the agreed quantity of raw water from Cauvery river on payment of Royalty to GOTN
- The applicant is to develop, finance, design, construct, own, manage, operate the water treatment facility and supply the agreed quantity of treated water at the water off take points to TCMC(for Domestic and Non-Domestic), Wayward Unions(for Domestic), Villages(for Domestic) and other Purchasers(Non-domestic)in the Service Area apart from TCMC area
- The applicant is to develop, finance, design, construct, own, manage, operate the Sewage treatment Facility and to treat the Sewage collected from the off-take points within the TCMC
- The above facilities are to be transferred to TCMC/GOTN at the end of the Concession Period
- The applicant has to put up Water Distribution system and Sewage system in the TCMC and transfer the same to TCMC on completion of the same
- The applicant is entitled to charge and collect various charges such as water charges, connection charges, reconnection charges, late payment charges, Sewage Treatment charges, etc as per the guidelines agreed in the CA
- The entire arrangement is a commercial arrangement to facilitate the TLPA

- The applicant has to recover the cost of construction, operation, maintenance through the charges they are entitled to collect under the CA and if established that the charges could not be recovered within the initial Concession period, the period of concession may be extended

The applicant in accordance with the CA, has entered into individual agreements with the Purchasers for the services extended. They raise invoice on the purchasers viz., TCMC for supply of treated water, Misc Charges, sewage treatment charges, ; connection charges/reconnection charges; as can be seen from the following invoices:

- Invoice No. 4352-C 1/3 dated 31-Jan 2020 raised on The Commissioner TCMC against water charges based on the Meter reading of Meter No. 01D001- It is stated that 'As a precautionary measure, before distributing drinking water to the public, necessary chlorine may be added by the Municipal Corporation and then distributed'
- Invoice No. 4352- A 2/3 dated 31-Jan 2020 raised on the Commissioner, TCMC for Qty Consumed under additional 21 MLD
- Invoice No. 4352-I 3/3 dated 31-Jan 2020 raised on the Commissioner, TCMC for Misc. Charges- Interest on Delayed Payment

It is seen that these invoices are raised with CGST/SGST as 'NIL' and with HSN code:2201

- Invoice No. 40946 dated 31.01.2020 raised on K P R Mill Limited for Water Charges and Other Miscellaneous Charges with CGST/SGST as 'Nil'
- Invoice No. 4335-C1/2 dated 31-Jan-2020 for 'Sewage Treatment Charges[As per Chapter 99] raised on the Commissioner, TCMC with CGST/SGST as 'Nil'
- Invoice No. 4335-I 2/2 dated 31-Jan-2020 raised on the Commissioner, TCMC for Misc. Charges- Interest on Delayed Payment with CGST/SGST as 'Nil'
- Invoice No. 34006 dated 31-Dec-2018 raised on Sri Thirumagal process for water charges/HSN Code:2201 , Misc. Charges-Interest on Delayed Payment; Debit Note-Meter Charges with CGST/SGST as 'Nil'
- Invoice No. 40836 dated 31-Dec-2019 raised on Velmurugan Process for water charges/HSN Code:2201, Re-connection charges; Misc. Charges- Interest on Delayed Payment; Water Capacity charges (Take or Pay)-Dec '19; Water Capacity Charges for Disconnected Payment with CGST/SGST as 'Nil'

10.1 With the above facts, we take up the issues before us for consideration. We find that the claim of the applicant is that the activities listed under 'Incidental to main activities' are to be considered as part of the main activities and the main activities of 'Supply of treated water', 'Sewage treatment services' and 'Consultancy services' are exempted under Sl.No. 3, 3A,4 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 read with Sl.No. 99 of Notfn. No. 02/2017-C.T.(Rate) dated 28.06.2017 and Notification No. 14/2017-C.T.(Rate) dated 28.06.2017. Their eligibility to the said Notifications are discussed as under.

10.2 Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No. 16/2018-C.T.(Rate) dated 26.07.2018, effective from 27.07.2018 states that

*.....following activities or transactions undertaken **by** the Central Government or State Government or Union Territory or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:- "Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution."*

It is seen that the above notification exempts Central Government, State Government, Union territory or any local authority when engaged in the capacity of Public authority and undertake the activities entrusted in them vide the Article 243 G/243W of the Constitution. In the case at hand the applicant is a public limited company and is not covered under the class of persons specified in the said notification and therefore, the said Notification is not applicable to the case at hand and we hold that applicant is not eligible to seek exemption under this Notification.

10.3 The applicant has claimed themselves as a 'Government Authority' vide their submission dated 27.02.2020 and claimed exemption as per Sl.No. 4 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017. During the hearing held on 19.11.2020, they stated that they do not claim themselves as a 'Government Authority', as defined in the GST Law, though the policy decisions are made with the approval of the Government and in that context, it can be stated that they are under the 'control' of the Government. The entry at Sl.No. 4 of the said notification is as under:

4	Chapter 99	Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.	Nil	Nil
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(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);

Explanation to Clause (16) of Section 2 of the Integrated Goods and Service Tax Act is given 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 municipality under article 243W of the Constitution;

From the above it is clear that only those

- set up by an Act of Parliament or a State Legislature or established by any Government;
- with ninety percent or more participation by way of equity or control;
- to carry out any function entrusted under Article 243W of the Constitution

are 'Governmental Authority' under GST Law. The applicant is not set up by any Act of the Parliament or a State Legislature or established by any Government. Further, as seen from the MOA, the company was set up initially with 1504 shares, of which TACID, a Governmental Authority held 1 share. Thus, the primary requirement of the above 'Explanation' is itself not satisfied in the case of the applicant. Also, from the terms of the CA, the base agreement for the activities of the applicant, it is clear that the agreement has been entered into on a commercially basis, wherein for the concession extended, the applicant is entitled to charge the purchasers within the guidelines agreed in the said agreement. The Government officers/representatives in the Board are to ensure the contours of the agreement and this in no way can be stated to establish that the applicant is under the control of the Government and therefore, the applicant is not a 'Governmental

authority' under GST Law and hence the exemption at Sl.No. 4 is not available to them.

11.1 The applicant has claimed that the activities are in the nature of 'Pure Services' and they are eligible for exemption under Sl.No. 3,3A of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 in respect of Supply of water and supply of Sewerage treatment services. The entry Sl.No. 3 of the said notification is as under:

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 by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in	Nil	Nil
		relation to any function entrusted to a Municipality under article 243W of the Constitution.		

The above entry exempts pure services provided to a local authority in relation to functions entrusted to a Panchayat/Municipality under Article 243 G/243W of the Constitution.

11.2 The eligibility to 'Supply of Water' under this Notification is examined first. Providing 'Water Supply for Domestic, Industrial and Commercial Purpose' is listed as Item 5 of 12th Schedule (Article 243W) of the Constitution. The applicant claims exemption under this entry for the activity of sale of water to the purchasers. It is evident that the entry exempts only services. The applicant abstracts water from River Cauvery, treats the same in the facility owned, managed, operated, maintained by them and sell the 'treated water' to the 'Purchasers' and charge them for such supply. The applicant is not involved in the distribution of the water supply to the common public. The distribution system is transferred to TCMC and other stake holders on completion of construction as per the CA and the sale of water is to the 'Off-take points' at Water Distribution Systems(WDS) metered therein. Thus in our opinion, this activity of treatment of water on own account and supply of water is sale simpliciter and therefore this notification which provides exemption to services do not have any application with regard to supply of water.

11.3 In respect of the Sewage treatment services rendered by the applicant in respect of TCMC, it is seen from the CA that the applicant has to off-take the sewerage, treat the same as per the specified standards and charge TCMC on the metered Sewerage treated. The Facility, Operation and Maintenance are at own cost of the applicant and during the concession period, the activity extended by the applicant is only collection of sewerage, treat the same in the facility owned & operated by them using the consumables, etc on own account. Thus, in this instant the supply made by the applicant is a pure service of an activity listed as Item 6 of 12th Schedule(Article 243W) of the Constitution, i.e., an activity entrusted to a Municipality and the supply is made to TCMC, a local authority by the applicant and therefore the exemption at Sl.No. 3 of the Notification No. 12/2017-C.T.(Rate) is applicable to the case at hand and we hold the applicant is eligible for the exemption in respect of the sewerage treatment services provided to TCMC.

11.4 With regard to the consultancy services extended by the applicant to TCMC, the applicant claims exemption under Sl.No.3 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017. The applicant had furnished copy of the 'Contract for Consultant's Services; Project Name- Construction Management and Supervision Consulting Service to assist Project ULBs- TCMC'. On perusal of the agreement it is seen that TCMC intends to provide Water Supply and Underground sewerage schemes under the Tamilnadu Urban Flagship Investment Program(TNUFIP) and has employed the applicant as a 'Contract Management and Supervision Consultant'. The applicant is to assist and support TCMC in contract Management and Construction Supervision of works covered under the said 'Water Supply and Underground Sewerage Project'. The Scope of Services, Tasks and Expected deliverables, as per the Appendix to the Agreement broadly include services

- for carrying out contract and construction management including supervision of works and overall responsibility to deliver the output.
- field verification, support and assist TCMC in contract administration and compliance with contractual conditions, monitoring and preparation of progress reports, review of designs, drawings, technical specifications and estimations
- Construction Supervision and contract management including quality management

- Project management and Monitoring which includes planning and managing the project, review & recommend on the Contractor's claim for progress payments
- assist in resolution of contractual issues including review, evaluation and confirmation of contract Variation Orders, assist in conducting regular meetings with all stake holders to discuss progress and issues related to implementation
- Review the Resettlement Framework already prepared for the project and Identify any further resettlement requirements/including social impacts identified during project implementation and costs that may be required and provide all information required in relation to right-of-way access as well as the relocation of existing utilities, if required, and other obstructions at the proposed work sites, including vendor stalls
- support in establishing grievance redress mechanism acceptable to ADB under the project;etc.

The applicant has provided copies of invoice raised on TCMC vide their letter dated 20th November 2020. On perusal of the Service Invoice No. CMSC/CHE/2019-20/01 ;/02;/03;/04 all dated 24.03.2020 raised for the months of August to November 2019. It is seen that one bill is raised per month claiming 'Professional Charges' and 'Reimbursible expenses'. From the above, it is seen that TCMC which is a Municipal Corporation intends to put up Water supply and underground sewerage project which requires planning, management etc and they have entrusted the project management to the applicant. Urban Planning, Water supply, Sanitation conservancy are various activities entrusted to the Municipalities as per 12th Schedule(Article 243 W) of the Constitution and as already discussed, TCMC is a Municipal Corporation. The applicant extends 'Pure Services of Project Management' to TCMC in respect of this proposal and therefore the supply of the applicant is 'Service' eligible for exemption under Sl.No. 3 of Notification No.12/2017-C.T.(Rate) in as much as the said entry exempts any service, i.e., SAC 99 when provided to a local authority in relation to the constitutional function entrusted under Article 243W

12.1 The applicant has claimed that if the 'Supply of Water' is not considered as 'pure service' eligible for the exemptionat Sl.No.3 of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 above, but of 'sale of water-goods', they are entitled to

exemption as per entry No.99 of Notfn. No. 02/2017- dated 28.06.2017 read with Para 6 of Circular No. 52/26/2018-GST, dated 9-8-2018 issued from F. No. 354/255/2018-TRU as they supply only 'treated water' and not 'purified water'. The relevant entry of the Notification is as follows:

99.	2201	Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]
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The above entry exempts Water which is **not**

1. aerated water,
2. mineral water,
3. purified water,
4. distilled water,
5. medicinal water,
6. ionic water,
7. battery water,
8. de-mineralized water and
9. water sold in sealed container.

Also, the Circular No. 52/26/2018-GST, dated 9-8-2018 issued from F. No. 354/255/2018-TRU, in para 6 has clarified as below :

"6.1 Applicability of GST on supply of safe drinking water for public purpose : Representations have been received seeking clarification regarding applicability of GST on supply of safe drinking water for public purpose.

6.2 Attention is drawn to the entry at S. No. 99 of notification No. 2/2017-Central Tax (Rate), dated 28-6-2017, by virtue of which water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container] falling under HS code 2201 attracts NIL rate of GST.

6.3 Accordingly, supply of water, other than those excluded from Sr. No. 99 of notification No. 2/2017-Central Tax (Rate), dated 28-6-2017, would attract GST at "NIL" rate. Therefore, it is clarified that supply of drinking water for public purposes, if it is not supplied in a sealed container, is exempt from GST."

12.2 On the eligibility of the above entry, we have different views and are discussed as under:

a. Ruling per: Shri. Kurinji Selvaan, V.S, Member SGST : The treatment done by the applicant on raw river water do not amount to purification but treated for cleaning unwanted heavier solid dust particle with reasonable colour so that it could be used for drinking purpose for public. Hence the process is considered as water treatment for making the raw water in to drinkable form and not purification of water. Moreover, the purified water is nothing but the water which is pure in terms of physiscally, chemically and biologically to meet out certain requirement. That is in terms of physical properties, it should meet out certain level of turbidity, colour etc., in terms of chemical properties, it should meet out certain level of PH, Total soluble salts, Iron content etc., and in form of biological properties it should be free from all contaminants such as virus, bacteria, protozoan etc, when it is used for drinking purpose. If any water with certain level of contaminants such as virus, bacteria, protozoan, etc, it should not be called as purified water though it met out specific standard of physical and chemical properties for drinking purpose. When there is biological contaminant in water it can be purified with the help of adding adequate amount of chlorine to that water to make it fit for drinking purpose. Further, the invoices furnished by the applicant in relation to supply of water to Tirupur City Municipal Corporation (TCMC) and to the industries has been carefully examined and found that in relation to invoice vide No 4352-c 1/3 dated 31.1.2020 relating to supply of water to TCMC it has been mentioned in Tamil that adequate chlorine has to be added before distributing the water supplied by the applicant to the public for drinking purpose. This indicates that though the water supplied by the applicant met physical and chemical standard for drinking purpose but it is not biologically clean to use by the public for drinking purpose. Therefore, the water supplied by the applicant to the TCMC is not purified water and only drinking water for public after adding adequate chlorine is eligible for exemption as per entry No 99 of Notification No. 02/2017, dated 28.06.2017 read with para 6 of circular No. 52/26/2018 GST dated 09.08.2018 issued from f.No. 354/255/2018 TRU. But verification of invoice vide No 40946 dated 31.1.2020 relating to Tvl. KPR Mill Limited supply of water (to the industries)by the applicant revealed that there is no such mentioning of adding chlorine before use. Therefore, the supply of water to the industries are not

merely considered as potable water for drinking purpose and not qualified for exemption as per entry No. 99 of Notification No. 02/2017 dated 28.06.2017 read with para 6 of circular no 52/26/2018-GST, dated 09.08.2018 issued from F.No. 354/255/2018 TRU as the water is not supplied as drinking water for public purpose.

b. **Ruling per: Shri. B.Senthilvelavan, Member CGST:** I have gone through the views expressed by the learned State Member and I differ with the views of Thiru Kurinji Selvaan,V.S the respectful Member for the following reasons:

(i) The clarification in para 6 of circular no 52/26/2018-GST, dated 09.08.2018 issued from F.No. 354/255/2018 TRU states that supply of drinking water for public purpose when not sold in sealed container is exempted. The notification is unambiguous in as much as it clearly states the type of waters which is not exempted. In my opinion on a joint reading of the Notification and the Clarification, the waters mentioned at sl.no. 1 to 8 and drinking water for public purpose sold in sealed container are not exempted. In the case at hand the applicant sells the water to TCMC, Wayward unions, Villages and Industrial Consumers outside the TCMC Area but covered in the Service Area as per CA as per the agreements entered into with such purchasers. It is TCMC who undertakes the supply of drinking water for the public and this is evident from the Invoice raised by the applicant on TCMC, wherein it is stated to add essential chlorine before distributing for Public. Thus the supply of water by the applicant is to TCMC for use by them for both domestic and non-domestic purposes and therefore the supply to TCMC is not only for further supply to public for drinking purposes.

(ii) Further, my learned brother member has concluded that the supply to TCMC by the applicant is treated water and not 'purified' water in as much as the treatment process involves only cleaning up of dust particles and supplying in potable condition for the human consumption, which needs further addition of Chlorine as seen in the invoice and therefore merits exemption under Sl.No.99 of Notification No.2/2017-C.T.(Rate) dated 28.06.2017 and supply to industrial consumption without changing the original nature of the water to the WDS is not a supply for drinking purpose and therefore not eligible to the exemption. From the CA, Schedule B.2 (1)(d), Water Treatment Plant is the one with 'Capacity of 185 MLD located at Suriampalayam Village in Erode Taluk,

conventional treatment process to comply with the Performance Standards stipulated in Schedule C comprising of Clariflocculation, rapid gravity filtration and chlorination, with a provision for water recirculation and sludge dewatering'. From the Note on water treatment plant furnished by the applicant along with their submissions made on 27.02.2012, it is seen that the the water treatment process is 'Biological – conventional treatment process, Filterbed is the heart of the treatment process'. Under this process, the following are stated:

- Distribution Chamber (Retention Time-1mt.)– The water abstracted from the River Water intake flows through distribution chamber at Treatment Plant and is divided equally into three chambers with isolation sluice gate
- Flash Mixer (Retention time-1mt.) – After the distribution chamber, the water enters into Flash mixer chamber which agitates rapidly for settling of heavier particles
- Flocculator (Retention Time-20 mts) – The water from the flash mixer enter into 3 set of Flocculator Chamber. In Flocculator chamber, Flocculation (reaction of chemicals with suspended solids in water, formation of flocks) takes place & heavy particle settles down at the bottom of the tanks
- Clarifier (retention Time 20 mts) – The water from the Flocculator Chamber flows to Clarifier which consists of tube settlers inclined at 45° and with overflow launders. The suspended solids will settle at the tube settler and the water passing above the tube settler flows to Filter bed
- Filter bed(Retention time-20mts)- The filter beds is dual media(Anthrasite coal +sand) filter. The filtered water flows to the bottom of the filter bed by gravity to Clear water dtorage tank

Thus, the abstracted water is processed by removing the solids(clariflocculation), gravity filtered(rapid gravity filtration) and chlorinated before supplied to purchasers, both TCMC & other local authorities and the other Industrial Consumers. The standards of the abstracted raw water and the treated water in terms of turbidity, soluble salts, PH levels, etc are different and the treated water is to adhere the set quality levels. No different standards have been prescribed in the type of treatment on raw water abstracted by the applicant for supply of the treated water to the different clause of the designated receivers. Purification/treatment is not defined per se. Further, as can be seen from Wikipedia

'Water purification' is the process of removing undesirable chemicals, biological contaminants, suspended solids, and gases from water achieved by the physical processes such as filtration, sedimentation, distillation; biological process such as slow sand filters ; chemical process such as flocculation and chlorination.

and

'Water Treatment' is any process that improves the quality of water to make it appropriate for a specific end-use

It is further stated that

'A combination selected from the following processes (depending on the season and contaminants and chemicals present in the raw water) is used for municipal drinking water treatment worldwide.' –

From the above, the process for treatment of water for municipal water supply involves Pre-chlorination, disinfection, sedimentation, filtration, flocculation, electrolysis, slow sand filtration, etc and 'Water purification' also involves the process of removing undesirable chemicals, biological contaminants, suspended solids which are achieved by the process such as filtration, sedimentation, distillation, flocculation, slow sand filtration and chlorination. In the case at hand, the water supplied by the applicant is stated to have undergone the process of filtration, sedimentation, flocculation, distillation, slow-sand filtration and therefore, they are purified water sold to TCMC/Industrial consumers. The entry in the invoice to TCMC requiring them to add chlorine before supplying to public do not imply that the water supplied by the applicant is not purified water and only on addition of Chlorine, the water becomes 'Purified Water'.

Therefore, I find that the treated water supplied by the applicant is 'Purified water' supplied to TCMC, who as per the CA is entitled to use the same for both Domestic and Non-domestic purposes and to other designated receivers and in that account also is not exempted under Sl.No. 99 of Notification No. 02/2017-C.T.(Rate) dated 28.06.2017. Rather, the applicable rate of tax is under Sl.No. 24 of Schedule III of Notification No. 01/2017-C.T.(Rate) dated 28.06.2017 attracting 9% CGST and 9% SGST.

13.1 The applicant has required ruling on the activities they state 'Incidental to main business activities' which are taken up as under:

a. Interest receivable on delayed payments:

The applicant has stated that as envisaged under the CA and BWSA, they are eligible to charge the delay payment interest wherever the payment is received beyond the due date. Accordingly, they charge their customers a delay period interest in the billing. They contend that in view of the pure services of the treatment and water supply, offtake and sewage treatments services undertaken by them, which they claim as exempted under Sl.No. 3 of Notification No. 12/2007-C.T.(Rate) dated 28.06.2017, the Interest on delay payment of charges for such services are also eligible for exemption under the said entry. Entry at Sl.No.3 provides exemption to 'Pure Services' provided to the local authority by any activity in relation to any function entrusted to a municipality under Article 243 W of the Constitution. The applicant has claimed 'Interest on Delayed payment charges' to be part of charges for sale of water/ Sewage treatment charges and the charges on this count should also suffer the same tax treatment as the main activity. We do not agree to this contention. The applicant charges their customers for the Supply of water as per the charges fixed under CA readwith Section 11.1(A) of the BWSA and for treatment of Sewage as fixed under Section 11.1 (B) of the BWSA. The delayed payment charges are not part of these charges. Section 15 of the GST Act, which provides for Value of a Supply, states that:

15. (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply

In the case at hand, the charges for 'Sale of Water' and 'Sewage off-take and Treatment Service' is fixed as per Section 11.1 of the BWSA and the 'Delayed payment Interest' is not one of the components to arrive at the charge for these main supply. This is further evident from the Invoices raised, wherein, under 'Misc. Charges-Interest on Delayed Payment' is raised and the same is not raised as part of Main business Charges. Further, As per Section 11.4 of the BWSA, it is agreed that

If payment in full, of the Invoice, is not made by TM into the Operating Account on or before the close of business on the Due Date, a delayed payment charge on the unpaid amount due, for each day from the date of issuance of Invoice till date of actual payment thereof, will be payable at the rate of 20 %(twenty percent) per annum with quarterly rests'.

Similar clause is seen at para 11.5 of the Service Agreement entered by the applicant with Director of Town Panchayats/Director of Rural Development/TWAD and Section 3.3(iv) of the General Terms and Conditions for Supply of Water, a part of agreement entered with the Industrial Units. From the above clause, it is evident that the Interest on delayed payment is chargeable in cases when part payment only is made. The same is charged to tolerate the delay in realization of the full amount due thereon to them and to extend such credit which in itself a service specified under 'SAC 999794-Agreeing to tolerate an Act'. This is also not an activity stipulated under Article 243 W of the constitution. Therefore, even when 'Interest on Delayed Charges' is raised against their supply to TCMC in respect of delayed payment of 'Sewage Treatment Charges', the exemption under Sl.No. 3 of the Notification No. 12/2017-C.T.(Rate) is not available to the applicant. We hold that the 'Interest on Delayed payment Charges' raised by the applicant is against the service of SAC 999794-Agreeing to tolerate an Act' and is taxable @ 9% CGST and 9% SGST as per Sl.No. 35 of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017 readwith Sl.No. 35 of Notification No. II (2)/CTR/532(d-14)/2017 vide G.O. (Ms.)No.72 dated 29.06.2017 as amended.

- b. **Cheque Bouncing Charges:** The applicant has not elaborated on the situations such charges are levied. But the nature of charge is one of a penalty and is levied to tolerate the action of dishonor of the cheque. as per Section 15 of the GST Act, these charges will not form a part of the Water Charges and are Miscellaneous Charges for tolerating the dishonor and again these do not merit exemption under Sl.No.3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017. We hold that the 'Cheque bouncing charges' raised by the applicant is against the service of SAC 999794-Agreeing to tolerate an Act' and is taxable @ 9% CGST and 9% SGST as per Sl.No. 35 of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017 readwith Sl.No. 35 of

Notification No. II (2)/CTR/532(d-14)/2017 vide G.O. (Ms.)No.72 dated 29.06.2017 as amended.

c. Connection services on no profit and no loss cost recovery basis:

The applicant has stated that they had initially set up the entire infrastructure facility for water drawal, treatment, storage and distribution up to the point of supply and holds the entire assets including distribution network in their books and whenever there are new connection requirements from TCMC or wayside villages, the same are provided by obtaining necessary advance from the authority and provide the connection; that any excess/short of advance received from the authority is adjusted by way of debit/credit note. The applicant has furnished Letter from TCMC Roc. No. E.2/5802/2005 dated 29.06.2005, wherein the applicant has been asked to lay separate distribution main. Apart from this letter the applicant has not furnished any further document with regard to TCMC. In as much as the activity rendered is in relation to setting of new distribution lines in the current project as per the CA, and such lines are held as their assets in their book of accounts, we agree to their contention that the incidence of provisioning of services at that instant do not arise, the activity being self-service.

d. Connection/ Reconnection/ Disconnection/ Permanent Disconnection Charges:

The applicant vide service agreement with Industrial Units, undertakes supply of Water in the Service Area, within which, they are entitled to supply the Water as per the CA. From the Service agreement, copy of which is furnished before us, it is seen that

- while agreeing to purchase water from the applicant, the Industrial unit is to pay a Connection Charge as para 4 of the Agreement.
- As per para 14, Entire Agreement consists of the Application, the Agreement and the GTC(General Terms and Conditions). As per Section 10.4 of the General Terms and Conditions, in case of termination of the service, the unit has to reimburse the applicant for all costs and charges incurred with regard to the disconnection
- Section 11 of the GTC, the industrial unit has to pay a reconnection fee as demanded by the applicant in case of reconnection of service

From the copy of Invoice No. 40946 dated 31-Jan-2020 raised on KPR Mill Limited, it is seen that 'Water Charges' and 'Other Miscellaneous Charges-New connection adjustment' is raised & from Copy of Invoice No.34006 dated 31-Dec-2018 raised on Sri Thirumagal Process, it is seen that 'Water Charges' and 'Other Miscellaneous Charges-Debit Note- Meter Charges' is raised. Thus, it is seen that these are charges collected by the applicant from the Industrial Units in relation to 'Water Distribution Services' undertaken by them for 'Sale of Water' to such units. Water Distribution Services are identical Services with SAC 9969 and is taxable @ 9% CGST and 9% SGST as per Sl.No. 13 of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017 readwith Sl.No. 13 of Notification No. II (2)/CTR/532(d-14)/2017 vide G.O. (Ms.)No.72 dated 29.06.2017 as amended.

14. In view of the above we rule as under:

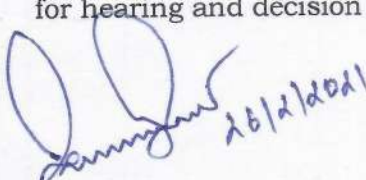
RULING

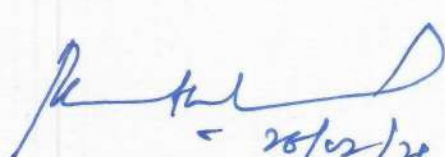
- a. The applicant not being the class of persons specified in Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended, they are not eligible for the said Notification as discussed in Para 10.2 above.
- b. The activity of Sewage offtake and treatment extended to Tirupur Municipal Corporation as per the CA is exempt under Sl.No.3 of Notification No.12/2017- C.T.(Rate) dated 28.06.2017 for the reasons discussed in Para 11.3 above.
- c. The Consultancy Services rendered by the applicant to Tiruppur City Municipal Corporation in respect of the Project- Construction Management and Supervision Consulting Service to assist Project ULBs - Tiruppur City Municipal Corporation exempt under Sl.No.3 of Notification No.12/2017- C.T.(Rate) dated 28.06.2017 for the reasons discussed in Para 11.4 above.
- d. In respect of the activities incidental to main business activities, it is rules as under :
 - i. Interest on receivable on delayed payments being charges received for 'Agreeing to tolerate an act' classifiable under SAC 999794 is taxable @ 9% CGST and 9% SGST as per Sl.No. 35 of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017 readwith Sl.No. 35 of Notification No. II (2)/CTR/532(d-

14)/2017 vide G.O. (Ms.)No.72 dated 29.06.2017 as amended for the reasons discussed in Para 13.1(a) above.

- ii. Cheque Bouncing Charges being charges received for 'Agreeing to tolerate an act' classifiable under SAC 999794 is taxable @ 9% CGST and 9% SGST as per Sl.No. 35 of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017 readwith Sl.No. 35 of Notification No. II (2)/CTR/532(d-14)/2017 vide G.O. (Ms.)No.72 dated 29.06.2017 as amended for the reasons discussed in Para 13.1(b) above.
- iii. New connection works executed as per CA for TCMC , the established asset is accounted as their assets are not taxable being self-service for the reasons discussed in para 13.1(c) above.
- iv. Connection/ Reconnection/ Disconnection/ Permanent Disconnection Charges are charges received for the services of 'Water Distribution Services' classifiable under SAC 9969 and is taxable @ 9% CGST and 9% SGST as per Sl.No. 13 of Notification No. 11/2017- C.T.(Rate) dated 28.06.2017 readwith Sl.No. 13 of Notification No. II (2)/CTR/532(d-14)/2017 vide G.O. (Ms.)No.72 dated 29.06.2017 as amended for the reasons discussed in Para 13.1 (d) above.

But as regard to the activity of 'supply of Water-goods' by the applicant to the purchasers as per the CA, we have different views on this aspect as discussed in Para 12.2 supra. Since we have different views on this particular issue, we are making a reference to the Appellate Authority for hearing and decision on this issue in terms of Section 98(5) of the Act ibid which provide that where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.


Thiru Kurinji Selvaan.V.S.
Member, TNGST


Shri Senthilvelavan. B., I.R.S
Member, CGST



To

M/s. New Tirupur Area Development Corporation Limited,
Polyhose Towers 1st Floor 86 Mount Road
Chennai Tamil Nadu.

//BY SPAD//

Copy submitted to :-

1. The Principal Chief Commissioner of CGST & Central Excise,
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2. The Additional Chief Secretary / Commissioner of Commercial Taxes,
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Copy to:

3. The Commissioner of GST & Central Excise,
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4. Assistant commissioner,
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5. Master File / spare