

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**  
**INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,**  
**5<sup>TH</sup> 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, Additional Commissioner/Member  
Office of the Commissioner of GST & Central Excise, Chennai -34
2. Thiru KurinjiSelvaan V.S., M.Sc.(Agri.), M.B.A.,/JointCommissioner(ST)/Member  
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

**ORDER No. 11/AAR/2021 DATED: 31.03.2021**

GSTIN Number, if any / User id		33AAALT0834FBZ1
Legal Name of Applicant		TAMILNADU WATER SUPPLY AND DRAINAGE BOARD
Registered Address/Address provided while obtaining user id		31, Twad House, First Floor, Kamarajar Salai, Chepauk, Chennai-600005
Details of Application		GST ARA- 01 Application Sl.No.23/ 2020/ ARA dated 07.12.2020
Concerned Officer		Centre: Chennai North Commissionerate. State: Assistant Commissioner(ST), Chepauk Assessment Circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in Brief)	The applicant provides water supply and underground sewerage works for urban local bodies/village panchayats.
Issue/s on which advance ruling required		Applicability of Notification

<p>Question(s) on which advance ruling is required</p>	<p>1. Applicability of the following Act Rule: "Pure Services (testing of materials for quality) by TWAD Board which is the Governmental Authority relating to water supply and sewerage schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243 W of the constitution. Therefore, the services (Quality material testing charges) rendered by the TWAD Board are exempted from CGST under Sl.No.3 of the Notifications No.12/2017 CT(Rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended.</p> <p>2. Applicability of Notification for conducting Geological surveying and testing (Pure Services) to identify the water potentiality by TWAD Board which is Governmental Authority relating to water supply schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243W of the constitution. Therefore, the services (Geological surveying and testing charges) rendered by the TWAD Board are exempted from CGST under SL.No.3 of the Notification 12/2017-CT (rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended.</p>
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**Note:** Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against 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.

Tamilnadu Water Supply and Drainage Board, No.31, TWAD House, First Kamarajar Salai, Chepauk, Chennai-600005 (hereinafter called 'the Applicant' or 'TWAD') are registered under GST with GSTIN 33AAALT0834FBZ1. The applicant has preferred an application seeking advance ruling on the following questions:

1. Applicability of the Notification issued under the provisions of the CGST Act, 2017:- Rendering "Pure Services" (testing of materials for quality) by TWAD Board which is the Governmental Authority relating to water supply and sewerage schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243 W of the constitution. Therefore, the services (Quality material testing charges) rendered by the TWAD Board are exempted from CGST under Sl.No.3 of the Notifications No.12/2017 CT(Rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended.

2. Applicability of Notification issued under the provisions of the CGST Act, 2017:- For conducting Geological surveying and testing (Pure Services) to identify the water potentiality by TWAD Board which is Governmental Authority relating to water supply schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243W of the constitution. Therefore, the services (Geological surveying and testing charges) rendered by the TWAD Board are exempted from CGST under SL.No.3 of the Notification 12/2017-CT (rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended.

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 Rules, 2017.

2.1 The applicant has stated that they are a Governmental Organization/Authority executing the water supply and underground sewerage

works for urban local bodies/village panchayats. They have established totally 4 nos of material quality testing labs to ensure the quality of materials used by the contractors under Turnkey system in the works executed by TWAD. Quality control laboratories in TWAD Board comprising one for each region at Coimbatore (established in 1999), Madurai(2001), Trichy(2014) and Tindivanam (2014) with test facilities as per IS standard specifications are functioning. The laboratories are fully equipped with necessary machineries, equipments and instruments for conducting the parametric tests as per the procedures postulated in the relevant Bureau of Indian Standards. The test facilities adorning the Laboratories include the testing of following materials for quality and conformity to Indian Standards:

- Construction materials like Ordinary Portland cement, Sulphate Resistant Portland cement, steel rods, sand, coarse aggregates, bricks and concrete cubes, Filter media, Hollow blocks, Paver blocks, PVC Pipes, UPVC Pipes, HDPE pipes, GI pipes, DI pipes, DWC pipes and Stoneware pipes, Mix design of concrete for the M30 grade and Electric Cables.

The applicant has stated that the materials received from local bodies and private agencies are also tested for quality in these laboratories. TWAD Board has fixed Material quality testing charges for various materials under Turnkey system, for various schemes allotted to contractors by the TWAD Board. During execution of works, the contractor submits materials samples such as cement, steel, bricks, sand, pipes, etc. to TWAD Board LAB for testing the quality of material for which testing fee is collected from the contractor and the same will be added by contractor to the cost of the scheme which is reimbursed by TWAD Board and the testing charges are booked in the scheme expenditure only.

2.2 The applicant has stated that the basic testing charges during 2019 have been approved by MD/TWAD Vide is No: F 7161/Testing charges/LAB/AEE/SQMS/2019/ DT 06.12.2019, the orders were communicated to the field engineers and with effect from 1.1.2020 GST is exempted for TWAD Board works and 18% GST is charged for other than TWAD Board Material testing works. The applicant has made reference to Notification 12/2017 CT(Rate) dated 28.06.2017 as amended and Sl.No.3 of the G.O (Ms) No.73 dated 29.06.2017 No.II(2)/CTR/532(d-15)/2017 as amended. The applicant has sought the authority to clarify whether to adopt and continue the same procedure in the above cited order dated 06.12.2019 for adopting Material testing basic charges with exemption from GST for testing of materials used in the works executed by TWAD Board 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 and for Material Testing charges for all Private works GST@18%.(Other than above said Material testing works.)

2.3 In respect of the Q.No.2 the applicant has stated that they are providing the service of Geophysical survey investigation works to identify the source for user departments like Rural Development, Public Works Department, Tamil Nadu Police Housing Corporation, Tamil Nadu Slum clearance Board, SIPCOT etc. Geophysical survey is being conducted for the identification of Bore well, Open well source by utilizing high quality, precise and sophisticated instrument by engaging labourers for the survey works. Conducting Geophysical Surveying and testing charges of Rs.2500/-per point has been approved vide MD/TWAD Lr No: 9087/ AHG7/ HG/ 2007/ DT 12.8.2015, which is being collected for Geophysical survey investigation works from the user departments. They have stated that as per Sl.No.3 of Notification 12/2017 CT (Rate) dated 28.06.2017, Pure services 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 are exempted. They have stated that Governmental authority provides support in relation to any function entrusted to a Municipality under Article 243W of the constitution or to a panchayat under Article 243G of the constitution. These bodies are usually entrusted support functions to the Government or local authority in carrying out such functions. For eg. Housing Boards in some states are formed under respective Acts to help government in construction and welfare activities for poor as they are covered under Article 243W. Such activities when provided to government shall be exempt.

2.4 In view of the aforesaid facts, the applicant wants to clarify whether to exempt GST for Geophysical survey testing charges for identification of borewell locations 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.(Corporation, Municipality, Town panchayat, Rural panchayat) i.e Urban and Rural Local body as per SI No 3 of the Notifications No: 12/2017 and to charge GST 18% for Geophysical survey

investigation works for all other departments except Corporation, Municipality, Town Panchayat, and Rural Development Department.

2.5 The applicant has relied upon the following case laws to substantiate their contentions:

- Order No.22/AAR/2018 dated 28.11.2018 of Tamilnadu AAR in the case of Dr.Amin Controllers Private limited, Chennai.
- CESTAT Chennai Order No. 41526/2018 dated 01.05.2018 in the case of The Executive Engineer, Urban Division, TWAD vs The Additional Commissioner, O/o the Commissioner of Central Excise, Madurai

The applicant has Lr. No. F.7161/Testing Charges/LAB/AEE/SQMS/2019 dated 06.12.2019; Lr. No. 9087/AHG7/HG/2007 dated 12.08.2015; TWAD online material quality Monitoring Information System Chronological Order; copies of sample test request, format for collection of samples & test certificate issued by their material testing laboratories.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media vide e-mail dated 05.02.2021. The applicant consented and the hearing for admission of the application was held on 12.02.2021. The authorised representative participated in the hearing and reiterated their submissions and requested that the activities being covered under Twelfth Schedule Article 243 G are to be exempted under Sl.No.3 of Notification 12/2017 CT(Rate) dated 28.06.2017. They were asked to furnish:

- i. Copy of the test samples for private and Government agencies
- ii. Trail of documents in respect of geophysical activity undertaken by them for private and Government agencies.

3.2 The applicant vide their letter dated 15.02.2021 submitted that there are no request forms from private agencies in respect of material testing charges and geophysical survey testing charges so far and hence no documents available. They submitted the following documents in respect of services rendered to Government agencies/ Local body:

- Request forms, Format-C-III- Collection of steel samples for the project 429/implementation of 24x7 water supply system for the city of Coimbatore- Execution by Coimbatore City Municipal Corporation; Test report - Steel Test

Certificates issued to the Commissioner, Coimbatore City Municipal Corporation;

- Copy of DD No.505156 issued for an amount of Rs.16,520/- to the Executive Engineer, Maintenance Division (Pillur), TWAD Board, Coimbatore.
- Request forms, Format-C-I - Collection of PVC pipe sample for the project 13196/implementation of Jal Jeevan Mission to provide functional household tap connection to rural households in Vellimalaipattinam Panchayat in Thondamuthur Panchayat Union in Coimbatore District for the year 2020-21(Pkg. No. 24/JJM/2020-21).; Test report for PVC Pipe Test Certificate dated 13.02.2021 issued to AE/Thondamuthur Union/ Coimbatore District
- Copy of cheque issued to the Executive Engineer TWAD for an amount of RS.5546/-
- Letter No.SW/AGT/TBM issued by Senior Section Engineer/ Work, Southern Railway, Tambaram requesting to test stoneware pipe samples for the project -Improvement to underground drainage system at Chengalpattu and Tambaram Colonies; Stoneware pipe test certificate dated 09.01.2021 issued to Assistant Divisional Engineer/Southern Railway Tambaram
- Letter No.3068/2018 dated 24.04.2019 of the Regional Development Officer, shoolagiri issued to Executive Engineer, TWAD, Krishnagiri, requesting for geophysical survey sketch.

4.1 The Centre Jurisdictional authority who has the administrative jurisdiction over the applicant has stated the following:

- In respect of Q.No.1 mentioned in para 1 supra, they have stated that the TWAD provides services to contractors, local bodies and other private entities. The Twelfth Schedule of Article 243 W of the constitution lists the functions of the Municipality at Sl.No.5 as "Water Supply for Domestic, industrial and commercial purposes" and at Sl.No.6 as "Public health, sanitation conservancy and solid waste management". The Eleventh Schedule of Article 243G of the constitution list the functions of the panchayat at Sl.No.11 as "Drinking Water" and at Sl.No.23 as "Health and sanitation including hospitals, primary health centers and dispensaries." The quality testing provided by the TWAD board is not covered under the said listed activities primarily carried by TWAD Board. Hence, the testing charges are not exempt

from GST under Sl.No.4 & 5 of the Notification No.12/2017 CT(Rate) dated 28.06.2017.

- In respect of Q.No.2, they have stated that geophysical survey and testing services rendered by TWAD to other Government/local bodies is exempt from payment of tax under Sl.No.3 and 3A of Notification No.12/2017- CT(Rate) dated 28.06.2017, as amended subject to fulfillment of the following conditions:

- i. Time of supply should be after 25.01.2018 (date of effect of notification)
- ii. The supply should be pure services or a composite supply of goods and services in which the value of goods do not constitute more than 25% of the total value.
- iii. Supply must be made to either Central Government or a State Government or a Union Territory or a Local Authority or a Government Authority or Government entity
- iv. The supply should be by way of any activity in relation to any function entrusted to a panchayat under Article 243G or to a Municipality under Article 243W of the Constitution.

- Further, they stated that there are no pending proceedings on the subject issue.

5.1 The State Jurisdictional authority has stated that no showcase Notice or no issue is pending adjudication under GST Act. They have opined that Service provision may be considered for exemption exclusively for the testing charges for identification of bore well location 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 to any function entrusted to a panchayat under article 243W of the constitution (Corporation Municipality, Town panchayat Rural panchayat) ie., Urban and Rural local body. Collection of GST @18% to be adopted to all Geophysical Survey investigation works of all other departments except Corporation Municipality, Town panchayat Rural panchayat) ie., Urban and Rural local body.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral submissions made at the time of Virtual hearing and the comments of the Jurisdictional Authority. The applicant is a Government organization/Authority and the functions of the applicant as per the

TWAD Board Act and Regulation (furnished by the applicant along with the application) are

(a) at the instance of the Government or a local authority:-

(i) Investigating the nature and type of schemes that can be implemented in the area of any local authority for the provision of drinking water and drainage facilities

(ii) Planning and preparing of schemes including schemes covering areas falling within the jurisdiction of more than one local authority for the purpose of providing the supply of drinking water or drainage facilities

(iii) executing such schemes under a phased programme for the provision of drinking water and drainage facilities within the areas of local authorities to which such schemes relate;

(b) providing technical assistance or giving advice to local authorities in the execution and maintenance of water supply and drainage works;

(c ) establishing and maintaining schemes incidental to water supply and drainage such as testing of water, designing of plant for purification of water, conducting research relating to water supply and maintaining farm schemes;

(d) Any other matter which is supplemental, incidental or consequential to any of the above functions; and

(e) Such other functions as may be prescribed

Thus, it is seen that the applicant is vested with the works relating to the schemes for the water supply and underground sewerage works for urban local bodies/ village panchayats at the instance of the Government/Local authority. The applicant has stated that they have Material quality testing labs to ensure the quality of materials used by the contractors under turnkey system in the works executed by TWAD Board for Local authorities. In such cases, as per the Contract Conditions, the successful bidder(Contractor) has to establish the quality of the materials used in the projects executed by TWAD. Further they undertake Geophysical survey investigation for user departments like Rural Development, Public works department, Tamilnadu Police Housing Corporation, Tamilnadu Slum Clearance Board, SIPCOT etc. and for local authorities for identification of Bore well, open well

source by utilizing high quality, precise and sophisticated instrument by engaging labourers for such works. They have sought rulings for the following questions:-

1. Applicability of the Notification issued under the provisions of the CGST Act, 2017:- Rendering "Pure Services" (testing of materials for quality) by TWAD Board which is the Governmental Authority relating to water supply and sewerage schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243 W of the constitution. Therefore, the services (Quality material testing charges) rendered by the TWAD Board are exempted from CGST under Sl.No.3 of the Notifications No.12/2017 CT(Rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended.

2. Applicability of Notification issued under the provisions of the CGST Act, 2017:- For conducting Geological surveying and testing (Pure Services) to identify the water potentiality by TWAD Board which is Governmental Authority relating to water supply schemes to urban and rural beneficiaries which are covered under Twelfth Schedule of Article 243W of the constitution. Therefore, the services (Geological surveying and testing charges) rendered by the TWAD Board are exempted from CGST under SL.No.3 of the Notification 12/2017-CT (rate) dated 28.06.2017 as amended and exempted from SGST under Sl.No.3 of the G.O(Ms) No.73 dated 29.06.2017 No.II/CTR/532(d-15)/2017 as amended.

7. From the submissions before us, we find that the question raised before us are applicability of entry No.3 of Notification no. 12/2017-C.T.(Rate) to the said supply by them. The Question of applicability of entry raised are covered under Section 97(2)(b) of the CGST/TNGST Act 2017 and therefore admissible before this authority for consideration and pronouncement of ruling.

8.1 The facts before us for consideration are that whether the exemption at Sl.No.3 of Notification No. 12/2017-C.T. (Rate) dated 28.06.2017 is applicable to the applicant when

- they render Pure services of Material quality testing in their laboratories in respect of materials used by the contractors in the turnkey works executed by TWAD. It is their contention that as the testing, the cost of which is part of the project cost and such testing being an activity of 'Pure Service', they are

eligible for exemption at Sl.No.3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended; and

- they undertake Geophysical survey investigation for user Departments, Local authorities, etc for identification of Bore Well, Open well source. It is their contention that this service is extended to Local Authority and Governmental Authority and the activity being 'Pure Service', they are eligible for exemption at Sl.No. 3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended.

It is stated that the laboratories are fully equipped with necessary machineries, equipments and instruments for conducting the parametric tests as per the procedures postulated in the relevant Bureau of Indian Standards. The test facilities adorning the Laboratories include the testing of following materials for quality and conformity to Indian Standards:

- Construction materials like Ordinary Portland cement, Sulphate Resistant Portland cement, steel rods, sand, coarse aggregates, bricks and concrete cubes, Filter media, Hollow blocks, Paver blocks, PVC Pipes, UPVC Pipes, HDPE pipes, GI pipes, DI pipes, DWC pipes and Stoneware pipes, Mix design of concrete for the M30 grade and Electric Cables.

The applicant has stated that they have so far not undertaken testing services to Private agencies and they are undertaking the testing of the materials received from the contractors who have been awarded the works being executed by the applicant for the local authorities. TWAD Board has fixed Material quality testing charges for various materials. During execution of works, the contractor submits materials samples such as cement, steel, bricks, sand, pipes, etc. to TWAD Board LAB for testing the quality of material for which testing fee is collected from the contractor and the contractor adds it to the cost of the scheme which is reimbursed by TWAD Board and the testing charges are booked in the scheme expenditure only.

8.2 They also conduct Geophysical survey investigation works to identify for user departments such as like Rural Development, Public Works Department, Tamil Nadu Police Housing Corporation, Tamil Nadu Slum clearance Board, SIPCOT etc., for the identification of Bore well, Open well source by utilizing high quality, precise and sophisticated instrument by engaging labourers for the survey works. Conducting Geophysical Surveying and testing charges of Rs.2500/-per point has been approved

vide MD/TWAD Lr No: 9087/ AHG7/ HG/ 2007/ DT 12.8.2015, which is being collected for Geophysical survey investigation works from the user departments.

8.3 Now they have come up before us seeking ruling on whether the above services rendered by them would merit applicability of entry no.3 of Notification no.12/2017-C.T.(rate) dated 28.06.2017, in as much as these services are 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.

9.1 Before going further, the entry based on which the exemption is claimed, entry no.3 of Notification 12/2017 CT(R) dated 28.06.2017 is examined as under:

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Con diti on
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 relation to any function entrusted to a Municipality under article 243W of the Constitution	NIL	NIL

On a cogent reading of the above, it is seen that the entry is applicable to

- All Pure Services;
- Provided to the Central/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 ;

➤ A Municipality under Article 243 W of the Constitution.

Thus, the entry applies to Pure services provided to the defined clause of service recipients and the services are to be of any activity in relation to any function entrusted to a Panchayat/Municipality under Article 243 G/243W of the Constitution.

9.2 In the case under discussion, it is observed that the service of testing is being provided by the applicant which is a Government authority to (i) Local bodies, (ii) Government departments and (iii) contractors undertaking the projects executed by TWAD. It is seen from the copies of documents submitted by the applicant vide their letter dt. 15.02.2021 namely Format:C-III- Collection of steel samples, Format: C-I - collection of PVC Pipe samples that the tests have been conducted by the applicant to the individual contractors, on payment of the fixed fee towards charges of testing. Thus, it is clear that the applicant is the service provider and the service is provided to both governmental and non-governmental agencies. The services rendered to the contractors, though done as per the contract conditions, at the insistence of TWAD, the same cannot be termed as services provided to Government/Local authority because these tests are done by TWAD for the individual contractors in fulfillment of his contractual obligations for a specific charge. This proves that testing is a service done by the provider viz., TWAD to the receiver, any individual contractor for a consideration which is the fee charged. Hence the service so rendered by TWAD to their contractors is not exempted by the entry at Sl.No. 3 above as the services are not provided to the class of service receivers specified in the said entry.

9.3 Further the condition that the services rendered should be one of the activities entrusted to a Panchayat / Municipality under Article 243G/243W of the constitution also has to be satisfied. To examine the applicability under this category the relevant extracts of are as under:

**Articles 243W (Twelfth Schedule):-** The functions entrusted to a Municipality under the Twelfth Schedule to Article 243W of the Constitution are as under

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.

6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

**Article 243G (Eleventh Schedule):-** The functions entrusted to a Panchayat under the Eleventh Schedule to Article 243G of the Constitution are as under:

- (i) Agriculture, including agricultural extension.
- (ii) Land improvement, implementation of land reforms, land consolidation and soil conservation.
- (iii) Minor irrigation, water management and watershed development.
- (iv) Animal husbandry, dairying and poultry.
- (v) Fisheries.
- (vi) Social forestry and farm forestry.
- (vii) Minor forest produce.
- (viii) Small scale industries, including food processing industries.
- (ix) Khadi, village and cottage industries.
- (x) Rural housing.
- (xi) Drinking water.
- (xii) Fuel and fodder.
- (xiii) Roads, culverts, bridges, ferries, waterways and other means of communication.
- (xiv) Rural electrification, including distribution of electricity.
- (xv) Nonconventional energy sources. (xvi) Poverty alleviation programme.

- (xvii) Education, including primary and secondary schools.
- (xviii) Technical training and vocational education.
- (xix) Adult and non-formal education.
- (xx) Libraries.
- (xxi) Cultural activities.
- (xxii) Markets and fairs.
- (xxiii) Health and sanitation, including hospitals, primary health centres and dispensaries.
- (xxiv) Family welfare.
- (xxv) Women and child development.
- (xxvi) Social welfare, including welfare of the handicapped and mentally retarded.
- (xxvii) Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
- (xxviii) Public distribution system.
- (xxix) Maintenance of community assets.

From the above lists of activities, it is observed that the Twelfth Schedule of Article 243W of the constitution lists the functions of the Municipality and at Sl.No.5 "Water supply for Domestic, Industrial and Commercial purposes" and at Sl.No.6 "Public health, sanitation conservancy and solid waste management" are mentioned. The Eleventh schedule of Article 243G of the Constitution lists the functions of the Panchayat and at Sl.No.11 "Drinking water" and at Sl.No.23 "Health and Sanitation including hospitals, primary health centers and dispensaries" are mentioned.

9.4 The functions entrusted are clearly mentioned in the schedules and only those activities fall under the functions entrusted to Panchayat/ Municipality. The exemption entry under consideration exempts pure services by way of any activity in relation to any of the functions listed above when provided to the said class of service receivers. The services rendered by the Applicant which is the subject matter of the current proceedings, namely quality testing of materials used in the turnkey contracts is undertaken to assure the quality of materials used in the turnkey projects to maintain the international standards required of a project. It is seen that this is an independent activity and is not in relation to activities listed in the Eleventh and Twelfth Schedule of the Constitution. The applicant executes water supply and underground sewerage works for urban local bodies/village panchayats, but the activities of the lab of the applicant, in the case at hand, is 'testing the

quality of the materials' procured by the Contractor and in such a case, the applicant does not satisfy the required conditions namely, 'testing of materials used in the execution of project' is not a service related to the activity listed under the schedule; the said service is not provided to the intended class of service receivers though the said service is ultimately consumed by one such class of receivers specified in the entry. We find that the word used in the notification is 'Provided' and in the case at hand, without doubt the applicant provides the testing service only to the Contractor, for fulfilling his contractual obligations.

9.5 The Applicant has placed reliance on Order No.22/AAR/2018 dated 28.11.2018 of Tamilnadu AAR in the case of Dr.Amin Controllers Private limited, Chennai. This ruling is not applicable to the case in hand in as much as the service provider in the referred case was an individual providing services in relation to the functions enlisted under Article 243 G of the Constitution to the Governmental authorities who were entrusted with such functions. In the instant case, the service recipients are Local authorities, private individuals and the subject services of quality testing is not service rendered in relation to functions entrusted with such local authorities under the said Articles as discussed above.

9.6 Further the applicant has relied on CESTAT Chennai Order No. 41526/2018 dated 01.05.2018 in the case of The Executive Engineer, Urban Division, TWAD vs The Additional Commissioner, O/o the Commissioner of Central Excise, Madurai. In view of the CESTAT order relied upon by the applicant, the Madurai Commissionerate was addressed to furnish the details of whether the said final order was accepted on merits or on monetary limits as per Section 35 R of the Central Excise Act made applicable to Service Tax vide Section 83 of the Finance Act 1994. In response to the above they informed vide their letter dated 15.03.2021 that the final order has been accepted only on ground of low monetary limits on 12.11.2019. Section 35 ( R)(3) of the Central Excise Act, states as follows:

(3) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the Central Excise Officer pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal, application, revision or reference shall contend that the Central Excise Officer has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

Therefore, the reliance placed on the decision of the Hon'ble CESTAT are not sustainable in merits.

9.7 In respect of geophysical survey tests and reports, the applicant conducts the survey and reports on the nature of the site. The applicant has stated that they have not undertaken this service to 'Private agencies so far'. Further from the documents submitted it is seen that such survey has been done by the applicant to the Local Panchayat body of Soolalgiri, on their request to assess the geophysical nature of the land and availability of water. The Local authorities are constitutionally entrusted with the function of 'Water Supply' and TWAD has stated that they undertake the geophysical Investigations and provide the Local Authorities 'survey sketch' of the site. As this service has been found to be rendered to local Panchayat, which has been entrusted with the work of supply of drinking water and Urban planning and the subject service being done to identify the water source for borewells, open well source which is very much in relation to supply of drinking water, it is found to be fitting the category of Pure service. Hence we find that the service of Geophysical survey investigation qualifies to be exempt under Entry No.3 of the Notification cited supra subject to the following conditions:

(i) Time of supply should be after 24.01.2018 (Date of effect of Notification)

(ii) The supply should be pure services.

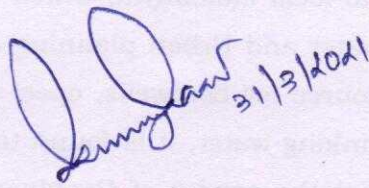
(iii) Supply must be made either to Central Government or a State Government or a Union Territory or a Local Authority or a Government Authority or Government entity entrusted with any activity in relation to any function entrusted to a Panchayat under Article 243G or to a Municipality under Article 243W of the Constitution.

10. It is clear from the above discussions that the service of quality testing rendered by TWAD does not merit applicability of entry no. 3 of Notification no.12/2017-CT(Rate) dt.28.06.2017 as the said services are not in relation to the functions entrusted/activities listed under Article 243G and/ or Article 243W of the constitution and the same is not provided to the specified class of receivers stipulated in the said entry. The service of Geophysical Survey Investigation to assess availability of water and to sink bore wells, open wells are activity in relation to the function 'Water supply' listed in the Eleventh/Twelfth Schedule of the Constitution and therefore, the service of Geophysical Investigation is found to be meriting applicability of entry no.3 of Notification no.12/2017-CT(Rate)

dt.28.06.2017 subject to conditions listed in para 9.7 above. In view of the above, we rule as under:

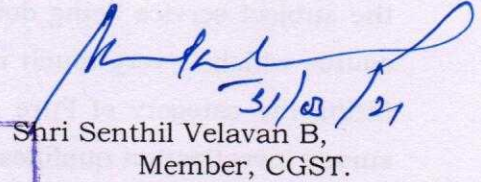
**RULING**

1. The services provided by the applicant, namely, Quality material testing works is **not** exempted from Goods and Services Tax in terms of entry no.3 of the Notification 12/2017- Central Tax (rate) dated 28.06.2017 as amended and
2. The service of Geophysical survey investigation **is exempted** from Goods and service Tax terms of entry no.3 of the Notification 12/2017- Central Tax (rate) dated 28.06.2017 subject to conditions stated in Para 9.7 above.

  
31/3/2021

Shri Kurinji Selvaan V.S.  
Member, TNGST.



  
31/3/21

Shri Senthil Velavan B,  
Member, CGST.

To

TAMILNADU WATER SUPPLY AND DRAINAGE BOARD  
31, TWAD HOUSE, FIRST FLOOR, KAMARAJAR SALAI,

CHEPAUK, CHENNAI-600005. // **BY RPAD** // **By e-mail: dcesqms@gmail.com**

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,  
IIndFloor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

3. The Commissioner of GST & Central Excise Chennai North Commissionerate.  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
4. The Assistant Commissioner (ST) Chepauk Assessment Circle,  
Integrated Commercial Taxes Building, South Tower, Room NO 252, II nd  
floor, Nandanam, Chennai-35.
5. Master File/ Spare – 2.