

**AUTHORITY FOR ADVANCE RULING, TAMILNADU  
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX  
V<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. Shri B. Senthilvelavan, I.R.S., Additional Commissioner/Member,  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai.600 034.
2. Shri Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/ Member,  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

**ORDER No.14/ARA/2021 Dated: 28.04.2021**

GSTIN Number, if any / User id		33AAALT1781B1ZB
Legal Name of Applicant		THE ERODE CITY MUNICIPAL CORPORATION
Trade Name of the Applicant		THE ERODE CITY MUNICIPAL CORPORATION
Registered Address / Address provided while obtaining user id		246, Brough road, Erode, Tamil Nadu-638 001.
Details of Application		Form GST ARA – 001 Application Sl.No.13/2020 dated 11.06.2020
Concerned Officer		State : The Assistant Commissioner(ST) Brough Road, Assessment Circle Centre: Coimbatore Commissionerate Division: Coimbatore I
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision
B	Description (in brief)	The applicant is a “ Municipality” as defined in clause (e) of article 243P of the Constitution. They are rendering taxable services (viz) renting of immovable property service, mandap keeper service. They are doing the <b>functions entrusted to a municipality under Twelfth Schedule to Article 243W of the Constitution.</b> They are rendering the following functions directly as well as through contractors(through tender process)and collecting Fee from parks, Market fee-daily, Market fee –weekly, Fees for bays in bus stand (bus stand entrance fee collection ),



	<p>Bus -stand (others), charges for TV advt. in bus-stand , locker rent provided in bus-stand , flower shop in bus stand in open space, cycle stand, scooter, auto, four wheeler stand in bus stand and other places and collection of room rent for temporary stay, Slaughter house fees, Bunk stalls, Rent -traveler's bungalows&amp; rest house (municipal lodge), Fees on pay &amp; use toilets, Avenue receipts, Right to fishing in Pond, Running a fish market, fee for entry vehicle in the market, annual track rent -Cable operator laying fee(optical fibre laying fee).</p>
Issue/s on which advance ruling required	<p>They are rendering the following functions directly as well as through contractors(through tender process)and collecting fees and <b>require clarifications as to whether their activities are covered under</b> Twelfth Schedule to Article 243W of the Constitution so as to claim appropriate exemption under Notfn. No. 12/2017&amp;14/2017 etc.</p> <ol style="list-style-type: none"> <li>1. Fee from parks,</li> <li>2. Market fee-daily,</li> <li>3. Market fee -weekly,</li> <li>4. Fees for bays in bus stand (bus stand entrance fee collection ),</li> <li>5. Bus -stand (others),             <ol style="list-style-type: none"> <li>(A) charges for TV advt. in bus-stand ,</li> <li>(B) locker rent provided in bus-stand ,</li> <li>(C )flower shop in bus stand in open space,</li> <li>(D) cycle stand, scooter, auto, four wheeler stand in bus stand and other places</li> <li>(E ) collection of room rent for temporary stay</li> </ol> </li> <li>6. Slaughter house fees,</li> <li>7. Bunk stalls,</li> <li>8. Rent -traveler's bungalows &amp; rest house (municipal lodge),</li> <li>9. Fees on pay &amp; use toilets,</li> <li>10. Avenue receipts,</li> <li>11. Right to fishing in Pond,</li> <li>12. Running a fish market,</li> <li>13. fee for entry vehicle in the market,</li> <li>14. Annual track rent -Cable operator laying fee(optical fibre laying fee). They are collecting charges for laying of cables alongside roads and collecting road cutting charges as well as annual rent. They require advance ruling as to whether</li> </ol>



	<p>composite supply can be applied for classifying said service as renting of immovable property service and reverse charge can be applied for collecting GST as per entry Sl No 5A of the table to Notfn No 13/2017 (CE rate) dated 29-06-2017 as amended from the telephone operators who are GSTN holders</p> <p>15. In respect of immovable property service reverse charge is applicable w.e.f.25-01.2018 in respect of the service availers who are registered with GSTN but tax was collected under direct charge from the service availers and whether it can be regularised.</p> <p>16. Applicability of Sl.No. 8 of Notfn 12/2017 dt. 28.06.2017 to Renting of Immovable property directly by them on lease contract to another Central Government/State Government</p>
Question(s) on which advance ruling is required	<p>Q.1. Advance Ruling is required in respect of Sl.No. 1 to 6, 8,9 &amp; 13 as to whether the services rendered by them directly are covered under Twelfth Schedule to Article 243 W of the Constitution and /or exempted under the Notification No. mentioned against each Sl.No.</p> <p>Q.2 In respect of services rendered by them from sl.No. 1 to 13 through tender contractors whether they are covered under Twelfth Schedule to Article 243 W of the Constitution and /or exempted under the Notification No. mentioned against each s.No.</p> <p>Q.3 In respect of S.No. 14 they are collecting charges for laying of cables along roads and collecting road cutting charges as well as annual rent. They require advance ruling whether composite supply can be applied for classifying the said service as renting of immovable property service and reverse charge can be applied for collecting GST as per S.No. 5A of 13/2017</p> <p>Q.4. In respect of S.No. 15 w.e.f 25.01.2018, instead of reverse charge they collected tax under direct charge from the service availers who are registered with GSTN and whether it can be regularized</p> <p>Q.5. In respect of S.No. 16 the renting of immovable property service rendered by them as</p>



	a local authority to (i) pure State Govt. Offices, (ii) Co-operative societies, (iii) Nationalised Banks are fully exempted nor not as per S.No. 8 of 12/2017
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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.

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M/s. THE ERODE CITY MUNICIPAL CORPORATION, No. 246, Brough road, Erode, Tamil Nadu. Erode. 638 001. (Hereinafter called the 'Applicant') is registered with GSTIN No. 33AAALT1781B1ZB. The applicant is a "Municipality" as defined in clause (e) of article 243P of the Constitution. They are rendering taxable services (viz) renting of immovable property service, mandap keeper service and are doing the functions entrusted to a municipality under Twelfth Schedule to Article 243W of the Constitution. They have stated to undertake the following services directly/ through contractors by tender process and have sought ruling on the application of Notifications specified in Column E below:

Sl. No	Description of the service	Direct service by the corporation	Service through contractors by tender process	Advance ruling is required on the following .whether the services mentioned in Column B are exempted vide Notfn No or Sl No entry of the table to Notfn as noted against each Sl No in Column E.
A	B	C	D	E



1	Fee from parks	Some times in some months	Three years lease	Notfn. No14/2017 dt 28-06-2017( <b>or</b> ) sl no 4 of 12/2017 dt 28-06-2017
2	Market fee-daily	Some times in some months	Three years lease	Notfn. No 14/2017 dt28-06-2017( <b>or</b> ) sl no 4 of 12/2017 dt 28-06-2017(or) Sl no 24 of the table to Notification No. 11/2017-C.T. (Rate), dated 28-6-2017
3	Market fee – weekly	Some times in some months	Three years lease	Notfn. No 14/2017 dt28-06-2017or sl no 4 of 12/2017 dt 28-06-2017(or) Sl no 24 of the table to Notification No. 11/2017-C.T. (Rate), dated 28-6-2017
4	Fees for bays in bus stand (bus stand entrance fee collection )	Some times in some months	Three years lease	Notfn. No 14/2017 dt28-06-2017or sl no 4 of 12/2017 dt 28-06-2017
5	<p>Bus –stand (others)</p> <p>A) charges for of TV advt. in bus-stand</p> <p>(B) locker rent provided in bus-stand</p> <p>(C) flower shop in bus stand in open space</p> <p>D)cycle stand, scooter, auto, four wheeler stand in bus stand and other places</p> <p>(E)collection of room rent for temporary stay</p>	Some times in some months	Three years lease	<p>A. Exempted vide Sl No 7 of Notfn. No 12/2017 (or) payment of tax under reverse charge under sl no 5 of Notfn. No 13/2017-Central Tax (Rate) dated the 28th June, 2017</p> <p>B. Notfn No 14/2017 dt28-06-2017or sl no 4 of 12/2017 dt 28-06-2017.</p> <p>C. Notfn/-14/2017 dt28-06-2017(<b>or</b>) sl no 4 of 12/2017 dt 28-06-2017(or) Sl no 24 of the table to Notification No. 11/2017-C.T. (Rate), dated 28-6-2017</p> <p>D. Notfn 14/2017 dt28-06-2017(<b>or</b>) sl no 4 of 12/2017 dt 28-06-2017</p> <p>E. Notfn 14/2017 dt28-06-2017(<b>or</b>) sl no 4 of 12/2017 dt 28-06-2017 or Sl no 14 of 12/2017 dated 28-06-2017</p>
6	Slaughter house fees	Some times in some months	Three years lease	Notfn No 14/2017 dt28-06-2017or sl no 56 of Notfn. No 12/2017 dt 28-06-2017.



7	Bunk stalls		Three years lease	Sl No 7 of Notfn No 12/2017 subject to the satisfaction of condition since it is not covered under renting of immovable property.
8	Rent – Travelers’ bungalows & rest house (municipal lodge)	Some times in some months	Three years lease	Notfn No 14/2017 dt28-06-2017 or sl no 4 of Notfn. No 12/2017 dt 28-06-2017 & Sl no 14 of the same Notfn/-since condition is satisfied.
9	Fees on pay & use toilets	Some times in some months	Three years lease	Notfn No 14/2017 dt28-06-2017 (or) sl no 76 of Notfn. No 12/2017 dt 28-06-2017.
10	Avenue receipts		Three years lease	(i) Sl no 54 of Notfn. No 12/2017-C.T. (Rate), dated 28-6-2017. (ii) Press Release No. 162/2018, dated 28-5-2018. (iii) Sl no 24 of the table to Notification No. 11/2017-C.T. (Rate), dated 28-6-2017.
11	Right to fishing in bond		Three years lease	(i) Sl No 5 of Notfn. No 12/2017-C.T. (Rate), dated 28-6-2017. (ii) Sl no 24 of the table to Notification No. 11/2017-C.T. (Rate), dated 28-6-2017
12	Running a fish market		Three years lease	Sl no 5 of Notfn. No 12/2017 or Sl no 24 of 11/2017 dated 28-06-2017.
13	For entry vehicle in the market	For entry vehicle in the market	Three years lease	Notfn No 14/2017 dt28-06-2017 (or) sl no 4 of Notfn. No 12/2017 dt 28-06-2017.
14	annual track rent -Cable operator laying fee(optical fibre laying fee)		Based on contract	Composite supply can be applied for road cutting charges by treating it as renting of immovable property service and reverse charge is applicable under Sl No 5A of Notfn No 13/2017 dated 28-06-2017 as amended
15	Renting of immovable property	Direct by the municipality on lease contract		Nonpayment of tax under reverse charge under Sl No 5A of Notfn No 13/2017 dated 28-06-2017 but paid under direct charge and whether it can be condoned and



				regularised for the period from 25-01-2018 in case of services to GSTN holders
16	Renting of immovable property	Direct by the municipality on lease contract to another Central / State Government.		Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017

The Questions for which the ruling is sought are:

- Q.1. Advance ruling is required in respect of Sl No 1 to 6, 8, 9 & 13 whether the services rendered by them directly are covered under Twelfth Schedule to Article 243W of the Constitution and /or exempted under the Notfn. No mentioned against each Sl No.
- Q.2. In respect of services rendered by them from Sl No 1 to 13 through tender contractors, whether they are covered under Twelfth Schedule to Article 243W of the Constitution and/or exempted vide the Notfn. no. mentioned against each Sl No.
- Q.3. In respect of Sl No 14 they are collecting charges for laying of cables alongside roads and collecting road cutting charges as well as annual rent. They require advance ruling whether composite supply can be applied for classifying the said service as renting of immovable property service and reverse charge can be applied for collecting GST as per entry Sl No 5A of the table to Notfn No 13/2017 (CE rate) dated 29-06-2017 as amended from the telephone operators who are GSTIN holders
- Q.4. In respect of Sl No 15 w.e.f. 25-01-2018, instead of reverse charge they collected tax under direct charge from the service availers who are registered with GSTIN and whether it can be regularised. (to be treated as technical lapse and condoned since the service rendered by us had suffered tax and Govt. revenue is not affected)
- Q.5. In respect of Sl No 16 the renting of immovable property service rendered by them as a local authority to
- Pure state Govt. offices (viz) Asst. Director Of L F Accounts, Project Officer, ICDS, ICDS Centre: Deputy Supt. Of Police and pure Central Govt offices (viz) post offices are fully exempted or not as per entry Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.



(ii) Co-operative society(viz) Chindhamani Super Market, Jeeva Co-Op Society, TNSTC Staff Society, Jeeva Co-Op Society and transport corporation TNSTC are exempted or not as per entry Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.

(iii) Nationalised Banks are exempted or not as per Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.

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 rendering the following functions directly as well as through contractors(through tender process)and collecting Fee from parks, Market fee-daily, Market fee -weekly, Fees for bays in bus stand (bus stand entrance fee collection ), Bus -stand (others), charges for TV advt. in bus-stand , locker rent provided in bus-stand , flower shop in bus stand in open space, cycle stand, scooter, auto, four wheeler stand in bus stand and other places and collection of room rent for temporary stay, Slaughter house fees, Bunk stalls, Rent - traveler's bungalows & rest house (municipal lodge), Fees on pay & use toilets, Avenue receipts, Right to fishing in Pond, Running a fish market, fee for entry vehicle in the market, annual track rent -Cable operator laying fee(optical fiber laying fee).

2.2 They have stated that, they undertake

- a. Direct collection till it is entrusted to the lease contractor in respect of
- Fees from Park;
  - Bus-stand -others- Cycle stand, scooter, auto and four-wheeler stand in bus stand
  - Bus-stand -others -collection of room rent for temporary stay
  - Slaughter house fees
  - Rent -traveler's bungalows& rest house -municipal lodge

and in such cases:

- service provider is the applicant.
- Service is



- allowing public, who are service recipients entry to Park; use the vehicle stand in Bus Stand; temporary stay in the rooms in Bus Stand
- allowing use of the slaughter house facility by the Public, who are service recipients
- allowing public who are service recipients to use single /double bed room on daily basis in Municipal lodge.
- consideration is the fee charged by the applicant for entry/use of the above facilities

b. Direct Collection in respect of

- Market fee-daily;
- Market fee -weekly
- Fees for bays in bus stand
- Bus-stand -others -locker rent provided in bus-stand
- Fees on pay & use toilets
- For entry vehicle in the Market

and in such cases:

- service provider is the applicant.
- Service is
  - allowing farmers/Merchant, who are service recipients to use the infrastructure in respect of daily/weekly Markets/ entry of vehicles in the Market;
  - allowing parking of bus by bus-owners/Govt. Transport Department, who are service recipients, in the bays in bus stand.
  - allowing the public, who are service recipients to use the locker in the bus stand; toilets; entry of vehicle in the market
- consideration is the fee charged by the applicant from the service recipients for use of the facilities/infrastructure

2.3 They have stated that they extend three years **tender contracts** by tender notice for the purpose of

- collection of entrance fee from Parks;
- collection of Market fees – daily /weekly
- collection of Fees for bays in bus stand
- **Bus-stand -others** - charges for of TV advt. in bus-stand; locker rent provided in bus-stand; flower shop in bus stand in open space in



various places of bus stand and in RC buildings; Cycle stand, scooter, auto and four-wheeler stand in bus stand; collection of room rent for temporary stay

- collection of Slaughter house fees
- collection of Bunk stalls
- Rent –travelers' bungalows& rest house -municipal lodge
- collection of Fees on pay &use toilets
- Avenue receipts.- enjoyments of fruits of the trees in high ways of particular area
- Right to fishing in Pond- Enjoyments of right - fishing in a particular Pond
- Running a Fish market. -right to sell fish in a particular shop in a specified area
- Collection of fees for entry of vehicle in the Market

and in such cases:

- service provider is the applicant.
- Service is allowing the tender contractor who succeeded in the tender process and who is the service recipient:
  - the right to collect the fees as per the prescribed conditions of tender in respect of fees for the various amenities fixed by the applicant;
  - the right to use the advertisement through TV in the bus stand;
  - the right to collect the rent of locker in the bus stand; temporary stay in the room in the bus stand; Travelers' bungalow & rest house
  - right to the space for selling of flowers in the bus stand/bunk stall for the purpose of shop
  - right to enjoyments of fruits of the trees in high ways of particular area as per the prescribed conditions of tender
  - right to take fish in a particular pond as per the prescribed conditions of tender
  - right to sell fish in a particular shop in a specified area as per the prescribed conditions of tender
- Consideration is the amount determined and confirmed in the tender process (One of the main conditions is the amount realized from the public should be as per the amount prescribed by the Municipal Corporation)



2.4 They have stated to collect Charges towards

(1) cutting, repairing & rectification of roads and

(2) payment of annual rent for the optical cable laid alongside roads

based on Contract in which the applicant is the service provider, the operator of phone/mobile services is the service recipient. The claim is as to whether the whole service can be treated as renting of immovable property service as composite supply and reverse charge be applied since the service recipients are registered under GST and the service provider is a local authority.

2.5 On the renting/leasing of shops/open space, they have stated that they have rendered the renting services to persons registered under GST and the liability to pay the tax is as per Reverse Charge on the service recipient whereas the applicant has stated to have collected GST under direct charge instead of reverse charge w.e.f 25.01.2018 and has sought if this can be regularised

2.6 They have further stated that they have rented immovable property to

- (i) state Govt.(viz)Asst. Director Of L F Accounts: Project Officer, ICDS, ICDS Centre: Deputy Supt. Of Police
- (ii) Central Govt . (viz) Post office etc
- (iii) Co-operative society(viz) Chindhamani Super Market, Jeeva Co-Op Society, TNSTC Staff Society, Jeeva Co-Op Society,
- (iv) transport corporation TNSTC
- (v) Nationalised Banks, Punjab National Bank, The Karur Vysya Bank Limited, etc.

and has sought to know whether full exemption is applicable as per Sl.No. 8 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, to the above.

3.1 The applicant on their interpretation of law, has referred to

- the definitions of “agent” under Section 2(5); “Consideration” under Section 2(31); “Supplier” under Section 2(105); “Taxable Supply” under Section 2(108) of the GST Act.
- Schedule I of the CGST Act 2017 relating to Supply of Goods by a Principal to his agent/ by an agent to the Principal
- Section 7 (2) of CGST Act 2017
- Notification No. 14/2017-C.T.(Rate) dated 28<sup>th</sup> June 2017



- The functions entrusted to a municipality under the Twelfth Schedule to Article 243 W of the Constitution
- Section 270-B, 374, 358, 359 of the Tamil Nadu District Municipalities Act 1920

3.2 They have stated that in general, their activities under consideration are purely on public interest and are undertaken as mandatory and statutory functions. It could not to be treated as a service as per the Notfn. No. 14/2017. Therefore, such activities assigned to and performed by a sovereign / public authority under the provisions of any law, could not be treated as taxable service. Any amount / fee collected for such activity could not to be treated as consideration for the purpose of levy of GST.

3.3 On the activity specific, in respect of the activities directly undertaken by them, they have stated that:

- As per **Notification No. 14/2017-Central Tax (Rate)** New Delhi, the 28th June, 2017 "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" is not a service. Hence it is not chargeable to tax.
- Even if an argument is placed that it is a service, it is exempted as per SI No 4 of Notfn No 12/2017 dated 29-06-2017 as amended which states that Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution is NIL.

The applicant has stated the relevant head under which the activities are covered as per the entries in the Twelfth Schedule to Article 243 W of the Constitution along with activity specific exemptions, as under:

- **Fees from Parks-** - Maintenance of park is covered under (I) of Twelfth Schedule to Article 243W of the Constitution which reads as follows :  
*(I) Provision of urban amenities and facilities such as parks, gardens, playgrounds.*
- **Market fee-daily & Market fee-weekly** - Market fee is covered under (c), (i) and (I) of Twelfth Schedule to Article 243W of the Constitution which reads as follows :  
*(c) Planning for economic and social development*



(i) *Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.*

(l) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*

As per Sl no 24 of the table to Notification No. 11/2017-C.T. (Rate), dated 28.06.2017 as amended it is a support service and hence it is fully exempted

- **Fees for Bays in Bus stand** (bus stand entrance fee collection) – covered under (q) & (l) of Twelfth Schedule to Article 243 W of the Constitution which reads as follows :

(q) *Public amenities including street lighting, parking lots, bus stops and public conveniences*

(l) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*

➤ **Bus Stand -Others-**

- Locker Rent - covered under (l) of Twelfth Schedule to Article 243W of the Constitution which reads as follows :

(l) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*

- cycle stand, scooter, auto, four wheeler stand in bus stand is covered under (q) of Twelfth Schedule to Article 243W of the Constitution which reads as follows :

q) *Public amenities including street lighting, parking lots, bus stops and public conveniences*

- Collection of room rent for temporary stay in Bus Stand is covered under (l) and (q) of the Twelfth Schedule to Article 243 W of the Constitution which reads as follows:

(l) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*

q) *Public amenities including street lighting, parking lots, bus stops and public conveniences*

It is also exempted as per entry Sl No 14 of the Notfn No. 12/2017 also since the amount collected by the municipality is less than Rs1,000/-and hence exempted.

- **Slaughter house fees:** - Maintenance of slaughter house are covered under (r ) of the Twelfth Schedule to Article 243 W of the Constitution which reads as follows:



(r) *Regulation of slaughter houses and tanneries*

Further exempted vide Sl.No. 56 of Notfn. No. 12/2017-C.T.(Rate) as amended.

- **Collection of room rent for temporary stay** in Travellers' bungalow & rest house - Municipal Lodge - is covered under (l) and (q) of the Twelfth Schedule to Article 243 W of the Constitution which reads as follows:

(l) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*

q) *Public amenities including street lighting, parking lots, bus stops and public conveniences*

It is also exempted as per entry Sl No 14 of the Notfn No. 12/2017 also since the amount collected by the municipality is less than Rs1,000/-and hence exempted.

- Fees on Pay & use toilets - is covered under (q) of Twelfth Schedule to Article 243 W of the Constitution which reads as follows:

q) *Public amenities including street lighting, parking lots, bus stops and public conveniences*

- For entry of vehicle in the market is covered under (q) of Twelfth Schedule to Article 243W of the Constitution which reads as follows:

q) *Public amenities including street lighting, parking lots, bus stops and public conveniences*

3.4 On the activities when tendered to successful bidder and undertaken by the successful bidder, the applicant has stated that

Even if an argument placed that service has been rendered by the municipal corporation to contractors, it is submitted that it is not a taxable service due to the following reasons. On combined reading of CGST Act, 2017 with The Tamil Nadu District Municipalities Act, 1920 it is a fact that the contractors of municipal corporation are public servants and the services rendered by the municipal corporation to the contractors (public servants) could not be termed as service and the contractors could not be termed as business entities but they are agents of the municipality as per the definition under Section 2(5) and Section 2(105) of the CGST Act 2017. Hence the collection and maintenance work entrusted by the municipality to the contractors could not be termed as service since it is arrangement between principal and agent (ie) in this case Govt. and public servant and amount paid by the contractor to Govt. towards rendering of work entrusted under Section 374 and other provisions of the Tamil Nadu District Municipalities Act, 1920 and



the functions entrusted to a municipality under the twelfth schedule to article 243W of the constitution could not be termed as service. As there is no service the question of payment of GST will not arise on all those lease contracts since the rate fixed by Govt. was adopted and the service was rendered by the contractor to the public in the name of the local authority and receipt has been issued in the name of the local authority to the public.

3.5 Apart from the general contention, as above in respect of the activities undertaken entirely through contractors, the applicant has stated as follows:

- Bus Stand – TV Advt in bus Stand: As per entry Sl.No. 7 of Notfn. No. 12/2017-C.T. (Rate) dated 28.06.2017, the services provided by the applicant to the business entity whose aggregate turnover is less than exemption limits in the preceeding financial year the GST chargeable is 'NIL' subject to the conditions specified therein and even if an argument is placed that it is chargeable to tax, it is chargeable under reverse charge as per Sl.No. 5 of Notification No. 13/2017-C.T.(Rate) dated 28.06.2017
- Bus Stand- Flower shop in the bus stand 4X4 in open space in various places in the bus stand – is covered under (i) of Twelfth Schedule to Article 243W of the Constitution and as per Notfn.No. 14/2017-C.T.(Rate), it is not a service and hence not chargeable to tax. Even, if the activity is considered as a service, then the same is exempted vide Sl.No. 4 of Notfn. No. 12/2017-C.T.(Rate) dated 28.06.2017; As per Sl.No. 24 of Notfn. No.11/2017-C.T.(Rate) dated 28.06.2017, it is a support service and hence fully exempted.
- Bunk Stall – It could not be termed as immovable property. As per entry Sl.No. 7 of Notfn. No. 12/2017-C.T. (Rate) dated 28.06.2017, the services provided by the applicant to the business entity whose aggregate turnover is less than exemption limits in the preceeding financial year the GST chargeable is 'NIL' subject to the conditions specified therein.
- Avenue Receipts: enjoyments of fruits of the trees in highways of particular area-As per Sl.No. 54 of Notification No. 12/2017-C.T.(Rate) and as per the clarification –CBIC Press Release No. 162/2018 dated 28.05.2018, renting or leasing of land by farmers for agriculture, forestry, fishing or animal husbandry on batai or otherwise is exempt from GST;As per Sl.No. 24 of Notification No. 11/2017-C.T.(Rate), it is a support service and hence it is fully exempted.



- Right to fishing in Pond- As per the functions entrusted to a Panchayat under the Eleventh Schedule to Article 243 G of the Constitution, Entry (v) states 'Fisheries'. As per Sl.No. 5 to Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 and Notfn No. 14/2017-C.T.(Rate), this activity is exempted as they are doing the activity of Panchayat; Further the service is exempted as per the departmental clarification on Agriculture, forestry, fishing and Animal husbandry support services; As per Sl.No. 24 of Notification No. 11/2017-C.T.(Rate), it is a support service and hence it is fully exempted.
- Running a fish market- As per Sl.No. 24 of Notification No. 11/2017-C.T.(Rate), it is a support service and hence it is fully exempted.

3.6 Annual Track rent – Cable operator laying fee – Two charges are collected (i) road cutting charges towards laying of cable; (ii) renting of road for the optical cables laid. They have stated that, in this case, as per Section 2(30) the supply for which charges collected is a 'Composite Supply', the principal supply being renting of space for laying cable, the whole service has to be classified as renting of immovable property service. As per Sl no 5A of the table to **Notification No. 13/2017- Central Tax (Rate)** New Delhi, the 28th June, 2017 the telephone companies who are registered with GSTN have to pay GST under reverse charge.

3.7 Renting of Immovable Property - Even after 25-01-2018 they continued to collect GST under direct charge from the person registered with GSTN and the same was paid to Govt. The services rendered by them has suffered tax . It is a technical lapse that the service availer (GSTN registered holder) has not discharged their liability as per the Notfn.No. 13/2017-C.T.(Rate) dated 28.06.2017. They stated that they felt that tax need not be paid once again under reverse charge.

3.8 **Renting of immovable property service to another central /state Govt Departments** - As per Sl No 8 of the table to Notfn No12/2017 central tax (rate) dated 28-06-2017 as amended the renting of immovable property service rendered by them as a local authority to pure state Govt. offices (viz) Asst. Director Of L F Accounts,; Project Officer, ICDS, ICDS Centre: Deputy Supt. Of Police and pure Central Govt offices (viz) post offices are fully exempted. The renting of immovable property service rendered by them as a local authority to Co-operative society(viz) Chindhamani Super Market, Jeeva Co-Op Society , TNSTC Staff Society, Jeeva Co-



Op Society and transport corporation TNSTC are not exempted but chargeable to tax since the society and transport corporation TNSTC are covered under the definition of **Government Entity only and they are not pure State Govt.** Nationalised Banks are not pure central Govt. and so the services rendered to them are not exempted but chargeable to tax.

4.1 Due to prevailing pandemic, the applicant was addressed through their e-mail seeking their willingness to participate in the hearing in the digital mode. The applicant consented and the authorized representatives appeared for virtual Hearing on 20.08.2020. They furnished a written submission which was taken on record. The authorized representative reiterated the submissions made along with the application and that mailed on 20.08.2020. It was intimated that of the question 1 to 5 on which the ruling is sought, Q. No. 4 is not admissible as the same is not in the purview of this authority. The applicant acceded to this. For a Query as to the practice followed in the erstwhile Service Tax Regime, the representative said that there were proceedings which have been since settled under SVLDRS. The applicant was asked to furnish a Write-up on issue of taxability on the activities under Service Tax Regime and also was asked to furnish the details of settlement under SVLDRS. On receipt of these details, the admissibility under this authority will be taken up after extending another Hearing. The applicant was also asked to furnish the details of Contracts(samples)/invoices with specifics and any G.O. or other regulations, if available in respect of activities for which ruling is sought under Q.No. 1 & 2. In respect of Q. No. 3 Sample contract/invoice and the practice followed under Service Tax Regime was asked to be furnished. In respect of Q.No. 5. Rent agreements/receipts with specific details for which exemption is claimed along with the constitution of the Tenants to establish the eligibility to exemption.

4.2 In the written submissions made during the virtual hearing, the applicant submitted the table given in para 1 with a column specifying the entry under the Twelfth Schedule of the Constitution under which they claim that the said activity is covered as under:

<b>Sl. No</b>	<b>Description of the service</b>	<b>Entry of Twelfth Schedule under which the service is covered</b>
<b>A</b>	<b>B</b>	<b>C</b>



1	Fee from parks	( l) of 243W
2	Market fee-daily	(xxii) of 243 G
3	Market fee -weekly	(xxii) of 243 G
4	Fees for bays in bus stand (bus stand entrance fee collection )	(q) of 243 W
5	Bus -stand (others) A) charges for of TV advt. in bus-stand (B) locker rent provided in bus-stand (C) flower shop in bus stand in open space  D)cycle stand, scooter, auto, four wheeler stand in bus stand and other places (E)collection of room rent for temporary stay	NA (l) of 243 W (i)&(xxii) of 243 G and (i) of 243 W (q) of 243 W (q) of 243 W
6	Slaughter house fees	( r) of 243 W
7	Bunk stalls	(xvi) & (xxviii) of 243 G
8	Rent -travellers bungalows& rest house (municipal lodge)	(q) of 243 W
9	Fees on pay &use toilets	(q) of 243 W
10	Avenue receipts	(i)of 243G
11	Right to fishing in bond	(v)of 243 G
12	Running a fish market	(v) of 243 G & (xxii) of 243 G
13	For entry vehicle in the market	(l)of 243 W and (xxii) of 243 G
14	annual track rent -Cable operator laying fee(optical fibre laying fee)	NA
15	Renting of immovable property	NA
16	Renting of immovable property	NA

The applicant has stated that

- they are a local authority in which they are engaged as public authority and rendered the above services as listed in the above table sl.No. 1 to 13 except 5A, by way of any activity in relation to a function entrusted to a Panchayat under Article 243 G of the Constitution or to a Municipality under Article



243 W of the Constitution and hence exempted as per Notification No. 14/2017-C.T.(Rate) dated 28.06.2017

- there is no restriction to do the services listed in 243 G as a public authority
- As per the Notfn No. 14/2017-C.T.(Rate), when it is neither treated as supply of goods nor a supply of service the question of levy of GST will not arise and the services listed in the table from Sl.No. 1 to Sl.No. 13 (except Sl.No. 5A) are not treated as supply of service and it is not at all chargeable to GST when either done by them directly or through tender contractors.
- Even if the functions are treated as service, they are exempted as per Notfn No. 11/2017, 12/2017
- When the service itself is exempted, it is not chargeable to GST when either done by them or through tender contractors since it is a function under 243W as well as 243 G
- As per Schedule I of CGST 2017, Supply of goods from the Principal to agent are treated as supply but it is not applicable in the case of supply of service
- Their contractors/agents are public servants as per the Tamil Nadu District Municipalities Act 1920. Hence full exemption is applicable for the services rendered by them through tender contractors also in respect of Sl.No. 1 to 13 of the table

4.3 The applicant on 15/09/2020, submitted that during pre-GST regime, under service tax they had not paid service tax and not filed the returns for which the Commissioner of C.Ex & ST, Salem issued a notice. The demand raised in the said notice was concluded by issue of discharge certificate under SABKA VISWAS (Legal Dispute Resolution) Scheme 2019. They claimed that under GST, there are no proceedings pending decision before the GST Authorities and claimed that the application is admissible under Section 98(2) of the Act. They stated that the observation of the Commissioner in the SCN had greater impact on the questions raised in the proceedings in hand and requested that the same may be taken into consideration while deciding the application. They furnished the following documents

- SCN No. 06/2018-Commr dated 24.10.2018 issued by the Commissioner of GST & Central Excise
- Form SVLDRS-1, its acknowledgement, Form SVLDRS-3, Form-SVLDRS-4(Discharge Certificate)
- Circular No. 89/7/2006-ST dated 8<sup>th</sup> December 2006



- Sample contract orders in respect of Fee from parks, Market fee-Daily, Market fee-Weekly, fee from bays in bus-stand, Fee on Pay & use toilet
- Sample token issued by the contractor in the name of Municipality for parking in cycle, two-wheeler in bus-stand
- Sample token issued by the contractor in the name of Municipality for Pay & use toilet in the bus-stand
- Copy of contract for cable operator laying fee
- Rental receipts issued to
  - General Manager, PNB
  - Integrated Child Welfare Dev. Office
  - Senior Post Master, Erode
  - Divisional Manager, State Express Transport Corp, Erode
  - Spl. Officer, TNSTC, TNSTC Staff Co-op Society Ltd, Erode
  - Erode District Consumer Co-op, Erode
  - Special Officer, Chindhamani Super market, Erode

4.4 On perusal of the details furnished, it was seen that the following were not furnished and the applicant were asked to furnish the same vide e-mail dated 04.12.2020:

- sample contracts in respect of activity under Sl.No. 3,6,7,8,10,11,12 & 13 where ruling is sought in Q.No.2
- Rent agreements in respect of Q.No. 5
- In respect of Q.No.3, the details of Account head under which the income for the activity raised in the said question is accounted along with trail of accounts maintained

The applicant was also asked whether they wished to be heard again virtually.

4.5 The applicant vide their letter dated 11.02.2021 received on 16.02.2021 submitted that

- The tender documents dated 23.01.2019 and 13.02.2020 containing all the conditions of tender/contract/lease covering most of the services rendered by the Municipality including Sl.No. 3,6,7,8,10,11,12,13 is submitted
- Allotment letters to the successful bidders are released in a standard format and one such allotment letter in case of daily market is enclosed
- Sample copies of the token/petty cash receipts received towards the different services are attached



- Sample copy of the agreement entered with Punjab National Bank is attached
- Details of the lease to Pure Govt/Govt entities are attached
- Sample copies of cable laying allotment letter are attached
- They stated that Track rent charged from those concerns are accounted in a head of account 1308007; Road cutting charges are accounted in the head of account 1407001

They stated that based on the available document and written & oral submissions advance ruling may be pronounced and if any further clarification is required a hearing in digital mode may be extended.

5.1 The applicant is under the administrative control of State authorities. The Assistant Commissioner, Brough Road Circle, Erode vide their Ref. No. 456/2020/A4. Dated 29.07.2020, submitted that there is no adjudication/show cause notice is pending in their Office.

5.2 The Central Jurisdictional Officer also submitted that there is no pending proceedings in the applicant's case in their jurisdiction on the issue raised by the applicant in the Application. They further submitted the following comments on which advance ruling is sought as to whether the said services are taxable or otherwise as follows:

- Fee from Parks –if maintained directly are exempted
- Market fee- daily & Weekly – not covered under Article 243 W; activity appears to be renting of immovable property services and are taxable subject to exemption under Sl.No. 9 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017; When the said service is provided through contractors through tender process the same is also taxable
- Fees for bays in bus-stand- Bus stand entrance fee collection- covered under entry (q) of the functions entrusted to Municipalities under Article 243 W and Sl.No. 4 of Notfn No.12/2017-C.T.(Rate) is applicable to the same
- Bus stand others- a.TV Advt., ( c ) Flower Shop, ( e ) Collection of room rent for temporary stay are commercial in nature. Hence, tax has to be paid on these items; (b) Regarding Locker Rent it is not covered under the functions entrusted to a Municipality under the Twelfth Schedule to Article 243 W of the Constitution, the same is Taxable; (d) cycle stand, scooter, auto, four wheeler stand are provided under Section 270 B of TNDMA
- Slaughter house fees –exempted



- Bunk Stalls –These are given on lease/contract. Commercial in nature and hence taxable
- Rent – Traveller's bungalows & Rest House –The above activities are not covered under the functions entrusted to a Municipality under the Twelfth Schedule to Article 243 W of the Constitution, the same is taxable. Not covered under the said Notification and hence taxable
- Fees on Pay & Use Toilets – exempted under Sl.No. 76 of Notfn. No. 12/2017 dated 28.06.2017. These are provided under Section 145 of TNDMA 1920
- Avenue Receipts – Commercial in nature, hence taxable. They are not support services relating to agriculture for qualification under Sl.No. 24 of Notfn. No. 11/2017 –C.T.(Rate) dated 28.06.2017
- Right to fishing in pond – Commercial in nature and hence taxable
- Running a fish market – Commercial in nature hence taxable
- For entry of vehicle in the market – Commercial in nature and hence taxable
- Cable operator laying fee-Annual Track rent- Commercial in nature and hence taxable
- Renting of immovable property- All occupants are paying rent fixed by the Municipality irrespective of whether they are Government or PSU of Local bodies or private. This is commercial in nature and is taxable.

6.1 We have carefully examined the Statement of facts; supporting documents filed by the Applicant, submissions made during & after hearing and the comments of the Jurisdictional Officers. The facts as available before us is that the applicant is a 'Municipality' as defined in clause (e) of article 243 P of the Constitution and has stated to be covered under the definition of 'Local Authority' as defined under Section 2(69) of the CGST Act 2017. They are rendering the following functions directly as well as through contractors(through tender process)and collecting (1) Fee from parks; (2) Market fee-daily; (3) Market fee –weekly; (4)Fees for bays in bus stand (bus stand entrance fee collection ); (5) Bus –stand (others)- (A)charges for TV advt. in bus-stand, (B) locker rent provided in bus-stand, (C ) flower shop in bus stand in open space, (D)cycle stand, scooter, auto, four wheeler stand in bus stand and other places and (E)collection of room rent for temporary stay; (6)Slaughter house fees; (7) Bunk stalls; (8) Rent –traveler's bungalows & rest house (municipal lodge); (9) Fees on pay &use toilets; (10) Avenue receipts; (11) Right to fishing in Pond; (12)Running a fish market; (13) fee for entry vehicle in the market; (14) annual track rent -Cable operator laying fee(optical fiber laying fee); (15)& (16)



Renting of immovable property to State/Central Government offices, Co-op societies, banks, etc. They have stated that they require clarifications whether these activities are covered under Twelfth Schedule of Article 243 W of the constitution so as to claim appropriate exemption under Notfn No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended and sl.No. 4 of Notification no. 12/2017-C.T.(Rate) dated 28.06.2017 as amended apart from their eligibility to exemption vide various entries of the exemption Notification. They have sought ruling on the following questions:

- Q.1. Advance ruling is required in respect of Sl No 1 to 6, 8,9 &13 whether the services rendered by them directly are covered under Twelfth Schedule to Article 243W of the Constitution and /or exempted under the Notfn. No mentioned against each Sl No.
- Q2. In respect of services rendered by them from Sl No 1 to13 through tender contractors whether they are covered under Twelfth Schedule to Article 243W of the Constitution and/or exempted vide the Notfn. no. mentioned against each Sl No.
- Q.3. In respect of Sl No 14 they are collecting charges for laying of cables alongside roads and collecting road cutting charges as well as annual rent. They require advance ruling whether composite supply can be applied for classifying the said service as renting of immovable property service and reverse charge can be applied for collecting GST as per entry Sl No 5A of the table to Notfn No 13/2017 (CE rate) dated 29-06-2017 as amended from the telephone operators who are GSTIN holders
- Q.4. In respect of Sl No 15 w.e.f. 25-01-2018, instead of reverse charge they collected tax under direct charge from the service recipient, who are registered with GSTIN and whether it can be regularised (to be treated as technical lapse and condoned since the service rendered by us had suffered tax and Govt. revenue is not affected)
- Q.5. In respect of Sl No 16 the renting of immovable property service rendered by them as a local authority to
- (i) Pure state Govt. offices (viz) Asst. Director Of L F Accounts, Project Officer, ICDS, ICDS Centre: Deputy Supt. Of Police and pure Central Govt offices (viz) post offices are fully exempted or not as per entry Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.
  - (ii) Co-operative society(viz) Chindhamani Super Market, Jeeva Co-Op Society, TNSTC Staff Society, Jeeva Co-Op Society and transport



corporation TNSTC are exempted or not as per entry Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.

(iii) Nationalised Banks are exempted or not as per Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.

6.2 Of the above questions, Q. No. 4 seeks whether the tax paid by them under Direct charge, when the same is to be paid under Reverse Charge can be condoned as a technical lapse and regularized. Section 97(2) of the CGST Act / Tamil Nadu GST Act (TNGST) gives the scope of Advance Ruling Authority, i.e., the question on which the Advance Ruling can be sought. For ease of reference, the section is reproduced as under:

*97 (2) The question on which the advance ruling is sought under this Act, shall be in respect of,—*

- (a) classification of any goods or services or both;*
- (b) applicability of a notification issued under the provisions of this Act;*
- (c) determination of time and value of supply of goods or services or both;*
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

The Act limits the Advance Ruling Authority to decide the issues earmarked for it under Section 97(2) and no other issue can be decided by the Advance Ruling Authority. The question at Sl.No.4 seeks regularization of the payment made by them considering the same as a technical lapse, which is not in the purview of this authority as per Section 97 (2) above. This position was explained during the personal hearing and was stated that this question No. 4 is not admissible for consideration. The other questions being admissible, are taken up for consideration.

7.1 The applicant in Q.No. 1, has sought ruling as to whether in respect of activities at Sl.No. 1 to 6, 8,9 &13, the services rendered by them directly are covered under Twelfth schedule of Article 243 W of the Constitution and/or exempted under the Notfn. No. mentioned therein as under:



Sl. No	Description of the service	Entry of Twelfth Schedule under which the service is covered	whether the services mentioned in Column B are exempted vide Notfn No or Sl No entry of the table to Notfn as noted against each Sl No in Column E.
1	Fee from parks	( l) of 243W	Notfn. No14/2017 dt 28-06-2017( <b>or</b> ) sl no 4 of 12/2017 dt 28-06-2017
2	Market fee-daily	(xxii) of 243 G	Notfn. No 14/2017 dt28-06-2017( <b>or</b> ) sl no 4 of 12/2017 dt 28-06-2017( <b>or</b> ) Sl no 24 of the table to <i>Notification No. 11/2017-C.T. (Rate), dated 28-6-2017</i>
3	Market fee -weekly	(xxii) of 243 G	Notfn. No 14/2017 dt 28-06-2017or sl no 4 of 12/2017 dt 28-06-2017( <b>or</b> ) Sl no 24 of the table to <i>Notification No. 11/2017-C.T. (Rate), dated 28-6-2017</i>
4	Fees for bays in bus stand (bus stand entrance fee collection )	(q) of 243 W	Notfn. No 14/2017 dt28-06-2017or sl no 4 of 12/2017 dt 28-06-2017
5	Bus -stand (others)  A) charges for of TV advt. in bus-stand  (B) locker rent provided in bus-stand  (C) flower shop in bus stand in open space  D)cycle stand, scooter, auto, four wheeler stand in bus stand and other places  (E)collection of room rent for temporary stay	NA  (l) of 243 W  (i)&(xxii) of 243 G and (i) of 243 W  (q) of 243 W  (q) of 243 W	A. Exempted vide Sl No 7 of Notfn. No 12/2017 (or) payment of tax under reverse charge under sl no 5 of Notfn. No 13/2017-Central Tax (Rate) dated the 28th June, 2017  B. Notfn No 14/2017 dt28-06-2017or sl no 4 of 12/2017 dt 28-06-2017.  C. Notfn/-14/2017 dt28-06-2017( <b>or</b> ) sl no 4 of 12/2017 dt 28-06-2017( <b>or</b> ) Sl no 24 of the table to <i>Notification No. 11/2017-C.T. (Rate), dated 28-6-2017</i>  D. Notfn 14/2017 dt28-06-2017( <b>or</b> ) sl no 4 of 12/2017 dt 28-06-2017  E. Notfn 14/2017 dt28-06-2017( <b>or</b> ) sl no 4 of 12/2017 dt 28-06-2017 or Sl no 14 of 12/2017 dated 28-06-2017
6	Slaughter house fees	( r) of 243 W	Notfn No 14/2017 dt28-06-2017or sl no 56 of Notfn. No 12/2017 dt 28-06-2017.
8	Rent -travellers bungalows& rest house (municipal lodge)	(q) of 243 W	Notfn No 14/2017 dt28-06-2017or sl no 4 of Notfn. No 12/2017 dt 28-06-2017&Sl no 14 of the same Notfn/- since condition is satisfied.
9	Fees on pay &use toilets	(q) of 243 W	Notfn No 14/2017 dt28-06-2017( <b>or</b> ) sl no 76 of Notfn. No 12/2017 dt 28-06-



			2017.
13	For entry vehicle in the market	(l) of 243 W and (xxii) of 243 G	Notfn No 14/2017 dt 28-06-2017 (or) sl no 4 of Notfn. No 12/2017 dt 28-06-2017.

7.2 From the table above, it is seen that the applicant claims that the activities are those in relation to that listed at (i), (l), (q), (r) of the Twelfth Schedule of the Constitution under Article 243 W/(i) and (xxii) of the Eleventh Schedule of the Constitution under Article 243 G. The said entries of the Eleventh and the Twelfth Schedule of the Constitution are as under:

Twelfth Schedule:

- (i) *Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. -*
- (l) *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*
- (q) *Public amenities including street lighting, parking lots, bus stops and public conveniences.*
- (r) *Regulation of slaughter houses and tanneries*

Eleventh Schedule:

- (i) *Agriculture, including agricultural extension.*
- (xxii) *Markets and fairs.*

They claim exemption in respect of all the activities vide Notfn.No.14/2017-C.T.(Rate) dated 28.06.2017(or) Sl.No. 4 of Notfn.No. 12/2017-C.T.(Rate) dated 28.06.2017 apart from certain other specific entries such as Sl.No. 14/56/76 of Notfn. No. 11/2017-C.T.(Rate) dated 28.06.2017 and/or sl.no. 24 of Notification no. 11/2017-c.T.(Rate) dated 28.06.2017.

7.3 Notification No. 14/2017 under which exemption is claimed in respect of all the activities where they provide the services directly is examined as under:

**Notification No. 14/2017-Central Tax (Rate)**

*In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that the 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]”.*<sup>2</sup>.”

The above Notification provides that the activities in relation to a function entrusted to a Panchayat under Article 243 G of the Constitution (effective from 01.07.2017) and the activities in relation to a function entrusted to a Municipality under Article 243 W of the Constitution (effective from 26.07.2018), when undertaken by a ‘Local Authority’ in which they are engaged as public authority, are to be treated as neither supply of goods nor supply of services. Local Authority is defined under Section 2(69) of the GST Act 2017 as:

(69) “local authority” means—

(a) a “Panchayat” as defined in clause (d) of article 243 of the Constitution;

(b) a “Municipality” as defined in clause (e) of article 243P of the Constitution;

.....;

or

(g) a Regional Council constituted under article 371A of the Constitution

Applying the above, to the case at hand, the applicant being a Municipality as defined in clause (e) of article 243 P of the Constitution, is a Local Authority under the GST Act. Therefore, if the services listed at Sl. No. 1 to 6, 8, 9 & 13 are found to be that in relation to the entries of Eleventh/Twelfth Schedule of the Constitution, and the said activities are undertaken by the applicant, a Local authority, when engaged as a ‘Public Authority’, then the said activities are to be treated neither as supply of goods nor supply of services effective from 26.07.2018.

7.4 Alternatively, the applicant has claimed that the services are covered under the exemption at Sl.No. 4 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended. The entry Sl.No. 4 is as below:

4	99	<i>Services by <del>local</del> 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</i>	Nil	Nil
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As can be seen, the entry is not applicable in respect of ‘Local Authority’ effective from 26.07.2018 and stands covered under Notification No. 14/2017-C.T.(Rate) dated 28.06.2017. Further, Governmental Authority as defined under 2(zf) of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 effective from 13.10.2017 is as follows:



(zf) –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 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

In the case at hand, the applicant is a Municipality, which is a local authority and is not a Governmental Authority. Therefore, this entry does not have any application to the applicant. Advance Ruling is applicable to the supplies currently being made or proposed to be made as per S.95 of the GST Act. In that count also, the application in hand being filed after 26.07.2018, the date effective which, the words, 'Local Authority' stands omitted, sl.No. 4 of the notification No. 12/2017-C.T.(Rate) dated 28.06.2017 do not have any application and this claim is rejected.

7.5 The various services of the applicant listed at Sl.No. 1 to 6, 8, 9 & 13 and its relevance to the entries under Eleventh Schedule and Twelfth Schedule of the constitution and whether the applicant undertakes such activities when engaged as a public authority so that the activities are covered under Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended are examined as under.

**1. Fee from Park** – It is stated that the fee is collected for allowing the public, entry to the park maintained by the applicant. As per entry (l) of the Twelfth Schedule above, 'Provision of Urban amenities such as Parks' is a function bestowed with the Municipality under Article 243 W of the Constitution. The applicant being a local authority is to provide such urban amenities as a public authority. The said fee for allowing the public is a consideration collected by the applicant as a public authority for maintenance of the parks, therefore, the same is in relation to the function-'Provision of Urban amenities and facilities such as Parks' as per entry (l) of the Twelfth Schedule of the constitution. The said activity when provided by the applicant, as per Notification No. 14/2017 C.T.(Rate) dated 28.06.2017 as amended with effective from 26.07.2018, is neither a supply of goods nor supply of service and not taxable to GST.

**2. & 3. Market Fees- Daily & Weekly-** It is stated that the applicant collects entrance fee from the farmers/Merchants on daily basis for allowing them



entry into the market. From the submissions, it is seen that the considerations are for the infrastructure of the shop (thatched shop/ thatched shed/ RC shop/ AC Sheet shed) in the market, open space allotted and the entities (vegetable bundle/ fish basket/ hen/ handcart/ coconut/ leaves bundle/ tomato basket) brought to the market. Providing 'Markets & Fairs' is a function listed at (xxii) of Eleventh Schedule under Article 243 G and the applicant being a local authority is to provide such Markets for the convenience of the Public. The considerations collected based on the infrastructure extended to the farmers/merchants and the entities brought for sale are to convenient the public, wherein the applicant acts as a 'Public authority', in relation to the function 'Markets & Fairs' listed in the Eleventh Schedule. The said activity when provided by the applicant, as per Notification No. 14/2017 C.T.(Rate) dated 28.06.2017, is neither a supply of goods nor supply of service and not taxable to GST.

**4. Fees for bays in bus-stand:** It is stated that the applicant collects the fees from the bus owners/Govt. transport department for allowing parking of bus on per day basis and they claim the same is in relation to the public amenity listed at (q) of Twelfth Schedule of the Constitution. Entry (q) states – '*Public amenities including street lighting, parking lots, bus stops and public conveniences*'. From the submissions it is seen that the fees are collected for maintenance of bays in bus bus-stand, while providing the said bus-bays for the buses in the bus-stand which is an activity in relation to that stated at (q) of Twelfth Schedule above. The applicant undertakes the above activity as a public authority and therefore, the said activity when provided by the applicant, is neither a supply of goods nor supply of service as per Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended effective from 26.07.2018.

**5. Bus-stand – others:** Among the activities listed under this Sl.No., it is stated that only activities against B, D & E are undertaken directly by the applicant and therefore only the activities under B, D & E are considered for this question

**B. Locker rent** – It is stated that the lockers are extended for rent for the public. The consideration is collected per bag/suitcase/bundle with material. The applicant has claimed that the activity is in relation to the



function stated at (l) of the Twelfth Schedule of the Constitution. Entry at (l) states 'Provision of urban amenities and facilities such as parks, gardens, playgrounds.' Here, the activity is providing Lockers in the Bus-stand which is not in the genre stated in the said entry. Therefore, providing lockers in the Bus-stand is not an activity in relation to the function at (l) of the Twelfth Schedule and hence, Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended is not applicable to this activity.

**D. Cycle Stand, Scooter, Auto and Four wheeler stand in Bus-stand:**

The applicant has stated that the activity is allowing public to park cycle/scooter/auto/car on hourly/daily basis in the bus-stand. The consideration is charged towards maintenance of such facility. They claim that the activity is in relation to the function at (q) of the Twelfth Schedule of the Constitution. '*Public amenities including street lighting, parking lots, bus stops and public conveniences*' is listed at (q) of the said Schedule. The applicant provides parking lots which is an activity specified in the said entry. The applicant undertakes the above activity as a public authority and therefore, the said activity when provided by the applicant, is neither a supply of goods nor supply of service as per Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended effective from 26.07.2018.

**E. Collection of Room Rent for temporary stay:** The applicant has stated that the activity is allowing public to use single bed room / double bed room on daily basis in the bus-stand. They have claimed that the activity is a function listed at (q) of the Twelfth Schedule of the constitution. As, it can be seen, the said entry provides '*Public amenities including street lighting, parking lots, bus stops and public conveniences.*' Renting room for temporary stay on daily rent basis is not an activity in relation to the activities stipulated at entry(q), as it is not in the genre of the inclusive-activities specified in the said entry. But is an activity of commercial Nature. Therefore, providing rooms for temporary stay in the Bus-stand is not an activity in relation to the function at (q) of the Twelfth Schedule and hence, Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended is not applicable to this activity. Alternatively, the applicant has claimed the eligibility to exemption as stipulated under Sl.No. 14 of the Notification No. 12/2017-



C.T.(Rate) dated 28.06.2017, which is examined as under. For ease of reference, the said entry is reproduced below:

14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent.	Nil	Nil
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The above entry exempts 'Services of accommodation for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent'. In the case at hand the service is extended by the applicant and the consideration is mentioned as Rs. 40/- per day per single bed and Rs. 60/- per double bed/per day, which is well within the value of supply mentioned to be exempted under this entry. Accordingly, the service of renting of room for temporary stay is exempted under Sl.No. 14 of the Notification No. 12/2017-C.T. (Rate) dated 28.06.2017 as amended.

**6. Slaughter house fees:** It is stated that the service is allowing the public for the purpose of slaughter of animals. The applicant has stated that the same is in relation to the function at (r) *Regulation of slaughter houses and tanneries* of the Twelfth Schedule of the Constitution. The applicant undertakes the above activity as a public authority and therefore, the said activity when provided by the applicant, is neither a supply of goods nor supply of service as per Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended effective from 26.07.2018.

**8. Rent-Travelers' bungalows & rest house - Municipal lodge:** The applicant has stated that the activity is allowing public to use single bed room / double bed room on daily basis. They have claimed that the activity is a function listed at (q) of the Twelfth Schedule of the constitution. As, it can be seen, the said entry provides '*Public amenities including street lighting, parking lots, bus stops and public conveniences*'. Renting room for temporary stay on daily rent basis is not an activity in relation to the activities stipulated in the entry (q), as it is not in the genre of the inclusive-activities specified in the said entry. Therefore, providing rooms for temporary stay in



the Bus-stand is not an activity in relation to the function at (q) of the Twelfth Schedule and hence, Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended is not applicable to this activity. Alternatively, the applicant has claimed the eligibility to exemption as stipulated under Sl.No. 14 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, which is examined as under. For ease of reference, the said entry is reproduced below:

14	Heading 9963	<i>Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent.</i>	Nil	Nil
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The above entry exempts 'Services of accommodation for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent'. In the case at hand the service is extended by the applicant and the consideration is mentioned as Rs. 40/- per day per single bed and Rs. 60/- per double bed/per day, which is well within the value of supply mentioned to be exempted under this entry. Accordingly, the services of renting room for temporary stay are exempted under Sl.No. 14 of the Notification No. 12/2017-C.T. (Rate) dated 28.06.2017 as amended.

**9. Fees on Pay & use Toilets:** The applicant has stated that the activity is allowing the public, use of the toilet. They claim that the activity is in relation to (q) of the Twelfth Schedule of the Constitution, which is 'Public amenities including street lighting, parking lots, bus stops and public conveniences'. Providing toilets for use of Public in public places is a public amenity of Public conveniences and therefore, allowing use of toilet is an activity in relation to function at (q) of the Twelfth schedule entrusted to a Municipality under Article 243 W. The applicant undertakes the above activity as a public authority and therefore, the said activity when provided by the applicant, is neither a supply of goods nor supply of service as per Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended effective from 26.07.2018.



**13. For entry of vehicle in the market:** The applicant has stated that the activity is allowing the public for entry of vehicle in the market. They claim that the said activity is in relation to the function listed at (I) of the Twelfth Schedule and (xxii) of Eleventh Schedule of the Constitution. Entry (I) states that '*(I) Provision of urban amenities and facilities such as parks, gardens, playgrounds*' and (xxii) states that '*(xxii) Markets & Fairs*'. Though providing entry for vehicle is not of the genre of providing amenities and facilities such as parks, gardens and playgrounds, the functions entrusted to a Municipality under Twelfth Schedule, the same cannot be said so with the entry (xxii) under the Eleventh Schedule. Providing for Markets includes provision for entry of vehicles in the market. Therefore, providing for entry of vehicle in the market is an activity in relation to function '*(xxii) Markets & Fairs*' entrusted to a Panchayat under Article 243 G of the Constitution. The applicant undertakes the above activity as a public authority and therefore, the said activity when provided by the applicant, is neither a supply of goods nor supply of service as per Notification No. 14/2017-C.T.(Rate) dated 28.06.2017.

7.6 In view of the above, we hold that the activity (1) Fee from Parks; (2) Market fee-daily; (3) Market fee-weekly; (4) Fees for bays in bus-stand; 5(D)- Cycle stand, Scooter, auto, four wheeler stand in the bus-stand and other places; (6) Slaughter house fees; (9) Fees on pay & use toilets; (13) Fees for entry of vehicle in the Markets are activities in relation to functions entrusted under Article 243 G and Article 243 W of the Constitution and are treated as neither supply of goods nor services when provided by the applicant as 'Public authority' as per Notification No. 14/2017-C.T.(Rate) dated 28.06.2017 as amended vide Notification No. 16/2018 dated 26.07.2018. In respect of activity 5(B) Locker Rent, 5(E) Renting room for temporary stay in the bus-stand and (8) Renting Room in the Municipal Lodge, these activities are not in relation to the functions entrusted under Article 243 G and 243 W of the Constitution and therefore are treated as 'Services' and 'Renting of room for temporary stay (5E) & (8), is exempted vide entry Sl.No. 14 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as the stipulated conditions are satisfied with respect to the value of supply, while the activity (5B)- Locker Rent is liable under GST.



8.1 In respect of Q.No. 2 above, the applicant has sought ruling as to whether in respect of the services rendered by them from Sl No 1 to 13 through tender contractors they are covered under Twelfth Schedule to Article 243W of the Constitution and/or exempted vide the Notfn. no. mentioned against each Sl No. In this question, the applicant seeks the eligibility of the exemption notification, when the services/activities are provided by the contractors, to whom the right to collect the consideration from the service recipients is supplied by the applicant through the tender process. Their contention in this claim is that

- On combined reading of CGST Act, 2017 with The Tamil Nadu District Municipalities Act, 1920, the contractors of municipal corporation are public servants and the services rendered by the municipal corporation to the contractors (public servants) could not be termed as service and the contractors could not be termed as business entities but they are agents of the municipality as per the definition under Section 2(5) and Section 2(105) of the CGST Act 2017. Hence the collection and maintenance work entrusted by the municipality to the contractors could not be termed as service since it is arrangement between principal and agent (ie) in this case Govt. and public servant and amount paid by the contractor to Govt. towards rendering of work entrusted under Section 374 and other provisions of the Tamil Nadu District Municipalities Act, 1920 and the functions entrusted to a municipality under the twelfth schedule to article 243W of the constitution could not be termed as service.
- As there is no service the question of payment of GST will not arise on all those lease contracts since the rate fixed by Govt. was adopted and the service was rendered by the contractor to the public in the name of the local authority and receipt has been issued in the name of the local authority to the public.

8.2 The relevant statutory provisions referred by the applicant are examined as under:

Section 358 of the Tamilnadu District Municipalities Act, 1920 states as:

*358. Application of term 'public servant' to municipal officers, agents and sub-agents .— Every municipal officer or servant, every contractor or agent for the collection of any municipal tax, fee or other sum due to the Municipal Council and every person employed by any such contractor or agent for the collection of such tax, fee or sum shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Central Act XLV of 1860).*



Section 21 of the Indian Penal Code is as below:

21. "Public servant".—The words "public servant" denote a person falling under any of the descriptions hereinafter following; namely:—

.....;

[(Twelfth) —Every person—

(a) in the service ..... Government;

(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

'Public Servant' is to be understood as every person who is in actual possession of the situation of a public servant, whatever, the legal defect there may be in his right to hold that situation as per the Indian Penal Code; and the Tamilnadu District Municipalities Act 1920, under S.358 provides that every contractor or agent for collection of any fees shall be deemed to be a public servant. The applicant on reading the above provisions, contends that the contractor who has been awarded the right to collect the various fees instituted by the applicant is a Public servant and they cannot be termed as business entities.

8.3 In the case at hand, from the terms of the tender documents and the contract agreements furnished before us, we find that the contractors are vested with the right to collect the fees fixed by the applicant for various activities through a tender process. The eligible persons/entities submit their bid for every activity and the person/entity who is the highest bidder and satisfies all the tender condition is awarded the contract. The contractor then enters into an agreement with the applicant. On entering into the agreement and paying the bid amount to the applicant, the contractor holds the actual possession of the situation in respect of the activity covered in the said contract and is a public servant only for the purposes of 'Tamilnadu District Municipalities Act', through which the contractor is legally enabled to collect the fees fixed for various activities, for which he had successful won the tender. This being the situation, the claim of the applicant that the service provided by them to such contractors could not be termed as 'Service' is without any merit and is not accepted.



8.4 The applicant has further contended that the contractors are not business entities but are agents of the Municipality as per the definition under Section 2(5) and 2(105) of the GST Act. Section 2(5) of GST Act 2017 defines agent as

*(5) "agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;*

Thus, a person who carries on the business of supply of service on behalf of another is defined as 'agent'. Section 2 (105) of the GST Act, defines supplier as:

*(105) "supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;*

In the case at hand, the criteria for the contractors to be termed as 'agent' of the applicant is when the contractors act on behalf of the applicant, i.e., when such contractors are assigned only the collection of the fees fixed by them and remittance of the same to the applicant. On perusal of the various conditions of the tender Documents and the contracts, it is seen that the contract is awarded to the successful bidder for a period of three years. The rates at which various fees are to be collected item-wise are fixed by the applicant. The successful bidder, irrespective of the fees/ charges collected by him is to pay the applicant, a fixed sum based on which the contractor was declared successful in the bid. Also, there are conditions in the tender document that the amount declared by the successful contractor is to be paid by him to the applicant, irrespective of any defaulting conditions relating to affecting the collection of fees fixed for the said amenity, that may prevail. Thus, it is seen that once the tender process is completed, with the contractor entering into the agreement with the applicant and on paying the sum bided in the tender, the possession of the situation is given to the contractor and thereupon the entire control of the said situation is shifted to tender contractors and the applicant do not hold any control over the transferred situation. In the case of agent- principal relationship in a transaction, the entire control over the transactions are well with the principal and not in the hands of agents and the agents merely act as intermediary between the customer and principal for certain commission which is not the case in hand. The tender is floated to enable the business entities to participate for a fee, and the person who bids a high price for such tender, i.e., collection of fees fixed by the applicant for the various public amenities is awarded the contract for a period of three years. The applicant, in the case at hand, supplies the right of collection of fees fixed by them for such



amenities to the successful contractor and receives a fixed consideration, which is independent of the fees collected by the said contractor from the said amenity/activity and it is definitely a supply of service. For these reasons, the contractors do not fall under the definition of 'agents' defined in the GST Act. Thus, for the purposes of GST, we hold that the contractors of the applicant, though, are 'Public Servants' for the purposes of collection of the fees fixed by the applicant under the Tamilnadu District Municipalities Act 1920, are not mere agents undertaking the collection of fees fixed by the applicant but are independent business entities who have been supplied with the 'right to collect the fees' for the various amenities based on the tender conditions. The claim of applicant that the tender contractors are to be considered as agents as in the principle-agent relationship is not acceptable and rejected.

8.5 In this scenario, the ruling sought on whether in respect of services rendered by them from Sl No 1 to 13 through tender contractors are covered under Twelfth Schedule to Article 243W of the Constitution and/or exempted vide the Notfn. no. mentioned against each Sl No is taken up for consideration. As brought out in para 8.4 above, the applicant supplies the 'Right to collect the fees/ Right to enjoy the fruits of leased avenue trees/right to fish in the pond/right to sell in the fishing market' in respect of the various activities from Sl.No. 1 to 13 in the table mentioned at Para 1 above. Supply of Rights held by the applicant to the contractors through the tender process is a supply made by the applicant to the contractors, who are business entities for furtherance of their business and is not an activity in relation to the functions entrusted under Article 243 G/243W and therefore the considerations received from the successful contractors are liable to tax.

8.6 On the question whether in respect of the services rendered by them from Sl.No. 1 to 13 through tender contractors are covered under Twelfth schedule to Article 243 W of the Constitution and /or exempted, it has been brought out clearly that the contractors are not agents. The service provided by the applicant to the contractors are 'Supply of rights' as discussed in para 8.5 above. The activity entrusted through the contracts by the applicant are undertaken by the contractors and in such cases, the contractors of the applicant are the suppliers of the said services to the service recipients. Section 95 (a) of CGST and TNGST Act defines 'Advance Ruling' as



(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant:

Thus, a person can seek ruling only on the supplies being undertaken or proposed to be undertaken by him and cannot seek ruling on the supplies being made or proposed to be made by any other person. Moreover, the ruling pronounced by this authority is binding only on applicant and Jurisdictional Officer and not on any other person. Therefore, the GST law empowers the Advance Ruling Authority to issue ruling for the issues/matter/questions relating to the applicant only. Hence, we hold that the contractors being not 'agents of the applicant and the applicant supplying the 'Right to undertake certain activities' to the contractors, who are independent entities, the Question raised by the applicant with regard to supply undertaken by their contractors is not answered as per S.95(a) readwith S.103(1) of the GST Act.

9.1 The Q.No.3 raised before us is in respect of SI No 14, Annual track rent-Cable Operator laying fee (optical fiber laying fee). It is stated that they are collecting charges for laying of cables alongside roads and collecting road cutting charges as well as annual rent. They require ruling whether composite supply can be applied for classifying the said service as renting of immovable property service and reverse charge can be applied for collecting GST as per entry SI No 5A of the table to Notfn No 13/2017 (CE rate) dated 29-06-2017 as amended from the telephone operators who are GSTIN holders

9.2 The applicant has stated that there are two charges collected (i) road cutting charges towards laying of cable and (ii) renting of road for the optical cables. Their claim is renting of space for laying cable is the principal supply and therefore applying the definition of 'composite Supply' under S.2(30) of the GST Act, road cutting charges has to be treated as renting and the whole service has to be classified as renting of immovable property.

9.3 On perusal of the document C2/6950/2020 dated 5.3.2020 issued to M/s. JIO digital, it is seen that permission is granted to erect pillars and Optical fiber cable in the Sky space along the road for the required length of the road. The same is permitted on payment of Track rent. On perusal of the document c2/7527/2015 dated 27.04.2017 issued to M/s. Idea Cellular Limited, it is seen that permission is



granted to lay OFC cable alongside the walls of the storm water drain for a fixed length of road, on payment of Road Cutting Charges and annual track rent charges. It is further seen that the Track rent is accounted under Accounting head 1308007 and the Road cutting charges (Road restoration) is accounted under Accounting head 1407001. From the above, it is evident that while Annual Track rent is a recurring charge to be paid by the service recipient, the Road cutting charges (Road restoration) is a onetime charge collected while laying the OFC initially.

9.4 Section 2(30) of the GST Act 2017 states that

*“composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;*

Thus, for a supply to be a ‘Composite supply’ it should consists of two or more supplies which are naturally bundled and supplied in conjunction with each other in the ordinary course of business. In the case at hand, the ‘Road Cut charges’ are one-time charges collected initially while OFC is permitted to be laid and the Annual Track charges are periodical charges collected by the applicant from the service recipients. Both these charges are collected from the same service recipient (i) for allowing the cutting of road for laying the OFC and (ii) for allowing the space of road to be used for the OFC lines. While the Road cutting is a one time supply, the rental charges are periodical. Thus, it is evident that both these supplies are not supplied in conjunction with each other in the ordinary course of business and therefore the same is not a ‘Composite supply’.

9.5 In view of the above, we hold that the supply of allowing the road cut for laying the OFC and allowing the space alongside the road for the OFC lines are not ‘composite supply’ in as much as these two supplies are not made in conjunction with each other in the ordinary course of business.

10.1 The final question to be considered is whether the renting of immovable property service rendered by them as a local authority to

- (i) Pure state Govt. offices (viz) Asst. Director Of L F Accounts, Project Officer, ICDS, ICDS Centre: Deputy Supt. Of Police and pure Central Govt offices (viz) post offices; (ii) Co-operative society(viz)



Chindhamani Super Market, Jeeva Co-Op Society, TNSTC Staff Society, Jeeva Co-Op Society and transport corporation TNSTC; and iii) Nationalised Banks

are fully exempted or not as per entry Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.

10.2 The applicant in their submissions has stated that the Renting of Immovable Property service rendered by them as a local authority to State Govt. offices and Central Govt offices are fully exempted. The renting of immovable property service rendered by them as a local authority to Co-operative society are not exempted but chargeable to tax since the society and transport corporation TNSTC are covered under the definition of Government Entity only and they are not State Govt. Nationalised Banks are not central Govt. and so the services rendered to them are not exempted but chargeable to tax.

10.3 From the Lease Agreement executed on the 10<sup>th</sup> day of June 2020, it is seen that the applicant has leased a part of the premises owned by them to the Punjab National Bank for a monthly rent. Also, from the rental receipt copies furnished by the applicant in respect of Senior Post Master dated 03/sep/2020, it is seen that the premises is leased on monthly rental basis. The nature of supply is 'Renting of immovable property' as claimed by the applicant. The issue to be decided is whether the exemption under Sl.No. 8 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 is applicable to such supplies.

10.4 The entry at Sl.No.8 of the Notification No. 12/2017-C.T.(Rate) is as follows:



8	Chapter 99	<p>Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority:</p> <p>Provided that nothing contained in this entry shall apply to services-</p> <p>(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) of transport of goods or passengers.</p>	Nil	Nil
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From the above, it is seen that any service provided by Central Government, State Government, Union territory or a local authority to another Central Government, State Government, Union territory or local authority, which is not included in the Proviso therein, is exempted under the said entry. In the case at hand, the applicant is a 'Local Authority' and therefore, the service of Renting of Immovable Property service, supplied to Central Government, State Government are exempted vide this entry.

10.5 Therefore, renting of immovable property service provided by the applicant to another central/state government, union territory or local authority is exempted from tax as per Sl. No. 8 of Notification 12/2017 dated 28.06.2017. The said exemption is not available in respect of Co-Operative Societies and Nationalised banks.

11. In view of the above, we rule as under,

#### **Ruling**

**Q.1.** *Advance ruling is required in respect of Sl No 1 to 6, 8,9 &13 whether the services rendered by us directly are covered under Twelfth Schedule to Article 243W of the Constitution and /or exempted under the Notfn. No mentioned against each Sl No as detailed below .*

Sl. No	Description of the service	Ruling
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1	Maintenance of Park	Not a Supply of Service as per Notification. No14/2017 - CT(R) & dt 28-06-2017 as amended vide Notfn. No. 16/2018 dated 26.07.2018
2	Providing Market facilities -daily	Not a Supply of Service as per Notification. No14/2017 - CT(R) & dt 28-06-2017
3	Providing Market facilities -weekly	Not a Supply of Service as per Notification. No14/2017 - CT(R) & dt 28-06-2017
4	Providing bays in bus stand	Not a Supply of Service as per Notification. No14/2017 - CT(R) & dt 28-06-2017 as amended vide Notfn. No. 16/2018 dated 26.07.2018
5	(B) Locker rent facilities  D)Providing stand for cycle, scooter, auto, four wheeler stand in bus stand and other places  (E)Providing room for rent for temporary stay	(B)Facility of providing locker for rent directly by the applicant is taxable for the reason that this does not fall under Notification No 14/2017 dt 28-06-2017 and is taxable  (D)Not a Supply of Service as per Notification. No14/2017 -CT(R) & dt 28-06-2017 as amended vide Notfn. No. 16/2018 dated 26.07.2018  ( E)This is exempted from tax as per Sl. No. 14 of Notification 12/2017 CT(R)- dated 28.06.2017 for the reason that their room rent/day/person is not exceeding rupees 1000/-.
6	Providing Slaughter house facilities	Not a Supply of Service as per Notification. No14/2017 - CT(R) & dt 28-06-2017 as amended vide Notfn. No. 16/2018 dated 26.07.2018
8	Providing travellers bungalows& rest house	This is exempted from tax as per Sl. No. 14 of Notification 12/2017 CT(R)- dated 28.06.2017 for the reason that their room rent/day/person is not exceeded rupees 1000/-.
9	Providing Toilet facilities	Not a Supply of Service as per Notification. No14/2017 - CT(R) & dt 28-06-2017 as amended vide Notfn. No. 16/2018 dated 26.07.2018
13	Entry of vehicle in the market	Not a Supply of Service as per Notification. No14/2017 - CT(R) & dt 28-06-2017

**Q2.** *In respect of services rendered by us from Sl No 1 to13 through tender contractors whether they are covered under Twelfth Schedule to Article 243W*



*of the Constitution and/or exempted vide the Notfn. no. mentioned against each Sl No.as follows.*

The applicant supplies the 'Right to collect the fees/right to certain amenities' to the contractors and the supply undertaken by the contractors are as per the tender conditions which is an independent supply. The applicability of the Notification to the supplies of the contractors is not answered as per S.95(a) readwith S.103(1) of the GST Act.

**Q.3.** *In respect of Sl No 14 we are collecting charges for laying of cables alongside roads and collecting road cutting charges as well as annual rent. We require advance ruling whether composite supply can be applied for classifying the said service as renting of immovable property service and reverse charge can be applied for collecting GST as per entry Sl No 5A of the table to Notfn No 13/2017 (CE rate) dated 29-06-2017 as amended from the telephone operators who are GSTN holders*

Supply of allowing the road cut for laying the OFC and allowing the space alongside the road for the OFC lines are not 'composite supply' as defined under S. 2(30) of the GST Act, 2017 in as much as these two supplies are not made in conjunction with each other in the ordinary course of business. Hence Composite supply cannot be applied for classifying the said service as 'Renting of Immovable property service'

**Q.4.** *In respect of Sl No 15 w.e.f. 25-01-2018, instead of reverse charge we collected tax under direct charge from the service availers who are registered with GSTN and whether it can be regularised.(to be treated as technical lapse and condoned since the service rendered by us had suffered tax and Govt. revenue is not affected)*

The question seeks regularization of the payment made by them considering the same as a technical lapse, which is not in the purview of this authority as per Section 97 (2) and therefore, the question is not admitted under Section 98(2) of the Act

**Q.5.** *In respect of Sl No 16 the renting of immovable property service rendered by us as a local authority to*

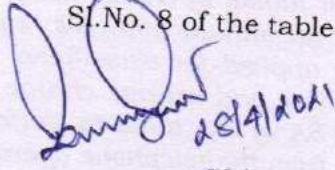
- (i) *Pure state Govt. offices (viz) Asst. Director Of L F Accounts, Project Officer, ICDS, ICDS Centre: Deputy Supt. Of Police and pure Central Govt offices (viz) post offices are fully exempted or not as per entry Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.*
- (ii) *Co-operative society(viz) Chindhamani Super Market, Jeeva Co-Op Society , TNSTC Staff Society, Jeeva Co-Op Society and transport corporation*



TNSTC are exempted or not as per entry Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.

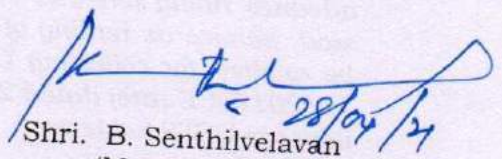
(iii) Nationalised Banks are exempted or not as per Sl no 8 of the table to Notfn. No 12/2017 dated 28-06-2017.

Service of renting of immovable property by the applicant to another Central/State government/Union territory or Local authority alone is exempted from tax as per Sl. No. 8 of Notification 12/2017 dated 28.06.2017 and the services of renting of immovable property to other than Central/State Government, Union Territory or Local authority, are not exempted under Sl.No. 8 of the table to Notification No.12/2017-C.T.(Rate) dated 28.06.2017.

  
Shri . Kurinji Selvaan. V.S.,  
(Member SGST)

**AUTHORITY FOR  
ADVANCE RULING**

**28 APR 2021**

  
Shri. B. Senthilvelavan  
(Member CGST)

To

THE ERODE CITY MUNICIPAL CORPORATION,  
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// By RPAD/ By e-mail: commr.erode@tn.gov.in//

Copy Submitted to:

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

Copy to:

3. The Principal Commissioner of GST & Central Excise, Salem  
Commissionerate, 1, Foulkes Compound, Anaimeedu, Salem 636 001.
4. The Assistant Commissioner (ST),  
Brough Road Assessment Circle,  
Commercial Taxes Building  
#1, Brough Road, Erode - 638 001.
5. Master File/ Spare-2