M/s. National Dairy Development Board (NDDB), Anand. GSTIN 24AABCN2029C1Z5 as printed in the order.

Appellate Authority for Advance Ruling — Gujarat

Advance Ruling (Appeal) No. GUJ/GAAAR/APPEAL/2019/4 (in Applicatio… Dated **29.06.2019**

Q Questions Before the Authority

- Whether NDDB qualifies as a 'governmental authority' from the GST perspective.
- Whether renting of immovable property by NDDB to an educational institute is exempt under Sr. 4 of Notification No. 12/2017-Central Tax (Rate).

F Facts

NDDB is a statutory body constituted under the National Dairy Development Board Act, 1987. It created a trust, Anandalaya Educational Society, and allowed the trust to occupy property within its campus. The property is used or leased at a very nominal amount, and the appellant argued this renting falls within the Article 243W functions of a municipality.

H Ruling

Whether NDDB is a 'governmental authority' under clause (zf) of Para 2 of Notification No. 12/2017-Central Tax (Rate)	**Cannot be determined in absence of sufficient information (Jain). Not decided on the merits, with the ruling left to the jurisdictional officer (Vaghela).**	NDDB was set up by an Act of Parliament, but the 90 per cent participation by equity or control limb and the Article 243W function limb are both applicable. NDDB relied on Sections 8, 28, 29 and 37 of the NDDB Act to show central control, but produced no evidence on the Article 243W function.
Whether renting of immovable property to Anandalaya Educational Society is exempt under Sr. 4 of Notification No. 12/2017-Central Tax (Rate)	**Exemption not admissible for 'Renting of Immovable Property' (Jain). No decision, as the issue was outside the appeal (Vaghela).**	Jain held that the service itself must relate to an Article 243W and Twelfth Schedule function, and renting is not one. Vaghela held the appellant did not challenge this part of the advance ruling, so it could not be decided in the appeal.

The majority member (Ajay Jain) held that it cannot be determined on the material before the authority whether NDDB is a governmental authority, because NDDB gave no evidence on the 90 per cent equity or control limb or on the Article 243W function limb. He further held that renting of immovable property is not a function entrusted to a municipality, so the Sr. 4 exemption is not admissible for that renting. The other member (Dr. P.D. Vaghela) agreed that documents were not produced, held that the appeal raised only the first question, and held that the ruling does not bar NDDB from proving its status before the jurisdictional officer. The members differed, so section 101(3) of the CGST Act, 2017 applies.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

R Reasoning

The majority read the phrase 'with 90 per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W' as applying to both limbs (i) and (ii) of clause (zf). It relied on the long line in the definition and the separate placement of the conditions. Since NDDB produced no evidence of equity or control or of an Article 243W function, the majority could not confirm status. On renting, the majority held that the 'in relation to any function' wording looks to the supplier's service, not the recipient's activity, so renting is outside Sr. 4. The dissenting member relied on Circular No. 76/50/2018-GST dated 31.12.2018 and on the lack of authentic documents. The order also cites the Patna High Court decision in Shapoorji Paloonji and the Supreme Court decision in Union of India v. West Coast Paper Mills, which were relied on for the question of whether the Patna decision is binding while the Supreme Court appeal is pending.

P Provisions Relied On

- Notification No. 12/2017-Central Tax (Rate), Sr. 4 and Para 2 clause (zf) (definition of 'Governmental Authority')
- Article 243W of the Constitution
- Article 243G of the Constitution
- Twelfth Schedule, item 13 (as argued by appellant)
- National Dairy Development Board Act, 1987, Sections 8, 28, 29 and 37 (as cited by appellant)
- Section 2(16) of the IGST Act, 2017 (as referred to by appellant)
- Section 101(3) of the CGST Act, 2017
- Circular No. 76/50/2018-GST dated 31.12.2018 (cited by Dr. P.D. Vaghela)
- Shapoorji Paloonji & Co. Ltd. v. CCE, Patna (Patna HC), as relied on by appellant
- Union of India v. West Coast Paper Mills Ltd. [2004 (164) E.L.T. 375 (S.C.)]

! For the Practitioner

Because the members differed, the **order does not settle NDDB's status** ; under section 101(3) the matter goes to a third member, and the order itself does not record that outcome. The useful point for practitioners is that **renting of immovable property is not a function under Article 243W** , so Sr. 4 does not cover renting by a governmental authority even if it is one. Practitioners should note that the 90 per cent equity or control limb applies to both limbs of the definition, and that NDDB will need evidence on that limb and on the Article 243W function.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> gujaaar_appeal_no._04-2019_dated_29.06.2019.pdf

Prepared 05-11-2026.

About Patron Accounting LLP

Patron Accounting LLP is a CA and CS-led accounting and compliance firm working with businesses across India since 2019 — bookkeeping, GST, income tax, payroll, company and LLP compliance, audit and the certificates banks and regulators ask for.

Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com