Altabur Rahaman Mollah, carrying on business under the trade name M/s Reliable Hospitality service

Authority for Advance Ruling — West Bengal

21/WBAAR/2019-20 Dated **09.09.2019**

Q Questions Before the Authority

- Whether exemption from payment of GST is available for the applicant's supplies of facility management services, namely mechanised and manual cleaning, housekeeping and security services, to Central and State Government hospitals under Notification No. 12/2017-CT(Rate) dated 28.06.2017 and WB Govt Gazette Notification-1136-FT dated 28.06.2017, as amended.

F Facts

The applicant supplies mechanised and manual cleaning, housekeeping and security services, along with incidental cleaning material, to government hospitals, including SSKM Hospital under a work order that states GST at 18% applies. The Revenue argued that the exemption extends only to Panchayats and Municipalities and cannot benefit a private party. The applicant contended that cleaning of hospitals is not 'sanitation' under SAC 99945.

H Ruling

Security services supplied to Government hospitals	**Exemption not available**	Security services are not covered by either the Eleventh or the Twelfth Schedule of the Constitution.
Cleaning and sweeping services (mechanised and manual) supplied to Government hospitals	**Exemption not available**	**Cleaning of hospital premises is not 'sanitation or similar service' under SAC 99945**, which covers sweeping and cleaning only of roads and streets. The exemption is therefore not attracted even though the recipient is a government hospital.

The authority held that the exemption is not available for the applicant's security services or its cleaning and sweeping services. It accepted that the supply is made to a government entity and that the cleaning material is ancillary to the principal service. It found that the exemption turns on whether the service itself relates to a function in the Eleventh or Twelfth Schedule, not on the identity of the supplier, but that these cleaning services did not meet that test.

R Reasoning

The authority relied on Circular No. 51/25/2018-GST dated 31.07.2018, which it read as showing that the service tax exemption under Sl No. 25(a) of Notification No. 25/2012 has been carried into GST under Sl No. 3 and 3A of Notification 12/2017-CT(Rate). It held that the phrase 'in relation to any function' looks to the nature of the service, not the supplier, so a private provider can qualify if its service relates to a function under Article 243G or 243W.

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

Applying Explanation 3(i) of the notification, it read the scope of services through the classification scheme. It found that health and sanitation (Eleventh Schedule) could cover cleaning only if SAC 99945 included cleaning of hospitals, which it did not. The order also noted that the 25% limit on goods in a composite supply applies.

P Provisions Relied On

- Notification No. 12/2017-CT(Rate) dated 28.06.2017, Sl No. 3 and 3A
- WB Govt Gazette Notification-1136-FT dated 28.06.2017
- Notification No. 25/2012 dated 20.06.2012 (ST Notification), Sl No. 25(a)
- Circular No. 51/25/2018-GST dated 31.07.2018
- Section 97(2)(b) of the CGST/WBGST Act, 2017 (admissibility)
- Section 100 (appeal) and Section 103 and 104(1) (binding effect and voidness)
- Explanation 3(i) of Notification 12/2017-CT(Rate) (scheme of classification of services)
- Article 243G and Article 243W of the Constitution; Eleventh Schedule (health and sanitation, including hospitals) and Twelfth…
- SAC 99945 (sanitation and similar services)

! For the Practitioner

Vendors providing cleaning or security to government hospitals on the strength of a Sl No. 3 or 3A exemption should note that the authority denied it for both services. The ruling settles that hospital premises cleaning is not sanitation under SAC 99945, while the test is service-based rather than supplier-based. It does not decide whether any other government-facing cleaning contract, such as one for a municipality, qualifies, and it binds only the applicant under Section 103.

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 -> wb_aar_21_2019-20_arm_09.09.19.pdf

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