Bicholim Municipal Council

Authority for Advance Ruling — Goa

Advance Ruling No. GOA/GAAR/3 of 2019-20/ 2223, dated 26/11/2019 (Pa… Dated **26.11.2019**

Q Questions Before the Authority

- Whether GST is payable on collection of Sopo or not.

F Facts

Bicholim Municipal Council charges a daily nominal fee called Sopo from floating hawkers and small merchants for occupying open or covered space in the Municipal Market area. Vendors are not allotted any fixed space or structure, sit in the open or in temporary sheds, and receive no amenities or additional services, and the proceeds are used mainly for upkeep of the market. A prior service tax proceeding on Sopo was resolved in the applicant's favour by the Commissioner (Appeals), Pune Appellate-II, Central Excise (Goa), by Order No. GOA-EXCUS-000-APP-293-2016-17 dated 07/12/2016.

H Ruling

Whether GST is payable on collection of Sopo	**Yes. GST is payable on collection of Sopo from 1 July 2017.**	The ruling is effective from 1 July 2017. The Authority held that markets and fairs appear in the Eleventh Schedule (Panchayat functions) and not in the Twelfth Schedule (Municipal functions), so the activity is not a municipal function within Notification No. 16/2018-Central Tax (Rate) dated 26 July 2018.

GST is payable on collection of Sopo from 1 July 2017. The Authority held that Sopo is a licence to occupy land, which is a supply of services under Schedule II, paragraph 2(a) read with section 7(1)(d), and that the exemption-type notification for activities of local authorities under section 7(2) does not cover it, because a municipality collecting Sopo is not providing a service in relation to a function entrusted to it under Article 243W.

R Reasoning

The Authority first read section 9(1) of the CGST Act, which levies GST on intra-State supply, together with the definition of supply in section 7(1), including the activities deemed to be supply in section 7(1)(d) and Schedule II. It relied on paragraph 2(a) of Schedule II, which treats any licence to occupy land as a supply of services, and held that Sopo falls within that. It then considered Notification No. 16/2018-Central Tax (Rate) dated 26 July 2018, issued under section 7(2), which treats certain activities of local authorities acting as public authority as neither goods nor services. It examined whether space made available in the market is a service relating to a function under Article 243W, read with the Twelfth Schedule, and found that markets and fairs appear only in the Eleventh Schedule under Article 243G. It also noted that similar fees are charged by private parties, so the activity is not a function entrusted to the municipality as public authority.

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

P Provisions Relied On

- Section 9(1) of the CGST Act, 2017 (charge of GST on intra-State supply)
- Section 7(1)(a) to (d) of the CGST Act, 2017 (meaning of supply)
- Section 7(2) of the CGST Act, 2017 and Notification No. 16/2018-Central Tax (Rate) dated 26 July 2018
- Schedule II, paragraph 2(a) of the CGST Act, 2017 (licence to occupy land is supply of services)
- Schedule II, paragraph 2(b) of the CGST Act, 2017 (lease or letting out of building is supply of services), as reproduced in the…
- Article 243W and the Twelfth Schedule of the Constitution of India
- Article 243G and the Eleventh Schedule of the Constitution of India
- Section 51 of the Goa Municipalities Act (cited by the applicant)
- Sections 96, 97(2) and 98 of the Goa GST Act, 2017 and the corresponding CGST Act provisions (ruling framework)

! For the Practitioner

Municipal bodies and other local authorities collecting daily stall, space or occupation fees from vendors in markets should treat such fees as taxable supply under GST from 1 July 2017, unless they can bring the activity within a specific notified exemption. The ruling settles that the Twelfth Schedule municipal-function entry does not cover market space fees, which narrows the public-authority argument. It does not decide the rate of GST, the classification, or the treatment of other market charges such as licence fees or auction-based stall rents, and the notification's full list of activities is not reproduced in the scanned text.

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 -> goa aar 03 2019-20 26.11.2019 bmc.pdf

Prepared 14-11-2026.

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