ECOSAN SERVICES FOUNDATION (GSTIN 27AABCE6819PIZ3)

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-70/2018-19/B-163, Mumbai, dated 19/12/2018 (Maharashtra… Dated **19.12.2018**

Q Questions Before the Authority

- Services provided to an NGO (non-profit organisation registered as a trust under section 12AA of the Income Tax Act, 1961) amount to a provision of service. Any grant or donation received towards performing a specific service for preservation of environment, as specified in Notification No. 12/2017, does it amount to a provision of service and is it liable to GST?

F Facts

The applicant is a Section 8 company, registered under section 12AA of the Income Tax Act since 2006, that promotes ecological sanitation and waste-water management. It provides training, piloting, awareness, research and consultancy services, including suction toilets and waterless urine-diversion dehydration toilets, and receives grants and donations from charitable foundations and companies for these projects. The question is whether those services are taxable and whether the grants and donations attract GST, given the exemption for charitable activities that includes preservation of environment.

H Ruling

Whether services provided to NGOs and grants or donations received for preservation-of-environment services amount to a provision of service and are liable to GST	**Services provided amount to a provision of service. Grants and donations received towards them are covered by the exemption at Sr. No. 1 of Notification No. 12/2017-Central Tax (Rate), rate Nil.**	The exemption applies because the activities were held to be charitable activities under para 2(r) of the notification. The order is fact-specific to the applicant's activities and the authority's reading of para 2(r)(iv) and 2(r)(i)(B).

The authority held that the applicant's services amount to a provision of service. It further held that grants and donations received towards those services are received for activities relating to preservation of environment, so they fall within the exemption at Sr. No. 1 of Notification No. 12/2017-Central Tax (Rate), which applies at a nil rate. The authority also found that the activities fall within the preventive-health limb of the definition of charitable activities.

R Reasoning

The authority read Sr. No. 1 of Notification No. 12/2017-Central Tax (Rate) as exempting services by an entity

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

registered under section 12AA of the Income Tax Act, 1961, provided the services are by way of charitable activities as defined in para 2(r). It held that preservation of environment under para 2(r)(iv) covers protection and conservation of natural resources, and that the applicant's promotion of flush-free toilets and recycling of human excreta reduces water consumption and pollution. It also held that construction and repair of toilets, and related awareness work, fall within para 2(r)(i)(B) as public awareness of preventive health. The authority therefore treated the activities as charitable and within the exemption, rejecting the concerned office's view that sanitation is not preservation of environment.

P Provisions Relied On

Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Sr. No. 1 (Chapter 99, services by an entity registered under s…

Para 2(r) of Notification No. 12/2017-Central Tax (Rate), definition of 'charitable activities', sub-clauses (i)(A), (i)(B) and (iv)

Section 12AA of the Income-tax Act, 1961

! For the Practitioner

A practitioner can cite this order for the proposition that sanitation and waterless-toilet work, framed as reducing water use and pollution, can be treated as preservation of environment and preventive health under para 2(r) of Notification 12/2017. It also supports treating related grants as exempt where the donee is a section 12AA entity. The order does not settle the question for other sanitation or NGO businesses, since it turns on the applicant's specific activities and the authority did not apply a general test. The concerned office's contrary view shows the point was contested.

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 -> ara_order_70_2018_maharashtra_esf.pdf

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