M/s Awas Bandhu, 1st Floor, Janpath Market, Hazratganj, Lucknow, U.P. (GSTIN 09AAAAA6345D1Z2)

Authority for Advance Ruling — Uttar Pradesh

Order No. 38, dated 02.09.2019 (Authority for Advance Ruling, Uttar Prad… Dated **02.09.2019**

Q Questions Before the Authority

- Based on their activities, whether Awas Bandhu Uttar Pradesh can be exempt from the GST regime.

F Facts

The applicant is a registered GST taxpayer that says it helps the U.P. Housing Ministry implement its policies and plans and helps the State provide affordable housing for all income groups. At the personal hearing its Chartered Accountant argued that the applicant is a State Government-owned entity, so its activities should be exempt from GST. The applicant relied on Entry 4 of Notification No. 12/2017-Central Tax (Rate) and on the 12th Schedule of the Constitution. The order does not identify the specific services the applicant actually provides.

H Ruling

Whether Awas Bandhu's activities make it exempt from GST	****No ruling given; application rejected****	The Authority said the specific activities performed were not disclosed, so the question could not be answered. The order does not decide whether a State-owned entity is exempt as such.

The Authority **rejected the application** and gave **no ruling** on whether the applicant is exempt from GST. It held that the applicant's description of its work was too general and that the specific activities were not enumerated. Without that information, it said it would be premature to decide whether the applicant could be exempt.

R Reasoning

The Authority noted that the applicant's stated purpose (helping the Housing Ministry and providing affordable housing) was general and that the specific activities were not listed. It observed that the applicant had not shown how or what type of function it performed that falls within the 12th Schedule. Since the Entry 4 exemption depends on a service being an activity in relation to a function entrusted to a municipality under Article 243W, the Authority found the facts insufficient to apply it. Both members therefore ruled unanimously that no answer could be given.

P Provisions Relied On

Section 98 of the CGST Act, 2017 (advance ruling; the order is headed as proceedings under it)

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

Notification No. 12/2017-Central Tax (Rate), Sl. No. 4 (services by government or local authority in relation to a function entru…

Article 243W of the Constitution of India

12th Schedule of the Constitution of India (items cited by the applicant: urban planning, regulation of land-use and constructio…

! For the Practitioner

This order is useful mainly as a warning. An advance ruling application that describes the business only in general terms, without listing the specific services, is likely to be rejected rather than decided. A practitioner advising a government-linked housing body should set out each service, its recipient, and its link to a function under the 12th Schedule or Article 243W before relying on Entry 4. The order does not decide whether a State Government-owned entity is exempt from GST merely because of its ownership.

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 -> up_aar_38_02.09.2019_ab.pdf

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