M/s National Institute of Technology, NIT Campus, Kurukshetra (GSTIN 06AAATN6169K1Z7)

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2018-19/46 (In Application No. 46/2018… Dated **19.03.2019**

Q Questions Before the Authority

- Whether pure services supplied to the applicant institute, such as manpower supply, security, horticulture, civil maintenance and electrical maintenance services, are liable to tax under GST or exempt under Entry No. 3 of Notification 12/2017-Central Tax (Rate), as amended.
- What is a Local Authority?
- What is a pure service?
- Whether NIT is a Government Entity?
- Whether NIT is covered by the subject at Serial No. 17 (Education, including Primary and Secondary Schools), Schedule XI to the Constitution?
- Whether the pure services received by NIT fall under Serial No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017?

F Facts

The applicant, NIT Kurukshetra, is a institute created under the NIT Act, 2007, and receives services including manpower supply, security, horticulture, civil maintenance and electrical maintenance. The applicant asked whether these services are taxable or exempt under Entry No. 3 of Notification 12/2017-Central Tax (Rate), which exempts pure services provided to Government bodies in relation to functions entrusted to a Panchayat or Municipality. The applicant relied on the Central Government's 2003 takeover of total control of the institute and on Schedule XI, Article 243G, Entry 17 of the Constitution.

H Ruling

Whether pure services received by NIT (manpower, security, horticulture, civil and electrical maintenance) are taxable or exempt under Entry 3 of Notification 12/2017-CT(Rate)	****Not exempt; taxable.****	The order has no separate RULING section; this answer is taken from paragraph 3.1 (Finding). Exemption fails because the services have no connection with any function entrusted to a Panchayat or Municipality.

The Authority unanimously held that the pure services received by the applicant are not exempt from tax under the CGST/HGST Act, 2017 and are taxable. The order does not separately answer each framed question; the conclusion is stated only at paragraph 3.1 and the other points are dealt with in the discussion.

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

R Reasoning

The Authority held that a Panchayat is a form of Local Authority under Section 2(69) of the CGST/HGST Act. It reasoned that the 'pure services' concept excludes works contracts and composite supplies involving goods, and that NIT may qualify as a Government Entity under Section 2(zfa) of Notification 12/2017. However, Entry 17 of Schedule XI (Article 243G) refers to school education, and higher education imparted by NIT falls under neither Article 243G nor Article 243W. The Authority also noted that the services were not tendered or paid for by any Panchayat or Municipality, and that NIT lies within municipal limits with no link to Panchayat functions. For these reasons Entry 3 of the exemption notification was held inapplicable.

P Provisions Relied On

- Section 97(2) of the CGST/HGST Act, 2017, clause (b) (as printed in the order's heading)
- Section 2(69) of the CGST/HGST Act, 2017 (definition of Local Authority)
- Notification 12/2017-Central Tax (Rate) dated 28.06.2017, Entry No. 3
- Section 2(zfa) of Notification 12/2017-Central Tax (Rate) dated 28.06.2017 (definition of Government Entity)
- Article 243G and Schedule XI, Entries 17 and 18, Constitution of India
- Article 243W, Constitution of India
- Article 243P(e), Constitution of India
- Section 3, Cantonments Act, 2006
- NIT Act, 2007
- Department of Secondary and Higher Education, MHRD, Government of India notification dated 14.05.2003

! For the Practitioner

Institutions and other Government Entities seeking the Entry 3 nil rate for services such as manpower, security or maintenance must show a nexus with a function entrusted to a Panchayat or Municipality, and this order holds that mere public status is not enough. A practitioner can cite it for the proposition that higher education does not fall within Entry 17 of Schedule XI. The order does not conclusively decide whether NIT is a Government Entity, and it does not address works contracts or the rate applicable to any particular service.

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 -> har_aar_46_2018-19_19.03.2019_nit.pdf

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