M/s Sri Satya Sai Water Supply Project Board

Authority for Advance Ruling — Andhra Pradesh

AAR No.01 /AP/GST/2020 dated:17.01.2020 Dated **17.01.2020**

Q Questions Before the Authority

- Whether the applicant qualifies as a 'Governmental Authority' under the Act and whether the services availed by it are exempt from the GST by virtue of Entry 3 in Notification 12/2017 (Rate) dated 28.06.2017.
- Whether the Applicant is not liable to remit any GST to its suppliers for any services it procures by virtue of its activities of supplying water for domestic purposes.

F Facts

The applicant is a society registered under the Societies Registration Act, 1997, constituted by G.O.Ms.No.344 dated 16.09.1997 to operate and maintain water supply schemes in Anantapur district. Seven of its nine board members are ex-officio state officials, and the state government contributes 70% of operation and maintenance costs, with the remaining 30% met from user water charges. The applicant engages L&T as a contractor for operation and maintenance services, while it supplies power and spares, and it did not take GST registration because it claimed it makes no taxable supplies.

H Ruling

Whether applicant is a 'Governmental Authority' and whether its services are exempt under Entry 3 of Notification 12/2017 (Rate) dated 28.06.2017	**No. Applicant does not qualify as a governmental authority; services procured are not exempt and are taxable**	Government participation by equity or control is about 77% against the 90% requirement in the definition. The order rests on the 90% test and does not decide whether the applicant is set up by a State Legislature or Act of Parliament, which it is not.
Whether applicant is not liable to remit GST to suppliers for services procured for supplying water for domestic purposes	**No. Services procured fall under Sl.No. 25, heading 9987 (Maintenance, repair and installation (except construction) services), taxable at 18% (CGST 9% + SGST 9%) under Notification 11/2017 (Rate) dated 28.06.2017**	The contractor's services are pure services of operation and maintenance with no supply of goods. The applicant's activity of water supply for domestic purposes does not displace the liability.

The authority held that the applicant is not a 'governmental authority' because government participation by equity or control is about 77%, below the **90% threshold** . Its services are therefore not exempt under Entry 3 of Notification 12/2017, and the contractor's pure operation and maintenance services are taxable under **Sl.No. 25 (heading 9987) at 18% (CGST 9% + SGST 9%)** .

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

R Reasoning

The authority applied the Explanation to section 2(16) of the GST law (the order refers to the IGST Act) and Notification 31/2017-Central Tax (Rate) dated 13.10.2017, which requires that a body be set up by an Act of Parliament or State Legislature, or be established by a government with ninety per cent or more participation by equity or control to carry out functions of a panchayat or municipality. The applicant was established by government order, but since seven of nine board members are officials and funding is 70:30, the 90% test was not met. The authority therefore held the Entry 3 exemption unavailable. The contractor's services were classified as pure maintenance services under Sl.No. 25 of Notification 11/2017 (Rate), attracting 18% tax. The applicant's reliance on Article 243W, Twelfth Schedule entry 5, and Entry 12 of the 2012 Mega Exemption Notification was noted in the applicant's submissions but did not change the outcome.

P Provisions Relied On

- Section 97(2)(b) and (e) of the CGST/APGST Act, 2017
- Section 98 of the CGST/APGST Act, 2017
- Section 2(16) and its Explanation (governmental authority), as referred to in the order
- Notification 31/2017-Central Tax (Rate) dated 13.10.2017 (definition of governmental authority)
- Notification 12/2017-Central Tax (Rate) dated 28.06.2017, Entry 3 (exemption claimed by applicant)
- Notification 11/2017-Central Tax (Rate) dated 28.06.2017, Sl.No. 25, heading 9987 (rate applied)
- Article 243W of the Constitution and Entry 5 of the Twelfth Schedule (applicant's argument)
- Entry 12 of Notification 25/2012 (Mega Exemption), cited by applicant under the pre-GST regime

! For the Practitioner

This ruling is useful where a water board or similar society claims governmental-authority status on the strength of official membership and state funding, since it shows the 90% equity-or-control threshold is applied strictly. Practitioners advising contractors to such bodies should note that the contractor's maintenance services were held taxable at 18%. The ruling binds only the applicant and does not settle whether a body with 90% or higher government control would qualify, nor the position for services in periods before GST.

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 -> aar no.1-2020 sri satya sai water suppiy.pdf

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