Municipal Corporation Pratapgarh (Nagar Parishad office, Near Bus Stand, District Pratapgarh, Rajasthan; GSTIN 08AALM1891K1DY)

Authority for Advance Ruling — Rajasthan

Advance Ruling No. RAJ/AAR/2018-19/37, Date of Ruling 14.03.2019 (sig… Dated **14.03.2019**

Q Questions Before the Authority

- How do the GST TDS provisions apply to receipts for cleaning of roads, gardens and toilets executed through contractors on rate basis?
- How do the GST TDS provisions apply to receipts for house-to-house garbage collection and solid waste management services on rate basis?
- How do the GST TDS provisions apply to skilled and unskilled labour, drivers and vehicle operators supplied by different contractors as required by the municipality?
- How do the GST TDS provisions apply to payments for maintenance of various municipal parks on rate basis?
- Whether all the above works, which are performed on rate basis, require TDS to be deducted and, if so, at what rate and how it is to be deposited?

F Facts

The applicant is a municipal corporation constituted as a local authority under Article 243W of the Constitution. It engages contractors on rate basis for cleaning of roads, gardens and toilets, waste collection, and supply of manpower and vehicles, and some of these works involve materials such as bricks and pipes. The applicant could not determine whether these services are taxable or exempt, and therefore whether it must deduct GST TDS.

H Ruling

Pure services (for example manpower, labour, vehicle or cleaning services without goods) received by the municipality from contractors	****Nil rate of GST; GST TDS not applicable****	Applies to pure services in relation to functions entrusted to a Municipality under Article 243W. The order treats these as Serial No. 3 of Notification 12/2017-CT (Rate).
Composite supply of goods and services where the value of goods is not more than 25 per cent of the total value of supply	****Nil rate of GST; GST TDS not applicable****	Applies under Serial No. 3A of Notification 12/2017-CT (Rate). The order notes that the quantum of goods is difficult to ascertain from the submissions and that the rate may shift if the 25 per cent threshold is crossed during the contract.

Composite supply of goods and services where the value of goods exceeds 25 per cent of the total value of supply	****GST at 12 per cent (SGST 6 per cent plus CGST 6 per cent) if the activity falls under Serial No. 3 of the rate notification; otherwise GST at 18 per cent (SGST 9 per cent plus CGST 9 per cent); GST TDS applies****	The ruling cites the rate notification as 11/2017 (CT-rate) in this paragraph, although the order elsewhere cites 12/2017-CT (Rate). This appears to be a typographical inconsistency in the order. The ruling does not state the TDS percentage.

The authority held that pure services received by the applicant attract Nil rate of GST and GST TDS does not apply. Composite supplies in which the value of goods is not more than 25 per cent of the total value also attract Nil rate and no TDS. Where the value of goods exceeds 25 per cent, GST applies at 12 per cent (CGST 6 per cent and SGST 6 per cent) if the activity falls within Serial No. 3 of the rate notification, otherwise at 18 per cent, and TDS applies.

R Reasoning

The authority found that the applicant is a local authority under Section 51 of the CGST/RGST Act and so is eligible to be a TDS deductor, but only where the activities it undertakes are taxable and not exempt by notification. It examined the municipal functions under Article 243W and the Twelfth Schedule and found that road, garden, toilet and waste collection services fall within them. It then applied Serial No. 3 (pure services) and Serial No. 3A (composite supply with goods not exceeding 25 per cent) of the rate notification, which both carry Nil rate, and concluded that TDS is not attracted for those activities. Where goods exceed 25 per cent, the activity is taxable and TDS applies.

P Provisions Relied On

- Section 97(2)(a), (e) and (g) of the CGST/SGST Act, 2017 (grounds for advance ruling)
- Section 100 of the CGST/RGST Act, 2017 (appeal to Appellate Authority within 30 days)
- Article 243W and Twelfth Schedule of the Constitution of India
- Article 243G of the Constitution of India
- Section 51 of the CGST/RGST Act, 2017 (TDS by specified deductors, including local authorities)
- Notification No. 50/2018-Central Tax dated 13.09.2018 (appointing 1 October 2018 for section 51)
- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Serial No. 3 (pure services) and Serial No. 3A (composite sup…

! For the Practitioner

A municipal body or other local authority can use this ruling to establish that pure services received from contractors, and composite works where goods are not more than 25 per cent of the value, carry Nil GST and do not trigger TDS under section 51. The ruling does not fix a single answer for mixed contracts, because it depends on the actual share of goods in each contract, which the authority said it could not determine from the submissions. It also does not state the TDS percentage, and the rate-notification number in one paragraph appears inconsistent with the rest of the order, so the full text should be checked before relying on it.

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 -> raj.37.2018-19_mc_pratapgarh.pdf

Prepared 31-10-2026.

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