Reliance Infrastructure Limited

Authority for Advance Ruling — Maharashtra

GST-ARA-11/2017/B-14 Mumbai, dt. 21.03.2018 Dated **21.03.2018**

Q Questions Before the Authority

- Whether reinstatement charges paid to Municipal Authorities would be liable to GST?
- Whether access charges paid to Municipal Authorities would be liable to GST?

F Facts

The applicant is a distribution licensee under the Electricity Act, 2003, which requires them to excavate roads to lay and maintain underground electric supply lines. In doing so, they pay reinstatement charges to the Municipal Corporation of Greater Mumbai for restoring the road surface and access charges for the right of way. The applicant contended that these payments are exempt from GST as they relate to functions entrusted to a municipality under Article 243W of the Constitution.

H Ruling

Reinstatement charges	**Liable to GST**	Taxable under residuary entry no. 35 of Notification No. 11/2017-Central Tax (Rate) at 18%
Access charges	**Liable to GST**	Answered in the affirmative

The Authority ruled that both reinstatement charges and access charges paid to the Municipal Authorities are liable to GST. It concluded that the restoration of road patches by business entities does not constitute a sovereign function of the municipality. Consequently, these services are not exempt and are subject to GST.

R Reasoning

The Authority reasoned that the restoration of road patches by utility companies is not a sovereign function performed by the municipality under Article 243W of the Constitution. It found that the services provided by the Municipal Authorities do not fall under the exemption provided by Notification No. 12/2017-Central Tax (Rate). Since no specific exemption applies, the services are taxable under the residuary entry of Notification No. 11/2017-Central Tax (Rate). The Authority also noted that the applicant is liable to pay tax on a **reverse charge basis** as per the notification issued under section 9(3) of the CGST Act.

P Provisions Relied On

Section 9(3) of the CGST Act	Article 243W of the Constitution of India
Notification No. 12/2017-Central Tax (Rate)	Notification No. 11/2017-Central Tax (Rate)

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! For the Practitioner

This ruling clarifies that payments made by utility companies to municipal bodies for road restoration and right of way are **taxable services** and not exempt sovereign functions. It confirms that such entities are liable to pay GST on these charges under the **reverse charge mechanism** . Practitioners should note that this decision specifically rejects the argument that road restoration is a function entrusted to a municipality under the Twelfth Schedule.

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 -> maharashtra_gst-ara-11_2017_dt_21.3.18_ril.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com