M/s Dhananjay Kumar Singh, H.N. 13, Sanyasi Para, Khamtarai, Raipur, Chhattisgarh

Authority for Advance Ruling — Chhattisgarh

No.STC/AAR/06/2018, Raipur, dated 05.12.2018 (date as read from the si… Dated **05.12.2018**

Q Questions Before the Authority

- What GST rate applies to services of solid waste management, garbage collection and disposal, water supply, and cleaning of colony (garden, street, open area, drainage, sewerage, water tanks, common areas) supplied to the Chhattisgarh Housing Board under a colony maintenance work order, which the applicant treats as exempt under Notification No. 12/2017-State Tax (Rate) Serial No. 3, Chapter 99?
- Whether the Chhattisgarh Housing Board is a 'Governmental Authority' for the purpose of that entry.
- Whether the services fall within the functions of a municipality listed in the Twelfth Schedule to Article 243W of the Constitution.

F Facts

The applicant holds a work order from the Office of the Executive Engineer, Chhattisgarh Housing Board, Capital Project Division-1, Naya Raipur, for colony maintenance at C.G. Housing Board Colony Sector 29, Naya Raipur, valued at about Rs. 35.11 lakh. The scope covers solid waste management, water supply operation, door-to-door garbage collection and disposal, cleaning of colony garden, street and open areas, drainage and sewerage, water tank cleaning and common-area cleaning, pending handover of the colony to the local authority. The work order describes only services, with no supply of goods.

H Ruling

GST treatment of colony maintenance services (solid waste, water supply, garbage collection, colony cleaning) supplied to Chhattisgarh Housing Board	**Exempt (nil rate) under Notification No. 12/2017-State Tax (Rate), Serial No. 3, Chapter 99**	Exemption is not available if any transfer of property in goods is involved, or if the service is provided to persons other than the State Government, Central Government, a local authority or a Governmental Authority.

The authority held that the services supplied to the Chhattisgarh Housing Board are exempt under Serial No. 3, Chapter 99 of Notification No. 12/2017-State Tax (Rate), because the Board is a Governmental Authority and the services fall within the Twelfth Schedule functions of a municipality. The exemption is subject to two conditions: no transfer of property in goods may be involved, and the service must not be provided to any person other than the State Government, Central Government, a local authority or a Governmental Authority.

R Reasoning

The authority examined the two statutory conditions for Serial No. 3 of Notification 12/2017. It held that the Chhattisgarh Housing Board, constituted under the Chhattisgarh Housing Board Act, 1972, is a Governmental

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

Authority in the sense of the amended definition, being a State-owned body. It then compared the work scope with the Twelfth Schedule to Article 243W and found that the services correspond to items 5, 6, 8, 10, 12 and 17 (water supply, public health and solid waste management, urban forestry and environment, slum improvement, urban amenities such as parks and gardens, and public conveniences). Since the work order involved no supply of goods, the exclusion for composite supplies involving goods did not apply, and the services were held exempt.

P Provisions Relied On

- Notification No. 12/2017-State Tax (Rate), dated 28.06.2017, Serial No. 3, Chapter 99 (pure services to government, local aut…
- Notification No. 31/2017-State Tax (Rate), dated 13.10.2017 (amended definition of 'Governmental Authority'), as cited in the…
- Article 243W of the Constitution of India and the Twelfth Schedule
- Chhattisgarh Housing Board Act, 1972, sections 3 and 4 (incorporation and constitution of the Board)
- Notification No. 25/2012 (Service Tax definition of Governmental Authority), as cited by the applicant

! For the Practitioner

Contractors who maintain government housing colonies for a State board or a local authority can rely on this ruling to treat municipal-type maintenance services as exempt under Serial No. 3, Chapter 99. The order is a State AAR ruling and binds only the applicant, although it is persuasive for similar contracts. It does not decide cases where goods are transferred, where the recipient is a private developer or society, or where the work is a works contract. The order also does not address the rate for non-exempt supplies.

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 -> chhtgrh-06 2018-05.12.18-dks.pdf

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