Sumitabha Ray

Authority for Advance Ruling — West Bengal

27/WBAAR/2019-20 Dated **23.09.2019**

Q Questions Before the Authority

- Whether the Applicant's services as Financial Management Specialist to the Government of Tamil Nadu and as Institutional Development Specialist to the Government of Mizoram are eligible for exemption under Sl No. 3 of Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017.

F Facts

The Applicant, a West Bengal proprietor, contracted directly with the Tamil Nadu Water Resources Department to act as Financial Management Specialist on the ADB-funded 'Climate Adaptation in Vennar Sub-basin in Cauvery Delta' project. He also contracted with the Mizoram Public Works Department to act as Institutional Development Specialist for the Road Sector Modernisation Plan under the Regional Transport Connectivity Project. Both engagements are consultancy services and, on the face of the contracts, involve no supply of goods.

H Ruling

Exemption under Sl No. 3 of Notification No. 9/2017-Integrated Tax (Rate) for consultancy services to the Tamil Nadu and Mizoram State Governments	**Eligible for exemption under Sl No. 3**	Applies because the services are pure services relatable to functions under Article 243G or 243W, and not a composite supply involving goods.

The Authority held that the Applicant is providing pure services to both State Governments. The projects involve functions entrusted to a Panchayat or a Municipality under Article 243G or 243W of the Constitution. The services are therefore eligible for exemption under Sl No. 3 of the Exemption Notification.

R Reasoning

The Authority relied on Circular No. 51/25/2018-GST dated 31.07.2018, which treats the earlier service tax exemption in Sl No. 25(a) of Notification No. 25/2012-Service Tax as continued under Sl No. 3 and 3A of the Exemption Notification. It read the phrase 'in relation to any function' as looking at the nature of the service, not at who the provider or recipient is. Entry 3 of the Eleventh Schedule (minor irrigation, water management, watershed development) covered the Tamil Nadu project. For Mizoram, the Authority noted that Article 243M(2) excludes Panchayat provisions, but Entry 4 of the Twelfth Schedule and Entry 4 of the Mizoram Municipalities Act, 2007 cover roads and bridges, which makes road development a Municipality function under Article 243W. The Authority also noted that the services fall within the scope of work set out in each contract.

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

P Provisions Relied On

- Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017, Sl No. 3 (and references to Sl No. 3A, 4 and 5)
- Circular No. 51/25/2018-GST dated 31.07.2018
- Notification No. 25/2012-Service Tax dated 20.06.2012, Sl No. 25(a)
- Section 97(2)(b) of the CGST Act, 2017
- Section 20(xviii) of the IGST Act, 2017
- Section 100 of the CGST Act, 2017
- Section 103 and Section 104(1) of the CGST Act, 2017
- Article 243G, Article 243W and Article 243M(2) of the Constitution
- Eleventh Schedule, Entries 3 and 13
- Twelfth Schedule, Entry 4
- Mizoram Municipalities Act, 2007, Entry 4

! For the Practitioner

This ruling helps consultants who supply pure services to State Governments on projects linked to Eleventh or Twelfth Schedule functions, since it applies the Circular's reading of 'in relation to any function' to consultancy work. It confirms that the provider and recipient do not need to be a Panchayat or Municipality. It does not decide cases where the service is composite with goods, and it does not settle how the exemption applies to services outside those Schedule functions. Because the ruling binds only the Applicant, a practitioner should check the actual contract scope and the state enactments 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 -> wb_aar_27_2019-20_sumitabha_ray_23.09.19.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