VIDARBHA INFOTECH PRIVATE LIMITED (GSTIN 27AABCV2557M1ZX)

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-131/2018-19/B-70, Mumbai, dated 13/06/2019 (Maharashtra… Dated **13.06.2019**

Q Questions Before the Authority

- Whether the contract from Nagpur Environmental Services Ltd (NESL), Nagpur (a 100% subsidiary of the Nagpur Municipal Corporation), for providing services for the management of Non-Network Tanker with the help of GPRS system at Nagpur would be exempt from GST since it falls under the various exempt services in article 243W of the Constitution as well as services rendered to a local authority.

F Facts

The applicant, a registered dealer and service provider, was awarded a work order dated 31.07.2018 by NESL, a special purpose company set up by the Nagpur Municipal Corporation, to manage non-network water tankers using GPRS tracking for water supply in and around Nagpur. The applicant raises bills on NESL at a stated rate per tanker trip and has been charging GST at 18%. The applicant contended that the service is pure service to a local authority and therefore exempt.

H Ruling

Whether the NESL contract for managing non-network tankers with GPRS, Nagpur, is exempt from GST as pure services to a local authority under article 243W	**Answered in the affirmative (exempt)**	Exemption under entry 3 of notification 12/2017-CT(Rate), as amended, applies because the services are pure services to a local authority in relation to a article 243W function. The GPRS tracking instrument did not make the service a composite supply involving goods, in the authority's view.

The authority answered the question in the affirmative. It held that the services are pure services, not a works contract or composite supply involving goods, and that they relate to water supply, a function entrusted to a municipality under article 243W. It further held that NESL is a local authority under section 2(69) of the GST Act, so the services are covered by entry 3 of notification 12/2017-CT(Rate).

R Reasoning

The authority accepted, on the work order and tracking-report evidence, that the applicant's activity is a service with no transfer of goods, so it is pure service and not a works contract or composite supply. It treated water supply for domestic, industrial and commercial purposes as a function listed under article 243W and the Twelfth Schedule. On recipient status, it relied on the Nagpur Municipal Corporation Act, 1948 section 58B, the 2009 Government resolution, the MoU and the share structure of NESL to conclude that NESL is an authority controlled with municipal funds and so a local authority under section 2(69). The concerned officer had argued that NESL was not shown to be a governmental authority or government entity, but the authority's conclusion rested on the

local authority route.

P Provisions Relied On

- Notification No. 12/2017-CT(Rate) dated 28.06.2017, entry 3 (Chapter 99 pure services exemption), as amended by Notificati…
- Section 2(69) of the CGST/MGST Act (definition of local authority)
- Section 2(zf) and 2(zfa) of Notification 12/2017 (governmental authority and government entity)
- Section 2(119) CGST Act (works contract)
- Section 2(30) CGST Act (composite supply)
- Article 243W of the Constitution and Twelfth Schedule
- Section 22 CGST Act (registration threshold, as cited by the applicant)
- Sections 95(c), 97(2) and 98 CGST Act (advance ruling framework)
- Nagpur Municipal Corporation Act, 1948, section 58B (as cited in the order)
- Government of Maharashtra resolution No. NAMAPA 2009/PRA.KRA.125/NAWI dated 31.08.2009 (as cited in the order)

! For the Practitioner

The ruling helps contractors who provide pure services, such as tanker tracking or water supply management, to municipal companies or special purpose vehicles that are under municipal control. It treats such a company as a local authority, which can bring entry 3 of the exemption notification into play. The ruling is fact-specific and rests on the work order and the tracking-based nature of the service, and it does not settle valuation or the treatment of goods supplied in a comparable contract. Because the concerned officer disputed the recipient's status, the ruling should be checked against the facts of any new contract before reliance, and it is appealable to the Maharashtra Appellate Authority.

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_aar_131_2018-19_vipl_13.06.19.pdf

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