

Body

AUTHORITY FOR ADVANCE RULING TSAAR Order No.36/2022, A.R.Com/02/2022, Dated 11th July, 2022

TELANGANA STATE AUTHORITY FOR ADVANCE RULING

CT Complex, M.J Road, Nampally, Hyderabad-500001.

(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)

Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

**[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE
TELANGANA GOODS AND SERVICES TAX ACT, 2017.]**

1.M/s. Vodafone Idea Limited, Plot No 1-10-178, 2nd Floor, Varun Towers- II, Opp Hyderabad Public School, Begumpet, Hyderabad, Hyderabad, Telangana, 500016(36AAACB2100P1ZY) has

filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.

2.At the outset, it is made clear that the provisions of both the CGST Act and the TGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.

3.It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.

4.Brief facts of the case:

The applicant M/s. Vodafone Idea Limited is engaged in providing telecommunication services and in the course of its business it is also providing these services to GHMC by way of data/voice telecommunication services SAC 9984. According to their submissions, these services provided to GHMC are not related to any specific project or specific scheme of Government and are provided to GHMC to be used by employees for general office and administrative purposes. Further under serial no.3 of Notification No. 12/2017 dated: 28.06.2017 their services qualify to be pure services rendered in relation to functions entrusted to a municipality under Article 243W of constitution of India. In light of the said notification the applicant finds that such services are exempt from tax under GST and hence this application.

5.Questions raised:

The Applicant would like to seek a ruling on whether the supply of 'telecommunication services' to local authority (Greater Hyderabad Municipal Corporation) by applicant is a taxable services under Section 9(1) of the CGST Act, 2017 and/or exempted vide Sr. No. 3 (Chapter 99) of Table mentioned in Notification No. 12/2017- Central Tax (Rate) dated 28 June 2017.

6.Personal Hearing:

The Authorized representatives Smt. Heena Amreen, AGM Taxation attended the personal hearing held on 28.06.2022. The authorized representatives reiterated their averments in the application submitted and requested to dispose their application on merits at the earliest.

7.Discussion & Findings:

Under the Article 243W of Constitution of India, municipalities may be entrusted with the responsibilities for:

- i.Preparation of plans for economic development and social justice.
- ii.Performance of functions and implementation of schemes in relation to matters listed in 12th schedule.
- iii.Under the schedule 12 to Constitution of India, the functions and schemes are as follows:
 - iv.1. Urban planning including town planning.
 - v.2. Regulation of land-use and construction of buildings.
 - vi.3. Planning for economic and social development.
 - vii.4.Roadsand bridges.
 - viii.5.Watersupplyfor domestic,industrialandcommercialpurposes.
 - ix.6.Publichealth,sanitationconservancyandsolidwastemanagement.
 - x.7.Fire services.
 - xi.8. Urban forestry, protection of the environment and promotion of ecological aspects.
 - xii.9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
 - xiii.10. Slum improvement and up gradation.
 - xiv.11. Urban poverty alleviation.
 - xv.12. Provision of urban amenities and facilities such as parks gardens, playgrounds.

- xvi.13. Promotion of cultural, educational and aesthetic aspects.
- xvii.14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
- xviii.15. Cattle ponds; prevention of cruelty to animals.
- xix.16. Vital statistics including registration of births and deaths.
- xx.17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
- xxi.18. Regulation of slaughter houses and tanneries.

Now under serial no. 3 of Notification No. 12/2017 pure services provided "in relation to any function" entrusted to a municipality under Article 243W of the Constitution of India is eligible for exemption from GST. Clearly the exemption should be directly related to the functions enumerated under Article 243W of the Constitution of India i.e., those functions listed under 12th schedule .

The Hon'ble Supreme Court of India in the case of Doypack Systems Pvt. Ltd. vs. Union of India (UOI) and Ors. (12.02.1988 - SC) AIR 1988 SC 782 clarified the meaning of the expression "in relation to" as follows:

"In this connection reference may be made to 76 Corpus Juris Secundum at pages 620 and 521 where it is stated that the term 'relate' is also defined as meaning to ring into association or connection with. It has been clearly mentioned that "relating to" has been held to be equivalent to or synonymous with as to "concerning with" and "pertaining to".

Similarly the Hon'ble Supreme Court of India in the case of Madhav Rao Jivaji Rao Scindia Vs Union of India AIR 1971 SC 530 observed that the expression "relating to" means to bring into relation or establish a relation. It was further clarified that there should be a direct and immediate link with a covenant and that there cannot be any independent existence outside such covenant.

The applicant is providing data and voice services to GHMC and to the employees of the municipalities and there is no direct relation between the services provided by the applicant and the functions discharged by the GHMC under Article 243W read with schedule 12 to the Constitution of India. Therefore these services do not qualify for exemption under Notification No. 12/2017.

8.The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
The Applicant would like to seek a ruling on whether the supply of 'telecommunication services' to local authority (Greater Hyderabad Municipal Corporation) by applicant is a taxable services under Section 9(1) of the CGST Act, 2017 and/or exempted vide Sr. No. 3 (Chapter 99) of Table mentioned in Notification No. 12/2017- Central Tax (Rate) dated 28 June 2017.	For the reasons mentioned above the supply of telecommunication services to local authority is a taxable service

S. V. Kasi Visweshwar Rao

B. Raghu Kiran

ADDL. COMMISSIONER (State Tax)

ADDL. COMMISSIONER (Central Tax)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

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