

GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD:380009	
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ADVANCE RULING (APPEAL) NO. GUJ/GAAAR/APPEAL/2023/03
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/24)

Date: 29.03.2023

Name and address of the appellant	:	M/s. Sankalp Facilities and Management Services Pvt. Ltd., C-53, Amrapali Society, Near Vrajdharm, Manjalpur, Vadodara, Gujarat-390011
GSTIN of the appellant	:	24ABCCS8100M1ZC
Advance Ruling No. and Date	:	GUJ/GAAR/R/51/2021 DATED 06.09.21
Date of appeal	:	08.10.2021
Date of Personal Hearing	:	06.01.2023
Present for the appellant	:	Shri Mahavir Gadhavi (Advocate)

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017' and the 'GGST Act, 2017') are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. The present appeal has been filed under Section 100 of the CGST Act, 2017 and the GGST Act, 2017 by M/s Sankalp Facilities and Management Services Private Limited (hereinafter referred to as Appellant) against the Advance Ruling No. GUJ/GAAR/R/51/2021 dated 06.09.2021.

3. Brief facts of the case:

3.1 M/s Sankalp Facilities and Management Services Pvt. Ltd., C-53, Amrapali Society, Near Vrajdharm, Manjalpur, Vadodara Gujarat (hereinafter referred to as 'the appellant'), holding GSTIN: 24ABCCS8100M1ZC is engaged in the business of providing manpower supply for housekeeping, cleaning, security, data entry operator etc.

3.2 The appellant submitted that it provides manpower supply services to several Government authorities/ entities and that the appellant is eligible to claim exemption benefit under Sr.No.3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.



for pure services (supply of manpower, security service) provided to Central Government, State Government, Local authorities, Government entities as detailed, in their application, subject to the condition that the services provided to these entities mentioned are provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India.

3.3 The appellant sought advance ruling on the following question:

“Whether the appellant is liable to pay GST on manpower services provided to the Central Government, State Government, Local authorities, Governmental authorities and Government entities?”

4. The Gujarat Authority for Advance Ruling (hereinafter referred to as “GAAR”) vide its order No. GUJ/GAAR/R/51/2021 dated 06.09.2021, gave the following ruling to the above question.

“1. The subject supply for the purpose of security, cleaning and housekeeping services provided to the cited schools are exempt from GST.

2. GST is liable to paid on subject supply provided to all cited Government Colleges providing education services of above higher secondary level.

3. GST is liable to be paid on subject supply provided to all cited Government offices.

4. GST is liable to be paid on subject supply provided to all cited Government hospitals.”

5. Being aggrieved with the above Ruling, the appellant has preferred the present appeal on the following grounds:

- (a) The gist of the exemption entry no. 3 of Notification No. 12 of 2017 can be summarized for taking the benefit of the said exemption as under:
 - (i) Pure services are provided
 - (ii) Service recipient is either Central Government or State Government or Local authority or Government entity; and
 - (iii) Such services provided should be by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the



Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India.

- (b) The learned authority has misconstrued the term 'in relation to' stated in the notification entry. The term 'in relation to' used in above exemption is very much wide enough to cover every kind of services that results in performance of the functions as mentioned in 243W and 243G of the Constitution of India either directly or indirectly. Even the services provided for enabling the organisation to perform defined functions would also be covered as a reason of usage of words 'in relation to'. In the case of Doypack Systems P. Ltd., Vs. UOI as reported in (1988) 36 ELT 201 (S.C.) it was held that "*the expression 'in relation to' (so also 'pertaining to') is a very broad expression which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context. It also held that the expression 'in relation to' has been interpreted to the words of widest amplitude*".
- (c) They rely on the order of Advance Ruling Authority in the case of A.B. Enterprise vide order GUJ/GAAR/R/2020/18 wherein appellant is engaged in supplying manpower for security and housekeeping to the Central Government, State Government and Local authority. Though the order is conditional but the analysis of certain work order clearly suggests that if the service recipient i.e. Central Government , State Government, Local authority is involved in any functions as per Article 243G or 243W, then the pure services provided to them would be eligible for exemption from payment of tax. That the case of the appellant is squarely covered in the aforesaid ruling.
- (d) The authority has erred in examining services provided by the appellant to various Government schools, by examining the same within the limited scope of Entry No.66 of the said notification. The appellant had sought exemption under the provisions of Entry No.3 of the said notification. Entry No. 66 is not limited to services provided to Government educational institutions, rather it is applicable to services provided to all educational institutions, whether Government or Private, and hence there is restriction in making such exemption applicable only to institutions providing services up to higher secondary school or equivalent. However, there is no such proviso or limitation applicable to exemption sought under the provisions



of Entry No.3 of the Notification, as the same is applicable to Only Government institutions. Article 243G of the Constitution of India and the Eleventh Schedule , to which the Entry No.3 relates, at serial number 17 of the Eleventh Schedule the words used are 'education, including primary and secondary', therefore the same will cover education even beyond secondary education and shall include i.e. even College and Universities. The appellant has not sought exemption under Entry No. 66, as the appellant is entitled and falls within the exemption granted under Entry No.3 of the Notification as the Institutions are Government Institutions. Therefore the authority has erred in considering the case of the appellant as regards to services provided to Government education institutions under Entry No. 66 of the Notification.

- (e) The GAAR has erred in holding that the services provided by the appellant to the Government Colleges are not exempted, by wrongly applying Entry No. 66 of the Notification. The appellant had specifically sought exemption under Entry No.3 of the Notification, as all the three pre-requisite conditions for applicability of Entry No.3 exemption are met with by the appellant by providing pure services to the Government Colleges in relation to any function entrusted to a Municipality /Panchayat under Article 243 G and 243W of the Consitution of India. Therefore such services are covered under the Exemption granted vide Entry No. 3 of the Notification.
- (f) The GAAR has erred in holding that the services provided by the appellant to Government Hospitals including Veterinary Hospitals are not exempted. The appellant had specifically sought exemption under Enty No. 3 of the Notification, as all the three pre-requisite conditions for applicability of Entry No. 3 of exemption are met with by the appellant by providing pure services to the Government Hospitals in relation to any function entrusted to a Municipality / Panchayat under Article 243G and 243 W of the Constitution of India. Hospitals are community assets and therefore even the cleaning, security etc services are even otherwise directly in relation to Serial No. 29 of the Eleventh Schedule i.e. maintenance of community assets.
- (g) The GAAR erred in holding that there is no notification exempting services provided to/in Government offices. While it is admitted that there is no Entry exempting such services provided to all Government offices, but Entry No.3 does specifically cover the case of Government offices

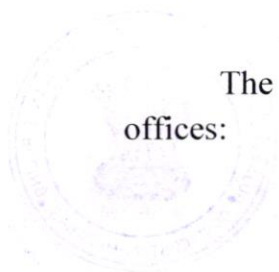


carrying out the functions enumerated in the Eleventh and the Twelfth Schedule of the Constitution of India. Entry no. 3 of the notification is specifically exempting such services and services 'in relation to...' provided to various Government offices. They place reliance on the judgement of Hon'ble Supreme Court of India in the case of T.N.Kalyana Mandapam Assn. Vs. UOI & Ors. reported in 2004 5 SC 632.

- (h) In light of the above the appellant submitted that the exemption is not limited to functions mentioned in the Eleventh and Twelfth of the Constitution of India, but it extends to every kind of service that results in performance of such functions either directly or indirectly and includes even the services provided for enabling the organisation to perform defined functions.
- (i) The services provided by the appellant to the various State Government departments and Government authorities/ entities are therefore covered and eligible for exemption in light of the fact that they are in relation to functions entrusted to a Panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India.
- (j) The appellant is therefore providing manpower supply services to several Government authorities/ entities which are eligible for exemption in view of the above. The authority be pleased to rule that the appellant is eligible to claim exemption benefit under Sr.No.3 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 for pure services (supply of manpower, security service) provided to Central Government , State Government, Local authorities, Governmental authorities, Government entities as detailed above subject to the condition that the services provided to these entities mentioned above are provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India.

5.1 During the course of virtual personal hearing held on 06.01.2023, the authorized representative for the appellant, Shri Mahavir Gadhavi (Advocate) reiterated the submissions made in their appeal. Further also furnished additional written submissions vide which it was submitted as under:

The 155 work orders issued by different offices can be further streamlined into 25 offices:



- a) Office of the Collector & District Magistrate, Valsad and Chhota Udepur:
(Category: State Government).

These offices perform various functions under Article 243G and 243W and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India. GAAR had given exemption in similar case to A.B. Enterprise vide their order dated 19.05.2020.

- b) Office of the District Social Welfare Officer, Valsad and Chhota Udepur:
(Category: State Government).

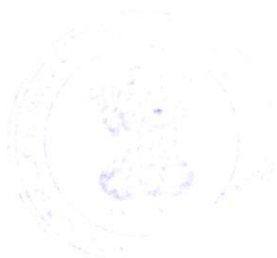
These offices perform various functions under Article 243 G and 243 W specifically Entries no. 16, 24, 25, 26, 27, 28 of Article 243G and Entries No. 6 and 11 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority vide order dated 19.05.2020

- c) District Panchayat, Valsad (including its subordinate offices):
(Category: Local Authority)

These offices perform all the functions under Article 243 G and the appellant provides various manpower services for the work of peon, driver, data entry operator, security etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance



Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- d) Water resource development department Damanganga & its offices:

(Category: State Government)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 3 and 11 of Article 243G and Entries No. 5 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- e) Office of the Vidhyut Nirikshak, Valsad:

(Category: State Government)

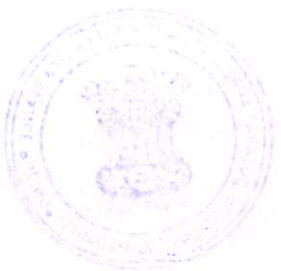
These offices perform various functions under Article 243 G specifically Entry no. 14 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator, security etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- f) Water resource development department (Chhota Udepur) & its offices:

(Category: State Government)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 3 and 11 of Article 243G and Entries No. 5 of Article no. 243W, and the appellant provides various manpower services



for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- g) Office of the Deputy Conservator of Forest, Chhota Udepur:
(Category: State Government)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 6,7, 27 of Article 243G and Entries No. 8 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- h) Office of the District Rural Development Agency, Valsad:
(Category: State Government)

These offices perform various functions under Article 243 G specifically Entries no. 6, 9, 10, 11, 16, 25 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance



Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

i) Centre of Excellence for Floriculture and Mango:

(Category: Government Authority)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 1 of Article 243G and Entries No. 5 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

j) Office of the Deputy Director – Agriculture, (Valsad & Chhota Udepur) & its offices:

(Category: State Government)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 1 and 29 of Article 243G and Entries No. 8 and 17 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

k) Government General Hospital, Chhota Udepur:

(Category: State Government)



These offices perform various functions under Article 243 G and 243 W specifically Entries no. 23 of Article 243G and Entries No. 6 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, housekeeping, security etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- l) Office of the District Education officer, (Valsad & Chhota Udepur).
(Category: State Government)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 17 and 25 of Article 243G and Entries No. 13 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- m) Office of the Prayojana vahivatdar, Valsad & Chhota Udepur:
(Category: State Government)

These offices perform various functions under Article 243 G specifically Entries no. 16, 17 and 27 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.



Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- n) Office of the Matsya Udhyog Adhikshak:
(Category: State Government)

These offices perform various functions under Article 243 G specifically Entries no. 5, 7, and 8 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- o) Agricultural Technology Management Agency:
(Category: Government Authority)

These offices perform various functions under Article 243 G specifically Entries no. 1,7, 27 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.

- p) Office of the Deputy Director of Animal Husbandry Valsad:
(Category: State Government)

These offices perform various functions under Article 243 G specifically Entries no. 4 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator, sweeper, security etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.



Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

q) District Udhyog Centre, Valsad:

(Category: State Government)

These offices perform various functions under Article 243 G specifically Entries no. 8 & 9 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator, security, housekeeping etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

r) Gujarat Landless Labour & Agriculturalist Housing Board:

(Category: Government Authority)

These offices perform various functions under Article 243 G specifically Entries no. 10, 16, 26, 27 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

s) District Institute of Training & Education, Valsad:

(Category: Government Authority)



These offices perform various functions under Article 243 G and 243 W specifically Entries no. 18 & 19 of Article 243G and Entries No. 9 & 13 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- t) **GIRLS LITERACY RESIDENTIAL SCHOOL, KARCHOND (GSTES):**
(Category: Government Authority)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 17 & 27 of Article 243G and Entries No. 9 & 13 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

- u) **Government Science College, Pardi (Valsad):**
(Category: Government Authority)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 17, 18 & 19 of Article 243G and Entries No.13 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of



various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

v) Shri C.H. Bhil Govt. Arts & Commerce College, Naswadi:

(Category: Government Authority)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 17, 18 & 19 of Article 243G and Entries No.13 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

w) Office of the Assistant Director of Libraries:

(Category: Government Authority)

These offices perform various functions under Article 243 G and 243 W specifically Entries no. 20 of Article 243G and Entries No.12, 13, and 17 of Article no. 243W, and the appellant provides various manpower services for the work of peon, driver, data entry operator etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G and 243W of the Constitution of India.

Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance



Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

x) Model School, Naswadi:

(Category: State Government)

No submissions as exemption already granted by the advance ruling authority.

y) National Highway Authority of India:

(Category: Government Authority)

These offices perform various functions under Article 243 G specifically Entries no. 13 of Article 243G, and the appellant provides various manpower services for the work of peon, driver, data entry operator, security etc. to help in the fundamental works entrusted upon the concerned offices in discharge of various responsibilities under Article 243G of the Constitution of India.

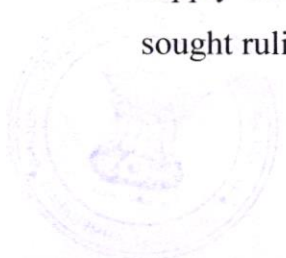
Identical work order is determined to be exempted under Entry at Sr. no. 3 of the notification no. 12/2017 in case of A.B. Enterprise by the Advance Ruling Authority in Advance Ruling No. GUJ/GAAR/R/2020/18 vide order dated 19.05.2020.

5.2 In pursuance to transfer of Member (SGST), the appellant was informed regarding the same for fresh personal hearing in the matter. The appellant vide his letter/mail dated 14.03.2023 requested to decide the appeal on the basis of material submitted physically as well as on mail and material already on record.

Discussions & Findings:

6. We have gone through the facts of the case as submitted in the Appeal papers, the Ruling of the GAAR, documents on record and oral as well as all the written submissions made by the appellant.

7.1 We find that the appellant is engaged in the business of providing manpower supply for housekeeping, cleaning, security, data entry operator etc. The appellant has sought ruling on the following:



“Whether the appellant is liable to pay GST on man power services provided to the Central Government, State Government, Local authorities, Governmental authorities and Government entities?”

7.2 The appellant has relied upon Entry No.3 to Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 for claiming exemption on supply of manpower services provided to the Central Government, State Government, Local authorities, Governmental authorities and Government entities. The extracts of the said entry No. 3 to Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended, relied upon by the appellant for claiming exemption is reproduced below:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	Nil

7.3 The following three conditions need to be fulfilled for availing exemption under the above referred entry:

- i) There should be supply of pure services;
- ii) The recipient of services should be Central Government, State Government or Union territory or local authority;
- iii) The services provided should be by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

7.4 We find that the words "or a Governmental authority or a Government Entity" in the heading Description of services against above referred Entry No.3 has been omitted vide Notification No. 16/2021-Central Tax (Rate) dated 18.11.2021.



7.5 We find that GAAR in their findings stated that they have examined 155 contracts/ work orders presented by the appellant before the advance ruling authority. They categorized the service recipients into broadly four categories as under:

- i) Government Schools
- ii) Government Colleges
- iii) Government Offices
- iv) Government Hospitals

The GAAR extended the benefit of exemption to Government Schools not under Entry Sl.No.3 but under Entry Sl. No. 66 to Notification No. 12/2017-CT (Rate) dated 28.06.2017 as amended. They denied the benefit of exemption to Government Colleges under the said Entry Sl. No.66 and denied the benefit of exemption to Government Hospitals under Entry Sl. No. 46 and 74 of notification ibid. They further denied the benefit of exemption to Government offices under Entry Sl. No. 3 of Notification No. 12/2017-CT (rate) dated 28.06.2017.

7.6 The GAAR, on examination of all the contracts of the appellant, has not given any adverse findings with regard to supply of pure services and the recipient of services as required under Entry No.3 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 as amended. They have examined the requirement of condition mentioned at Sr.(iii) of Para 7.3 above and denied the benefit of exemption notification to the appellant on non-fulfillment of the said condition only.

7.7 The main contention of the appellant is that their supply of manpower services against 155 work orders are eligible for exemption under Entry No.3 of Notification No.12/2017-CT (Rate) dated 28.06.2017 as amended.

The GAAR has given the benefit of exemption to manpower supply by the appellant to the recipient of service viz. Girls Literacy Residential School, Karchond (GSTES) & Model School, Naswadi. The benefit of exemption was given under Entry No. 66(b) to Notification No.12/2017-CT (Rate) dated 28.06.2017. The extract of same is as follows:

Sl. No.	Chapter, Section, Heading, Group or Service	Description of Services	Rate (per cent.)	Condition



	Code (Tariff)			
(1)	(2)	(3)	(4)	(5)
66	Heading 9992 or Heading 9963	Services provided - (a) by an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; (b) to an educational institution, by way of,- (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; (v) supply of online educational journals or periodicals: Provided that nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course.	Nil	Nil

With regard to other service recipients the contention of the appellant, for claiming benefit of exemption, is that the term 'in relation to' used in the exemption provided at Entry No. 3 of Notification No. 12/2017-CT (Rate) dated 28.06.2017, as amended, is very much wide enough to cover every kind of services that results in performance of the functions as mentioned in Article 243W and 243G of the Constitution of India either directly or indirectly. Therefore their supply of manpower services for housekeeping, cleaning, security, data entry operator etc. to the referred service recipients are eligible for exemption under the above said entry.



7.7.1 We do not find any basis in the above contention of the appellant. Firstly if the intention of the legislature was to exempt all the services provided to Central Government, State Government or Union Territory or Local authority then there was no need to specify activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution. Even though the appellant is providing services to the Government offices concerned, but they are in no way related to the function entrusted to a Panchayat under article 243G of the Constitution or function entrusted to a Municipality under article 243W of the Constitution, which is carried out by the Government concerned.

7.8 The appellant in their appeal has admitted that there is no Entry exempting such services provided to Government offices. The appellant is however mistaken to assume that the Entry No.3 specifically exempts all the services provided to Government offices carrying out the functions enumerated under article 243G of the Constitution or article 243W of the Constitution. The manpower services provided by the appellant like housekeeping, cleaning, security, data entry operators etc are consumed within the premises of concerned Government offices enumerated above. These services were not related to any activity in relation to any function carried out by these service recipients as entrusted under article 243G or 243W of the Constitution of India.

7.9 The judgments relied upon by the appellant are not relevant as the same are delivered in different facts of the case. Further in the case of M/s. A. B. Enterprise, relied upon by the appellant, the GAAR held that the exemption is subject to the condition that the services provided are services provided by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution of India or in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India. The aforesaid order is not relevant as in the present case it is being held that the services in question are not related to any activity in relation to any function carried out by the service recipients as entrusted under article 243G or 243W of the Constitution of India. Further we are of the view that as per Section 103 of the CGST Act, any Advance Ruling is binding only on the appellant who has sought it and on the concerned officer or the jurisdictional officer in respect of the appellant.



8. In view of the foregoing we find that the manpower supply by the appellant for housekeeping, cleaning, security, data entry operators etc. to various Government departments, mentioned in their application, is not eligible for exemption against Entry No. 3 to Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended.

9. In view of the above findings, we reject the appeal filed by appellant M/s Sankalp Facilities and Management Services Pvt. Ltd., against Advance Ruling No. GUJ/GAAR/R/51/2021 dated 06.09.2021 of the Gujarat Authority for Advance Ruling.



(Samir Vakil)

Member (SGST)



(Vivek Ranjan)

Member (CGST)



Place: Ahmedabad

Date: 29.03.2023