



BEFORE THE AUTHORITY FOR ADVANCE RULINGS

for the State of Andhra Pradesh (Goods and Service Tax)
(5th Floor, O/o Chief Commissioner of Commercial Taxes, D.No:5-56, Block-B, R.K
Spring Valley Apartments, Edupugallu, Vijayawada-521151.)

Present:

Sri. J.V.M Sarma (Member)

Sri.Amaresh Kumar (Member)

The 2nd day of July 2018

Ruling No. AAR/AP/07(GST)/2018

In

Application No.AAR/12(GST)/2018

1	Applicant	M/s AMARAVATHI METRO RAIL CORPORATION LIMITED (GSTIN:37AANCA9264G1Z8) # 40-3-18, 1 st Floor, Gummadi Gopala Rao Street, Labbipet, Vijayawada.
2	Jurisdictional Officer	Assistant Commissioner of State Tax, Krishna Lanka Circle, Vijayawada
3	Present for the Applicant	Sri R.Narasimha Murthy
4	Present for the Jurisdictional Officer	Remarks Remarks
5	Date of Personal hearing	25 th June 2018

Note: Under Section 100 of the APGST Act'2017, an appeal against this ruling lies before the appellate authority for advance ruling constituted under section 99 of APGST Act'2017, within a period of 30 days from the date of service of this order.

M/s AMARAVATHI METRO RAIL CORPORATION LIMITED, # 40-3-18, 1st Floor, Gummadi Gopala Rao Street, Labbipet, Vijayawada, Andhra Pradesh, India(hereinafter also referred as **applicant/AMRCL**), having GSTIN: 37AANCA9264G1Z8 is incorporated under the Companies Act,2013 to undertake the development of Vijayawada Metro Rail Project. The applicant undertakes transport studies such as comprehensive Mobility Plan, Transit Oriented Development Plan, Integrated Public Transport Plan, and Non Motorized Transport plan and preparation of Detailed Project Reports (DPRs) of the Metro Rail Projects in Andhra Pradesh. The above activities of the applicant are undertaken by third party vendors providing Consultancy Services on behalf of the applicant.

2. The applicant has filed an application in Form ARA-01, dated 31.05.2018, for seeking advance ruling on following issues:

- ❖ Whether M/s AMARAVATHI METRO RAIL CORPORATION LIMITED, GSTIN: 37AANCA9264G1Z8, is a Government authority as per the Notification No. 12/2017 of Central Tax (Rate), dated:28th June 2017, read with Notification No. 32/2017 of Central Tax (Rate), dated : 13th October 2017.
- ❖ Whether the consultancy services for preparation of transport studies such as comprehensive mobility plan, transit oriented development plan, NMT plan and consultancy services of transaction advisors/preparation of DPRs comes within the purview of the functions of Municipality under article 243W read with Twelfth Schedule to the constitution of India, to fall within the purview of the aforesaid exemption notification.


As per the Section 98(1) of CGST/ APGST Act'2017, copy of the said application is forwarded to the Jurisdictional Tax Officer, i.e Assistant Commissioner (State Tax), Krishna lanka Circle, Vijayawada to offer their remarks if any, as the taxpayer was allotted to 'STATE' in the bifurcation of taxpayers between the 'CENTRE' and the 'STATE'. A mail dated 21st June 2018 is received from the jurisdictional officer indicating that no issues / proceedings are pending on the questions raised by the applicant in his application.

3. A personal hearing is fixed on 25th June 2018, wherein Shri. R.Narasimha Murthy, an authorized representative of the applicant attended and made submissions on the issues raised in their application before the members of this authority.

Discussions and Findings

4.1 We have gone through the application filed by the applicant and written / oral submission made by them. We will discuss up the issue one by one.

4.2.1 It would be prudent to examine the definition of Government / Government entity as per the statute. In terms of notification 12/2017,dated 28th June 2017. "governmental authority" has the same meaning as assigned to it in the Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017). As per clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017,



"governmental authority" means an authority or a board or any other body,-

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,

with ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

4.2.2 We have observed that AMRCL is a SPV which is set up vide Government of Andhra Pradesh G.O.Ms 141 of MA &UD. The applicant has also submitted that it is 100% owned by state of A.P.; that it is answerable to Government of Andhra Pradesh; that its Chairman is the Principal Secretary. The Government of Andhra Pradesh, issued G.O. Rt.No: 599, MA&UD(H2) Department, dated : 14.09.2015, in which, the Government of Andhra Pradesh has decided that the special purpose vehicle for Vijayawada Metro Rail Project, hence forth be called as ' AMARAVATHI METRO RAIL CORPORATION LIMITED (AMRC)'. Based on above facts, it is evident that the applicant is a Government authority as per the Notification No. 12/2017 - Central Tax dated 28th June 2017.

4.3.1 Now we will examine Whether the consultancy services for preparation of transport studies such as Comprehensive Mobility plan, Transit Oriented Development Plan, Integrated Public Transport Plan and Non Motorized Transport plan (IPT &NMT)plan and consultancy services of Transaction Advisors/ preparation of Detailed Project Reports Metro Rail Projects, Circular Rail Project in Capital region of AP, , comes within the purview of the functions of Municipality under article 243W r/w Twelfth Schedule to the Constitution of India. The abstract of relevant provisions are reproduced hereunder:

Article 243 W : Powers, authority and responsibilities of Municipalities, etc
Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

List of items covered under 12th Schedule of Indian Constitution:

1. Regulation of land use and construction of land buildings.



2. Urban planning including the town planning.

3. Planning for economic and social development
4. Urban poverty alleviation
5. Water supply for domestic, industrial and commercial purposes
6. Fire services
7. Public health sanitation, conservancy and solid waste management
8. Slum improvement and up-gradation
9. Safeguarding the interests of the weaker sections of society, including the physically handicapped and mentally unsound
10. Urban forestry, protection of environment and promotion of ecological aspects
11. Construction of roads and bridges
12. Provision of urban amenities and facilities such as parks, gardens and playgrounds
13. Promotion of cultural, educational and aesthetic aspects
14. Burials and burials grounds, cremation and cremation grounds and electric crematoriums
15. Cattle ponds, prevention of cruelty to animals
16. Regulation of slaughter houses and tanneries
17. Public amenities including street lighting, parking spaces, bus stops and public conveniences
18. Vital statistics including registration of births and deaths

4.3.2 Urban Planning is a function entrusted to Municipality under Article 243 W of the Constitution. The applicant has invited our attention to Ministry of Urban Development, Government of India in K-14011/07/2007/Metro/UT dt.29-08-2007, addressed to all the Chief Secretaries of the States and Union Territories, informing the decision that the urban transport and urban planning must go together and that urban transport is an integral part of urban development, which will help in ensuring that urban transport remains an integral part of urban planning at all the times and cities are planned in a wholistic manner. Therefore, we held that Urban Transportation also is a part of Urban Planning.

4.3.3 Further more, the proposed activity of AMRCL also appears to be getting covered under following items of the 12th Schedule:

“Public amenities including street lighting, parking spaces, bus stops and public conveniences”

4.3.4 As submitted by the applicant, AMRCL has entrusted the following transport studies,

- (a) The Transit Oriented Development Plan for Vijayawada.



- (b) Transit Oriented Development Plan for Visakhapatnam.
- (c) Comprehensive Mobility plan for Vijayawada.
- (d) Comprehensive mobility plan for Visakhapatnam.
- (e) CMPs for nine (9) Municipalities in the AP state.
- (f) Integrated public transport plan and non-motorized transport plan for Vijayawada.
- (g) Transaction Advisory services for Visakhapatnam Metro.
- (h) DPR for high speed sub-urban Rail (Circular Rail) in Capital Region of AP

As discussed in preceding paragraph, all the above activity is in the nature of urban transportation and urban planning and we held that the same is covered under the purview of the functions of Municipality under article 243W read with Twelfth Schedule to the constitution of India, and the same fall within the purview of the aforesaid exemption notification 12/2017-Central Tax (Rate), dated : 28th June 2017.

5. Accordingly, we give the following ruling:

RULING

- (i) The applicant / AMRCL is a Government Authority as per Notification No. 12/2017-CT (Rate, dated 28.06.2017).
- (ii) The consultancy services for preparation of transport studies such as comprehensive mobility plan, transit oriented development plan, NMT plan and consultancy services of transaction advisors/preparation of DPRs comes within the purview of the functions of Municipality under article 243 read with Twelfth Schedule to the constitution of India, and accordingly, falls within the purview of the aforesaid exemption notification.



Sd/-(J.V. M .SARMA)
Joint Commissioner (State Taxes),
Authority for Advance Ruling,
Andhra Pradesh.



Sd/- (AMARESH KUMAR)
Joint Commissioner (Central Taxes),
Authority for Advance Ruling
Andhra Pradesh.

