

**AUTHORITY FOR ADVANCE RULING, TAMILNADU**  
**INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,**  
**5<sup>TH</sup> FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,**  
**CHENNAI - 600 003.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE**  
**GOODS AND SERVICES TAX ACT, 2017.**

**Members present are:**

1. Thiru Senthilvelavan B., I.R.S, Member/ Additional Commissioner,  
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru KurinjiSelvaan V.S., M.Sc., (Agri.), M.B.A., Member/Joint Commissioner (ST)  
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

**ORDER No. 03/AAR/2021 DATED: 26.02.2021**

GSTIN Number, if any / User id		33AAALM0037B1ZV
Legal Name of Applicant		Chennai Metropolitan Water Supply and Sewerage Board
Registered Address/Address provided while obtaining user id	Chennai Metropolitan Water Supply and Sewerage Board No.1, Pumping Station Road, Chintadripet, Chennai 600 002.	
Details of Application		GST ARA- 01 Application Sl.No.28/2020 ARA dated: 24.12.2020
Concerned Officer		State: Assistant Commissioner(ST) Chintadripet Assessment Circle, Centre: Chennai North Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		Service Provision
A	Category	Service provision
B	Description (in Brief)	Chennai Metro water Supply and Sewerage Board is a governmental authority Providing drinking water and off-take of sewerage in the Chennai Metropolitan area
Issue/s on which advance ruling required		1. Applicability of a notification issued under the provisions of this Act 2. Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		Whether GST is applicable on supply of safe drinking water for public purpose by Chennai Water Desalination Plant Limited (CWDL) to Chennai Metrowater Supply and Sewerage Board (CMWSSB)

**Note:** Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Chennai Metropolitan Water Supply and Sewerage Board , (hereinafter called the Applicant) is a governmental authority Providing drinking water and off-take of sewerage in the Chennai Metropolitan area. They are registered under GST with GSTIN. 33AAALM0037B1ZV . The applicant has sought Advance Ruling on:

Whether GST is applicable on supply of safe drinking water for public purpose by Chennai Water Desalination Plant Limited (CWDL) to Chennai Metrowater Supply and Sewerage Board (CMWSSB).

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that, Chennai Water Desalination Plant Limited is supplying desalinated water through pipeline to them for distribution of drinking water to general public. Sl No. 99 of Notification 2/2017-C.T.(Rate) dated 28/06/2017 exempts the following:

HSN 2201 water (other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container)

Clarification Circular No. 52/26/2018-GST on the Applicability of GST on supply of safe drinking water for public purpose has stated that:

Representations have been received seeking clarification regarding applicability of GST on supply of safe drinking water for public purpose.

The Circular specifically addresses a specific issue **“on supply of safe drinking water for public purpose”**.

Commissioner of GST in his letter C.No IV/16/100/2018/tech dated 28/12/2018 has brought in this clarification circular and applied “drinking water for public purposes” and ignored the general wording “Water” appearing in Notification 2/2017 with HSN code 2201 which is exempted.

They have stated that Water whether supplied at a price or not are exempted as per Notification 2/2017 is irrespective of whether supplied to different categories like domestic, industrial, institutions and commercial.

2.2 They have further stated that Notification of 12/2017-C.T.(Rate) dated 28.06.2017 treats CMWSSB as a Government authority. Governmental authority is defined as:

“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):

Explanation to Clause (16) of Section 2 of the Integrated Goods and Service Tax Act (IGST) is given as under:

Explanation – For the purposes of this clause, the expression “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 percent, or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

This definition was later modified vide Notification No. 32/2017-Central Tax (Rate) dt. 13.10.2017

“(ii) in paragraph 2, for clause (Zf), the following shall be substituted, namely; (zf) “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 90 percent or more participation by way of equity or control, to carry out any function entrusted to a

Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.”

2.3 They have further stated that Notification No.32/2017 and AAR Tamil Nadu ruling order No. 22/AAR/2018 dated November 28, 2018 confirms CMWSSB as a government Authority. They have stated that Ruling is sought for applicability of Sl No. 99 of notification 2/2017 to the transaction of supply of safe drinking water for public purpose by Chennai Water Desalination Plant Limited (CWDL) to Chennai Metro water supply and Sewerage Board (CMWSSB)

3.1 The applicant was given an opportunity to be virtually heard on 19.02.2021. The Authorised representatives appeared for the hearing. They stated that they wanted ruling on the applicability of GST on the receipt of water from the Chennai Water Desalination Plant Limited(CWDL). They were informed that Advance Ruling can be sought only for the supplies being made or proposed to be made but as a recipient the ruling cannot be sought and the representatives agreed.

4.1 We have carefully examined the submissions of the applicant in their application. It is seen that the applicant seeks ruling on the applicability of GST on the water received from Chennai Water Desalination Limited through Pipeline. The admissibility of the application was examined during the hearing extended to them. The applicant stated that they had sought ruling regarding applicability of GST on receipt of the water, the activity in which they are recipient and not supplier of Water. Thus, the question is on the liability to pay tax on the supply made to them and not on the supply made by them.

4.2 Section 95 (a) of CGST and TNGST Act defines ‘advance ruling’ as

*(a) “advance ruling” means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;*

From the above, it is evident that an applicant can seek an Advance Ruling only in relation to supply of goods or services or both undertaken or proposed to be undertaken by them. Further, as per Section 103(1) of the GST Act, the ruling is binding only on the applicant and the concerned officer or the jurisdictional officer of the applicant. In the case at hand, the applicant is the recipient of the services

and not supplier of such service. Accordingly, this question is not liable for admission and therefore rejected without going into the merits of the case.

5. In view of the above, we rule as under

**RULING**

The application is not admitted, under Section 98(2) read with Section 95(a) of the CGST Act, 2017/TNGST Act, 2017 for the reasons mentioned in para 4 above.

*Senthan*  
26/2/21

Shri Kurinji Selvaan V.S.,  
Member, TNGST



*Senthan*  
26/2/21

Shri Senthilvelavan. B  
Member, CGST

To  
M/s. Chennai Metropolitan Water Supply and Sewerage Board  
No.1, Pumping Station Road, Chennai-6, T.N.  
Chintadripet, Chennai 600 002.

**// BY SPEED POST WITH ACK.DUE //**

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,  
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,  
11ndFloor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & Central Excise,  
Chennai North Commissionerate
4. Assistant Commissioner(ST)  
Chintadripet Assessment Circle,  
1st Floor, PAPJM Annexe Building,  
1, Greams Road,  
Chennai - 600 006.
5. Master File/ Spare - 2.

