

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Smt. P Vinitha Sekhar, Addl. Commissioner of Central Tax, (Member)

(2) Shri. A. A. Chahure, Joint Commissioner of State Tax, (Member)

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| GSTIN Number, if any/ User-id | | 27AAALM0042L3Z4 |
| Legal Name of Applicant | | MUNICIPAL CORPORATION OF GREATER MUMBAI |
| Registered Address/Address provided while obtaining user id | | MUNICIPAL CORPORATION OF GREATER MUMBAI CHIEF ACCOUNTANT FINANCE, MUNICIPAL HEAD OFFICE, 4TH FLOOR, ANNEX BUILDING, MAHAPALIKA MARG, Maharashtra Mumbai 400001 |
| Details of application | | GST-ARA, Application No. 60 Dated 05.11.2019 |
| Concerned officer | | MUM-VAT-E-610,NODAL 4, MUMBAI |
| Nature of activity(s) (proposed/present) in respect of which advance ruling sought | | |
| A | Category | Service Provision ,Service Recipient |
| B | Description (in brief) | Municipal Corporation of Greater Mumbai (MCGM) is availing the services from one of its vendor (VFS Global Limited), by way of provision for Citizen Facilitation Centers (CFC), where a window for payment of Tax (Imposed by MCGM as per the Act) from the citizens under the jurisdiction of MCGM is provided. This facility is used by citizens to make the Payment of various taxes such as Property Tax, Water Tax etc. VFS global raise the invoice to MCGM, based on the number of receipt issued to the Customer as per the contract terms and conditions. Major part of the service charges by VFS global is for providing manpower for collecting the money from citizens. As per the Contract, VFS global has to provide all the necessary equipments/material which will be used for provision of the above services such as Consumables, Printer, Cartridges, computer etc. |
| Issue/s on which advance ruling required | | (ii) Applicability of a notification issued under the provisions of this Act |
| Question(s) on which advance ruling is required | | As reproduced in para 01 of the Proceedings below. |



PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively] by **MUNICIPAL CORPORATION OF GREATER MUMBAI**, the applicant, seeking an advance ruling in respect of the following question.

1. **Whether services provided by VFS global to applicant which are in the nature of collection services should be exempt from GST as per the notification no. 12/2017 of CGST Rate) read with Notification no. 02/2018 CGST (Rate) being pure service provided to the local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution of India.**

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST 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 MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression ‘GST Act’ would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant is as under:-

- 2.1 The Applicant, Municipal Corporation of Greater Mumbai (MCGM), established under the Bombay Municipal Corporation Act, 1888 is availing services from VFS Global Limited (VFS), by way of provision for Citizen Facilitation Centers (CFC), where a window for payment of Tax (Imposed by MCGM as per the Act) from the citizens under the jurisdiction of MCGM is provided. This facility is used by citizens to make payments of various taxes such as Property Tax, Water Cess etc. VFS raises invoices, based on the number of receipt issued to the Customers as per the contract terms and conditions. Major part of the service charges by VFS is for providing manpower for collecting the tax from citizens. As per the contract, VFS provides the necessary equipments/material like Printers, Consumables, Blank receipt, Printer, Cartridges, computer etc, which is used for provision of the above services.



- 2.2 Applicant is empowered to collect taxes like (Water & Property Tax) as per Section 139 of the Mumbai Municipal Corporation Act, 1888. Obligatory duties are performed by MCGM under Article 243W and include Water supply, Urban Planning, etc.
- 2.3 As per Notification No. 12/2017 of CGST, **Pure services** provided to Central Government, State Government or Union territory or **local authority or a** Governmental authority by way of any activity in relation to any function entrusted to a Municipality under Article 243W of the Constitution will be exempt.
- 2.4 Further, vide Notification No. 02/2018 (CGST Rate) dated 25.01.2018 the definition of **Pure Service** is amended to include any Composite supply of goods and services in which the value of the supply of goods constitutes not more than 25 per cent to be exempt from GST if such services are provided to Government.
- 2.5 As per tender requirement, VFS provides goods apart from providing manpower services for collection of cash (Tax) from Citizens. Said goods are neither charged to applicant nor is their ownership transferred to applicant. The goods are not purchased by applicant.
- 2.6 Applicant has cited an advance ruling order passed by Authority of Advance Ruling Delhi bearing No. 06/DAAR/2018 dated 23.04.2018 and also the decision of the Hon'ble High Court of Delhi dated 15.02.2017 passed in respect of a Writ Petition (c) No. 7843/2014 in support of their contention that VFS is supplying Pure Services, being provisioning of only Manpower along with some consumables to the applicant. Further, these services are used for activities in relation to functions entrusted to Applicant), under Article 243W of the Constitution and will therefore be exempt from GST as per GST Laws.

03. CONTENTION – AS PER THE DEPARTMENTAL OFFICER:

The submissions made by the jurisdictional office are as under:-

- 3.1 As per Section 95 (a) of the CGST Act, 2017 and MGST Act, 2017, an advance ruling application can only be preferred by the person who is undertaking or is proposed to undertake supply of goods or services or both. In the present case, applicant is the receiver of services while VFS is the supplier of the said services and therefore, subject application should not be admitted.
- 3.2 Alternatively, citing the decision of this authority dated 04.10.2019 in the case of application filed by VFS, it has been submitted that, the contention of the applicant that the services are in the nature of pure service and are used for any activity in relation to any function entrusted to Municipality under Article 243W of the Constitution will be



exempt from GST as per the notification no. 12/2017 of CGST (Rate) read with Notification No. 2/2018 of CGST (Rate) dated 25 January 2018, is not acceptable.

3.3 Further, there is no relation between service of collection of taxes and activities performed by M/s MCGM in supplying services to citizens related to functions listed in twelfth schedule of article 243W of Constitution of India because the supply of service by VFS starts only after completion of supply of services by the Applicant.

3.4 Hence, Notification No. 12/2017 C.T. (Rate) read with Notification No. 2/2018 C.T. (Rate) is not applicable for the services received by applicant in the instant case.

04. HEARING

Preliminary hearing was held on 02.01.2020. Mr. Sneh Siyar, C.A. appeared, along with Smt. Disha Bagwe, Account Officer, FAR, and Mr. Sachin Gangan, Senior Audit & Account Asstt, and requested for admission of their application. Jurisdictional Officer Mr. Srinivas Bharati, Dy. Commr of State Tax (E-610), Large Tax Unit- 4, Mumbai also appeared and made written submissions. Jurisdictional Officer objected for admission of this application, being not maintainable as per the provisions of law. We heard both sides.

05. OBSERVATIONS AND FINDINGS:

5.1 We have gone through the facts of the case and the written submissions made by both, the applicant and the departmental authority. The issue before us is whether services provided by VFS to the applicant, which are in the nature of collection of taxes, should be exempt from GST as per the Notification No. 12/2017 of CGST (Rate) read with Notification no. 02/2018 CGST (Rate), being pure service provided to local authority by way of any activity in relation to any function entrusted to a Municipality under Article 243W of the Constitution of India.

5.2 This authority is governed by the provisions of Chapter XVII of CGST ACT & the relevant Sections 95 to 98, 102, 103, 104 and 105. As per Section 95, the term 'advance ruling' means a decision provided by this authority to the applicant on matters or questions specified in Section 97(2), in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. As per provision of section 95 of CGST ACT, **this authority can give a ruling to an applicant on matters or questions raised, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.**



- 5.4 We find that the question raised in the subject application, is not in relation to supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. From the submissions made by the applicant, we find that in the subject transaction, they are a receiver of supply of services from VFS. The question raised by Applicant does not pertain to supply of goods or services or both being undertaken or proposed by them.
- 5.5 Hence in view of the provisions of Section 95 of the GST Act, since the supply in the subject case will not be undertaken/is not proposed to be undertaken, by the applicant, we are of the opinion that this authority is not allowed to answer the question raised by the applicant, being out of the purview of Sec. 95 of CGST Act.
- 5.6 We also agree with the contention of the jurisdictional officer that, the applicant is recipient of services and not supplier of services, hence their application is not in accordance with the provisions under Section 95 of CGST ACT and is not maintainable.
06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 60/2019-20/B- 12 Mumbai, dt. 22/01/2020

For reasons as discussed in the body of the order, the question is answered thus –

The application for advance ruling is rejected, as being non-maintainable.



← seal →
P VINITHA SEKHAR
(MEMBER)

← seal →
A. A. CHAHURE
(MEMBER)

CERTIFIED TRUE COPY

A. A. Chahure

MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.