

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH 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 Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Member/ Joint Commissioner (ST)
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 35 /AAR/2020 DATED: 21.10.2020

GSTIN Number, if any / User id		33AAACZ8255D1ZD
Legal Name of Applicant		Zigma Global Environ Solutions Private Limited.
Registered Address/Address provided while obtaining user id		Flat No. 24 Kalaimagal Kalvi Nilayam Road, Erode - 638 001.
Details of Application		GST ARA- 01 Application Sl.No.15/2020/ ARA dated 17.07.2020
Concerned Officer		State: Assistant Commissioner(ST) Mettur Road, Erode 638 001. Centre: Salem Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Providers
B	Description (in Brief)	Providing services of Solid Waste Management to Municipal corporation
Issue/s on which advance ruling required		1. Classification of any goods or services or both 2. Applicability of a notification issued under the provisions of this Act 3. Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required		1. Classification of the services viz " Solid waste management - Revamping of existing dumped Garbage in compost yards by Bio - mining process" provided by the applicant to M/s. Erode City Municipal Corporation, Erode

	<p>2. Whether aforesaid services provided by the applicant are exempted under Sl. No. 3 of notifications No. 12/2017 dt: 28.07.2017 as amended?</p> <p>3. Whether the Erode city Municipal Corporation is liable to deduct TDS as per the provisions of section 51 of CGST Act of TNGST Act, 2017 for the services rendered as state in the application?</p>
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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. Zigma Global Environ Solutions Private Limited, Flat No. 24 kalaimagal Kalvi Nilayam Road, Erode 638 001(hereinafter called the Applicant) are registered under GST with GSTIN.33AAACZ8255D1ZD. They are the service providers of Municipal Solid Waste (MSW) Management solutions and as an MSW Management company, they offer solutions involving segregation, treatment, recycling of Municipal Solid Waste(MSW) and thus clearing MSW landfills. The services provided by them is mandated under the Solid Waste Management Rules 2016 and Central Pollution Control Board Guidelines for Disposal of Legacy Waste, February 2019. The applicant has sought Advance Ruling on:

1. Classification of the services viz " Solid waste management - Revamping of existing dumped Garbage in compost yards by Bio -mining process" provided by the applicant to M/s. Erode City Municipal Corporation, Erode?
2. Whether aforesaid services provided by the applicant are exempted under Sl. No. 3 of notifications No. 12/2017 dt: 28.07.2017 as amended?
3. Whether the Erode city Municipal Corporation is liable to deduct TDS as per the provisions of section 51 of CGST Act of TNGST Act, 2017 for the services rendered as state in the application?

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 applicants have stated that the Commissioner, Erode City Municipal Corporation, had invited tenders for Solid Waste Management Request for Proposal for Revamping of Existing Dumped Garbage in Vendipalayam and Vairapalayam Compost Yards by Bio-Mining Process under implementation of the City Mission in Erode". The applicant was declared and was awarded with the project. Accordingly, agreement was executed between the Applicant and the Commissioner Erode City Municipal Corporation vide agreement dated 19/01/2019. As per the Request for Proposal document (the "RFP"), the Erode City Corporation intends to remove the legacy waste (approximately 560000 CUBIC METER) dumped at the Erode dump yard through bio-mining process on Design, Build, Own and Operate (DBOO)concept. (here in after referred as Project). Thus, as per the above they, have to remove the legacy waste (approximately 560000 CUBIC METER) dumped at the Vendipalayam and Vairapalayam dump yard by bio-mining process. The Processing plant/ legacy waste removal plant are to be operated and maintained by them by fulfilling all the statutory provisions and the cost of built design, installation, operation, maintenance in this plant are to be solely borne by them. The Scope of the project as per the work plan includes excavating the existing mixed compacted garbage which underwent biological degradation in the land portion allocated/earmarked by Erode City Municipal corporation and sieving them by Mechanical sieving machine or any other equipment at their cost; Control Odour; Eco friendly and non-polluting process in order to reduce the impact of Dumping site in the adjacent areas; Segregate the excavated garbage in the land portion earmarked; Selling, diverting for recycling, marketing and recycling the excavated materials; Creation and maintenance of infrastructure, facilities and amenities; Leveling the earth surface by bull-dozer or any other earth moving equipment; Deployment of necessary manpower, materials, equipment's, tools and construction of plants and shed sand creation of facilities for handling, separating, segregating and storing; providing security arrangement for the plan project site, machineries, equipment etc; Thus they have to remove the legacy waste dumped by bio-mining process on putting up the processing plant/legacy waste removal plant under Design, Build, Own and Operate(DBOO). For the work executed the Erode City

Municipal Corporation will give processing charges as quoted by them in the financial quote and accepted as in agreement, based on the net quantity of input waste processed from the Erode dump yard by them. As per the agreement dated 19/01/2019, processing fee is Rs. 670/= per Cubic Meter.

2.2 On the Interpretation of Statutory provisions they have stated that, with reference to the classification of the services provided, the predominant characteristic of the work is "Solid Waste Management" and they are of the view that the services rendered by them fall under SAC Code No: 9994 "Sewage and Waste collection, treatment and disposal and other environmental protection services" and in particular Group 99943-Waste treatment and disposal services" as per Annexure to Notification No: 11/2017 Central Tax (Rate) dated 28/06/2017.

2.3 With reference to the rate of GST for the services provided by them, it is stated that the services provided by them are exempted under Sl. No. 3 of Notification No: 12/2017 Central Tax (Rate) dated 28-7-2017 as amended.; With reference to the Erode City Municipal Corporation whether it is 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 Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution as per Notification No: 12/2017 Central Tax (Rate) dated 28/06/2017, they have submitted that Erode City Municipal Corporation was formed as THE ERODE CITY MUNICIPAL CORPORATION ACT, 2008 by the Government of Tamilnadu and Local authority as defined in clause (69) of section 2 of the CGST Act, 2017. The work entrusted with them falls under the functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution viz: (f) Public health, sanitation conservancy and **solid waste management**. They have further submitted that in their case in GSTN registration at Andhra Pradesh, the Authority for Advance Ruling - Andhra Pradesh, Goods and Services Tax, in their Advance ruling has held that "Solid Waste Management Project - Remediation of Existing MSW Dumpsite at Ramapuram through Bio-Mining Process under implementation of the Smart City Mission in Tirupati fall under Sl. No'32 of Heading 9994 of Notification No: 11/2017 Central Tax (Rate) dt. 28.06.2017. Further services provided is exempted under Sl.No.3 of Notification 12 dated 28.07.2017 as amended. The decision taken by the AAR, AP is squarely applicable in the present issue also. In view of the above it is

submitted that the services provided by them to M/s Erode City Municipal Corporation is exempted from payment of GST as per Sl.No. 3 of Notification No: 12/2017 Central Tax (Rate) dated 28-7-2017 as amended.

2.4 With reference to deduction of TDS as per the provisions of Section 51 of CGST Act and TNSGST Act, 2017 for the services rendered as stated in the Application, it is submitted that the persons specified under Section 51(1) as per Notification No. 50/2017-Central Tax dated 13/09/2018 has to deduct tax at source on taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. In the instant case, M/s Erode City Municipal Corporation falls within the above notification as specified persons. However, as stated in the preceding submissions, the services rendered by them is exempted from payment of GST as per Sl. No. 3 of Notification No: 12/2017 Central Rate dated 28/06/2017. Hence no amount needs to be deducted as per the provisions of Section 51 of Act, *ibid*.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the appellant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media vide e-mail. The applicant consented and the hearing for admission of the application was held on 20.08.2020. S/Shri. Nagesh Prabhu, Director of the applicant company and B.Venkateswaran, Authorized Representative for applicants participated in the virtual personal hearing. They furnished a written submission which was taken on record. The authorized representative reiterated the submissions made along with the application and that furnished for the hearing shared in mail. It was intimated that of the three questions for which ruling is sought, the Question No.3, is not admissible as the applicant is not raising the question on their behalf and the applicant acceded to it. The applicant was asked to furnish the Invoices raised on Erode Municipal Corporation. They were also asked to furnish a Write-up on the activities undertaken as per the agreement entered into with EMC cross referencing the Tender/Agreement to establish whether the activity is one of 'Reclamation of Land' or 'Solid Waste Management' along with specific category the activity fall under Annexure to Article 243 W. The applicants were informed that on receipt of submissions, if needed, another hearing would be extended, if necessary.

3.2 The applicant vide their letter Ref.No. ZGESPL/RL/AAR dated 29.08.2020 submitted a write-up on the activities undertaken; and submitted copies of sample invoices raised on Erode City Municipal Corporation; Copy of Agreement; Certificate issued by M/s. National Institute of Technology, Trichy, the nodal agency appointed by Erode City Municipal Corporation wrt weighment of waste processed by them; photo taken at Erode Solid Waste Processing Center @ Erode; Corporate brochure about the Solid Waste Management; Annexure comparing the activities as per Tender and Agreement; Land reclamation-As per Encyclopedia of Britannica and Solid Waste Management- As per Encyclopedia of Britannica. Further they submitted that the services provided by them are 'Solid Waste Management' only and not 'Land Reclamation'. They also submitted that their activities fall under the functions entrusted to a municipality under the twelfth Schedule to Article 243W to constitution of India.

3.3 In the Write-up on the activities undertaken, it is inter-alia stated that the General Steps involved in Solid Waste Management work done by them:

- Urban Local Body (ULB) awards Zigma the work order for Biomining
- Zigma obtains all requisite clearances and approvals for establishing their plant
- ULB do not pay any money in advance towards Capital expenditure
- Mobile Plant is erected and machinery is commissioned
- Zigma starts processing the waste
- Zigma separates the two main aggregates – combustible fraction and inert fraction
- Zigma takes responsibility of disposal of all aggregates as per SWM Rules 2016
- Zigma raises monthly bills to the ULB based on the weight/volume of the waste cleared from the landfill
- Zigma reclaims land till the ground level (waste available upto ground level)
- If required, ULB can ask Zigma to clear any waste available below the ground level for complete remediation
- After complete reclamation/remediation, zigma decommissions the plant and machinery from the site
- Zigma hands over the reclaimed land back to the ULB

3.4 With reference to question no. 3 raised by them, during the Virtual Hearing it was informed that the issue raised therein, was outside the purview of Advance ruling and they had agreed to drop it, however, they requested to reconsider the issue for the following reasons:

- The Advance Ruling 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 Section 97, the question on which the advance ruling is sought under this Act, shall be in respect of, —
 - classification of any goods or services or both;
 - **applicability of a notification issued under the provisions of this Act;**
 - determination of time and value of supply of goods or services or both;
 - admissibility of input tax credit of tax paid or deemed to have been paid;
 - determination of the liability to pay tax on any goods or services or both;
 - whether applicant is required to be registered;
 - whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
- In their case, they **are the supplier of service** and the ruling requested is wrt to the applicability of **Notification No. 50/2018 — Central Tax dated 13/09/2018 with reference to the supply of their service.** So, they have fulfilled the requirements for advance ruling as per the provisions of Section 97 of CGST Act, 2017. Hence it is respectfully request to consider our plea.
- They have referred to the decision of AAR in the case of
 - M/S. MAHENDRA ROY, AUTHORITY FOR ADVANCE RULING (WEST BENGAL) Case No: 35 of 2019 dated 13/08/2019;
 - Indrajit Singh, carrying on business under the trade name M/s Maruti Enterprise (Case No: 18 of 2019 dated 29/04/2019)
 - Time Tech Waste Solutions Private Limited (Case No: 20 of 2019 dated 06/05/2019)
 - Singh Transport (Case No: 37 of 2019 dated 22/08/2019)

Therefore they requested the AAR to consider the above and extend ruling for this question also.

4. The applicant is under the administrative jurisdiction of Center. The jurisdictional authority submitted that there are no pending proceedings in the

applicant's case. Further, they have submitted that the applicant's services are classifiable under SAC 9994 and the services are eligible for exemption.

5. The State jurisdictional authority has not furnished any comments and it is construed that there are no proceedings pending on the issue raised by the applicant.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral submissions made at the time of Virtual hearing and the comments of the Jurisdictional Authority. The applicant has been awarded the work of 'Revamping of Existing Dumped Garbage in Vendipalayam and Vairapalayam compost Yards by Bio-mining Process' under the Design, Build, Own and Operate concept. The applicant is before us seeking ruling on the following questions:

1. Classification of the services viz " Solid waste management - Revamping of existing dumped Garbage in compost yards by Bio -mining process" provided by the applicant to M/s. Erode City Municipal Corporation, Erode?
2. Whether aforesaid services provided by the applicant are exempted under Sl. No. 3 of notifications No. 12/2017 dt: 28.06.2017 as amended?
3. Whether the Erode city Municipal Corporation is liable to deduct TDS as per the provisions of section 51 of CGST Act of TNGST Act, 2017 for the services rendered as state in the application?

7.1 From the submissions before us, we find that the Commissioner, Erode City Municipal Corporation, had invited tenders for Solid Waste Management for Revamping of Existing Dumped Garbage in Vendipalayam and Vairapalayam Compost Yards by Bio-Mining Process under implementation of the Smart City in Erode". The applicant was awarded with the project and an agreement was executed between the Applicant and the Commissioner Erode City Municipal Corporation vide agreement dated 19/01/2019. As per the agreement, the applicant has to dispose approximately 5,60,000 cubic meter of existing waste from Vendipalayam and Vairapalayam dumpyards, through scientific processing on complying with the Solid Waste Management Rules 2016 and the land recovery is the ultimate goal of the project. The dumped waste at the Erode dump yard are to be disposed through bio-mining process on Design, Build, Own and Operate (DBOO)concept (herein after referred as Project), by the applicant. The classification of the said services is sought as the first question, before us stating that they are of

the view that the services rendered by them fall under SAC Code No: 9994 "Sewage and Waste collection, treatment and disposal and other environmental protection services" and in particular Group 99943-Waste treatment and disposal services" as per Annexure to Notification No: 11/2017 Central Tax (Rate) dated 28/06/2017.

7.2 We find that the agreement is entered into by the applicant with the Erode City Municipal Corporation for disposal of 5,60,000 cubic meter of existing waste dumped in the dumpsite by setting up processing facilities to dispose off the dumped waste through scientific processing in accordance with Solid Waste Management Rules 2016. From the submissions, it is seen that following steps are taken:-

- (1) Pre-Stabilization- the entire landfill site is converted into equal sized windrows and turned frequently along with spraying of bio-culture and de-odouriser;
- (2) Sorting & Segregation – the system separates the excavated landfill waste into soil, stones and combustibles with utmost accuracy;
- (3) Disposal – the non-combustible fractions and combustible fractions are disposed

The applicant sets up the facility after obtaining all requisite clearances and approvals for establishing the same, process the dumps, recover materials/ aggregates and dispose all aggregates on their own account as per SWM Rules 2016. The applicant has to recover the land of all the wastes and hand over to the Erode Municipality Corporation and the period of agreement is 24 months. The dumpsite is handed over to the applicant by the corporation as per Para 10 of the agreement with the right to use the site for the agreed purpose, i.e., disposal of the dumped MSW. The applicant is compensated based on the tonnage of waste disposed. The applicant raise invoice based on the weight/volume of the waste cleared from the landfill. They have furnished copies of Invoice raised by them on Erode City Municipal Corporation. On perusal of Invoice No. VAP\19-20\0042 dated 31-Mar-20, it is seen that the invoice is raised for the Quantity handled and is stated 'GST "NIL" as per Notification No. 12/2017-Central Tax(Rate) dated 28.06.2019 under Chapter 99'. Thus, the applicant undertakes processing of waste and disposal of the same and the reclaimed land free of the dumped waste is returned to the Corporation. In other words, the activity undertaken is treatment & disposal of waste dumped at the yard as per the SWM Rules 2016 and reclaiming of the land used as dump yard.

7.3 With the above factual Position, the classification of the activity of the applicant is taken up. The Scheme of Classification of Services is provided in the Annexure to Notification No. 11/2017-C.T.(Rate) dated 28.06.2017. SAC 9994 as given in the said Annexure is extracted below:

629	Heading 9994		Sewage and waste collection, treatment and disposal and other environmental protection services
630	Group 99941		Sewerage, sewage treatment and septic tank cleaning services
631		999411	Sewerage and sewage treatment services
632		999412	Septic tank emptying and cleaning services
633	Group 99942		Waste collection services
634		999421	Collection services of hazardous waste
635		999422	Collection services of non-hazardous recyclable materials
636		999423	General waste collection services, residential
637		999424	General waste collection services, other nowhere else classified
638	Group 99943		Waste treatment and disposal services
639		999431	Waste preparation, consolidation and storage services
640		999432	Hazardous waste treatment and disposal services
641		999433	Non-hazardous waste treatment and disposal services
642	Group 99944		Remediation services
643		999441	Site remediation and clean-up services
644		999442	Containment, control and monitoring services and other site remediation services
645		999443	Building remediation services
646		999449	Other remediation services nowhere else classified
647	Group 99945		Sanitation and similar services
648		999451	Sweeping and snow removal services
649		999459	Other sanitation services nowhere else classified
650	Group 99949		Others
651		999490	Other environmental protection services nowhere else classified

From the above, it is seen that SAC 9994 covers 'Sewage and waste collection, treatment and disposal and other environmental protection services'. Considering the facts of the case at hand, the activity may fall in group 99943- waste preparation, consolidation, segregation, treatment and disposal. The classification can further be confirmed by referring the 'Explanatory Notes to the Scheme of Classification of Service', which indicate the scope and coverage of the Scheme of classification of service and is a guiding tool for classification of services.

99943 Waste treatment and disposal services

999431 Waste preparation, consolidation and storage services

This service code includes:

- i. consolidation, temporary storage, and preparation of hazardous waste
- ii. consolidation and preparation of hazardous waste for transportation to an appropriate facility that processes waste

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- vi. consolidation, temporary storage and preparation of non-hazardous recyclable materials
- vii. transfer facility services of non-hazardous recyclable materials
- viii. recovery and preparation of non-hazardous recyclable materials, such as bailing, cleaning, sorting, volume reduction and similar preparation and consolidation of recyclable materials, for transportation to an appropriate facility that processes recyclable materials
- ix. consolidation, temporary storage and preparation of non-hazardous waste
- x. transfer facility services for non-hazardous waste
- xi. consolidation and preparation of non-hazardous waste for transportation to an appropriate facility that processes waste

999432 Hazardous waste treatment and disposal services

This service code includes:

- i. treatment to reduce, eliminate, or transform hazardous waste
- ii. Note: Processes include biological, chemical, and/or physical procedures or incineration. These procedures may lead to a disposable residual or result in the recovery of a recyclable material.
- iii. disposal services for hazardous waste at a facility that meets legal standards for the disposal of hazardous waste, such as at approved controlled containment facilities or landfills

999433 Non-hazardous waste treatment and disposal services

This service code includes:

- i. disposal of non-hazardous waste on or in a sanitary landfill which meets the sanitary landfill criteria specified by legislation or regulation, i.e. designed to prevent leaking etc.
- ii. disposal of non-hazardous waste on or in landfills other than a sanitary one
- iii. incineration of non-hazardous waste in a facility that meets legal standard and requirements for incineration of non-hazardous waste
- iv. other non-hazardous waste disposal services, such as:
 - a. services of chemical or biological reduction of agricultural waste and similar treatment services

It is seen that the activities undertaken by the applicant such as consolidation of waste, temporary storage of hazardous & non-hazardous waste; treating and disposing the waste by processing in a facility that meets legal standards, are all covered under the group 99943. The ultimate goal of the activity is reclamation of land clear of the dump and the activity undertaken by the applicant is removal of the waste following the norms set under SWM Rules 2016. Therefore, we hold that the activity undertaken by the applicant is covered under SAC 9994 and more appropriately under the Group 99943.

8.1 The Second question for which the ruling is sought is whether the services provided by the applicant are exempted under Sl. No. 3 of notifications No. 12/2017 dt: 28.06.2017 as amended. The relevant entry is examined as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
3	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 or a Governmental 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

The above entry exempts

- Pure Services
- Provided to Central Government/State Government/Union Territory/Local authority/Governmental authority
- By way of any activity in relation to any function entrusted to a
 - Panchayat under Article 243 G of the Constitution
 - Municipality under Article 243 W of the Constitution

8.2.1 In the case at hand, the activity undertaken by the applicant is 'disposal of solid waste dumped in the specified yards' and the same is 'Pure Service' classifiable under SAC 9994 as held in Para Supra, thus the first criterion is satisfied.

8.2.2 The service is provided based on the agreement entered into by the applicant with the Erode City Municipal Corporation dated 12.01.2019 to Erode City Municipal Corporation. Section 2(69) of the GST Act defines Local Authority as follows:

(69) "local authority" means—

(a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;

(b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;

(c)

Clause (e) of article 243P of the Constitution defines "Municipality", which reads as

(e) "Municipality" means an institution of self-government constituted under article 243Q;

Article 243Q speaks about the constitution of Municipalities and as per clause (c) of Article 243Q, Municipal Corporation is also considered as Municipality. Article 243Q reads as below:

243Q. Constitution of Municipalities. — (1) There shall be constituted in every State, —

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

The Erode City Municipal Corporation was formed as per the Erode City Municipal Corporation Act 2008 by the Government of Tamil Nadu. The service recipient i.e., Erode City Municipal Corporation, Erode, Tamil Nadu is a local authority. As per Section 2 clause (69) subclause (b) of the CGST Act, 2017 'Municipality' as defined in clause (e) of article 243 P the Constitution is a local authority, hence the services are provided to 'Local Authority' and the criterion related to recipient is satisfied.

8.2.3 The next criterion to be verified is whether the activity is a function entrusted to a municipality under Article 243W of the Constitution. Sl.No.6 of The Twelfth Schedule to the Constitution under Article 243 W is as follows:

"6. Public health, sanitation conservancy and solid waste management."

Further, as per the Solid Waste Management Rules 2016, the Duties of Local Authorities is given under Rule 15 of the said rules and it is stated that:

15. Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations.- The local authorities and Panchayats shall,-

(a) prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;

.....

(zh) stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over;

(zi) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;

(zj) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites;

On a cogent reading of Sl.No. 6 of the Twelfth Schedule to the Constitution and Rule 15 of the Solid Waste Management Rules 2016, it is evident that it is the duty of the local authority to investigate, analyse the existing dumpsites for their potential bio-mining and bio-remediation and wherever feasible has to take actions to bio-mine or bio-remediate the sites under 'Solid Waste Management'. In the case at hand the function of bio-mining and bio-remediation of the dump yard is entrusted to the applicant and therefore the final criterion is also satisfied.

8.2.4 Therefore, We hold that the exemption at Sl.No. 3 of the Notification 12/2017 dated 28.06.2017 as amended is applicable to the said services provided by the applicant to Erode City Municipal Corporation

9.1 In respect of the question whether the Erode City Municipal Corporation is liable to deduct TDS as per the provisions of Section 51 GST Act 2017 for the services received by them from the applicant, the said question is not raised on their behalf and the applicant acceded to it during the hearing. However, they have requested re-consideration on the admissibility of the said question in their written submissions dated 29.08.2020 wherein, they have stated that

- The question raised is covered under Section 97(b) of the Act-applicability of a notification under the provisions of this Act
- The Advance Ruling Authority of the State of West Bengal has answered similar questions in the case of Mahendra Roy[case No. 35 of 2019]; Indrajit Singh[Case No. 18 of 2019]; Time Tech Waste Solutions Private Limited[Case No. 20 of 2019] and Singh Transport [Case No. 37 of 2019]

9.2 The contentions of the applicant as above are taken up for consideration. The applicant has stated that they are the supplier of service and the ruling requested is wrt the applicability of Notification No. 50/2018-Central Tax dated 13.09.2018 with reference to supply of their service and that they have fulfilled the requirements for advance ruling as per the provisions of Section 97 of the Act. We find that the question raised is

Whether the Erode city Municipal Corporation is liable to deduct TDS as per the provisions of section 51 of CGST Act of TNGST Act, 2017 for the services rendered as state in the application?

It is agreeable that the applicant supplies the service but the question raised is not on the applicability of the Notification to the applicant but the applicability of the Notification to the recipient of the services of the applicant, who is a distinct person for whom this ruling is not applicable as per Section 103 of the Act. For ease of reference, Section 103 of the Act is given below:

103. Applicability of advance ruling.— (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only— (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling; (b) on the concerned officer or the jurisdictional officer in respect of the applicant.

Therefore, we do not find any merit in the claim of the applicant in as much as the ruling, if extended also, is not applicable in respect of 'Erode City Municipal Corporation' who is not the applicant.

9.3 On the relied upon rulings of the AAR, West Bengal, again it is reiterated that Advance Ruling is applicable only to the applicant and the jurisdictional/concerned officer in respect of the applicant. However, on perusal of the relied upon rulings, it is seen that the questions raised is on the eligibility of the applicants to the exemptions at Sl.No. 3/3A of Notification No. 12/2017 dated 28.06.2017 and if exempted whether the notifications regarding TDS are applicable to the supply and the authority has ruled the applicability to that supply, whereas the question before us is on the liability of the recipient of the services who is not the applicant in the case at hand. Therefore, we hold that this question is not admissible as per Section 97 read with Section 95 of the Act and therefore not admitted.

10. In view of the above discussions, We rule as under:

RULING

1. Solid Waste Management-Revamping of Existing Dumped Garbage in Compost Yards by Bio-Mining process” provided by the applicant to M/s. Erode City Municipal Corporation, Erode is classifiable under SAC 9994 as per the Annexure to Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 for the reasons discussed in Para 7 above.

2. The afore said service provided by the applicant is exempted under Sl.No. 3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended
3. Not applicable for admission under Section 97 of the Act for the reasons discussed under Para 9 above

21.10.2020
Shri Kurinji Selvaan V.S.,
Member, SGST



21/10/20
Shri Senthilvelavan. B
Member, CGST

To
M/s. Zigma Global Environ Solutions Private Limited,
Flat No. 24 Kalaimagal Kalvi Nilayam Road, **// BY SPEED POST WITH ACK.DUE //**
Erode 638 001.

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,
IInd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & Central Excise,
No: 1, Foulkes Compound Anaimedu, Salem 636 001.
4. Assistant Commissioner, Mettur Road,
Commercial Taxes Building, 1, Brough Road, Erode - 638 001
5. Master File/ Spare - 2.