

**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 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. 09 /AAR/2021 DATED: 30. 03.2021**

GSTIN Number, if any / User id		33AADFU9240M1ZV
Legal Name of Applicant		M/s. Unique Aqua Systems
Registered Address/Address provided while obtaining user id		M/s. Unique Aqua Systems, No. 26, Sri Sakthi Nagar Main Road, Opp to Metro Rail Pillar 93, Arumbakkam, Chennai 600 106.
Details of Application		GST ARA- 01 Application Sl.No.22/2020 ARA dated: 20.10.2020
Concerned Officer		State: Assistant Commissioner(ST) Arumbakkam Assessment Circle, Centre: North Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Supply of Service.
B	Description (in Brief)	Operation and Maintenance of High Quality Treated Drinking Water Plant for dispensing treated water.
Issue/s on which advance ruling required		1. Classification of goods and/or services or both 2. Applicability of a notification issued under the provisions of this Act
Question(s) on which advance ruling is required		Whether the Services provided by the applicant to the recipient i.e The Greater Chennai Corporation is a pure service provided to the local authority by way of activity in relation to functions entrusted to a Panchayat under article 243G and Municipality under article 243W of the



Constitution and eligible for benefit of exemption provided under Serial No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017?
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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. Unique Aqua Systems, No. 26, Sri Sakthi Nagar Main Road, opp to Metro Rail Pillar 93, Arumbakkam, Chennai 600 106. (hereinafter called the Applicant) are registered under GST with GSTIN 33AADFU9240M1ZV. They are engaged in Operation and Maintenance of High Quality Treated Drinking Water Plant. The applicant has sought Advance Ruling on:

Whether the Services provided by the applicant to the recipient i.e. The Greater Chennai Corporation is a pure service provided to the local authority by way of activity in relation to functions entrusted to a Panchayat under article 243G and Municipality under article 243W of the Constitution and eligible for benefit of exemption provided under Serial No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017?

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 they have entered into a contract with the Greater Chennai Corporation based on which they have been awarded with the project of Operation and Maintenance of High Quality Treated Drinking Water Plant for the **"Amma Kudineer (Drinking Water Plant) Project"**. As per the Contractual conditions of work order, they have supplied, installed and commissioned high quality drinking water plants at different locations as required by the Greater







hence if a person provides only service to any person for a consideration without involvement of transfer of property in goods then the said supply of service can be termed as supply of 'Pure service'. From the above, it could be seen that only supply of services for a consideration without involvement of supply of goods can be termed as pure services and in the present case, no supply of goods is involved as the applicant is only providing an operation and maintenance service to GCC for dispensing treated water to the general public for consideration and hence the service provided by the applicant is a pure service.

2.3 The applicant has stated that in order to avail the benefit of the above mentioned exemption, they have to satisfy the following two conditions:

- (1) *The Service recipient should be Central Government or State Government or local authority or a Governmental authority or a Government Entity.*
- (2) *It should carry out any function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution*

In the Instant case, it could be seen from the contract that the service is provided to the Greater Chennai Corporation i.e Municipal Corporation of the city of Chennai. The Greater Chennai Corporation is established in India on the 29<sup>th</sup> September 1688 and it is wholly owned and under the control of the Tamil Nadu Government. As per Section 2 (69) of the CGST Act, 2017 the term local authority is defined as below,

- (69) "local authority" means—
- (a) a "Panchayat".....;
  - (b) **a "Municipality" as defined in clause (e) of article 243P of the Constitution; or**  
.....
  - (g) a Regional Council .....

**Article 243P. Definitions. —**

*In this Part, unless the context otherwise requires,—*

- (a) 'Committee' ..... 243S;

.....  
**(e) 'Municipality' means an institution of self-government constituted under Article 243Q ;**

**Article 243Q. Constitution of Municipalities. —**

*(1) There shall be constituted in every State,—*

- (a) a Nagar Panchayat .....

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



*Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.*

The applicant has stated that from the above discussion, it could be seen that any service provided to the Municipal Corporation is a service provided to the local authority and in the present case the service recipient being the Greater Chennai Corporation which is a Municipal Corporation for Chennai city being a local authority, the first condition mandated in the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 where the said pure services have to be provided to the Central Government or State Government or **local authority** or a Governmental authority or a Government Entity is satisfied. As per Article 243W and Twelfth Schedule of the Constitution of India, 1949 the following functions are entrusted to a municipality under Article 243W;

**243W. 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.*

**TWELFTH SCHEDULE (Article 243W)**

1. Urban planning including town planning.

2.....

**.5. Water supply for domestic, industrial and commercial purposes.**

.....

18. Regulation of slaughter houses and tanneries.



As per entry no. 5 of the Twelfth schedule, the functions entrusted to the Municipality includes **“Drinking Water”** and **“Water supply for domestic, industrial and commercial purposes”** which are being undertaken by them based on the contract entered with GCC and thus the second part of the condition mandated under No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 is also satisfied.

2.4 Further the applicant has placed reliance on the recent ruling given by the Authority for Advance Ruling in Gujarat in the case of M/s. A B Enterprise reported in 2020-TIOL-143-AAR- GST wherein it is held that applicant will be eligible to claim exemption benefit under Sr.No.3 of Notification No. 12/2017 – CT(R) dated 28.06.2017 for pure services provided to local authorities when they 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. In view of the above, the applicant has submitted that, the service provided by them by way of treating the water supplied to it by GCC against consideration received from GCC and dispensing treated water to the general public as directed by GCC is a pure service provided to the local authority by way of activity in relation to functions entrusted to a Municipality under article 243W of the Constitution and hence they are eligible for exemption provided under No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

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. The applicant consented and the hearing was held on 10.12.2020. The authorised representative participated in the hearing virtually and reiterated the submissions made. The applicant was asked to furnish the agreement copy entered with GCC, copies of invoice/M-Book, write up on “Amma Water Scheme” with specifics to the supply made by the applicant.

3.2 The applicant furnished the following on 14.12.2020:

- Hon’ble CM’s Press Statement dated 13.02.2016 about the launch of “Amma Kudineer Thittam”
- Resolution of the Chennai Corporation in this regard dated 25.02.2016



- Sample agreement copies with Corporation of Chennai
- Extracts from the Measurement book

On going through the above, it was seen that the applicant has not furnished the agreement copy as required and therefore was addressed to furnish the same. The applicant furnished a copy of complete set of Tender Documents. They also clarified that they are provided with the raw water by CMWSSB and their role is limited only to treatment of the water and subsequent distribution to beneficiaries.

4. The Central jurisdictional authority vide their letter in File No. GEXCOM/TECH/MISC/2126/2020-Tech dated 10.11.2020 has stated that there are no pending proceedings against the applicant on the issue raised in the ARA application. They have further stated that it appears that service rendered by applicant M/s. Unique Aqua Solutions as stated in their application i.e. dispensing treated water to general public as directed by service recipient i.e. Greater Chennai Corporation is a pure service provided to local authority in relation to functions entrusted under Article 243G and Article 243W of the constitution of India and the applicant appears to be eligible for exemption under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

5. The State Jurisdictional authority, who holds the administrative control over the applicant, vide their letter Rc. No. 343/2020/A4 dated 28.11.2020, has stated as under:

- The applicant has filed a letter dated 19.08.2019 issued by Kodambakkam Zonal Officer, Corporation of Chennai indicating acceptance of their tender for operation and Maintenance of RO/UV Filtration Plant at a cost of Rs. 10,01,141/- for nine months. There is no indication in the intimation Letter about the conditions in the Tender Document and whether that service is related to any function entrusted to a Municipality under 243W of the Constitution of India.
- The dealers are filing monthly returns declaring supply of exempted services in the monthly returns under GST Act 2017. However, the service Recipient i.e. Corporation of Chennai have deducted TDS on Taxable supply made by the dealers and paid the TDS into GST Account.
- I am therefore of the view that the Services rendered by the Dealers is a taxable service since the Service Recipient have considered the Service as a



Taxable service under GST Act 2017 and deducted TDS and paid into GST Account.

6. From the submissions, we find that the question raised before us is on the applicability of entry at Sl.No.3 of the Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended in respect of their supply. The Questions raised is covered under Section 97 of the CGST/TNGST Act 2017 and therefore admissible before this authority for consideration and pronouncement of ruling.

7.1 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 entered into an agreement with GCC, for supply of purified water to the beneficiaries identified by the Greater Chennai Corporation. The applicant has been awarded the contract for supply, installation, commission, Operation & Maintenance of the Reverse Osmosis Plant and supply purified water as per the tender condition in 3 out of the initial 20 places identified for implementation of the "amma Kudineer Thittam". The applicant has installed and commissioned the RO plant as per the agreement and are undertaking the Operation & Maintenance of the same. They have sought ruling on the following question:

Whether the Services provided by the applicant to the recipient i.e. The Greater Chennai Corporation is a pure service provided to the local authority by way of activity in relation to functions entrusted to a Panchayat under article 243G and Municipality under article 243W of the Constitution and eligible for benefit of exemption provided under Serial No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017?

7.2 The applicant has furnished the following Documents:

- Hon'ble CM's Press Statement dated 13.02.2016 about the launch of "Amma Kudineer Thittam"
- Resolution of the Chennai Corporation dated 25.02.2016
- Sample agreement copies with Corporation of Chennai
- Extracts from the Measurement Book
- Copy of the complete set of Tender Documents



7.3 On perusal of the documents furnished by the applicant, it is seen that resolution No. 251/2016 dated 25.02.2016 has been made by the Greater Chennai Corporation to execute "Amma Kudineer Thittam" based on the Press Note No. 049 dated 13.02.2016 of the Chief Minister, Tamilnadu. As per the resolution, it had been decided by the GCC

- to put up Reverse Osmosis Plant with a purification capacity of 2000 litre per hour, with expandable capacity initially in 20 places identified for the same;
- after testing for the quality of such purified water to distribute 20 litres of such water/family;
- that those family who wish to get the benefit will be extended 'Smart Card'.

7.4 Accordingly, GCC has floated a tender P.D.T.D.C.No.A1/0481/2016-Tender for Rate Contract (RC) for the supply, installation, commissioning of High quality treated Drinking Water Plant(RO/UV Filtration) of 2000 Litres /Hour capacity expandable to 4000 Litres/Hour and Operation & Maintenance For 5 Years period in various places of Greater Chennai Corporation.

- The Scope of work as per the tender among others are
  - the successful bidder should supply, install and commission the Reverse Osmosis (RO) quality treated drinking water plant with 5 years operation and maintenance on a rate contract basis;
  - the successful bidder should supply smart card based on RFID technology and it is the responsibility of bidder to maintain these smart card;
  - the successful bidder has to provide web services for storing the relevant data in the GCC server. MIS report should be generated in the format as requested by GCC. The vendor has to provide location wise details, individual beneficiary details and daily water consumption details interims of device and beneficiary. The Greater Chennai Corporation will provide url services to the vendor for software integration with GCC server vendor has to integrate this url services with his software for storing the data in GCC server.
- terms of payment of contract price- the contract is for a period of 5 years;
- Payment for supply, installation, commissioning of RO treated drinking water plant will be



- For Plant – 80% of quoted price for supply, installation after commissioning of the plant; 20% of quoted price for supply and installation after satisfactory commissioning of the plant upon submission of Bank guarantee which shall be valid until three months after satisfactory completion of O & M period of the contractor and handing back the plant in good working condition
- For O &M- will be based on sale of water on Volumetric basis for variable cost and at fixed basis for labour cost based on the least rates arrived as per the rate contract
- Insurance – Comprehensive Insurance policy covering all risks for the value of the plant, chemicals, consumables and stores in the name of GCC for a period up to the completion of O & M Contract
- Contract Period – The contract period for supply, installation and commissioning is 45 days. The O & M Contract will hold good for 5 years. Further, the contract period may be extended based on mutual consent beyond the original contract period of 5 years for a further period not exceeding 5 years
- Space for putting up the unit will be provided by GCC
- Raw water will be supplied by CMWSSB through its pipelines or lorries
- The applicant has to test the product water on a daily basis at approved labs

7.5 From the extracts of the Measurement Book, the following are seen

- Name of the work- Operation and Maintenance of High Quality treated drinking water Plant (RO filtration) of 2000 litres/hour capacity...
- 1. O & M of RO plant including water vending machine and supply of product water for 4<sup>th</sup> year of operation, variable capacity cost as per P.O. No.....
- 2. Labour cost per month for O & M of RO Plant 2000 litres/hour ....
- Retention 2.5%; Income Tax 2%; SGST 1%; CGST 1%

7.6 From the above, it is seen that the applicant is awarded the work which consists of

- Supply of Reverse Osmosis plant in a container or shed provided by GCC with the capacity of purifying 2000 litres per hour expandable to 4000 litres per hour which should be operated for 8 hrs/day and if needed another 8 hours/day(second shift);



- Operation of the plant to provided treated/purified water, Maintenance of the RO Plant, vending machine for supply of the product water through smart cards for the distribution of water to the beneficiaries for a period of 5 years.

The entire work is agreed upon as a rate contract with the rates for the setting up of the Plant and undertaking O & M including providing security, issuance of Smart Card, etc specified separately. The applicant is provided the Raw water and electricity free of cost for operation. They operate the RO plant and supply the treated/purified water through the vending machines. Apart from supplying treated water by operating the RO Plant, the applicant is responsible for the security of the plant, proper accounts of raw and purified water which they have to upload in the designated url of GCC. They have to maintain the plant in working condition with an operator and hand over the same at the end of the entire O & M period of the contract. Thus, we find the supply of the applicant as per the above contract involves supply of the Reverse Osmosis plant initially and during the O & M period of the contract they operate the RO plant with an operator and supply purified water, Smart cards facilitating the beneficiaries to draw the allotted quantity of water, maintain the RO Plant, vending machines, provide security, etc.

8.1 Having seen the factual matrix of the case, the sl.No.3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, the benefit of which is claimed by the applicant is examined as under. The entry is extracted for ease of reference:

S.No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
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 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 Description of services as per above entry eligible for the exemption at the said entry are:

- (i) Pure services are to be provided
- (ii) Works contract service or other composite supplies involving supply of any goods are excluded;
- (iii) Pure services are to be provided to local authority
  - a. By way of any activity
  - b. In relation to
  - c. Any function entrusted to
  - d. A Municipality under article 243 W of the constitution

8.2 From the facts discussed in para 7 above, it is seen that the applicant under the said contract has supplied the RO Plant and undertakes O & M of such plant. The Operation of the plant involves treatment of the raw water supplied to them to treated/purify water for dispensing the same to the designated beneficiaries of the GCC. The operation of the Plant includes providing the security for the plant and also issuance of smart cards whenever necessary. They are paid a variable cost based on the sale of water on volumetric basis and a fixed labour cost for providing security and operator. Thus, the applicant has entered into a composite contract of supply of RO Plant along with the Operation & Maintenance of the said Plant for a period of 5 Years. The applicant at present as per the contract undertakes the O & M of the Plant. The supply under a composite contract cannot be vivisected as the supply of R.O. Plant and the O&M of the same are naturally bundled. It is not that the RO Plant can be supplied by one contractor and the O & M of the same can be done by any other contractor in as much as the tender is floated for both together. The tender and agreement are to be read as a whole, to understand the intention of such agreement. Even if we consider that the supply of RO Plant and the O & M of such plant are two different supplies, while not accepting, we find that the supplies undertaken under O & M involves providing Purified Water (goods) through the vending machines to the designated beneficiaries; issuance of smart cards(goods) to the consumers, providing security(service) to the plant and undertaking Maintenance of the RO Plant, vending Machines (services) for the period of O & M. Thus it is evident that the supplies made by the applicant is not 'pure service' but is a composite supply of purified water(goods), smart cards(goods), maintenance of RO Plant, vending machines(Service), providing security(service). The supply being



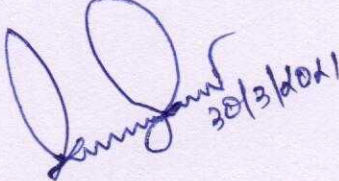
not a 'Pure Service', the same is not covered by the Description of Service at Sl.No. 3 above.

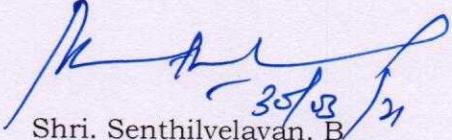
8.3 As the primary condition, that the supply must be 'Pure Service' is not satisfied, we do not examine the further conditions and hold that the exemption at Sl.No.3 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended is not available for the applicant.

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

#### **RULING**

The Supply provided by the applicant to the recipient i.e. The Greater Chennai Corporation based on the agreement to provide RO Plant and undertake O & M of the same, being not a "Pure service" but a composite supply of goods & Services, they are not eligible for benefit of exemption provided at Serial No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017

  
Shri Kurinji Selvaan V.S.,  
Member, TNGST

  
Shri. Senthilvelavan. B  
Member, CGST



To

M/s. Unique Aqua Systems,  
No. 26, Sri Sakthi Nagar Main Road,  
Opp to Metro Rail Pillar 93, Arumbakkam,  
Chennai 600 106.

**// BY RPAD //**

**By e-mail: uniqueaquasystems @ gmail.com; mail@swamyassociates.com**



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