

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 8th floor, H- Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)
BEFORE THE BENCH OF

(1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)

(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

| | | |
|--|------------------------|---|
| GSTIN Number, if any/ User-id | | 27AABCE6819PIZ3 |
| Legal Name of Applicant | | ECOSAN SERVICES FOUNDATION |
| Registered Address/ Address provided while obtaining user id | | FLAT NO 1 VISIWA CHANDRA 1ST FLOORS 721/1, NAVISADASHIV PETH, 24, PRSHANT NAGAR Pune Maharashtra 411030 |
| Details of application | | GST-ARA, Application No. 70 Dated 21.08.2018 |
| Concerned officer | | Asstt. Commr. S.T.(D-901), PUN-VAT-D-901, PUNE |
| Nature of activity(s) (proposed / present) in respect of which advance ruling sought | | |
| A | Category | Service Provision |
| B | Description (in brief) | ECOSAN SERVICE FOUNDATION Section 8 NON-PROFIT Organisation (companies Act, 2013) Established in 2006 with the support of the Deutsche Gesellschaft Fur International Zusammenarbeit (GIZ) and in association with the Innovative Ecological Sanitation Network of India (IESNI). |
| Issue/s on which advance ruling required | | (ii) applicability of a notification issued under the provisions of the Act (vii) whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term |
| Question(s) on which advance ruling is required | | As reproduced in para 02 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"] by M/s. ECOSAN SERVICES FOUNDATION, the applicant, seeking an advance ruling in respect of the following question:

Question -> Services provided to (NGO) Non-profit organization registered as Trust having registration U/s. 12AA of Income Tax Act, amounts to provision of service and any grant/ Donation received towards performing specific service towards preservation of environment as specified in notification no 12/2017, Whether amounts to provision of service and liable for GST ?

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 such 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, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

1. STATEMENT OF FACTS HAVING BEARING ON THE QUESTIONS ON WHICH ADVANCE RULING IS REQUIRED.

A) ECOSAN SERVICE FOUNDATION Section 8 NON-PROFIT Organization (companies Act, 2013) Established in 2006 with the support of the Deutsche Gesellschaft Fur Internationale Zusammenarbeit (GIZ) and in association with the Innovative Ecological Sanitation Network of India (IESNI).

Our vision is to promote ecological sanitation and sustainable sanitation practices along with efficient water & waste water management practices in India. With cross cutting knowledge and experience, we work closely with the public and private sectors. Since the inception of this company, we have gained extensive experience in capacity development, awareness raising, research and development projects and consulting in the sustainable sanitation field in South Asia.

ECOSAN SERVICE FOUNDATION (ESF) IS empanelled as Key Resource Centers (KRC) under Ministry of Drinking Water and sanitation to conduct training workshops facilitate knowledge sharing and learning, etc., Under the Swachh Bharat Mission (Gramin) across the country.

ECOSAN SERVICE FOUNDATION (ESF) is a state government recognized Key resource Centre (KRC).

B) Applicant is registered as per Provisions of GST Law.

C) The Applicant seeks the Ruling of the Advance ruling Authority on the following transactions.

1) The Ecosan Service Foundation (ESF) is engaged in providing services relating to Sanitation. Since its inceptions. Following are the amounts received towards Grants / Donations from Various companies, details are as under.

| Year | Donor | Amount |
|---------|-------------------------------------|--------------|
| | Charities Aid foundation | 2,25,600/- |
| 2017-18 | The HSBC Ltd. | 22,58,300/- |
| 2017-18 | Charities Aid Foundation | 35,000/- |
| 2017-18 | Charities Aid Foundation | 16,62,500/- |
| 2018-19 | Charities Aid Foundation | 55,475/- |
| 2018-19 | World Toilet Organisation Singapore | 13,62,636/ - |

All above mentioned payments are received in foreign currency.

Interpretation of Law,

2) As per notification No. 12/2017 Central Tax (Rate) dated 28th June 2017

Exempts services provided by entity registered under Section 12AA of the Income Tax Act, 1961, by way of charitable activities from whole of GST vide entry No 1 of the notification, which specifies that the services by the entity registered under Section 12AA of the income tax Act, 1961, are exempted from whole of GST. Thus as per this notification, exemption is given to the charitable trusts, only if the following conditions as satisfied

"Charitable activities" means activities relating to -

(i) public health by way of , (A) care or counselling of (1) terminally ill persons or persons with severe physical or mental disability; (II) persons afflicted with HIV or AIDS; (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) Public awareness of preventive health, family planning or prevention of HIV infection; (ii) advancement of religion, spirituality or yoga; 22 (1) advancement of educational programmers or skill development relating to,- (A) abandoned, orphaned or homeless children; (B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) Preservation of environment including watershed, forests and wildlife;

ECOSAN is providing services towards sanitation which amounts to preservation of environment, hence GST exemption is applicable,

Additional submission of applicant

NOTE AS MENTIONED IN REPLY TO THE QUESTION 1

A) What is preservation of environment and its relevance in national context?

Preservation of environment can be broadly defined as "to maintain the environment in its present condition areas". Natural resources such as lakes, rivers, forests, wildlife, etc. have a pivotal role in Indian lifestyle but growing population of the country is increasing pressure on environment. The primary concern of the government is to implement policies and programs for conservation of the ecosystem, natural resources, welfare of animals and prevention of pollution etc.

In the Constitution of India, it is clearly stated that it is the duty of the state to 'protect and improve the environment and to safeguard the forests and wildlife of the country'. It imposes a duty on every citizen 'to protect and improve the natural environment including forests, lakes, rivers, and wildlife'. Reference to the environment has also been made in the Directive Principles of State Policy as well as the Fundamental Rights. The Department of Environment was established in India in 1980 to ensure a healthy environment for the country. This later became the Ministry of Environment and Forests in 1985.

The constitutional provisions are backed by a number of laws - acts, rules, and notifications. The EPA (Environment Protection Act), 1986 came into force soon after the Bhopal Gas Tragedy and is considered an umbrella legislation as it fills many gaps in the existing laws. Thereafter a large number of laws came into existence as the problems began arising, for example, Handling and Management of Hazardous Waste Rules in 1989.

The Ministry of Environment, Forest and Climate Change (MoEFCC) is the nodal agency in the administrative structure of the Central Government for the planning, promotion, Co-ordination and overseeing the implementation of India's environmental and forestry policies and programs. The primary concerns of the Ministry are implementation of policies and programs relating to conservation of the country's natural resources including its lakes and rivers, its biodiversity, forests and wildlife, ensuring the welfare of animals, and the prevention and abatement of pollution. While implementing these policies and programs, the Ministry is guided by the principle of sustainable development and enhancement of human well-being.

B) ISSUES INVOLVED:

We would like to elaborate in the below mentioned paras about

i) Extreme Crisis faced by our country India about "polluting the environment" due to various reasons;

ii) Causes for the same;

iii) Urgent steps need to be taken by all the stakeholders like Government, Companies, Local bodies and people of this country;

This note would be able to appreciate the work carried on by ECOSAN (Ecosan Services Foundation) in the field of preservation of environment by promoting Ecological Sanitation

and efficient waste water management etc. which has, is, and would be benefitting all the people and citizens of this country.

The institution is basically operating in the field of

- promotion of ecological sanitation and sustainable sanitation practices -

- To have and follow efficient water & waste water management practices in India.

What is Ecological Sanitation?

Ecological Sanitation (Ecosan) is a concept that treats various types of waste generated by us as a resource which can be safely collected, treated and reused to prevent pollution of water bodies and the environment. Currently, various types of Ecosan practices such as promotion of Ecosan toilets, compost pits, bio-gas plants, reed-beds for treatment of waste water, etc., are being taken up to treat waste generated by us in an ecologically sound manner.

Importance of Ecological Sanitation:

C) THE PROBLEMS FACED BY INDIA

I) BACKGROUND

It has been reported in one of the Articles in "The Economist" that:

"One in ten deaths in the country is linked to poor hygiene standards".

INDIA vies with China to be the world's fastest-growing large economy, but its record on basic sanitation is dreadful. Around 450m people relieve themselves in playgrounds, behind trees, by roadsides, and on railway tracks and river banks. In cities 157m urban dwellers, more than the population of Russia, lack decent toilet facilities. Much of the solid waste is emptied into rivers, lakes and ponds untreated. The World Bank links one in ten deaths in India to poor sanitation. From contaminated groundwater children pick up chronic infections that impair their bodies' ability to absorb nutrients. Almost 44m children under five, says the bank, have stunted growth, and every year over 300,000 die from diarrheal diseases. What can India do to change this grim reality?

In 2014 the government pledged to end open defecation by 2019. That year marks the 150th anniversary of the birth of Mahatma Gandhi, who considered sanitation to be sacred and "more important than political freedom". Authorities have set aside \$29bn for the nationwide programme, which claims to have constructed 49m household toilets to date, with another 61m still to go. Families get 12,000 rupees (\$187) to build a toilet. The initiative is part of a long line of programs that go back to the country's first five-year plan of the early 1950s. The Indian government has been subsidizing lavatories in remote villages for over three decades. Between 1986 and 1999 it installed 9.4m latrines, giving 7.4m more people access to sanitation every year. But improved coverage does not guarantee greater usage. A survey by the Research Institute for Compassionate Economics in 2014 found that in 40% of households with a working toilet, at least one family member preferred to defecate outside.

People in villages often fail to acknowledge that a lack of sanitation is a problem. Many use toilets only in emergencies, worrying that the pits will clog up quickly when, in fact, they are meant to last a family of five about ten years. Caste division plays a part, too. Villagers are loath to empty latrine pits manually, a task relegated historically to *dalits* (formerly untouchables). Some consider defecating in the open to be a sign of virility, and believe a stroll to the fields aids digestion. Toilets, often the only concrete structure in the house, are used as a storeroom for firewood, grass, chickens, cow-dung cakes and food grains, or double up as goat-sheds or even temples. On-ground implementation is patchy, too. Families who receive a toilet building subsidy do not always build one. Often the *sarpanch* (village head), the junior engineer who surveys the site and the local contractor are in cahoots and skimp on building materials and design, says Nitya Jacob, a sanitation consultant.

Simply punching holes in the ground at breakneck speed will not solve the problem. India could learn from neighboring Bangladesh, which reduced open defecation from 34% to 1% between 1990 and 2015. As part of a sustained effort, its government partnered with village councils to educate people in the merits of good sanitation. Instead of just highlighting the hazards of open defecation, it extolled the virtues of clean sanitation. Having a toilet became a symbol of dignity.

Women decided on the location and type of toilets to be built in their homes. In India, on the other hand, officials have at times brutally punished those who defecate outside. Some have been beaten up, and a few others have been denied government benefits like pensions and monthly household provisions unless they build a toilet at home. In the short run such coercive tactics might work to increase the number of installed toilets, but they will do little to promote their use.

With a population of over 1.3 billion, India is soon set to dislodge China as the most populous country of the world. While India has one of the fastest growing populations in the world today, it's far behind most others when it comes to preserving the environment and the ecology. Today, our country is riddled with a number of environmental concerns which have only aggravated in the last few decades. It is high time we tackled these issues head on as turning a blind eye is no solution. Even as India races ahead to join the league of top economies internationally, it must stick to a growth path that is environmentally sustainable. Neglecting the environment can create havoc and the damage done may become irreparable. So we must wake up and smell the coffee before it's too late.

II) ENVIRONMENTAL CONCERNS:

Following are some of the major environmental concerns India is grappling with today.

Air Pollution –

Air pollution is one of the worst scourges to have affected India. According to a report from the International Energy Agency (IEA), by 2040 there are likely to be about 9 lakh premature deaths in the country due to the drastic rise in air pollution in the country. Average life expectancies are likely to go down by about 15 months because of air pollution. India is also home to 11 out of 20 of the most polluted (in terms of air pollution) cities in the entire world. According to the rankings of the 2016 Environmental Performance Index, India ranks 141 out of 180 countries in terms of air pollution.

Groundwater Depletion

Rapidly depleting levels of groundwater is one of the biggest threat to food security and livelihood in the country. Accessing the groundwater has become increasingly difficult over the decades. According to news reports, excessive exploitation of limited groundwater resources for irrigation of cash crops such as sugarcane has caused a 6 percentage point decline in the availability of water within 10 metres from ground level. Low rainfall and drought are also reasons for groundwater depletion. The north western and southeastern parts of the country are the worst hit. These are also the regions responsible for most of the country's agricultural production and food crisis is a natural corollary.

Climate Change

In May 2016, Phalodi in Rajasthan recorded a temperature of 51 degrees Celsius - the highest ever in the country. The increasingly tormenting heat waves in the past years are but an indication that global warming and climate change are real challenges that the country is facing now. With the Himalayan glaciers melting at an alarming rate, floods and other such natural disasters are occurring with increasing frequency. The number of forest fires, floods, earthquakes and such other calamities over the past five years has been unprecedented.

Use of Plastics -

Unrestrained use of plastics is another major concern for the country. According to data from the Plastindia Foundation, India's demand for polymers is expected to go up from 11 million tones in 2012-13 to about 16.5 million tones in 2016-17. India's per capita plastic consumption went up from about 4 kg in 2006 to some 8 kg in 2010. By 2020, this is likely to shoot up to about 27 kg. To understand the damage that this can cause to the environment, it is important to understand that plastics are one of the least biodegradable materials. An average plastic beverage bottle could take up to 500 years to decompose naturally.

Garbage Disposal and Sanitation



According to a 2014 report by The Economist, about 130 million households (and 600 million population) in the country lack of toilets. Over 72 percent of India's rural population defecate in the open. Ancient practices such as manual scavenging are still in vogue in the country. Lack of safe garbage disposal systems in the country make India one of the most unhygienic countries in the world. The rural regions of the country are worse off than urban tracts in this regard. This is one of the areas where the country's government and people need to work hard and improve the prevailing conditions.

Loss of Biodiversity

According to the International Union for Conservation of Nature's Red Data Book, some 47 species of plants and animals in India are listed as critically endangered. Loss of ecology and natural habitats have left many indigenous species, including important ones such as the Siberian crane, Himalayan wolf and Kashmir stag in grave danger of going extinct. Rapid urbanization, poaching and indiscriminate hunting for leather, fur etc. have rendered these animals critically endangered and the flora or herbal treasure of India in near-extinction conditions. Many of the plants commonly harvested for their medicinal properties are vanishing along with the legacy of Ayurvedic treatment.

There are two main reasons India's environmental challenges are assuming gigantic proportions. Firstly, the exploding population and the needs of billions makes environmental sustainability a very difficult issue. The other big challenge is lack of environmental awareness and conservation. Despite the efforts of government and environmental agencies, there is a lack of substantial efforts from the masses. Unless this changes, there is little hope for improvement. We can only look forward to the youth and the younger generations of the nation to remain conscientious and act in the best interests of future generations.

III) RELEVANCE OF ECOLOGICAL SANITATION:

India is looking to ride the wave of development and aiming to do so at a breakneck speed. One major part of such development is expanding the cities. On the flipside, one also needs to consider the fact that India, perhaps, has the largest amount of people in the world who live in urban areas and yet do not have access to private - and thus, safe -toilets. This has happened in spite of the fact that government has placed immense priority on sanitation. As per a report by a global NGO, the number of people who live in urban spaces without private toilets is estimated at around 157 million.

Open defecation in India

The number of people in urban areas that practice open defecation is 41 million. This NGO named Water Aid is based in the UK and works in the domain of sanitation and safe water. Its report is named *Overflowing Cities - The State of the World's Toilets 2016* and is the second such yearly report by the group that has been looking at the condition of toilets across the world. In fact, this year it studied the condition of at least 700 million people living in urban areas around the globe without any proper sanitation. The report was released a day before the World Toilet Day, which is celebrated on 19th November every year.

Enormity of the situation

The said report states that due to a high level of population density in the urban areas, diseases can spread around in a rather short span of time. This is especially applicable when proper sanitation facilities are lacking. In fact, the report has stated that the amount of waste generated through open defecation in the streets of cities and towns in India can easily fill up eight swimming pools every day, and that too of the size that is used in the Summer Olympics! In fact, the same amount of faces can fill up 16 jumbo jets a day.

Migration

The report has mentioned that, at present, India is seeing the biggest migration from rural to urban areas in the recent history. It has also stated that the Swachh Bharat Campaign, started by Narendra Modi, emphasizes the fact that it is only when the cities and towns in India grow



in an equitable and sustainable manner will it help the country remain wealthy and healthy in the long term. As per the report, at present there are around 381 million people living in the urban areas of India that are expanding fast. This is almost equivalent to the amount of people living in West Europe.

Growth in numbers

In spite of how government is treating the entire issue of sanitation, the number of people living in urban areas sans sanitation is only going up. In fact, since 2000 this number has increased by 26 million. It is estimated that approximately 100 million people have no recourse but relieve themselves in the open. Such people normally use roadsides, plastic bags, and railway tracks.

'Flying toilets'

Yes, this is what tying and throwing the poo-filled plastic bag is known as; 'flying toilets' is open defecation's biggest problem. According to Avinash Kumar, the Director of Programs and Policy for Water Aid, India's urbanization has been quick and lacked sufficient planning - which has led to a number of developmental issues. He has stated that at the rate urbanization is happening and efforts are being made to meet the growing call for fundamental services, it may become rather difficult to achieve goals related to sustainable development. He has also pointed out that an integrated approach needs to be taken vis-à-vis urban planning.

IV) A THOUGHT PROCESS

Ecosan - ecological sanitation

Why should there be a need for an alternative to flush sanitation?

A. Flush sanitation -

Flush sanitation has some obvious advantages and disadvantages. The biggest advantage is that in the late 19th century, underground sewerage (not flush toilets!) stopped the threat of sewage-related epidemics and pandemics in the (global) North. Another advantage is that, with water being made abundantly available, the technology is definitely user-friendly.

However, disadvantages are obvious and huge:

1) Wasteful use of water resources

Water, mostly of highest quality, is used as a transport medium for human excreta. Flush sanitation requires significant volumes of water, even where flush volumes have been designed to be reduced. (Often in those cases, a single flush is not always efficient enough to obtain a clean toilet.) - See below under Ecosan 3

2) Lack of public hygiene

On coasts and along rivers, sewage is being released into water bodies. The technology package of flush sanitation is not complete if a toilet is not combined with reliable water supply, underground (!) sewerage, sewage treatment (infrastructure plus operations & maintenance (O&M) plus energy needs implied), and treatment (or better, re-use) of sludge. As most systems in the (global) South are incomplete, flush sanitation does not solve the problem of hygienic handling of human excreta, but keeps unhygienic conditions alive and shifts the burden, in general, from the campuses of the rich to the backyards of the poor.

3) Pollution of water cycle

Water bodies, lakes, rivers and seashores are polluted with domestic sewage. Water becomes unusable for most human needs, and water bodies become an eyesore, a source of pest nuisance and breeding sites for disease carriers, instead of being recognized as ecologically indispensable features in the cycle of water. While nature's water cycle gets polluted, the cycle of elements through soils gets disrupted (shifting nutrients from soil to water bodies), and the soils from where nutrients are being harvested in the form of food crops get impoverished. - See below under Ecosan 5

4) Problems of handling hygiene

Flushing is far from perfectly hygienic: Slow motion films show that huge volumes of fine spray (water with stool particles) get whirled up into the air upon flushing toilets. Working with underground sewer systems has its dangers. Sewer systems and sewage treatment plants require



handling of raw or partially treated sewage by humans, exposing them to disease. In order to eliminate the risk of contamination by sewage-borne pathogens, immense protection and technological measures are required. Where protection measures are not provided, a labor force is exposed to pathogens. See below under Ecosan 4

5) **Exorbitant costs** - The system is expensive: In the North, it has been estimated that 80% of the total costs of sanitation systems are spent on sewerage. It has also been stated that city budgets spend exorbitant sums on the O&M of the systems, up to 30% of their budgets (which is probably the only way to run them reliably). City councils are worried about the state of their 100- to 150-year-old sewer systems; a few city councils seriously discuss a shift to less centralized systems or even to maximally decentralized and water-free systems. - See below under Ecosan 6

6) **Waste of biomass and (crop) nutrients** what is called liquid or solid (bio-) waste is a recyclable resource. Flush sanitation, at its best, makes negligible use of recyclable resources or requires additional investment to make use of them. - See below under Ecosan 1

B. Ecosan

Any system of (human excreta) sanitation that aims at saving water and re-use of plant nutrients and biomass may be called ecological sanitation or ecosan, e.g. Suction toilets on airplanes or waterless urinals. In the following, we speak mainly of urine-diversion dehydration toilets (UDDTs), which allow the re-use of nutrients from human excreta after composting. Dealing in India with "washers," not "wipers," we are aware of the need for water for anal cleansing. The advantages of ecosan/UDDT are as follow:

1) Re-use of biomass and plant nutrients

Human excreta - in particular, urine-contain essential plant nutrients - in particular, the macronutrients that present the bottlenecks of agricultural production, leading to the classic industrially manufactured agrochemicals. These are nitrogen (N), phosphorus (P), potassium (K), sulfur (S), and also some sodium, chloride, etc. The plant nutrients in one person's excreta (mostly in urine) are sufficient to produce the food required by one person. It is obvious that this cycling of elements in nature should be a source of fertilizers and crop nutrients, and should not be seen as waste. Human stool provides the bulk of carbon matter in human excreta, as much required for sustainable farming as macro- and micronutrients.

2) Making agriculture and food security more sustainable

The present agriculture scenario is dependent on non-renewable resources (and energy), some of which will be depleted within the next decades. In the case of phosphorus - an element that is essential for every living cell, microbial, vegetal, animal and human reserves are located in very few countries (Morocco, China, US, Middle East) and estimated to be depleted within 50 to 120 years. Mergers and takeovers amongst multinational mining corporates reflect this knowledge. It is obvious that global food security requires a more reliable resource, such as the excreta of mammals, including man. The re-use of human excreta as fertilizers and soil conditioners obviously can mean cost savings and benefits for farmers. In practice, it has been observed in Tamil Nadu and Karnataka that as soon as farmers realize the benefits of ecosan "products," the concept is readily welcomed.'

3) Saving water resources

Besides the water required for anal cleansing, UDDT use requires no water. Indeed, the less water that enters the composting chamber, the easier it is kept smell-free. The average water volume saved by not flushing stools may be in the range of at least seven liters, and for not flushing urine, in the range of two liters saved. If toilet use is complete, the per capita use of water will be in the range of 20-30 liters per day.

4) Improved handling hygiene -

In UDDTs, human stool is never touched or handled to complete sanitization, i.e. by desiccation composting for sufficient time in tropical climates for one year, as per WHO (World Health Organization) standards. Human urine requires zero or minimal precautions, which are easily managed.

5) Avoiding soil and water pollution



With no sewage being produced and released using UDDTs, the risk of spills polluting soils, groundwater, and public space and water bodies is minimized.

6) Cost savings

Dispensing with sewers and sewage treatment leads to enormous cost savings in investment as well as in O&M. These savings are so huge that it would be justified to give incentives of several times higher to dry systems than to flush and sewage systems.

7) Feasibility of (total) sanitation

Due to dispensing with sewers and treatment systems, the benefits of sanitation health benefits, saved expense, improved productivity, etc. - seem to be more readily achievable with ecosan than with flush sanitation, financially as well as technically. A UDDT is a stand-alone system complete in itself. Every UDDT built is a real step toward sanitation, which cannot be said for flush toilets as long as sewage runs through open sewers and/or is not treated sufficiently and/or sewage sludge is not treated adequately.

Disadvantages and challenges of ecosan

At the level of the household, investment costs of a UDDT are higher than those of a flush toilet room. Though as said above, this is probably perfectly balanced by savings in public expense (infrastructure and O&M) on water supply, sewer systems, treatment systems, sludge treatment, energy requirements for water pumps, sewage pumps, treatment systems, etc., and labor expense for sewer systems and treatment systems.

The ideal and user-friendly technology package for urban (middle-class) households (regarding the removal and re-use of urine and compost) in India has yet to be developed. As it not yet available, it cannot be publicly advertised and is far from being mainstreamed.

The biggest challenge is linking the market-i.e. agriculture, with the production sites - i.e. households, human settlements. Some studies have estimated that the overall costs of this linkage will not be more than the costs of the present transport & disposal system via water, even without taking the cost benefits of the resource into account.

C. Sanitation factors independent of the flush/ecosan issues

Benefits of privacy, dignity, security - in particular for women and girls are the same for all household toilets, as are benefits of convenience and comfort. These are independent of the type of toilet-flush, dry, composting, etc. Yet these benefits seem to be the most important for the promotion of sanitation.

With the sanitation scenario being framed as an issue for only the lowest end of the socio-economic society strata, there are deficits in thoughtful design and in perfecting execution and finishing. This problem is shared by all efforts in sanitation.

D) THE ROLE PLAYED BY OUR INSTITUTION ECOSAN SERVICES FOUNDATION:

The work which has been undertaken by our Institution is essentially in the field of Ecological Sanitation.

The area activities *inter-alia* include;

- Sanitation Capacity Building through training, piloting and demonstration, awareness raising, R&D and coaching new enterprises.
- Open dissemination of knowledge in sustainable sanitation and water management among individuals and institutions.
- Providing sustainable solutions at community level.
- Survey, research and analysis in the field of natural wastewater treatment technologies.

Our organization has executed many projects. Please refer to the attached annexure.

This annexure would show the wide spectrum of activities conducted by our institution.

We are attaching herewith numerous photocopies of the news reports and articles wherein our work has been recognized/reported.

There is a reference of "Pandharpur Wari". As is known that millions of devotees walk from Alandi near Pune to Pandharpur. The distance is more than 200 kilometers. This Wari spreads



for more than 15 days. One can imagine the problem caused by defection of all those devotees over period of 15 days and spread over the distance of 200 kilometers. ECOSAN SERVICES FOUNDATION is doing a lot of about this.

We have received the following award and recognition certificates:

2012: Outstanding NGO Award at World Water Award

Ecosan Services Foundation received the prestigious 'Outstanding NGO Award' at the 'World Water Award' meet in 2012 held in Bangalore.

2011: DSK Energy Awards

Ecosan Services Foundation received an award for outstanding contribution in Environment Protection at the 'DSK Energy Awards' in 2011.

2008: Best Water NGO Award at Water Digest 2007-08

Ecosan Services Foundation received the best water NGO in water education award at the prestigious 'Water Digest' Awards in 2007-08. The event was supported by UNESCO and NDTV was the media partner.

2014: International Seminar on Ensuring Sustainable Urban Water Supply Management

Ecosan Services Foundation participated in the 'International Seminar on Ensuring Sustainable Urban Water supply Management: Best Practices Case Studies' in July 2014. The seminar was organized by 'Indian Water Works Association' (IWWA).

2012: Participation at Indian Water Works Association (IWWA)

Ecosan Services Foundation participated in the 'Indian Water Works Association' (IWWA) international conference in 2012 in Goa.

2013: Participation at Indian Water Works Association (IWWA)

Ecosan Services Foundation participated in the 'Indian Water Works Association' (IWWA) international conference in Mumbai.

2014: Participation at Indian Water Works Association (IWWA)

Ecosan Services Foundation participated in the 'Indian Water Works Association' (IWWA) international conference in Mumbai.

2007: 39th IWWA Annual Convention

Ecosan Services Foundation participated in the 39th IWWA Annual Convention on 'Emerging Opportunities in Management of Water Supply and Sanitation Projects' in Mumbai in 2007 organized by 'Indian Water Works Association' (IWWA).

2010: Water Conservation Seminar

Ecosan Services Foundation organized a two day state level seminar on 'Water Conservation' in Adarsh College, Badlapur in 2010.

2005: 9th IWWA International Conference

Ecosan Services Foundation participated in the 9th IWWA International Conference 2005 in Mumbai.

2011: National Workshop by Eco San

Ecosan Services Foundation organized a two day national level workshop on Ecological Sanitation at the Sardar Vallabhai National Institute of Technology in Surat in 2011.

2011: International Water Conference

Ecosan Services Foundation attended the International Water Conference organized by NEERI in Nagpur in 2011.

2015: Certificate of Validation by Charities Aid Foundation (CAF)

Ecosan Services Foundation was assessed and validated by Charities Aid Foundation (CAF) in 2015. Charities Aid Foundation is a leading international not-for-profit organization, which works to make giving more effective and charities more successful. Currently CAF is working with ESF on School Sanitation Project.

CONCLUSION:

The above note would show the effective role played by our company in the area of Environment Protection.

03. CONTENTION - AS PER THE CONCERNED OFFICE

The comments regarding the application is submitted as below in the Advance Ruling application. Taxpayer given the Statement of facts, on the activities being carried out by them, in which they have given their vision as to promote ecological Sanitation and sustainable Sanitation practices along with efficient water & waste water management-practices in India and by gaining experience they developed projects and consulting in Sustainable Sanitation field to conduct training workshop facility, knowledge, sharing & learning etc..

As the taxpayer is registered as a Charitable Company and mentioned various services, they have taken up including sanitation; wherein they claimed, it as to preservation of environment.

In order to support his claim for preservation of environment taxpayer given in his application interpretation of law wherein charitable trust have been given exemption to the services by an entity registered under section 12AA of the I.T. Act, 1961, by way of charitable activities as explained in I.T. Act, 1961 u/s 2(15) and claimed that the Ecosan Services foundation providing services towards Sanitation, which amounts, to preservation of environment, hence GST is not applicable to them.

This office has observed that, taxpayer has claimed and asking for their services towards sanitation amounts to preservation of environment and their activity of providing sanitation services by way of charitable activities is free of GST. In this sense, Charitable activities have been defined in I.T. Act, 1961 in section 2(15) as "Charitable Purpose" includes relief of the poor, education, Yoga, Medical relief, preservation of environments (including watersheds, forest and wildlife) and preservation of monuments or places of objects of artistic or historic interest, and the advancement of any other object of general public utility.

As the notification No.12/2017 Central Tax Rate DT. 28.06.2017 issued by Govt. of India Ministry of Finance at Sr. No. 1 clearly, describes the services by an entity registered u/s 12AA of I.T. Act, by way of charitable activities.

In the present case, the taxpayer is not registered as an entity u/s 12AA of Income Tax Act, 1961 and the second part is that these services be provided by way of Charitable Activities as mentioned in earlier para.

As per this definition Sanitation Services does not form part of Charitable purposes and as claimed by taxpayer, it also not amount to preservation of environment because preservation of environment clearly defined in the above definition i.e. for the watersheds, forests & wildlife, and hence as per taxpayers claim, by providing Services of Sanitation is not preservation of environment.

In view of this, this office feels that Sanitation Services provided by this charitable company is not exempted under GST law, it would be taxed as per the schedule entry of GST Act. If further information is required, we may be allowed some more time by your honour.

04. HEARING

The Preliminary hearing in the matter was held on 12.09.2018, Sh. B. G. Joglekar Consultant appeared and requested for admission of application as per detailed contentions made in their ARA submissions. Jurisdictional Officer Sh. D. R. Surwase, Asstt. Commr. of S.T. (D-901), Pune appeared and made oral and written submissions.

The final hearing in the matter was held on 04.12.2018 Sh. B. G. Joglekar Consultant appeared and made oral submissions. Jurisdictional Officer Sh. D. R. Surwase, Asstt. Commr. of State Tax (D-901), Pune appeared and stated that written submissions have already been made earlier. We were heard from both the sides.

05. OBSERVATIONS

Applicant is a person registered under the provisions of GST Act. Applicant is an entity registered under section 12 AA of the Income Tax Act, 1961 w.e.f. 11/08/2006 and is providing following services which have been claimed as charitable activities namely-

- Sanitation Capacity Building through training, piloting and demonstration, awareness raising, R&D and coaching new enterprises.
- Open dissemination of knowledge in sustainable sanitation and water management among individuals and institutions.
- Providing sustainable solutions at community level.
- Survey, research and analysis in the field of natural wastewater treatment technologies.

Applicant has entered into following contracts and accordingly applied for advanced ruling:

| Year | Donor | Name of Actual donar | Amount (Rs) | Type of activity undertaken |
|---------|-------------------------------------|---------------------------|-------------|---|
| | Charities Aid foundation India CAF) | Kimberly Clark foundation | 23,75,000/- | Repair + Maintenance of toilets development under 2 year programme(total no. of 19 schools) |
| 2017-18 | The HSBC Ltd. | The HSBC Ltd. | 22,58,300/- | Urban community sanitation in Nevasa and Shevgaon, Maharashtra. For period of 1 year. |
| 2017-18 | CAF | - | 9,54,800/- | Under support my school campaign season V |
| 2017-18 | CAF | Coca cola | 2,82,000/- | Maintenance of basic amenities like toilet, access to water and basic infrastructure (phase-2) |
| 2018-19 | CAF | Kimberly Clark foundation | 50,000/- | Repair + Maintenance of toilets development under 1 year programme(total no. of 02 schools) |
| 2018-19 | World Toilet Organisation Singapore | WTO | 13,62,636/- | To host world toilet summit (WTS in November 18 th and 19 th 2018 in Mumbai, India) |

In order to render services amounts are received from various companies and persons as grants/Donations. The details are mentioned in the above table. On this factual matrix applicant is seeking an advance ruling on whether any grant/Donation received towards performing specific services towards preservation of environment amounts to provision of service and liable to GST?

Thus the central point of the discussion in the ruling is the entry at Sr. No. 1 of the Notification No.12/2017- Central Tax (Rate) dated 28/06/2017 that exempt services provided by an entity registered under section 12 AA of the Income Tax Act, 1961 by way of charitable activities from whole of the GST.

We shall now visit, for better understanding, the notification which is as under:-

| Sl. No. | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services | Rate (per cent) | Condition |
|---------|---|--|-----------------|-----------|
| (1) | (2) | (3) | (4) | (5) |
| 1 | Chapter 99 | Services by an entity registered under section 12AAA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities. | Nil | Nil |

In view of this notification, applicant has laid much emphasis to impress upon us that impugned services towards sanitation amounts to preservation of environment and hence exemption notification is applicable to them.

We find that the notification benefit of 'Nil' rate is available to services by an entity registered under Sec.12 AA of Income Tax Act,1961 by way of charitable activities.

Though the applicant is registered under Sec.12 AA of Income Tax Act, 1961, the notification benefit would be available only if the applicant's activities fell within the scope of charitable activities as defined in the said Notification.

The notification defines 'charitable activities' under Para 2 (r) of the notification as activities relating to (i) public health by way of (A) care or counselling of (i) terminally ill persons.....persons affected with HIV, AIDS (iii) persons addicted to drugs or alcohol, (B) public awareness of preventive health, family planning and prevention of HIV infection.....(iv) Preservation of environment including watershed, forests and wildlife.

The dictionary meaning of 'preservation' is to keep up; to maintain; to keep safe from injury. Thus preservation of environment would cover both protection of environment (keeping it safe from destruction) and conservation of environment (optimal use of natural resources and allowing them to regenerate or sustainable consumption of natural resources i.e. meeting the needs of present generation without compromising the needs of the future generations (Brundtland Report)).

The applicant's activities are broadly categorized into sanitation capacity building, dissemination of knowledge in sustainable sanitation, providing sustainable solutions at community level and survey and research in the field of natural wastewater treatment technologies. One specific activity is construction of suction toilets and waterless UDDTs (urine-diversion dehydration toilets) as an alternative to flush toilets which cause wastage of large quantities of water. The applicant contends that this activity contributes to conservation of water resources and in particular reduces depletion of ground water resources. Another activity is waste management in which human excreta, instead of releasing it into the environment causing pollution, is recycled for extraction of micro and macro nutrients which are used in agriculture. The applicant contends that conservation of water and prevention of pollution are essentially activities relating to preservation of environment. Having examined the nature of activities undertaken by the applicant, we find abundant force in their contention as it is a well known fact that flush toilets waste large quantities of water and that recycling of human excreta would reduce pollution of the environment. Therefore we are of the opinion that the applicant's activities are covered by the activity specified under Para 2(r)(iv) of the Notification relating to preservation of environment.

Apart from the above, it is also a well-recognised fact one of the key areas for preventive healthcare is sanitation. The Indian government's Swachh Bharat abhiyan aims precisely at this cause. Hence the activity of construction of public toilets goes a long way in this direction by prevention of defecation in the open grounds which causes the spread of diseases like Hook worm, Polio, Typhoid and Diarrhoea, Amoebiosis and Cholera to name a few. Infection of Hook worm disease is caused when faeces comes into contact with the feet when a person walks barefoot on defecated soil and infection of diseases like Polio, Typhoid, Diarrhoea, Amoebiosis and Cholera is caused by swallowing of water contaminated with human faeces. Therefore construction of public toilets creates awareness of preventive health among public in general and contributes to preventive healthcare of communities. Likewise, repair of toilets would also contribute to the objective of sanitation without which the toilets would be left without doors and required privacy. Applicant is also engaged precisely in activities relating to creation of awareness of sanitation which is an essential ingredient of preventive healthcare. Therefore we are of the opinion that the applicant's activities are also covered by the activities specified under Para 2(r)(B) of the Notification, though the applicant himself has not raised any argument in this regard.

Having regard to discussion held herein above and taking into account the activities carried out by the applicant we find that these activities can be considered as charitable activities and within the scope of 'Charitable activities' as defined in 2 (r) of the exemption Notification No.12/2017- Central Tax (Rate) dated 28/06/2017 of the GST Act.

06. In view of the 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- 70/2018-19/B- 163 Mumbai, dt. 19/12/2018

For reasons as discussed in the body of the order, the questions are answered thus –

Question :- Services provided to (NGO) Non-profit organization registered as Trust having registration U/s. 12AA of Income Tax Act, amounts to provision of service and any grant/ Donation received towards performing specific service towards preservation of environment as specified in notification no 12/2017, Whether amounts to provision of service and liable for GST ?

Answer: - As per above discussion, the services provided by the applicant to various entities inducing NGO amounts to provision of service. Further, grants/Donations received towards provision of services would be considered as received towards activities relating to preservation of environment as specified in definition at 2 (r) of Notification No. 12/2017- Central Tax (Rate) dated 28/06/2017 and therefore such grants/donations are covered by exemption Notification entry at Sr. No.1 of the said notification.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

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.

CERTIFIED TRUE COPY

MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

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.