

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AAATV9885C1ZZ
Legal Name of Applicant	VISVESVARAYA NATIONAL INSTITUTE OF TECHNOLOGY, NAGPUR
Registered Address/ Address provided while obtaining user id	VINIT COMPUS, AMBAZARI ROAD, NAGPUR - 440011.
Details of application	GST-ARA, Application No. 45 Dated 23.03.2018
Concerned officer	Dy. Commissioner of State Tax (NAG-VAT-E-005), Nagpur.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Service Recipient
B Description (in brief)	PURE SERVICE RECEIVED BY GOVERNMENTAL AUTHORITY
Issue/s on which advance ruling required	(ii) applicability of a notification issued under the provisions of the Act (v) determination of the liability to pay tax on any goods or services or both
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 VISVESVARAYA NATIONAL INSTITUTE OF TECHNOLOGY, NAGPUR, the applicant, seeking an advance ruling in respect of the following question connected to the issues mentioned in para 02 below :

Whether Rate of Tax on Pure services (excluding works contract service or other composite supplies involving supply of any goods) received by **VISVESVARAYA NATIONAL INSTITUTE OF TECHNOLOGY Nagpur from Service Providers is NIL** as per Entry No 3 of Notification No. 12/2017- Central Tax (Rate) dated 28th June , 2017 ?

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

Statement of Relevant Facts having a bearing on the Question(s) raised:-

1) Statement of Relevant Facts having a bearing on the Question No. 1:-

Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017:

For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body,—

(i) Set up by an Act of Parliament or a State Legislature; or

(ii) Established by any Government,

with ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

2) Statement of Relevant Facts having a bearing on the Question No. 2:-

Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

S.I. 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

(zf) "**Governmental authority**" has the same meaning as assigned to it in the Explanation clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017



3. Statement containing the applicant's interpretation of law and/or facts in respect of aforesaid question(s):

Statement containing the applicant's interpretation of law and/or facts in respect of aforesaid Question No. 1:

Visvesvaraya National Institute of Technology, Nagpur is one of the thirty one National Institutes of Technology in the country. The Govt. of India conferred on the Institute, the Deemed to be University status (under University Grants Commission Act, 1956 (3 of 1956)) with effect from 26th June 2002.

Subsequently, the Central Govt. by an **Act of Parliament (National Institutes of Technology Act, 2007 (29 of 2007))** declared VNIT Nagpur as an Institute of National Importance along with all other NITs. The Act was brought into force from 15th August 2007. The prime objective of establishing the institute was to impart quality technical education throughout the country and foster national integration. The Audit of the Visvesvaraya National Institute of Technology, Nagpur is conducted by Comptroller and Auditor General (CAG) of India.

As per Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017, the expression "governmental authority" means an authority or a board or any other body,—

- (i) Set up by an Act of Parliament or a State Legislature; or
- (ii) Established by any Government,

With ninety per cent or more participation by way of equity or control, to carry out any functions entrusted to a municipality under article 243W of the Constitution.

VNIT Nagpur, being a statutory body set up under Act of Parliament (**NIT Act, 2007**) for providing instructions and research in the branches of engineering, technology, management, **education**, sciences and arts, is a **Governmental Authority** as per Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017.

Statement containing the applicant's interpretation of law and/or facts in respect of aforesaid Question No. 2:

Visvesvaraya National Institute of Technology, Nagpur receives various Pure services (excluding works contract service or other composite supplies involving supply of any goods) like Security Services, Manpower Services, Gardening Services, Hygiene maintenance, Ground maintenance etc from outside Service Providers.

As per Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017, the mentioned the meaning of "Governmental authority" has the same meaning as assigned to it in the Explanation clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017. accordingly Visvesvaraya National Institute of Technology, Nagpur is Governmental Authority as per Explanation to clause (16) of section 2 of the Integrated Goods and Services Tax Act, 2017,

being set up under and Act of Parliament, viz, NIT Act 2007.

Further, Article 243G of the Constitution covers "Education, including primary and secondary schools"

Thus VNIT Nagpur is a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G.

Rate of Tax on Pure services (excluding works contract service or other composite supplies involving supply of any goods) received by **VISVESVARAYA NATIONAL INSTITUTE OF TECHNOLOGY Nagpur from Service Providers is NIL** as per Entry No 3 of Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017. Hence Visvesvaraya National Institute of Technology, Nagpur is not required to Pay Goods and Service Tax on Pure Services (excluding



works contract service or other composite supplies involving supply of any goods) received by it from outside service providers.

04. **CONTENTION - AS PER THE CONCERNED OFFICER**

The jurisdictional Deputy Commissioner of State Tax, E-005, LTU-4, Nagpur , vide letter dated 13th April, 2018 has submitted that :

The Applicant Visvesvaraya National Institute of Technology, Nagpur is one of the National Institute of Technology having status of institute of national importance and is governed by THE NATIONAL INSTITUTE OF TECHNOLOGY ACT. 2007 which is enacted by the Parliament in the year 2007. The applicants name is mentioned in The Schedule of the said Act. The Act has been enacted by Parliament so as to provide a common statutory framework for all NIT. These NIT are the institutes fully funded bay Central Government and granted deemed university status.

The applicant (VNIT) was previously regional engineering college a joint venture of Central and State Government. In the year 2003 these REC were rechristened as National Institute of Technology and granted deemed university status and taken over as fully funded institute of Central Government. The Government afterwards passed the National Institute Technology Act, 2007 (29 of 2007) which is enacted by Parliament. According to the Enacted act the applicants name is included in the schedule of the act (in the list of central institutions incorporated into the Act).

As per section 13 of the NIT Act, 2007 the general superintendence, direction and control of affairs is of Board of Governors. The powers vested to the Government to appoint/nominate the members of the board.

As per section 30 of the NIT act in order to co ordinate the activities of all the NIT and to examine the development plans of NITs Council is established by the Central Government.

From the website of Ministry of Human Resource Development Government of India the National Institute of Technology are fully funded institute of Central Government and granted deemed University status. It was observed that the activity of the applicant falls under the provision of Article 243W of the Constitution. The activity of applicant is covered as education as per serial no 13 of the 12th schedule of Constitution of India.

04. **HEARING**

The case was taken up for preliminary hearing on dt. 17.04.2018 with respect to admission or rejection of the application when Sh. Sachin S Jagdale, DY. Registrar (Accounts) appeared and made contentions for admission of application as per their written submission.

However, it was pointed out to Shree Sachin S Jagdale, that as they were recipient of service and not service provider and these services are not under reverse charge mechanism, the application is not maintainable in view there of and is liable for rejection.



During hearing, Sh. A. B. Ahirkar, Dy. Commissioner of State Tax, (NAG-VAT-E-005) LTU-4, Nagpur Jurisdictional Officer appeared and made written submissions and orally stated that the application is liable for rejection as they are recipient.

05. OBSERVATIONS

1) We find that in the present application as per submissions made before us, the applicant is recipient of service and not service providers and also that these services are not under reverse charge mechanism. The notification as referred by them, is applicable to provider of service and not recipient of service. The present applicant being recipient of service and not service provider is not the proper person to make the present advance ruling application.

2) In view of above facts, we are of the opinion and come to the conclusion as per the facts of the case that the applicant's application is liable for rejection as per proviso to section 98 (2) of the CGST Act referred above and therefore cannot be entertained by this authority and is accordingly rejected as it is not maintainable.


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- 45/2017-18/B- 52 Mumbai, dt. 20/6/2018

For reasons as discussed in the body of the order, the subject application for advance ruling made by the applicant is rejected under the provisions of sub-section 2 of Section 98 of the CGST Act, 2017 without going into other detailed facts or merits of the case.




B. V. BORHADE
(MEMBER)



PANKAJ KUMAR
(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, GST & Central Excise, Churchgate, Mumbai
5. The Jurisdictional Commissioner of Central Tax

Note :-

Appeal against this order would lie to The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai - 400021.

CERTIFIED TRUE COPY

**ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI**