

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata–700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Shafeeq S, Joint Commissioner, CGST & CX

Jaydip Kumar Chakrabarti, Senior Joint
Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called “the GST Act”), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	SHUBHABRATA CHOWDHURY
Address	CHAKPARA, ANANDANAGAR, HOWRAH-711204
GSTIN	19AGCPC5953C1ZO
Case Number	WBAAR 21 of 2025-26
ARN	AD190725018364X
Date of application	September 04, 2025
Jurisdictional Authority (State)	Bally Charge
Jurisdictional Authority (Central)	Bally I Division, Howrah Commissionerate

Order number and date	24/WBAAR/2025-26 dated 10.12.2025
Applicant's representative heard	Mr.Samik Chakrabarty, A/R Mr. Binay Mukhopadhyay, A/R

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant is engaged in operation and maintenance of corporation & municipalities machineries including operators under solid waste management, sewerage and drainage department and public health services.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

Whether the operation and maintenance services provided to Municipalities and Corporations are exempt from GST under Notification No 12/2017 Central Tax (Rate) , Entry No 3 or 3A

1.4 The question on which the advance ruling is sought for is found to be covered under clause (b) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the questions rose in the application neither have been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The application is, therefore admitted

2. Submission of the Applicant

2.1 The operation and maintenance of machinery and equipment used by Corporations and Municipalities is a critical component of urban service delivery across the following departments:

Solid Waste Management

- Involves daily operation of waste collection vehicles, compactors and transfer stations.
- Maintenance includes servicing bins, vehicles and mechanical sweepers to ensure uninterrupted waste collection and disposal
- Operators are trained in segregation, safe handling and route optimization
- Compliance with SWM Rules 2016 is mandatory for all Urban local Bodies(ULBs)

Sewerage & Drainage

- Machinery includes jetting machines, suction units and pumping stations
- Regular maintenance prevents blockages, overflow and ensures hygienic conditions
- Operators must follow safety protocols and are often trained under CPHEEO guidelines

Public Health Services

- Equipment includes fogging machines, water testing kits and sanitation vehicles
- Maintenance ensures effective vector control, clean water supply and emergency response
- Operators play a key role in disease prevention and public hygiene

These services are typically managed by municipal engineering departments or outsourced to specialized agencies under Operation & Maintenance (O&M) contracts ensuring accountability, performance tracking and compliance with environmental and public health standards.

2.2 Taxability under GST:

- Whether the services provided to municipalities qualify as pure services or composite supply under Notification no 12/2017 Central Tax(Rate)
- Whether such services are exempt under Entry No 3 or 3A of the said Notification which covers services provided to governmental authorities for functions listed under article 243W of the constitution.

Eligibility for Exemption:

- The applicant contends that the services are rendered directly to municipalities which are government entities performing statutory functions.

- The services are essential for public health, sanitation and environmental protection aligning with constitutional obligations.

2.3 The applicant refers SWM Rules 2016, CPHEEO guidelines and municipal mandates that require such services. The applicant put emphasis on non commercial nature of the services and their role in fulfilling obligatory municipal functions.

3. Submission of the Revenue

3.1 The concerned officer from Bally Charge submits written submission dated 15.09.2025 and expresses the following:

- The applicant likes to state that the services are actually provided to Municipalities and Corporations which is a local authority within the meaning of section 2(69) of the CGST Act, 2017 and is entitle to get exemption vide notification no 12/2017 central tax (Rate) dated 28.06.2017 as per the twelfth schedule read with 243W of the Constitution of India.
- According to Notification No 12/2017 Central Tax (Rate) dated 28.06.2017, any pure labour service provided to Central Govt, State Govt or Union Territory or local 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 Municipality under article 243W of the Constitution is exempted from payment of GST. But, this exemption does not include works contract services or other composite supplies that involve the supply of goods.
- It may mentioned here that there are three points in the entry no 3 of Notification No 12/2017 Central Tax (Rate) dated 28.06.2017 which are to be fulfilled simultaneously in order to get the exemption from GST. These are:
 - (a) The supply must be a pure service (excluding works contract service or other composite supplies involving supply of any goods)
 - (b) Services must be provided to the Central Government, State Government or Union Territory or Local authority i.e. the recipient of the service should be the Central Government, State Government or Union Territory or Local authority
 - (c) The service must be provided by way of any activity in relation to any function entrusted to Panchayat under article 243G of the Constitution or in relation to any function entrusted to a municipality under article 243W of the Constitution.

- In the instant case, the appellant provides operation and maintenance services to various Corporations and Municipalities for their vehicles which are used under solid waste management project.
- Operation and maintenance services of the vehicles used at various Corporations and municipalities under Solid Waste Management project are not considered as exempted from GST because operation and maintenance services which are being provided to local bodies were not pure services rather composite supplies involving supply of goods. Thus, operation and maintenance services of the vehicles used at various Corporations and municipalities under Solid Waste Management projects are taxable under the GST Act.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representatives of the applicant during personal hearing. We have also considered the submission made by the officer concerned from the revenue.

4.2 The applicant is stated to have carried out various kinds of operation and maintenance services in respect of different municipal corporations and municipalities within the state. Some of the work orders are placed on records. On perusal of the said work orders we find the following kinds of activities are carried out by the applicant.

1. Annual operation & maintenance contract of movable compactor
2. Annual maintenance contract for Baxy SWM vehicles for running & preventive servicing
3. Annual maintenance contract for four wheeled box tipper for repairing, running & preventive servicing
4. Annual operation & maintenance contract of Jetting-cum-Suction machine for operation, cleaning & washing, greasing, blower servicing
5. Engaging unskilled labour and driver for cleaning Ganga ghats for special cleanliness drive
6. Cleaning & maintenance of municipality office with sufficient manpower along with some machinery
7. Maintenance contract for four wheeled auto tipper for repairing, running & preventive servicing

8. Operation & preventive maintenance of Rope Bucket Machine
9. Operation & maintenance contract of Deep Suction Vehicle
10. Operation & maintenance contract of De-silt machine
11. Running & preventive maintenance of ambulance and hearse van
12. Running & preventive maintenance of hydraulic ladder
13. Preventive maintenance of movable toilet
14. Operation & preventive maintenance contract of sanitising machine
15. Operation & preventive maintenance contract of Compost unit and weigh bridge
16. Engagement of manpower for regular sweeping, cutting of grass, cleaning of wedges with equipments in all municipality parks
17. Preventive maintenance contract of cesspool emptier truck

All the above noted works are carried out in respect of Howrah Municipal Corporation, Uttarpara-Kotrung Municipality and Baranagar Municipality.

4.3 The applicant has placed the following question before this authority:

Whether the operation and maintenance services provided to Municipalities and Municipal Corporations are exempt from GST under Notification No. 12/2017 – Central Tax (Rate) vide Entry no. 3 or 3A?

4.4 Before going into the details of the discussion, we should discuss some concepts which will act as reference in the latter part of the discussion.

Pure Service: This term has not been defined in the provisions of the GST Act. This term has reference in serial no. 3 of Notification No. 12/2017-Central Tax (Rate) Dated 28.06.2017, as amended. Pure Services exclude works contract service or other composite supplies involving supply of goods. So supply of services which does not involve any supply of goods can be regarded as pure service.

Composite Supply: Section 2(30) of the GST Act defines Composite Supply as supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Article 243G: This Article of the Constitution of India reads as under:

Powers, authority and responsibilities of Panchayats — Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats 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 Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to — (a) the preparation of plans for economic development and social justice; (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

The Eleventh Schedule as available in the Constitution of India downloaded from the official website of Legislative Department, Ministry of Law and Justice, Government of India (<https://legislative.gov.in>) contains the following entries in respect of Article 243G:

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.

23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

Article 243W: This Article of the Constitution of India reads as under:

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.

The Twelfth Schedule as available in the Constitution of India downloaded from the official website of Legislative Department, Ministry of Law and Justice, Government of India (<https://legislative.gov.in>) contains the following entries in respect of Article 243W:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.

10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

4.5 The applicant has referred to Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 as amended. The relevant portion of the notification is reproduced as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
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 applicant has also referred to Entry no. 3A of the above notification made effective by virtue of Notification No. 02/2018 – Central Tax (Rate) Dated 25.01.2018. The relevant entry is as

under:

(1)	(2)	(3)	(4)	(5)
"3A	Chapter 99	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity 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

It is evident from the above tables that in order to qualify for Serial no. 3 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, as amended the following three conditions are to be fulfilled simultaneously:

1. The service must be a pure service. It should not be works contract service or other composite supplies involving supply of any goods.
2. The service is to be provided to the Central or State Government or Union Territory or a local authority or a Governmental authority.
3. The service provided must be done by way of any activity in relation to any function entrusted to a Panchayat or Municipality under article 243G or 243W of the Constitution of India respectively.

On the other hand, in order to qualify for Serial no. 3A of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, as amended by Notification No. 02/2018 – Central Tax (Rate) Dated 25.01.2018 the following conditions are to be fulfilled simultaneously:

1. The service must be a composite supply of goods and services.
2. The value of supply of goods should not constitute more than 25% of the total value of supply.

3. The service is to be provided to the Central or State Government or Union Territory or a local authority or a Governmental authority or a Government Entity.

4. The service provided must be done by way of any activity in relation to any function entrusted to a Panchayat or Municipality under article 243G or 243W of the Constitution of India respectively.

4.6 So far as the activities mentioned in the application for advance ruling is concerned the second and third conditions are fulfilled. The applicant provides the service to Howrah Municipal Corporation, Baranagar Municipality and Uttarpara-Kotrung Municipality. All these are local authorities as per Section 2(69) of the CGST Act, 2017. Clause (b) of this section provides that *“local authority” means a Municipality as defined in clause (e) of Article 243P of the Constitution.* Clause (e) of Article 243 of the Constitution of India provides that *“Municipality” means an institution of self-government constituted under article 243Q.* Article 243Q provides for constitution of municipal council for smaller urban area and municipal corporation for larger urban area.

So Howrah Municipal Corporation, Baranagar Municipality and Uttarpara-Kotrung Municipality qualify individually as local authority.

All the activities are in relation to the functions entrusted to the local authorities under Article 243G and 243W including those covered by serial no. 13 and 23 of the Eleventh Schedule to Article 243G and serial no. 4,6,12 and 17 of the Twelfth Schedule to Article 243W.

4.7 Now the only point that remains to be considered by this authority is whether the activities mentioned by the applicant qualify for ‘pure service’ as mentioned in serial no. 3 or the composite supplies mentioned in serial no. 3A of the Notification No. 12/2017 *supra*.

To answer this question we have to view the activities with reference to the related work orders issued by the concerned government department and the functional details of such activities. During the course of hearing the Authorised Representative of the applicant submitted certain work orders issued by the three local authorities. The descriptions of such works have been serially numbered from 1 to 17 in Paragraph 4.2. The applicant has failed to place before us documents related to the functional details of the work orders and the contracts for the works signed between the applicant and the local authority in appropriate cases.

Activities in relation to the work orders noted in serial no. 5, 6 and 16 in Paragraph 4.2 *supra* are of the nature of pure services. Those activities refer to engagement of manpower to carry out different municipal activities. The said activities qualify for exemption under serial no. 3 of the

table noted in Paragraph no. 4.6.

The rest of the work orders refer to operation and maintenance of various vehicles, machineries used for solid and semi solid waste management, cleaning of underground drainage system, carrying goods for road and other public construction works and management of public health.

In some cases the work orders include supply of spare parts. For example, the annual operation & maintenance contract of movable compactor in respect of Baranagar Municipality includes supply of spare parts. The other contracts may not have clear inclusion of spares and other goods, but maintenance of machineries and vehicles may involve supply of goods in the form of spare parts or other goods. The applicant failed to provide any information or evidence in respect of supply of goods, if any required for maintenance works of the machineries and vehicles.

The aforementioned supplies should be regarded as composite supply where the principal supply is that of maintenance of movable goods in the form of vehicles and machineries. These supplies involve supply of goods also.

As we have already discussed, the exempt nature of such supplies will depend on the ratio of value of goods involved in the total value of the supply. If the value of goods is not more than 25% of the total value of supply, the supply will qualify for serial no. 3A of the table in Paragraph 4.6 *supra*.

In view of the foregoing, we rule as under:

RULING

Whether the operation and maintenance services provided to Municipalities and Municipal Corporations are exempt from GST under Notification No. 12/2017 – Central Tax (Rate) vide Entry no. 3 or 3A?

Answer: Supply of unskilled labour and driver for cleaning Ganga ghats for special cleanliness drive, supply of manpower for cleaning & maintenance of municipality office and supply of manpower for regular sweeping, cutting of grass, cleaning of wedges with equipments in municipality parks being pure services will fall under serial no. 3 of the table in Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, as amended.

If the value of supply of goods in respect of the rest of the works being composite supplies is not more than 25% of the total value of such supply, such services will fall under serial no. 3A of the table in Notification No. 02/2018 – Central Tax (Rate) Dated 25.01.2018, as amended.

If the value of supply of goods in respect of the above works being composite supplies is more than 25% of the total value of such supply, such services having SAC 9987 will fall under serial no. 25 of Notification No. 11/2017 – Central Tax (Rate) Dated 28.06.2017, as amended. This will be taxed @ 9% CGST + 9% SGST.

Sd/-
(SHAFEEQ S.)
Member
West Bengal Authority for Advance Ruling

Sd/-
(JAYDIP KUMAR CHAKRABARTI)
Member
West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 10th December, 2025

To,
SHUBHABRATA CHOWDHURY
CHAKPARA, ANANDANAGAR, HOWRAH-711204

Copy to:

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