

GST applicable on Royalty paid on Tertiary Treated Water supplied to MAHAGENCO: The AAR, Maharashtra

Fact of the Case

The applicant, Nagpur Municipal Corporation (NMC) is constituted under the city of Nagpur Corporation Act, 1948. Therefore, NMC is a “Local Authority”. The NMC, under Article 243W of the Constitution of India, read with 12th Schedule to the Constitution, is required to provide the services of management of sewage system for the city of Nagpur for which, it has set up and is operating the Sewage Treatment Plant (STP) located at Bhandewadi, Nagpur for reuse of Sewage Effluent/Water.

NMC thereafter decided to augment and expand capacity of existing SWP and for that has appointed the applicant, under PPP contract basis, for Implementing, Designing, Engineering, Developing in Financing, Procurement, Supply, Install, Construction, Augmentation, Testing and Commissioning of all Civil, Electrical, Mechanical and Instrumentation works consisting of Intake works and Raw Sewage Pumping station, Transmission pipelines from Intake works to existing STP, Augmentation of existing STP, Treated Sewage Pumping station and Tertiary Treated facility (if any) along with operation and maintenance of the entire plant for treatment of sewage water for a period of 30 years, under a contract, to set up and operate the Sewage Treatment Plant (STP) located at Bhandewadi, Nagpur on Build Operate and Transfer basis (BOT basis).

The applicant has sought the advance ruling on the issue Whether the Royalty paid or payable by the applicant to Nagpur Municipal Corporation (NMC) for supplying “Tertiary Treated Water” to Mahagenco, by treating the Sewage Water supplied by IMC is liable to tax under the GST Law.

Decision of the Case

The coram ruled that the Royalty paid or payable by the applicant to Nagpur Municipal Corporation (NMC) for supplying “Tertiary Treated Water” to Mahagenco, by treating the Sewage Water supplied by IMC is liable to tax under the GST Law.

The AAR further added that the taxes are to be paid by the applicant under reverse charge basis (RCM). NMC is not liable to pay taxes on the subject transaction in present order. ITC would be available to the applicant subject to fulfillment of the conditions mentioned under sections 16 to 21 of CGST/MGST ACT, 2017.

The Maharashtra Authority of Advance Ruling (AAR) held that GST applicable on Royalty paid on Tertiary Treated Water supplied to Maharashtra State Electricity Generating Co. Ltd. (MAHAGENCO).