



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH**

**Goods and Service Tax**

D.No.12-468-4, Adjacent to NH-16 Service Road, Kunchanapalli, Guntur-522501

**Present**

1. Sri. K.Ravi Sankar, Commissioner of State Tax (Member)
2. Sri.R V Pradhamesh Bhanu, Joint Commissioner of Central Tax (Member)

**AAR No.07 /AP/GST/2023 dated: 08.05.2023**

|   |  |   |
|---|--|---|
| 1 | Name and address of the applicant  | M/s. Andhra Pradesh corporation for out sourced services  |
| 2 | GSTIN  | 37AASCA9533B1ZH   |
| 3 | Date of filing of Form GST ARA-01  | 08.02.2023  |
| 4 | Personal Hearing   | 29.03.2023  |
| 5 | Represented by   | Sivaprasad Annavarapu CA  |
| 6 | Jurisdictional Authority - Central   | Krishna Lanka Range, Amaravathi Division  |
| 7 | Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised | a) Classification of any goods or services or both<br>e) Determination of the liability to pay tax on any goods or services or both |

**ORDER**

**(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)**

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and APGST Act, 2017 are in pari materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Andhra Pradesh corporation for out sourced services (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

### 3. Brief Facts of the case:

- 3.1 M/s. Andhra Pradesh Corporation for Outsourced Services (here in after referred as "APCOS") is registered tax payer with GSTIN 37AA5CA9533B1ZHI with effect from 15/07/2020 and having its principal place of business located at NTR ADMINISTRATIVE BLOCK, 2ND FLOOR, P N Bus Stand, Vijayawada, Krishna, Andhra Pradesh, 520013, is providing manpower supply services (SAC 998519) to various government departments, corporations, municipalities and other public institutions in the state of Andhra Pradesh.
- 3.2 Andhra Pradesh Corporation for Outsourced Services (APCOS) is established in accordance with GO Ms. No 126 dated 18/10/2019, which is incorporated under section 8 of the Companies Act 2013, as a not-for-profit company, to achieve the following outcomes :
- Removal of private outsourcing agencies / middle men.
  - Corruption free outsourcing manpower placement for all Government departments / organizations.
  - 50% reservation for SC's / ST's / BC's & Minorities and 50% reservation for women.
  - Timely and full payment of salaries into the bank account of outsourced manpower without leakages.
  - Assured statutory benefits like EPF & ESI etc.

The following are the key objectives of the corporation.

- To engage required skilled, semi-skilled and unskilled manpower through systematic and transparent processes.
- To place the engaged manpower to the needy departments / organizations, as per their requirements.
- To ensure that full benefits are extended to the engaged outsourced man power as per the rules and norms applicable and ensure that their statutory benefits such as Employee Provident Fund (EPF) and Employee State Insurance (ESI) are complied with.
- To act as a One-Stop-Shop for all the outsourcing requirements of the Govt of AP departments / organizations / Institutions.

The shareholding of APCOS shall be 100% with Government Of Andhra Pradesh in line with the vision and objectives of the outsourcing. The APCOS to be a non-profitable organization which initiates services for the outsourcing the manpower and the services in the State.

### 4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

- Based on the facts submitted in Fact A above, as per section 15 of GST Act, what is the value of the supply of the services rendered by APCOS.



2. Whether the supply of manpower services to various departments under state government provided by the applicant i.e., APCOS is eligible for exemption from GST, as per Sr. 3 of Notification Number 12/2017- Central Tax (Rate) New Delhi, dated 28th June, 2017 as amended, being pure services as per the definition and the services rendered thereby being listed in article 243G and 243W of Constitution as functions pertaining to panchayat and municipality.
3. Whether the services of manpower supply services to various government authorities and Government entities provided by the applicant, i.e., APCOS is eligible for exemption from GST, as provided under Sr. 3A of Notification Number 12/2017- Central Tax (Rate) New Delhi, dated 28th June, 2017 as amended vide notification 16/2021 - Central tax (rate) dated 18-11-2021 being pure services as per the definition and the services rendered thereby being listed in article 243G and 243W of Constitution as functions pertaining to panchayat and municipality.

On Verification of basic information of the applicant, it is observed that the applicant is under Central jurisdiction i.e., Krishna Lanka Circle, Amaravathi Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST / APGST Act 2017.

In response, remarks are received from the central jurisdictional officer concerned stating that no proceedings lying pending with the issue, for which the advance ruling sought by the applicant.

## 5. Brief facts of the case

### 5.1 The applicant submits the following in support of their arguments :

**Fact No. 1:** As per the G.O Ms No. 126 and G.O.Ms.No136, APCOS is a single point solution for the manpower requirements of all the governmental organizations, departments, and corporations. The exact scope of operations of APCOS can be ascertained from various documents, and practices followed by various entities. Some of the salient features to be considered here are as under.

- 1) APCOS is not an agency that recruits manpower for the government entities. The recruitments of manpower are being made by the respective governmental departments, corporations etc. APCOS is not involved in any of the process of calling for the interviews, conducting interviews, shortlisting the eligible candidates etc.,
- 2) APCOS is not entering into any employment agreement with any of the employees. In fact, there is an explicit term in the letter intimating employment to the employees, that there is no employer and employee relationship between APCOS and the recruitee.
- 3) APCOS is not concerned with the attendance or the actual conduct of the recruitee's on their job. The recruits are not subservient to the instruction of APCOS and APCOS is not involved in the day-to-day operations of any of the recruitee's.

- 4) APCOS do not undertake to ensure that a certain number of employees are provided to the respective government departments, corporation and in case of absence or termination of any of the employees to replenish the same and to ensure that the work force is made available.
- 5) APCOS do not run the payroll – nor does receive and remit the salary amounts of the outsources employees. The remittance of the emoluments of the employment are made directly to the employees by the respective government entities based on their actual attendance and other terms of employment.
- 6) APCOS is only concerned with ensuring that all the statutory deductions and payments to the employees are made properly. Respective departments are remitting the Statutory payments like PF, ESI, PT, GST etc., to APCOs and APCOS undertakes to ensure that all statutory deductions are properly remitted to the respective authorities. APCOS is receiving the actual amount that shall be remitted to the authorities like PF, ESI, PT, GST etc., and is remitting exactly the same amounts.
- 7) APCOS is getting a mark-up of 1% of the amount of the salary of the employees. Based on the facts, Government Policy in the form of GO 126,136, and the agreements, it can be noted that the consideration of the supply of services made by APCOS is only the 1% markup. APCOS is not concerned about not receiving the basic portion of the salary of the outsourced employees. Though APCOS is receiving the statutory payments in relation to the employees it cannot be considered as Income and expenditure of APCOS. It is only a pass through to APCOS, but is not a part of consideration of APCOS.

## **Fact. No. 2**

The functions entrusted to a municipality under the Twelfth Schedule to Article 243W of the Constitution and the list of Departments/ Authorities/ Local Bodies, etc., discharging those functions

| <b>S. No</b> | <b>Nature of Service</b>                | <b>Function Entrusted to</b>                                   | <b>Category</b> |
|--------------|---|--|-----------------|
| (a)          | Urban planning including town planning. | Town And Country Planning Department                           | Department      |
| (a)          | Urban planning including town planning. | Visakhapatnam Metropolitan Region Development Authority(Vmrda) | Local Authority |
| (a)          | Urban planning including town planning. | Pulivendula Area Development Agency                            | Local Authority |
|              |   | Amaravati Smart And Sustainable City                           |                 |



|     |   |  |                 |
|-----|---|--|-----------------|
| (a) | Urban planning including town planning.                           | Corporation Limited  | Corporation     |
| (a) | Urban planning including town planning.                           | Andhra Pradesh Capital Region Development Authority              | Local Authority |
| (a) | Urban planning including town planning.                           | Anantapuramu & Hindupur Urban Development Authority              | Local Authority |
| (b) | Regulation of land-use and construction of buildings.             | Ap Building And Other Construction Workers Welfare Board         | Local Authority |
| (b) | Regulation of land-use and construction of buildings.             | Municipalities   | Municipalities  |
| (c) | Planning for economic and social development.                     | Municipalities   | Municipalities  |
| (d) | Roads and bridges.  | Transport, Roads And Buildings Secretariat                       | Department      |
| (d) | Roads and bridges.  | Administration, State Roads & Road Safety Works (Rsw), Enc (R&B) | Department      |
| (d) | Roads and bridges.  | Andhra Pradesh Road Development Corporation                      | Corporation     |
| (e) | Water supply for domestic, industrial and commercial purposes.    | Municipalities   | Municipalities  |
| (f) | Public health, sanitation conservancy and solid waste management. | Dr Ysr Aarogyasri Health Care Trust                              | Corporation     |
| (f) | Public health, sanitation conservancy and solid waste management. | Public Health And Family Welfare Department                      | Department      |
| (f) | Public health, sanitation conservancy and solid waste management. | Andhra Pradesh Vaidya Vidhana Parishad                           | Department      |
| (f) | Public health, sanitation conservancy and solid waste management. | Medical Education Department                                     | Department      |
| (f) | Public health, sanitation conservancy and solid waste management. | Health & Family Welfare Department                               | Department      |
| (f) | Public health, sanitation conservancy and solid waste management. | Health, Medical & Family Welfare Secretariat                     | Department      |

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| (f) | Public health, sanitation conservancy and solid waste management.  | Directorate Of Institute Of Preventive Medicine, Public Health Laboratories And Food (Health) Administration. | Department      |
| (f) | Public health, sanitation conservancy and solid waste management.  | Ayurveda, Yoga, Unani, Siddha & Homeopathy (Ayush) Department   | Department      |
| (f) | Public health, sanitation conservancy and solid waste management.  | Drugs Control Administration  | Department      |
| (f) | Public health, sanitation conservancy and solid waste management.  | Ap Paramedical Board  | Local Authority |
| (f) | Public health, sanitation conservancy and solid waste management.  | Andhra Pradesh Medicinal And Aromatic Plants Board  | Local Authority |
| (g) | Fire services.   | Director General Of State Disaster Response And Fire Services   | Department      |
| (h) | Urban forestry, protection of the environment and promotion of ecological aspects.                         | Municipalities  | Municipalities  |
| (i) | Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. | Social Welfare Secretariat  | Department      |
| (i) | Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. | Social Welfare Department   | Department      |
| (i) | Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. | Women, Children, Disabled And Senior Citizens Secretariat   | Department      |
| (i) | Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. | Persons With Differently Abled And Senior Citizens Welfare Department   | Department      |



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| (i) | Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. | Social Welfare Residential Educational Institutions Society     | Local Authority |
| (i) | Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded. | Ap Differently Abled And Senior Citizens Assistance Corporation | Corporation     |
| (j) | Slum improvement and upgradation.  | Swachha Andhra Corporation                                      | Corporation     |
| (k) | Urban poverty alleviation.   | Mission For Elimination Of Poverty In Municipal Areas           | Society         |
| (l) | Provision of urban amenities and facilities such as parks, gardens, playgrounds.                           | Municipalities  | Municipalities  |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | State Archives  | Department      |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Youth And Sports Secretariat                                    | Department      |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Cultural Affairs Department                                     | Department      |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Tourism Department  | Department      |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Youth Services Department                                       | Department      |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Sports Authority Of Andhra Pradesh (Saap)                       | Local Authority |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Archaeology & Museums Department                                | Department      |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Shilparam Arts Crafts Cultural Society                          | Society         |
| (m) | Promotion of cultural, educational and aesthetic aspects.  | Andhra Pradesh Tourism Development Corporation Limited          | Corporation     |

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| (m) | Promotion of cultural, educational and aesthetic aspects.                                    | Bhavani Island Tourism Corporation | Corporation    |
| (n) | Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.        | Municipalities                     | Municipalities |
| (o) | Cattle pounds; prevention of cruelty to animals.   | Municipalities                     | Municipalities |
| (p) | Vital statistics including registration of births and deaths.                                | Municipalities                     | Municipalities |
| (q) | Public amenities including street lighting, parking lots, bus stops and public conveniences. | Municipalities                     | Municipalities |
| (r) | Regulation of slaughter houses and tanneries.  | Municipalities                     | Municipalities |

**B. The functions entrusted to a Panchayat under the Eleventh Schedule to Article 243G of the Constitution and the list of Departments/ Authorities/ Local Bodies, etc., discharging those functions**

| S. No | Nature of Service                             | Function Entrusted to                                    | Category     |
|-------|---|--|--------------|
| (i)   | Agriculture, including agricultural extension | Horticulture Department                                  | Department   |
| (i)   | Agriculture, including agricultural extension | Sericulture Department                                   | Department   |
| (i)   | Agriculture, including agricultural extension | Ap State Agro Industries Development Corporation Limited | Corporations |
| (i)   | Agriculture, including agricultural extension | Ap Cooperative Oilseeds Growers Federation Ltd           | Federation   |
| (i)   | Agriculture, including agricultural extension | Andhra Pradesh State Seed Certification Authority        | Department   |
| (i)   | Agriculture, including agricultural extension | A P State Seeds Development Corporation Ltd              | Corporations |
| (i)   | Agriculture, including agricultural extension | Agriculture Department                                   | Department   |
| (i)   | Agriculture, including agricultural extension | Rythu Sadhikara Samstha                                  | Department   |



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| (ii)  | Land improvement, implementation of land reforms, land consolidation and soil conservation | Land Administration Department                  | Department |
| (ii)  | Land improvement, implementation of land reforms, land consolidation and soil conservation | Survey, Settlement And Land Records Department  | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Water Resources(Op) Department                  | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Water Resources (Administration )               | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Major Irrigation, Flood Control And Drainage    | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Minor Irrigation Department                     | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Irrigation Projects, Kadapa                     | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Krishna Basin, Commissioner                     | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Irrigation Projects, North Coastal Districts    | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Irrigation Projects, Ongole                     | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Irrigation Projects, Anantapur                  | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Polavaram Project                               | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Irrigation Projects, Kurnool                    | Department |
| (iii) | Minor irrigation, water management and watershed development                               | Resettlement And Rehabilitation Commissionerate | Department |

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| (iii)  | Minor irrigation, water management and watershed development | Krishna Delta System, Vijayawada                                | Department   |
| (iii)  | Minor irrigation, water management and watershed development | Andhra Pradesh State Irrigation Development Corporation Limited | Corporations |
| (iii)  | Minor irrigation, water management and watershed development | Andhra Pradesh Micro Irrigation Project                         | Department   |
| (iii)  | Minor irrigation, water management and watershed development | District Water Management Agency(Dwma)                          | Society      |
| (iii)  | Minor irrigation, water management and watershed development | Andhra Pradesh Water Resources Development Corporation          | Corporations |
| (iii)  | Minor irrigation, water management and watershed development | N.T.R Telugu Ganga Project                                      | Department   |
| (iv)   | Animal husbandry, dairying and poultry                       | Animal Husbandry, Dairy Development & Fisheries Secretariat     | Department   |
| (iv)   | Animal husbandry, dairying and poultry                       | Animal Husbandry Department                                     | Department   |
| (iv)   | Animal husbandry, dairying and poultry                       | Andhrapradesh Veterinary Council                                | Council      |
| (iv)   | Animal husbandry, dairying and poultry                       | Ap Sheep And Goat Development Cooperative Federation Ltd        | Federation   |
| (iv)   | Animal husbandry, dairying and poultry                       | Andhrapradesh Livestock Development Agency                      | Department   |
| (v)    | Fisheries  | Fisheries Department  | Department   |
| (v)    | Fisheries  | Ap State Fishermen Cooperative Societies Federation Ltd         | Federation   |
| (vi)   | Social forestry and farm forestry                            | Environment, Forest, Science & Technology Secretariat           | Department   |
| (vi)   | Social forestry and farm forestry                            | Principal Chief Conservator Of Forests                          | Department   |
| (vi)   | Social forestry and farm forestry                            | Andhra Pradesh State Biodiversity Board                         | Department   |
| (vii)  | Minor forest produce   | Girijan Cooperative Corporation Limited                         | Corporations |
| (viii) | Small scale industries,                                      | AP MICRO Small And  | Department   |



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|--------|---|--|--------------|
|        | including food processing industries  | Medium Enterprise Dev  |              |
| (viii) | Small scale industries, including food processing industries                  | Special Investigation Team (Sit)   | Department   |
| (viii) | Small scale industries, including food processing industries                  | Andhra Pradesh State Food Commission                                       | Department   |
| (viii) | Small scale industries, including food processing industries                  | Ap Food Processing Society   | Society      |
| (ix)   | Khadi, village and cottage industries   | Andhra Pradesh Khadi And Village Industries Board                          | Department   |
| (ix)   | Khadi, village and cottage industries   | Handlooms & Textiles Department  | Department   |
| (x)    | Rural housing   | Housing (Op.A1) Department   | Department   |
| (x)    | Rural housing   | Weaker Section Housing   | Department   |
| (x)    | Rural housing   | Town And Country Planning Department                                       | Department   |
| (x)    | Rural housing   | Andhra Pradesh Township And Infrastructure Development Corporation Limited | Corporations |
| (x)    | Rural housing   | Ap Cooperative Housing Societies Federation Ltd                            | Federation   |
| (x)    | Rural housing   | Ap Building And Other Construction Workers Welfare Board                   | Department   |
| (x)    | Rural housing   | Andhra Pradesh Housing Board   | Department   |
| (x)    | Rural housing   | Ap State Housing Corporation Ltd.  | Corporations |
| (xi)   | Drinking water  | Ground Water Department  | Department   |
| (xi)   | Drinking water  | Andhra Pradesh Drinking Water Supply Corporation                           | Corporations |
| (xii)  | Fuel and fodder   |  |              |
| (xiii) | Roads, culverts, bridges, ferries, waterways and other means of communication | Transport, Roads And Buildings Secretariat                                 | Department   |
| (xiii) | Roads, culverts, bridges, ferries, waterways and other                        | Administration, State Roads &  | Department   |

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|             | means of communication  | Road Safety Works (Rsw),<br>Enc(R&B)  |              |
| (xiii)      | Roads, culverts, bridges,<br>ferries, waterways and other<br>means of communication | Andhra Pradesh Road<br>Development Corporation                                  | Corporations |
| (xiv)       | Rural electrification, including<br>distribution of<br>Electricity                  |   |              |
| (xv)        | Non-conventional energy<br>sources  |   |              |
| (xvi)       | Poverty alleviation programme   | Society For Elimination<br>Of Rural Poverty (Serp)                              | Society      |
| (xvi)       | Poverty alleviation programme   | Rural Development<br>Department   | Department   |
| (xvii)      | Education, including primary<br>and secondary schools                               | Sarva Siksha Abhiyan<br>(Rajiv Vidya Mission)                                   | Society      |
| (xvii)      | Education, including primary<br>and secondary schools                               | School Education Department   | Department   |
| (xvii)      | Education, including primary<br>and secondary schools                               | Andhra Pradesh Residential<br>Educational Institutions<br>Society               | Society      |
| (xvii)      | Education, including primary<br>and secondary schools                               | Ap Education Welfare<br>Infrastructure Development<br>Corporation               | Corporations |
| (xvii)      | Education, including primary<br>and secondary schools                               | State Council Of Educational<br>Research And Training<br>Andhra Pradesh         | Council      |
| (xvii)      | Education, including primary<br>and secondary<br>Schools                            | Ap Open Schools Society   | Society      |
| (xvii)      | Education, including primary<br>and secondary<br>Schools                            | Secondary Education<br>Secretariat  | Department   |
| (xviii<br>) | Technical training and<br>vocational education                                      | Technical Education<br>Department   | Department   |
| (xviii<br>) | Technical training and<br>vocational education                                      | Intermediate Education<br>Department  | Department   |
| (xviii<br>) | Technical training and<br>vocational education                                      | Employment And Training<br>Department   | Department   |
| (xviii<br>) | Technical training and<br>vocational education                                      | Skill Development,<br>Entrepreneurship And<br>Innovation Secretariat            | Department   |
| (xviii<br>) | Technical training and<br>vocational education                                      | Society For Employment<br>Generation And<br>Enterprise Development<br>In Andhra | Society      |



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|         |   | Pradesh Seedap                                      |              |
| (xviii) | Technical training and vocational education | Andhra Pradesh State Skill Development Corporation  | Corporations |
| (xviii) | Technical training and vocational education | Society For Training Employment And Promotion       | Society      |
| (xix)   | Adult and non-formal education              | Dr.Abdul Haq Urdu University                        | Universities |
| (xix)   | Adult and non-formal education              | Andhra Pradesh Fisheries University                 | Universities |
| (xix)   | Adult and non-formal education              | Horticultural University                            | Universities |
| (xix)   | Adult and non-formal education              | Acharya N G Ranga Agricultural University           | Universities |
| (xix)   | Adult and non-formal education              | Sri Venkateswara Veterinary University              | Universities |
| (xix)   | Adult and non-formal education              | Jawaharlal Nehru Technological University Anantapur | Universities |
| (xix)   | Adult and non-formal education              | Vikrama Simhapuri University                        | Universities |
| (xix)   | Adult and non-formal education              | Yogi Vemana University                              | Universities |
| (xix)   | Adult and non-formal education              | Krishna University                                  | Universities |
| (xix)   | Adult and non-formal education              | Higher Education Secretariat                        | Department   |
| (xix)   | Adult and non-formal education              | Collegiate Education Department                     | Department   |
| (xix)   | Adult and non-formal education              | Adult Education Department                          | Department   |
| (xix)   | Adult and non-formal education              | Rashtriya Uchchatar Shiksha Abhiyaan                |              |
| (xix)   | Adult and non-formal education              | A.P.State Council Of Higher Educatuon               | Council      |
| (xix)   | Adult and non-formal education              | Dr.Ysr Arch. & Fine Arts Univer., Kadapa            | Universities |
| (xx)    | Libraries                                   | Public Libraries Department                         | Department   |
| (xxi)   | Cultural activities                         | Cultural Affairs Department                         | Department   |
| (xxi)   | Cultural activities                         | Youth Services Department                           | Department   |
| (xxi)   | Cultural activities                         | Sports Authority Of Andhra Pradesh (Saap)           | Department   |
| (xxi)   | Cultural activities                         | Archaeology & Museums Department                    | Department   |
| (xxii)  | Markets and fairs                           | Agriculture Marketing & Co-Operation Secretariat    | Department   |
| (xxii)  | Markets and fairs                           | Marketing Department                                | Department   |

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| (xxii)  | Markets and fairs   | Andhra Pradesh State Cooperative Marketing Federation Limited   | Federation |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Public Health And Family Welfare Department   | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Andhra Pradesh Vaidya Vidhana Parishad  | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Medical Education Department  | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Health & Family Welfare Department  | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Dr Ysr Aarogyasri Health Care Trust   | Trust      |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Health, Medical & Family Welfare Secretariat  | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Directorate Of Institute Of Preventive Medicine, Public Health Laboratories And Food (Health) Administration. | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Ayurveda, Yoga, Unani, Siddha & Homeopathy (Ayush) Department   | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Drugs Control Administration  | Department |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and dispensaries | Ap Paramedical Board  | Board      |
| (xxiii) | Health and sanitation, including hospitals, primary health centres and              | Andhra Pradesh Medicinal And Aromatic Plants Board  | Board      |



|          |   |   |              |
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|          | dispensaries  |   |              |
| (xxiv)   | Family welfare  |   |              |
| (xxv)    | Women and child development   | A P Womens Cooperative Finance Corporation                            | Corporations |
| (xxv)    | Women and child development   | A P Women S Commission  | Department   |
| (xxv)    | Women and child development   | A.P. State Commission For Protection Of Child Rights                  | Department   |
| (xxv)    | Women and child development   | Women Development & Child Welfare Department                          | Department   |
| (xxvi)   | Social welfare, including welfare of thehandicapped and mentally retarded                           | Social Welfare Secretariat  | Department   |
| (xxvi)   | Social welfare, including welfare of thehandicapped and mentally retarded                           | Social Welfare Department   | Department   |
| (xxvi)   | Social welfare, including welfare of thehandicapped and mentally retarded                           | Women, Children, Disabled AndSenior Citizens Secretariat              | Department   |
| (xxvi)   | Social welfare, including welfare of thehandicapped and mentally retarded                           | Persons With Differently Abled And Senior Citizens Welfare Department | Department   |
| (xxvi)   | Social welfare, including welfare of thehandicapped and mentally retarded                           | Social Welfare Residential Educational Institutions Society           | Society      |
| (xxvi)   | Social welfare, including welfare of thehandicapped and mentally retarded                           | Ap Differently Abled AndSenior Citizens Assistance Corporation        | Corporations |
| (xxvi i) | Welfare of the weaker sections, and in particular, of the Scheduled Castes and theScheduled Tribes  | Andhra Pradesh Scheduled Castes Co-Operative Finance Corporation Ltd  | Corporations |
| (xxvi i) | Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes | Ap Scheduled Tribes Cooperative Finance Corporation Ltd               | Corporations |
| (xxvi i) | Welfare of the weaker sections, and in particular, of the Scheduled Castes and theScheduled Tribes  | Ap State Commission For Scheduled Castes AndSchedules Tribes          | Department   |

|              |   |  |              |
|--------------|---|--|--------------|
| (xxvi<br>i)  | Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes | TRIBAL WELFARE DEPARTMENT  | Department   |
| (xxvi<br>i)  | Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes | Tribal Welfare Engineering Department                                      | Department   |
| (xxvi<br>i)  | Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes | Tribal Welfare Residential Educational Institutions Society                | Society      |
| (xxvi<br>i)  | Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes | Andhra Pradesh Tribal Power Company Limited                                | Company      |
| (xxvi<br>i)  | Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes | Tribal Cultural Research And Training Mission                              |              |
| (xxvi<br>i)  | Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes | Integrated Tribal Development Agency For Development Of Sts In Plain Areas | Department   |
| (xxvi<br>ii) | Public distribution system  | Food And Civil Supplies Department   | Department   |
| (xxvi<br>ii) | Public distribution system  | Ap State Civil Supplies Corporation Limited                                | Corporations |
| (xxix<br>)   | Maintenance of community assets   | Panchayat Raj And Rural Development Secretariat                            | Department   |
| (xxix<br>)   | Maintenance of community assets   | Panchayat Raj Department   | Department   |
| (xxix<br>)   | Maintenance of community assets   | Panchayat Raj Engineering Department                                       | Department   |



## 6. Applicant's Interpretation of Law:

1. APCOS is of the opinion that the supply of manpower supply services to the departments mentioned above is "pure service" as the aforesaid services are listed in 11th and 12th schedule of the constitution as a function pertaining to panchayats and municipality respectively and as per the definition, it qualifies as "pure services" and that their scope of services involve no supply of materials or any construction activities. Hence the same is eligible for GST exemption.
2. The applicant submits that, notification No. 12/2017- Central Tax (Rate) dated 28-06-2017 as amended stipulates at Sl.No 3 of the notification that GST rate is NIL on "PURE SERVICES" which is extracted here as under :

*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.No | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services   | Rate (per cent.) | Condition |
|------|---|---|------------------|-----------|
| 1    | ***   | ***   | ***              | ***       |
| 2    | ***   | ***   | ***              | ***       |
| 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       |

3. The applicant further submits that, notification no. 02/2018- Central Tax (rate) dated 25-01-2018, modified notification stated supra as under

In the said notification, in the Table, -

(a) against serial number 3, in the entry in column (3), after the words "a Governmental Authority" the words " or a Government Entity" shall be inserted;

(b) after serial number 3 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

| S.No | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services   | Rate (per cent.) | Condition |
|------|---|---|------------------|-----------|
| 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   | Nil              | Nil       |
|      |   | 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. |                  |           |

4. The applicant stated that, Vide Notification No. 32/2017- Central Tax (Rate) dated 13-10-2017, Government Authority and Government Entity were defined as under

“(zf) “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 90 per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.



(zfa) "Government Entity" means an authority or a board or any other body including a society, trust, corporation,

- (i) set up by an Act of Parliament or State Legislature; or
- (ii) established by any Government, with 90 per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority."

5. The applicant further states that, vide Notification No. 16/2021 - Central Tax (Rate) dated 18-11-2021, GOI has made amended the rate notification 12/2017 (Central Rate) and the same can be read as

*- In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 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 makes the following amendments further to amend the notification of the Government of India, in the Ministry of Finance.*

*(Department of Revenue), No.12/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number*

*G.S.R. 691(E), dated the 28th June, 2017, namely In the said notification, in the TABLE, -*

- (i) against serial number 3, in column (3), in the heading "Description of Services", the words "or a Governmental authority or a Government Entity" shall be omitted;*
- (ii) against serial number 3A, in column (3), in the heading "Description of Services", the words "or a Governmental authority or a Government Entity" shall be omitted;*

6. The applicant submits that, from the above statutory provisions, it is evident that to avail the benefit of the aforesaid exemption, three conditions should be satisfied,

- a. pure services (excluding works contract service or other composite supplies involving any goods) should be provided,
- b. it should be provided to the Central government, State government or Union territory or local authority or a governmental authority and
- c. thirdly it should be 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.

7. The applicant submits that, supply of man power as discussed above provided by APCOS, not involving any supply of goods and should be treated as supply of pure services. The applicant further submits that, they are providing the same to state government and the said activity is in relation to function entrusted to a panchayat under article 243G of the Constitution or in relation to functions entrusted to a municipality under article 243W of the Constitution. In view of the above, the applicant is of the opinion that the supply of manpower services are exempt from the liability of GST in terms of clause 3 of the Notification No 12/2017 supra, being in the nature of pure service covered under the article 243G and 243W of the Constitution being functions entrusted to the Municipality and Panchayat.

#### 7. Personal Hearing:

The proceedings of Personal Hearing were conducted on 29.03.2023, for which the authorized representative, CA. Sivaprasad Annavarapu attended and reiterated the submissions already made.

#### 8. Discussion and Findings:

We have examined the issues raised in the application in light of the facts and arguments submitted by the applicant. We have considered the submissions made by the applicant in their application for advance ruling. We have considered the issues involved from which advance ruling is sought by the applicant and the relevant facts along with arguments made by the applicant and also their submissions made during the time of the personal hearing.

Now we examine the issue, whether the services of manpower supply services to various Government authorities and Government entities provided by the applicant, ie., APCOS is eligible for exemption from GST, as per Notification Number 12/2017-Central Tax (Rate) New Delhi, dated 28th June, 2017 as amended vide notification 16/2021 - Central tax (rate) dated 18-11-2021 being pure services, as per the definition and the services rendered thereby being listed in article 243G and 243W of Constitution as functions pertaining to panchayat and municipality.

Now, we invite attention to the relevant portion of the aforementioned notification, which is extracted here as under:

#### Notification No. 12/2017- Central Tax (Rate) dated 28-06-2017 as amended

*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.No | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services  | Rate (per cent.) | Condition |
|------|---|--|------------------|-----------|
| 1    | ***   | ***  | ***              | ***       |
| 2    | ***   | ***  | ***              | ***       |
| 3    | Chapter99   | 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 <b>local authority or a Governmental authority</b> 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       |

Therefore, the conditions to be fulfilled to be eligible for taking the benefit of the exemption from GST under the above notifications, is as under:

- (i) Pure services are to be provided.
- (ii) Service recipient should either be Central Government or State Government or Union territory or Local authority or Governmental authority or Government entity: and
- (iii) Such services provided should be 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.

The phrase “pure services” has not been defined under GST, the same can be construed in general terms as any supply which is either deemed as services under Schedule II of CGST Act or which are not covered under the definition of goods shall be categorized as pure services. In the instant case, the applicant is mainly involved in the supply of manpower services to various government departments as stated above, which can be categorized as pure services, thus satisfying the first condition.

The second condition to be verified is whether the entities mentioned at para 5.1 above are Central Government or State Government or Local authority. In this regard, definitions of the same as per the CGST Act, 2017 are as under:

- (i) As per Section-2(53) of the CGST, Act, 2017, “Government” means the Central Government.

(ii) As per Section-2(53) of the Andhra Pradesh GST, Act, 2017, "Government" means the State Government.

(iii) "local authority" means--

- (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
- (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
- (f) a Development Board constituted under article 371 of the Constitution; or
- (g) a Regional Council constituted under article 371A of the Constitution ". On examination of the details submitted by the applicant as well as taking into consideration the definitions mentioned above and the data available online, it can be concluded that most of the departments mentioned above can be classified as state government.

The third condition to be verified is whether the services provided to these entities mentioned above are services 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.

It is pertinent to note that the eligibility of exemption is dependent on case-to-case basis and cannot be generalized. The exemption is available only in relation to services 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 or not. The applicant had submitted only few work orders for verification and hence it is not feasible to pass any ruling on a generalised basis and hence it is being held at a principle level that any services provided in relation to any function entrusted to a panchayat under article 243G of Constitution of India or in relation to any function entrusted to a municipality under Article 243W of Constitution of India and the applicant be guided accordingly.

Now we come to another part of the question sought by the applicant regarding the value of the supply of services rendered by APCOS as per section 15 of GST Act. We invite attention to the relevant part of the section which is extracted here as under:

***Section 15. Value of Taxable Supply.-***

*(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.*

*(2) The value of supply shall include-*

*(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and*



Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

**Explanation.**—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

(4) where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

**Explanation.** — For the purposes of this Act,—

(a) persons shall be deemed to be "related persons" if—

(i) such persons are officers or directors of one another's businesses;

(ii) such persons are legally recognised partners in business;

(iii) such persons are employer and employee;

(iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;

(v) one of them directly or indirectly controls the other;

(vi) both of them are directly or indirectly controlled by a third person;

(vii) together they directly or indirectly control a third person; or

(viii) they are members of the same family;

(b) the term "person" also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related

The applicant had put forth the point of argument that the value of the service rendered by them is only limited to collection of 'welfare fund' and also contented that the employees are not recruited by the applicant directly and they are concerned only with the payroll management. They have provided the way for the processing of bills and the way the monies are transferred directly into the employees account directly from the state CFMS account.

However, the following documentary evidences viz., the GO issued by government stating the objectives for which the applicant is formed by APCOS, the periodical invoices being raised by APCOS on various departments, the placement intimation letters being issued by the applicant stating that they are placing the staff in the concerned department are neither consistent with the contentions of the applicant nor conclusive and hence the contentions cannot be considered tenable.

The applicant has filed invoice issued to the service recipients with the following details:

- (i) remuneration
- (ii) EPF
- (iii) ESI
- (iv) welfare fund

As per section 15 of the GST act, the total value of the supply includes all the above and 18% GST is leviable on the entire amount (total of remuneration + EPF + ESI + welfare fund) and not just welfare fund as contended by the applicant.

In view of the forgoing we rule as under:

### RULING

**(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)**

Question: Based on the facts submitted in Fact A above, As per section 15 of GST Act, what is the value of the supply of the services rendered by APCOS.

Answer : As per the provisions of the section 15 of the GST act, the total amount collected by APCOS as mentioned in the invoice is the total value of the supply.



**Question:** Whether the supply of manpower services to various Departments under State Government provided by the applicant i.e., APCOS is eligible for exemption from GST, as per Sr. 3 of Notification Number 12/2017- Central Tax (Rate) New Delhi, dated 28th June,2017 as amended, being pure services as per the definition and the services rendered thereby being listed in article 243G and 243W of Constitution as functions pertaining to Panchayat and Municipality.

**Answer :** Only those services 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 are exempted as per notification stated supra ,rest are taxable at 18% GST.

**Question:** Whether the services of manpower supply services to various Government Authorities and Government Entities provided by the applicant, ie., APCOS is eligible for exemption from GST, as provided under Sr. 3A of Notification Number 12/2017-Central Tax (Rate) New Delhi, dated 28th June,2017 as amended vide notification 16/2021 – Central tax (rate) dated 18-11-2021 being pure services as per the definition and the services rendered thereby being listed in article 243G and 243W of Constitution as functions pertaining to Panchayat and Municipality.

**Answer:** Only those services 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 are exempted as per notification stated supra ,rest are taxable at 18% GST.

**Sd/- K.Ravi Sankar**  
**Member**

**Sd/-RV Pradhamesh Bhanu**  
**Member**

//t.c.f.b.o//

  
Deputy Commissioner (ST)  
Registrar  
Authority for Advance Ruling  
O/o. Chief Commissioner (State Tax)  
Andhra Pradesh, Vijayawada.

**To**

M/s Andhra Pradesh corporation for outsourced services, NTR Administrative Block  
P N Bus stand Vijayawada, A.P.,520013 **(By Registered Post)**

**Copy to**

1. The Assistant Commissioner of State Tax, Benz Circle, Vijayawada-II Division **(By Registered Post)**
2. The Superintendent, Central Tax, CGST Krishna Lanka Range, Amaravathi Division. **(By Registered Post)**

**Copy submitted to**

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax,  
Kunchanapalli, Guntur District, (A.P)
1. The Principal Chief Commissioner (Central Tax), O/o Principal Chief  
Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port  
area, Visakhapatnam-530035. A.P. **(By Registered Post)**

**Note:** Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.