BEFORE THE HON’BLE APPELLATE AUTHORITY FOR  
  
ADVANCE RULING,  
  
GOODS AND SERVICE TAX, UTTAR PRADESH  
4, VIBHUTI KHAND GOMTI NAGAR LUCKNOW-006010  
(Constituted under Section 99 of the Uttar Pradesh Goods  
and Service Tax Act, 2017)  
  
Appeal Order No.6 /AAAR/--40/-6-3-/2023  
Dated: ......... ]0.=03-2023  
  
Before the Bench of:  
Dr. Uma Shanker  
Member, Central Tax  
Smt. Ministhy S,  
Member, State Tax  
  
Legal Name of the  
  
M/s The Indian Hume Pipes Company Ltd.  
  
Appellant  
  
Trade Name of the M/s The Indian Hume Pipes Company Ltd.  
Appellant  
  
GSTIN Number of the | O9AAACT4063D1ZK  
  
Appellant  
  
Registered address  
  
Gwalior Road, Karari Jhansi, Uttar Pradesh  
  
Order of Advance  
Ruling Against which  
the appeal is filed  
  
UP ADRG — 12/2022 dated 23.11.2022  
  
[ Proceedings under Section 101 of the Central Goods and  
  
Service Tax Act, 2017 and Uttar Pradesh State Goods and  
  
Service Tax Act, 2017]  
  
The present appeal has been filed under Section 100 of the Central  
  
Goods and Service Tax Act, 2017 and Uttar Pradesh Goods and  
  
Service Tax Act, 2017 ( here-in-after referred to as “ the CGST Act  
  
and UPSGST Act”) by M/s The Indian Hume Pipes Company Ltd.,  
  
Gwalior Road, Karai Jhansi, Uttar Pradesh(her:  
  
the “ Appellant”) against the Advance Ruling Order No. UP AD  
  
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e-in-after referred to as  
  
RG -  
12/2022 dated 23.11.2022 issued by the Authority for Advance  
Ruling, Uttar Pradesh.  
  
At the outset, we would like to make it clear that the provisions of  
both the CGST Act and the UPSGST 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, 2017  
would also mean a reference to the same provisions under UPSGST  
  
Act, 2017 and the vice versa.  
  
Brief facts of the case  
  
The instant appeal has been preferred against Advance Ruling No.  
UP ADRG-12/2022 dated 23.09.2022 passed in the case of applicant  
i.e. M/s Indian Hume Pipe Company Ltd. Gwalior Road, Karari Jhansi,  
  
Uttar Pradesh. The Brief facts of the case are as under:  
  
1. The Applicant undertakes contracts for construction of head  
works sumps, pump rooms, laying jointing of pipe line and  
commissioning and maintenance of the entire work for  
water supply projects/sewerage projects/facilities.  
  
2. The Customers of the Applicant include Government  
bodies/entities/authorities mainly, M/s Utttar Pradesh Jal  
Nigam for the aforementioned work.  
  
3. M/s Uttar Pradesh Jal Nigam hold PAN AALUO256C under  
Income Tax Act, 1961 and GSTIN- O9AAALU0256C320 under  
the Goods and Service Tax Act, 2017.  
  
4. Notification No. 15/2021 Central Tax (Rate) seeks to amend  
Notification No. 11/2017-Central Tax (Rate) dated 28" June  
2017 prescribing the rate of tax on construction services at  
  
SI.No. 3 of the table therein, viz- “ (iii) composite supply of  
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works contract as defined in clause 119 of section 2 of  
Central Goods and Service Tax Act, 2017” at 9% CGST and  
9% SGST. However, Notification 20/2017-Central Tax (Rate)  
dated 22.08.2017 prescribed rate of GST at 12% ( 6% CGST +  
6% SGST) in case such services are supplied to “the  
Government, a local authority or Governmental Authority by  
way of construction, erection, commissioning, installation,  
  
completion, fitting out, repair, maintenance, renovation, or  
  
alternation of, -  
  
C) ee  
  
(b) Canal, dam or other irrigation works;  
  
(c)Pipeline conduit or plant for (i) water supply(ii) water  
treatment, or (iii) sewerage treatment or disposal.” to be  
taxed at 12% GST ( 6% CGST + 6% SGST).  
  
5. Notification No. 15/2021- Central Tax (Rate) dated  
18.11.2021 read with Notification 22/2021-Central Tax  
(Rate) dated 31.12.2021 seeks to amend SI.No. 3(iii) as — “  
union territory or a local authority” thereby deleting the  
  
words ‘a Government Authority or a Government Entity  
implying thereby that aforementioned services by way of  
works contract if provided to union territory or a local  
  
authority shall still continue to be taxed at 12% GST ( 6%  
  
CGST + 6% SGST).  
6. Section 2(69) of the Goods and Service Tax Act, 2017 defines  
  
“Local Authority” as-  
  
(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 Zila 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 and  
article 371J of the Constitution; or  
  
(g)a Regional Council constituted under article 371 J of the  
Constitution.  
  
7. Based on the aforesaid facts the appellant had presented  
following question to seek advance ruling.  
  
(a) Whether the supply of services by the Appellant to M/s  
Uttar Pradesh Jal Nigam is covered by Notification No.  
15/2021-Central Tax (Rate) dated 18"" November, 2021 read  
with Notification No. 22/2021-Central Tax (Rate), dated  
31.12.2021.  
  
(b) If the supplies as per Question 1 are covered by  
Notification No. 15/2021-Central Tax (Rate) dated 18”  
November, 2021 read with Notification No. 22/2021-Central  
Tax (Rate), dated 31.12.2021, then what is the applicable  
rate of Tax under the Goods and Service Tax Act, 2017 on  
such supplies made with effect from 01.01.2022; and  
  
(c) In case. the supplies as per question 1 are not covered by  
the Notification above, then what is the applicable rate of  
  
tax on such supplies under the Goods and Service Tax Act,  
  
2017 with effect from 01.01.2022.  
8. The Authority for Advance Ruling in its impugned ruling held  
as under-  
  
(a)The supply of services by the Applicant to M/s Uttar  
Pradesh Jal Nigam is not covered by Notification No.  
15/2021-Central Tax (Rate), dated 18" November, 2021  
read with Notification No. 22/2021-Central Tax (Rate)  
dated 31" December, 2021.  
  
(b) Not answered as per reply of question above.  
  
(c) The applicable rate of tax shall be 18- CGST 9% and SGST  
9%...  
  
9.0 The appellant being aggrieved by the aforesaid ruling has  
preferred an appeal before the Appellate Authority for Advance  
Ruling as the Authority for advance ruling has failed to appreciate  
the fact that tax liability on Works Contract Services has to be  
determined as per Notification No. 11/2017-Central Tax (Rate) dated  
  
28" June 2017 (as amended from time to time).  
  
The Appellant has prayed-  
  
(i) To set aside/modify the impugned Advance Ruling Order No.  
UP ADRG 12/2022 dated 23.11.2022 passed by the Authority  
for Advance Ruling.  
  
(ii) Passing such other order as may be deemed fit and proper in  
  
the facts and circumstances of the case.  
  
10.0 GROUNDS OF APPEAL  
Appellant has submitted following grounds of appeal as under-  
10.1 The Authority for Advance Ruling has failed to appreciate  
  
the fact that tax liability under works contracts is to be  
10.3  
  
10.4  
  
10.5  
  
determined in terms of Notification 11/2017-Central Tax  
(Rate) dated 28.06.2017 as amended from time to time.  
  
M/s Uttar Pradesh Jal Nigam is squarely covered under the  
definition of ‘Local Authority’ as provided under Section  
2(69) of the CGST Act, 2017 and as per Notification 11/2017-  
Central Tax (rate) as amended, local authority is to be taxed  
at 12% GST [ 6% CGST +6% SGST].  
  
The Appellant has submitted that M/s Utttar Pradesh Jal  
Nigam is not covered under the Government Authority as  
defined under the Act. As per definition to qualify as a  
‘Government Authority’ an entity must be funded primarily  
by equity and not otherwise. In the instant case M/s Uttar  
Pradesh Jal Nigam has no equity funds. Further the term “  
with 90 per cent, or more participation by way of equity or  
control” as used in the definition has to be read as one  
condition because a person can control an organization by  
having prescribed equity holdings either directly or may  
control the same through equity holdings in some other  
entities.  
  
The Constitutional Board of Jal Nigam has 8 Government  
Officials and 5 elected Heads of Local Bodies in the State.  
This would imply that Government is having control of about  
61.54% only which is less than required 90%. This view has  
been confirmed By Karnataka Advance Ruling Authority in  
the case of M/s URC Construction Pvt. Ltd. vide their  
Advance Ruling NO. KAR ADRG 73/2019 dated 23.09.2019.  
The opportunity of personal hearing was granted to the  
appellant on 13.02.2022. Shri Manish Goyal, Authorised  
  
Representative, appeared on behalf of the appellant to  
represent the case. He argued the appeal and reiterated the  
submission already made by the appellant.  
11.0 Discussion and Findings  
We have gone through the submission made by the Appellant and  
examined the detailed reply submitted by them. We find that as per  
the scope of work submitted by the Appellant they are engaged in  
contracts for construction of head works sumps, pump rooms, laying  
jointing of pipe line and commissioning and maintenance of the  
entire work for water supply projects/sewerage projects/facilities.  
They are mainly supplying these services to Government  
Authorities/Government entities, mainly to M/s Uttar Pradesh Jal  
  
Nigam. The Appellant had sought Advance Ruling as to-  
  
(a)Whether supply of services by the Appellant to M/s Uttar  
Pradesh Jal Nigam is covered by Notification No. 15/2021-  
Central Tax (Rate) dated gt November, 2021 read with  
Notification No. 22/2021-Central Tax (Rate), dated  
31.12.2021.  
  
(b) If the supplies as per Question 1 are covered by  
Notification No. 15/2021-Central Tax (Rate) dated ig  
November, 2021 read with Notification No. 22/2021-Central  
Tax (Rate), dated 31.12.2021, then what is the applicable rate  
of Tax under the Goods and Service Tax Act, 2017 on such  
supplies made with effect from 01.01.2022; and  
  
(c) In case the supplies as per question 1 are not covered by the  
Notification supra then what is the applicable rate of tax on  
such supplies under the Goods and Service Tax Act, 2017 with  
effect from 01.01.2022.  
  
11.1 As per interpretation of the law by the Appellant the activities  
  
undertaken by them are composite supply of works contract  
  
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as defined in clause 119 of section 2 of Central Goods and  
  
Service Tax Act, 2017 attracting GST @ the rate of 18% [9%  
  
CGST and 9% SGST]. However in cases where such services  
  
are supplied to “the Government, a local authority or  
  
Governmental Authority by way of construction, erection,  
  
commissioning, installation, completion, fitting out, repair,  
  
maintenance, renovation, or alternation of, -  
  
(d)  
  
(e)Canal, dam or other irrigation works;  
  
(f) Pipeline conduit or plant for (i) water supply (ii) water  
treatment, or (iii) sewerage treatment or disposal.” the GST  
would be levied @ 12% as amended vide Notification  
  
20/2017-Central Tax (rate) dated 24.08.2017.  
  
11.2 We find that Notification No. 15/2021- Central Tax (Rate)  
dated 18.11.2021 read with Notification 22/2021-Central Tax (Rate)  
dated 31.12.2021 seeks to amend SI.No. 3(iii) as — “ union territory  
or a local authority” thereby deleting the words ‘a Government  
Authority or a Government Entity’ implying thereby that  
aforementioned services by way of works contract if provided to an  
union territory or a local authority shall still continue to be taxed at  
  
12% GST ( 6% CGST + 6% SGST).  
  
11.3. In the aforesaid back drop the Appellant sought for advance  
ruling before the Authority for Advance Ruling. In Appellant opinion  
services supplied by them to M/s Uttar Pradesh Jal Nigam, are liable  
to be taxed under concessional rate of duty i.e. GST @ 12% even  
after 01.01.2022 , as M/s Uttar Pradsesh Jal Nigam is a local  
authority. Contrary to Appellant’s opinion the Authority for Advance  
Ruling ruled that M/s Uttar Pradesh Jal Nigam is not covered under  
  
‘Local Authority’ however, it may be covered under ‘Governmental  
  
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Authority’. Authority further ruled that by way of Notification  
22/2021-Central Tax (Rate) dated 31.12.2021 the benefit of  
concessional tax rate of 12% as provided under Entry No. 3(iii) of  
Notification 11/2017-Central Tax (Rate) dated 28.06.2017 was  
restricted works contract services supplied to Central Government,  
State Government, Union Territory and a local authority only, with  
effect from 01.01.2022. Further, Entry No. 3(iii) of the Notification  
No. 11/2017-Central Tax (Rate) dated 28.06.2017 was omitted vide  
Notification No. 03/2022-Central Tax (Rate) dated 31.07.2022,  
accordingly, the Authority for Advance Ruling Ruled that question  
raised by the Appellant has no significance in view of omission of  
entry no. 3(iii) with effect from 18.07.2022. However, this entry  
existed prior to 18.07.2022, therefore, the Authority ruled that  
supply of services by the Appellant provided to M/s Uttar Pradesh Jal  
Nigam is not covered by Notification No. 15/2021-Central Tax (Rate)  
dated 18.11.2021 read with Notification No. 22/2021-Central Tax  
(Rate) dated 31.12.2021. As the services provided by the Appellant  
not covered under aforementioned Notification the applicable Tax  
  
Rate on such supplies shall be 18% with effect from 01.01.2022.  
  
12.0 We have gone through the submission made by the Appellant  
and arguments made by them in support of their claim. We also find  
that question raised by the Appellant before the Authority for  
advance ruling has been made in the light of amendment made in  
the Notification 11/2017-Central Tax (Rate) dated 28.06.2017 vide  
Notification No. 22/2021-Central Tax (Rate) dated 31.12.2021 when  
benefit of lower tax rate of 12% by way of supply of composite  
supply of works contract, was restricted to ‘ an Union Territory or  
Local Authority’ only. We also find that the main contention of the  
  
Appellant is that their client i.e. M/s Uttar Pradesh Jal Nigam are  
  
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covered under ‘Local Authority’ and therefore, services provided by  
them to M/s Uttar Pradesh Jal Nigam are covered by Notification No.  
22/2021-Central Tax (Rate) dated 31.12.2021 and benefit of lower  
  
tax rate of 12% is available to them even after 01.01.2022.  
  
12.1 In the present case the question put forth before us for decision  
is whether M/s Uttar Pradesh Jal Nigam are covered under Local  
Authority as defined under Section 2(69) of Goods and Services Tax  
Act, 2017. We find that Section 2(69) of Goods and Service Tax Act,  
  
defines ‘Local Authority’ as under-  
  
(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 Zila 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 and article  
371J of the Constitution, or  
  
(g) a Regional Council constituted under article 371A of the  
  
Constitution.  
  
13. We have gone through the constitution of Uttar Pradesh Jal  
  
Nigam (hereinafter referred to as the UPJN). We find that it was  
  
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created by Government of Uttar Pradesh by enacting the U.P. Water  
Supply and Sewerage Act, 1975 (hereinafter referred to as the  
UPWSS Act). It is a body corporate having perpetual succession and a  
common seal and capable of suing and being sued in its name. It has  
power to acquire, hold and dispose of the property. The relevant  
provisions of UPWSS Act are as under-  
  
(i) The preamble of the UPWSS Act indicates that U.P. Jal Nigam was  
brought into existence to provide for establishment of a corporation,  
authorities and organization for the development and regulation of  
water supply and sewerage services and for matters connected  
therewith.  
  
(ii) The Section 3(3) of the UPWSS Act provides that the assessee  
corporation shall for all purposes be deemed to be a  
local authority and Section 4 of the UPWSS Act relates to its  
constitution, according to which it shall consist of a  
Chairman, to be appointed by the State Government. It also provides  
that the Members other than the Chairman shall be  
a Managing Director, a Finance Director, both to be appointed by the  
Government and secretary to the State Government in the Finance  
Department (Ex-officio), Secretary to the State Government in the  
Local Self Government Department (Ex-officio), the Director of Local  
Bodies, Uttar Pradesh (Ex-officio), the Director of Medical and Health  
Services U.P. (Ex-officio) and three elected Heads of Local Bodies in  
the state to be nominated by the State Government.  
  
(iii) Section 40(1) of the UPWSS Act provides that the corporation  
shall have its own fund to be called the Nigam Fund which shall be  
deemed to be a local fund and to which shall be credited all moneys  
received otherwise than by way of loans by or on behalf of the  
  
corporation.  
  
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13.1 Now to examine whether M/s Uttar Pradesh Jal Nigam is a  
‘Loal Authority’ we find that the term local authority is defined in S.  
2(69) of CGST Act. 2017. The definition of "local authority" in the  
CGST" Act includes within its ambit “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". Thus, for the purpose of the GST Laws, any authority legally  
entitled to or entrusted by the Government with the  
control or management of a municipal or local fund qualifies as a  
‘Local Authority’. The definition of the ‘local authority’ is contained  
in Section 3(31) of the General Clauses Act, 1897 also which is as  
under-  
  
"local authority" shall mean a municipal committee, district board,  
body of port Commissioners or other authority legally  
entitled to, or entrusted by the Government with, the control or  
management of a municipal or local fund.  
  
13.2. Thus, it is seen that the term ‘local authority’ has been  
similarly worded in CGST Act, 2017 as well as General  
Clauses Act, 1897. The Apex Court in the landmark decision of Union  
of India Vs. R.C. Jain (1981)2SCC308 while  
deciding whether the Delhi Development Authority is a ‘local  
authority’ or not, explained the scope of the term local  
authority under the General Clauses Act as\_\_follows-  
Let us, therefore, concentrate and confine our attention and enquiry  
to the definition of ‘Local Authority’ in Sec.3(31) of the  
General Clauses Act. A proper and careful scrutiny of the language of  
Sec.3(31) suggests that an authority in order to be  
a local Authority, must be of like nature and character as a Municipal  
  
Committee, District Board or Body of Port  
  
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Commissioners, possessing, therefore, many, if not all, of the  
  
distinctive attributes and characteristics of a Municipal  
  
Committee, District Board, or Body of Port Commissioners, but,  
  
possessing one essential feature, namely, that it is  
  
entitled to or entrusted by the Government with, the control  
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legally  
and management of a municipal or local fund.  
  
then are the distinctive attributes and characteristics, all or many of  
which a Municipal Committee, District Board or Body  
of Port Commissioners shares with any other local authority? First,  
the authorities must have separate legal existence as  
Corporate bodies. They must not be mere Governmental agencies  
but must be legally independent entities. Next, they  
must function in a defined area and must ordinarily, wholly or partly,  
directly or indirectly, be elected by the inhabitants of  
the area. Next, they must enjoy a certain degree of autonomy, with  
freedom to decide for themselves questions of policy  
affecting the area administered by them. The autonomy may not be  
complete and the degree of the dependence may vary considerably  
but, an appreciable measure of autonomy there must be. Next they  
must be entrusted with such Governmental functions and duties as  
are usually entrusted to municipal bodies, such as those connected  
with providing amenities to the inhabitants of the locality, like health  
and education services, water and sewerage, town  
planning and development, roads, markets, transportation, social  
welfare services etc. etc. Broadly we may say that they  
may be entrusted with the performance of civic duties and functions  
which would otherwise be Governmental duties and  
functions. Finally, they must have the power to raise funds for the  
  
furtherance of their activities and the fulfillment of their  
  
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rojects by levying taxes, rates, charges, or fees. This may be in  
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addition to moneys provided by Government or  
obtained by borrowing or otherwise. What is essential is that control  
  
or management of the fund must vest in the  
  
authority.  
13.3. The Apex Court in the case of Union of India and others v. R.C.  
  
Jain and others (supra) has laid down the following  
  
ingredients, which are required to be fulfilled cumulatively before an  
  
authority can be said to be a ‘local authority’, in the  
  
light of the definition of ‘local authority’ as given under Section 3(31)  
  
of the General Clauses Act.  
  
(1) The authorities must have separate legal existence as corporate  
  
bodies. It must be legally independent entities.  
  
(2) The authority must function in a defined area and ordinarily,  
  
wholly or partly, directly or indirectly be elected by the  
  
inhabitants of the area.  
  
(3) The authority must enjoy a certain degree of autonomy, with  
  
freedom to decide for themselves questions of policy  
  
affecting the area administered by them.  
  
(4) The authority must be entrusted by Statute with such  
Governmental functions and duties as are usually entrusted to  
municipal bodies.  
  
(5) The authority must have the power to raise funds for the  
furtherance of their activities and the fulfillment of their  
projects by levying taxes, rates, charges, or fees,  
(6) Essentially, control or management of the funds must vest in such  
authority.  
  
13.4 We find that M/s UPJN is not satisfying some of the above  
  
Conditions for qualifying as local authority as discussed below-  
  
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13.5 The Apex court in the RC Jain case (supra) has held that the  
authority should be elected by the inhabitants of the area.  
As per Section 4 of the UPWSS Act, the UPJN shall consist of  
Chairman and members appointed by the State Government. As  
such, the UPJN is not elected by the inhabitants of the area but the  
same is established by the state.  
13.6 The Apex court in the RC Jain case (supra) has held that the  
authority must enjoy a certain degree of autonomy, with freedom to  
decide for themselves questions of policy affecting the area  
administered by them. The autonomy may not be complete and the  
degree of the dependence may vary considerably and an appreciable  
measure of autonomy there must be. Perusal of the UPWSS Act  
reveals that the UPJN is not enjoying appreciable nature of  
autonomy as discussed below.  
(1) As per Section 4(1) of the UPWSS Act, the Chairman shall be  
appointed by the State Government.  
(2) As per Section 6(3) of the UPWSS Act, the Managing Director and  
finance director shall hold office on such terms and conditions as the  
State Government may by order specify.  
(3) As per Section 14 of the UPWSS Act, the UPJN is entrusted-  
(i) to prepare State plans for water supply, sewerage and  
drainage on the directions of the State Government  
(ii) to operate, run and maintain any waterworks and sewerage  
system, if and when directed by the State Government on such  
terms and conditions and for such periods as may be specified  
by the State Government.  
(iii) such other functions as may be entrusted to the Nigam by  
  
the State Government by Notification in the Gazette.  
  
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(4) As per section 46(2) of the UPWSS Act, the UPJN may, from time  
to time, with the previous sanction of the State Government and  
subject to the provisions of this Act and to such conditions as the,  
State Government may by general or special order determine,  
borrow any sum required for the purposes of this Act, whether by  
the issue of bond or stock or otherwise or making arrangements with  
bankers or other bodies or institutions approved by the State  
Government for this purpose.  
  
(5) As per section 46(3) of the UPWSS Act, stock issued by the Nigam  
under the section shall be issued, transferred, dealt with and  
redeemed in such manner as the State Government may, general or  
special order direct.  
  
(6) As per Section 50 of the UPWSS Act, the UPJN is obliged to  
submit a statement of programme of its activities to the State  
Government before the commencement of financial year and may at  
any time during financial year. Further, the accounts  
of UPJN shall be audited by such auditor as the State Government ,  
may direct. Moreover, the accounts of the Nigam and Jal Sansthan,  
as certified by the Auditor together with the audit report thereon  
shall be forwarded annually to the State Government and the Nigam  
respectively, who may issue such directions the Nigam or the ‘Jal  
Sansthan’ as the case may be, as it may deem fit, and the Nigam or  
  
the Jal Sansthan shall comply with such directions. The State  
  
Government  
  
shall-  
(a) cause the accounts of the Nigam together with the audit report  
  
thereon, received by it under section 50(4) to be laid  
annually before each House of the State Legislature, and  
(b) cause the accounts of the Nigam to be published in such manner  
  
as it thinks fit.  
  
(7) As per Section 89 of the UPWSS Act, the UPJN shall be guided by  
  
such directions on questions of policy as may be  
  
given to it by the State Government.  
  
(8) As per Section 90 of the UPWSS Act, the UPJN shall submit to the  
  
State Government an annual report giving an account of  
  
its activities during the previous financial year and the State  
  
Government shall cause every such report to be laid before the  
  
State Legislature.  
  
Above provisions clearly indicate to the fact that UPJN does not  
  
enjoy autonomy of work and has little freedom to decide for  
  
themselves questions of policy affecting the area administered by  
  
them.  
  
13.7 The Apex court in the RC Jain case (supra) has held that the  
  
main requirement to qualify as a ‘local authority’ is that the  
  
authority must be legally entitled to or entrusted by the Government  
  
with, the control and management of a Municipal  
  
or local fund. In case of UPJN, there is no local fund entrusted by the  
  
Government With UPJN.  
  
14. A perusal of the UPWSS Act, would reveal that no municipal or  
local fund has been entrusted by the Government. The fund of UPJN  
is its own fund and cannot be equated with a fund entrusted by the  
Government. Thus, the important requirement in order to qualify as  
a local authority viz. control and management of a municipal/local  
fund is absent in the present case  
  
14.1 Further, the Hon'ble High Court, Allahabad (Lucknow Bench)  
in the Income Tax Appeal No. 128/2008 has held that UP Jal Nigam is  
  
not a ‘local authority. While passing the order, the Hon'ble High  
  
17  
s case laws including RC Jain case (supra).  
  
Court has discussed variou  
The relevant portion of the order is reproduced below-  
  
Order\_dated 22.09.2011 delivered b Hon'ble Justice Devi Prasad  
  
Singh-  
“43. Thus, to hold statutory body as an "qguthority", it shall be  
ch shall be  
  
necessary that the authority must have Yocal fund’ whi  
spent for providing civic amenities and also shall have right to  
generate fund by imposing taxes within the statutory jurisdiction,  
managed by elected body. Merely because a corporation has local  
fund, does not mean that it shall be the "local authority" as  
contemplated under Section 3 (31) of General Clause Act.  
  
The UPWSS Act, 1975 does empower the State Government or the Jal  
Nigam to claim exemption from taxes only because the word, ‘local  
authority’ has been used in subsection (3) of Section 3 of the 1975  
Act. Virtually this broader principle has been upheld by the Hon'ble  
Supreme Court in the case of CIT Vs. U.P. Forest corporation, 230 ITR  
945 (supra) while declining to treat it ‘Yocal authority’ under the Act  
The provisions contained in the Section 10 (20) of the Income Tax Act,  
shall prevail over and above the U.P. Water Supply and Sewerage  
Act, 1975. After a close scrutiny of 1975 Act, the law settled by  
Hon'ble Supreme Court in the cases of Valjibhai Muljibhai Soneji  
(Supra), R.C. Jain (Supra), Commissioner of Income Tax. Vs. U.P.  
Forest Corporation (supra), Agricultural Produce Market Committee,  
Narela, Delhi (supra), read with Part IX and IXA of the Constitution  
and Section 3 (31) of General Clauses Act the U.P. Jal Nigam does  
  
not seem to be the ‘local authority’ under Section 10 (20) of the  
  
Income Tax Act, 1961 even prior \_ to Finance  
  
Act, 2002. The word, "local authority" has been defined in the Section  
3 (31) of the General Clause Act 1897. The Central Act, which has  
  
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been interpreted by the Hon'ble Supreme court by catena of  
judgments (Supra)”  
  
Order dated 22.09.2011 delivered by Hon'ble Justice Satish Chandra.  
“Further, Hon'ble Apex Court held that the U.P. Forest Corporation is  
not an authority, though, under section 3(3) the U.P. Forest  
Corporation Act, 1974 it is provided that for all purposes, it shall be  
the ‘Local Authority’. Hence on the similar analogy, provisions of  
Section 3 (3) of U.P. Act no. 1975 are of no use to the assessee. Thus,  
to hold statutory body as an  
"authority", it shall be necessary that the authority must have ‘local  
fund" which shall be spent for providing civic amenities and also shall  
have right to generate fund by imposing taxes within the statutory  
jurisdiction, managed by elected body. Merely because a corporation  
has local fund, does not mean that it shall be the ‘local authority’ as  
contemplated under Section 3(31) of the General Clauses Act.  
  
At the cost of repetition, it may be mentioned that in the instant  
case, the assesse has three wings namely; (i) Jal Nigam Wing; (ii)  
Nalkoop Wing; and (iii) Construction & Design Wing. In the case of R.  
CJain; AIR 1981 (SC) 951, it was observed that the "local authority"  
must be entrusted by statute with such governmental duties and  
functions as are usually entrusted to municipal bodies, such as those  
connected with providing amenities to the inhabitants of the locality,  
like health and education services, water and sewerage, town  
planning and development, roads, markets, transportation, social  
welfare services etc. Broadly, it may say that they may be entrusted  
with the performance of civic duties and functions which would  
otherwise be governmental duties and function. Finally, they must  
have the power to raise funds for the furtherance of their activities  
  
and the fulfillment of their projects by levying taxes, rates, charges,  
  
19  
or fees. This may be in addition to money provided by Government or  
obtained by borrowing or otherwise. What is essential is that control  
or management of the fund must vest in the authority”.  
  
14.2. Although, the aforesaid order in Income Tax Appeal No.  
128/2008 denying UP Jal Nigam the status of local authority is in  
respect of dispute of Income Tax, the same is applicable to instant  
case as the order of the Hon'ble High Court has been passed after  
analyzing the definition of ‘local authority’ contained in General  
Clauses Act. As it has already been discussed that the term ‘ local  
authority’ has been similarly worded in CGST Act, 2017 as well as  
General Clause Act, 1975. Further, the relevant clarification  
contained in Service Tax Educational Guide published in the  
erstwhile tax regime is reproduced below-  
  
2.4.9 Are all local bodies constituted by a State or Central Law local  
authorities?  
  
No. The definition of ‘local authority’ is very specific as explained in  
point no 2.4.8 and only those bodies which fall within the definition  
comprise ‘local authorities’. It would not include other bodies which  
are merely described as a local body by virtue of a local law.  
  
Thus, we are of the view that the UPJN is not a ‘local authority’.  
14.3. Now we proceed to examine as to whether the UPJN is  
‘Governmental Authority’. It is relevant to note that "Governmental  
Authority" is not defined in the CGST Act. However, Notification No.  
31/2017-Central Tax (Rate) dated 13.10.2017, which amended the  
Notification No 11/2017 - Central Tax (Rate) dated 28.06.2017  
defines ‘Governmental Authority’ as follows-  
  
Governmental Authority" means an authority or a board or any  
  
other body;  
  
20  
(I) set up by an Act of Parliament or a State Legislature; or  
  
(Il) 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 243W of the Constitution or  
  
to a Panchayat under article 243 G of the Constitution. "  
  
Thus, in order to qualify as a governmental authority, such authority  
  
must be set up by an act of Parliament/State Legislature, should  
  
have 90% or more stake of government, and should carry out any  
  
functions entrusted to a municipality under article 243W of the  
  
Constitution of India.  
  
14.4 As already discussed, the UPJN is a body corporate formed by  
  
the State legislature under UPWSS Act enacted by the UP State  
  
Legislature. As such, the first requirement of a governmental  
  
authority stands fulfilled in the present case.  
  
Further, as per Section 3 of the UPWSS Act, UPJN is a body corporate  
  
established by the Government of U.P., as such, the second  
  
requirement of governmental authority has also been fulfilled in the  
  
present case. Moreover, the UPJN is constituted for the  
  
development and regulation of water supply and sewerage services  
  
in the State of U.P. Under Section 14 of UPWSS Act, UPJN is inter alia  
  
entrusted with the function to operate, run, and maintain any water  
works and sewerage system. As per Article 243W read with Twelfth  
Schedule of the Constitution of India, water supply for domestic,  
industrial and commercial purposes and public health, sanitation  
conservancy and solid waste management is a function of  
municipality. In view of the above, the requirement that the  
authority must be established to carry out any function entrusted to  
  
a Municipality under article 243 W of the constitution has been  
  
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fulfilled in the present case. Thus M/s UPJN is a ‘Governmental  
Authority’ in our view.  
  
15.0 Now coming to legal provisions under Goods and Service Tax  
Act, 2017 as amended from time to time we find that Notification  
No.11/2017- Central Tax (Rate) dated 28.06.2017 was amended vide  
Notification No.15/2021-Central Tax (Rate) dated November 18,  
2021, wherein, in Entry 3(iii), the words "Union territory, a local  
authority, a Governmental Authority or a Government Entity" were  
substituted with "Union territory or a local authority". Thus, as on  
  
date, the amended Entry 3(iii) of the Notification No. 11/2017 reads  
as follows-  
  
Description of Service Rate (percent)  
  
(iii)Composite supply of works contract as defined in clause (119)  
of section 2 of the Central Goods and Services Tax Act, 2017,  
supplied to the Central Government, State Government, Union  
territory or a local authority, by way of construction, erection, 6  
commissioning, installation, Completion, fitting out, repair,  
maintenance, renovation, or alteration of-  
  
(a) a historical monument, archaeological site or remains of  
national importance, archaeological excavation, or antiquity  
specified under the Ancient Monuments and  
Archaeological Sites and Remains Act, 1958 (240f195)  
(b) canal, dam or other irrigation works;  
(c) pipeline, conduit or plant for-  
  
(i)water supply  
  
(ii)water treatment  
  
(iii) sewerage treatment or disposal  
  
As such, by way of Notification No. 15/2021-Central Tax (Rate) dated  
November 18, 2021, the lower rate of tax of 12% provided by Entry  
3(iii) of Notification No. 11/2017- Central Tax (Rate) dated  
28.06.2017 was restricted to works contract supplied to Central  
  
Government, State Government, Union territory and a local  
  
22  
  
authority only. As the UPJN does not qualify as a ‘local authority’ and  
it qualifies as a governmental authority, tax rate of 18% is applicable  
on the works contract services provided to UPJN by way of Entry  
3(xii) of NotificationNo.11/2017-CentralTax(Rate) dated 28.06.2017.  
  
The said Entry 3(xii) of the Notification No. 11/2017 reads as follows.  
  
Description of Service Rate (percent)  
  
(xii) Construction services other than (i), (ia), (ib), (ic), (id),  
  
(ie), (if), (iii), (iv),(v),(va), (vi), (vii), (viii), (ix), (x) and (xi) above."  
  
Accordingly we rule as under-  
Ruling:  
  
We uphold the impugned ruling UP ADRG — 12/2022 dated 23.11.22  
passed by the Authority for Advance Ruling against the Appellant.  
  
WA ) \_ anarths.  
  
(Dr. Uma Shanker  
Member, AAAR Member, AAAR  
State Tax  
  
Central Tax  
  
23  
  
To,  
M/s Indian Hume Pipes Company Ltd,  
Gwalior Road,Karari, Jhansi,  
Uttar Pradesh  
  
APPELLATE AUTHORITY FOR ADVANCE RULING  
GODS & SERVICE TAX  
UTTAR PRADESH  
  
Copy to —  
  
1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member,  
Appellate Authority of Advance Ruling.  
  
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate  
Authority of Advance Ruling.  
  
3. The Commissioner, CGST &amp; C. Ex, CGO, 117/7, Sarvodaya Nagar,  
Kanpur -208005  
  
4. The Assistant Commissioner, CGST &amp; C. Ex. , Division-Jhansi, 1984/1,  
Civil Lines, Jhansi-284001  
  
5. Through the Additional Commissioner, Gr-I, Commercial Tax, Jhansi Zone,  
Jhansi, Uttar Pradesh to jurisdictional tax assessing officers.