WEST BENGAL APPELLATE AUTHORITY FOR ADVANCE RULING

AT 14, BELIAGHATA ROAD, KOLKATA-700015

Before:

Mr Shrawan Kumar, Member

Mr Devi Prasad Karanam, Member

In the matter of

Appeal Case No. 02/WBAAAR/APPEAL/2025 dated 05.03.2025

- And -

In the matter of:

An Appeal filed under Section 100 (1) of the West Bengal Goods and Services Tax Act, 2017/ Central Goods and Services Tax Act, 2017, by M/s. Webel Support Multipurpose Service Co Operative Society Limited, 2nd Floor, 334, SDF Building, Salt Lake, Sector-V, North 24 Parganas- 700091, against the Ruling passed by the West Bengal Advance Ruling Authority vide Order No. 16/WBAAR/2024-25 dated 20.12.2024 (ZD191224037196D dated 20.12.2024).

Present for the Appellant: Mr. Sumit Ghosh, Advocate
Mr. Gautam Chakrabarty, Advocate
Mr. Souradeep Majumdar, Advocate

Present for the Respondent: Mr. Manoj Dey, Deputy Commissioner of State Tax Large Taxpayers' Unit.

Matter heard on: 19.05.2025

Date of Order: 28.05.2025

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act, 2017' and the 'SGST 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, 2017 would also mean reference to the corresponding similar provisions in the SGST Act, 2017 or vice-versa.

1. This Appeal has been filed by M/s. Webel Support Multipurpose Service Co Operative Society Limited (hereinafter referred to as "the appellant") on 05.03.2025 against Advance Ruling Order No. 16/WBAAR/2024-25 dated

20.12.2024, pronounced by the West Bengal Authority for Advance Ruling (hereinafter referred to as the 'WBAAR').

2. The appellant is a provider of pure labour service to its client M/s. Webel Technology Limited (hereinafter referred to as "WTL"), a State Govt. Company. WTL received work order for providing manpower services to the Public Health Engineering, Directorate of the Govt. of West Bengal for executing "JAL JEEVAN MISSION" project. The appellant has been appointed as a sub-contractor to WTL in the above-mentioned project. The appellant raised bill along with GST @ 18% to WTL. However, WTL refused to pay the sum of GST to the appellant citing reason that the service is exempted vide Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. The Appellant sought an advance ruling under section 97 of the West Bengal Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017, (hereinafter collectively referred to as "the GST Act") on the following questions:

   Question 1: Whether Jal Jeevan Mission is correct in classifying the services provided to Government entities as exempted services?
   Question 2: Whether the services are exempted under notification no. 12/2017 Central Tax (Rate) dated 28.06.2017?

3. As stated by the appellant, WTL also had filed an application before West Bengal Authority for Advance Ruling on the same issue.

4. It has been submitted by the appellant that in respect of the application filed by WTL, the WBAAR has exempted the service provided by WTL to Govt. of West Bengal on the ground that WTL are main contactor supplying pure labour service to the Government and the service is exempted under article 243G/243W of the Constitution of India. However, in respect of the appellant, exemption was denied by WBAAR as they are providing the same service to WTL as a sub-contractor.

5. While passing the advance ruling in the instant case, the WBAAR has observed that in order to ascertain whether the services provided by the appellant are eligible for exemption under serial number 3 of the aforementioned Notification, it is imperative to determine whether all of the following factors are met:

   (i) whether the instant supply of services can be treated as pure services;
   (ii) whether the applicant provides services to the Central Government, State Government or Union Territory or local authority; and
   (iii) whether the said services are in relation to any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution of India.

6. The WBAAR has determined that the appellant's supply of services is pure services, as it does not involve any transfer of materials or goods. However, it also held that the appellant has been awarded the contract by WTL, and WTL is responsible for paying the appellant the consideration. As the appellant is providing services to WTL, the second condition, which requires the appellant to provide services to the Central Government, State Government, Union Territory, or local authority, is not satisfied in the present case. Accordingly, the WBAAR pronounced its ruling dated 20.12.2024, as under:

"The applicant provides services to Webel Technology Limited and not to the Public Health Engineering Department, Government of West Bengal. The instant supply of services would not qualify to be an exempted supply under serial number 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended."

Submissions of the appellant:

7. The Appellant has filed the instant appeal against the above-mentioned Advance Ruling dated 20.12.2024 with a prayer to set aside/modify the said order; grant a personal hearing or to pass any such further or other orders as may be deemed fit and proper in the facts and circumstances of the case.

8. The appellant has submitted in the grounds of appeal that the service they provide is actually provided to the Government of West Bengal and not to WTL under the "JAL JEEVAN PROJECT," which falls under articles 243G/243W of the Constitution of India. It has been submitted by the appellant that as per Notification No. 12/2017-Centra1 Tax (Rate) dated 28.06.2017, any pure labour service provided to Central Govt., State Govt., Panchayat etc. is exempted from payment of GST. The appellant has challenged the WBAAR's assertion that the same supply of service is exempted to WTL as they are providing the same to Govt. of West Bengal and the appellant is out of the ambit of the exemption as they are supplying the same service to WTL on the ground that they are providing the same service to Govt. of West Bengal only on behalf of WTL and are also eligible to avail the exemption.

Submission of the Revenue:

9. The written submission dated 11.04.2025 made by the Deputy Commissioner, Large Taxpayer Unit, WBGST is found to be consistent with the Order dated 20.12.2024, which was passed by the WBAAR in the instant case. It was observed that the supply of manpower service by the applicant to WTL is a taxable supply of service, which attracts a tax rate of 18%. It was concluded that the aforementioned exemption notification is not applicable in this case. It further cited the judgment passed by the Hon'ble Supreme Court of India in the matter of Commissioner of Customs (Import), Mumbai vs. M/S. Dilip Kumar

And Company on 30 July, 2018 [AIR 2018 SUPREME COURT 3606, 2018 (5) ABR 802, AIRONLINE 2018 SC 73] wherein the Apex Court has opined that:

"52. To sum up, we answer the reference holding as under (1) exemption notification should be interpreted strictly, the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification. (2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue."

10. The Assistant Commissioner of CGST & CX, Bidhannagar Division, Kolkata North Commissionerate in his written submission dated 17.03.2025 inter alia submitted that there is no provision which gives the sub-contractor the benefit of the exemption notification no. 12/2017 – Central Tax (Rate) dated 28.06 2017 as the law/notification does not provide for it. With refence to the citations provided by the appellant it was stated that in terms of Section 103 of the GST Act, the rulings passed by the other states do not have any implication on this case.

Personal Hearing:

11. During the course of hearing held on 19.05.2025, the Appellant's authorised representative presented their written submission to the Appellate Authority, which in additions to the contents of their appeal, primarily articulates the following:

i. That the present matter relates to a scheme, 'Har Ghar Jal', initiated by the Ministry of Jal Shakti of the Government of India under the 'Jal Jeevan Mission' (for short JJM) in 2019 with the aim to provide 55 liters of tap water to every rural household per capita per day regularly on a long- term basis by 2024.

ii. That to implement the said project, the Government of West Bengal through its Public Health Engineering Department (for short PHE) had likewise initiated the said Water Supply Scheme for the benefit of the general public.

iii. That for providing tap water connection to every rural household by March, 2024, the PHE stepped into its implementation, where intense monitoring and supervision of work was required ir all 40,000+ villages of the State.

iv. That to achieve the goals within the given timeline, the PHE had approached the Finance Department for according concurrence for engagement of additional 583 nos. of Junior Engineers by outsourcing through an agency. Accordingly, approval of the Cabinet was received on 21.12.2023. Thereafter,

the PHE approached the West Bengal Electronics Industry Development Corporation Limited (WBEIDCL) for taking up the matter of engagement of additional 583 nos. of Junior Engineers.

v. That after partial completion of recruitment process, WBEIDCL left and the Finance Department asked the PHE department to approach Webel Technology Ltd. (WTL), a PSU of the Government of West Bengal.

vi. That WTL in turn was requested to engage the appellant and accordingly 588 nos. of Junior Engineers were deployed on contractual basis through their empaneled manpower provider, the appellant herein. Subsequently, since many of such post was lying vacant, so further recruitment took place in the same process.

vii. That later, the Principal Accountant General (Audit-11), West Bengal raised objection to the GST deduction on payment to Agencies executing various pure service works in drinking water sector. This led PHE to approach the Public Relations Section of State Revenue through email dated 26.06.2024 for clarification regarding applicability of GST on services provided by different agencies to PHE.

viii. That it was clarified by the PRO that the various activities like 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 by different agencies in relation of Jai Jeevan Mission, being the functions which inter alia includes 'drinking water' and 'water supply for domestic, industrial and commercial purposes' as listed in the Eleventh and Twelfth schedule entrusted to a Panchayat and to a Municipality under article 243G and 243W respectively of the Constitution of India, would be exempted from GST vide entry no. 3 of Notification No. 1136FT dated 28.06.2017 and Central Notification No. 12/2017-Central Tax (Rate) dated 28 06.2017.

ix. That pursuant to the same, WTL preferred an application before the WBAAR under section 97(l) of the GST Act in Form GST ARA-01 dated 10.09.2024. It was held that WTL is engaged in the project of Water Supply Scheme for the benefit of the general public by PHE department to supply contractual junior engineers to execute JJM project in the State of West Bengal.

x. That WBAAR in its Order passed in respect of the Advance Ruling Application filed by WTL held that as WTL has satisfied all the three conditions as mentioned in paragraph 5, above, hence, the supplies of Data Entry Operator and Junior Engineer (System Administrator, Software Support Personnel) made to PHE for executing JJM is exempted from payment of GST vide serial no.3 of the Notification No.1136 F.T. dated 28.06.2017, as amended.

xi. That the appellant also made a similar application dated 02.09.2024 under section 97(1) of the GST Act and Rules framed thereunder, fundamentally on two questions framed therein, which are as follows:

Question 1: Whether Jal Jeevan Mission is correct in classifying the services provided to Government entities as exempted services?

Question 2: Whether the services are exempted under notification no.12/2017 Central Tax (Rate) dated 28.06.2017?

xii. That in respect of the application filed by the appellant, it was held by the WBAAR that the supply of services as provided by the appellant was pure services. However, it was further held that as the work order for supplying manpower services has been awarded to WTL by the PHE and the appellant in turn has received the order from WTL, from whom the appellant would receive the payment on back-to-back basis, the appellant is supplying the services to WTL and therefore the second condition is not getting satisfied. That as three conditions are to be mandatorily satisfied and as the second condition is not satisfied, so therefore the WBAAR did not examine the admissibility of the third condition i.e., whether the said services rendered are in relation to any function entrusted to a Panchayat or to a Municipality.

xiii. That the appellant, prior to presenting their justification for the exemption claim, cited the extract of the relevant notification no. 12/2017 Central Tax (Rate) dated 28.06.2017 and the definitions of “consideration”, “recipient” and “supplier” under the GST Act.

xiv. That the WBAAR has erred in inferring while referring to the definition of the term ‘recipient’ that as the appellant was awarded the contract by WTL for which WTL is liable to pay the consideration to the appellant, so the appellant is supplying the services to WTL.

xv. That the recipient is normally the person liable to pay the consideration. But in certain cases, even if someone else pays, the actual user or beneficiary could still be considered as the recipient, depending upon contractual and factual circumstances. In other words, consideration is one aspect of becoming recipient but there may be other circumstances, where even having no liability to pay, may be considered as recipient.

xvi. That the WBAAR has focused only on the definition of ‘recipient’ that too on section 2(93)(a), where consideration is payable for the supply of services and recipient is the person who is liable to pay that consideration. But the other aspect is that of section 2(93)(c), where no consideration is payable for the supply of a service, then recipient would be that person to whom the service is rendered.

xvii. That the WBAAR should have considered the other definitions like 'supplier' and 'consideration', which could have c1arified the entire circumstances prevailed in the instant case and that the PHE cannot be denied as the recipient.

xviii. That the appellant also referred to section 16(2)(b) of the GST Act, pointing out that though section 16(2)(b)(ii) is primarily for claim of Input Tax Credit (ITC) but it supports the contention of the appellant i.e., in the instant case. It was stated that though WTL is deemed to have been received the services from the appellant but the services were provided by the supplier, the appellant herein, to any person (the PHE) on the direction of and on account of such registered person (the WTL).

xix. That the appellant further referenced work order No. WTL/WO/ 23-24/1052, WTL/WO/24-25/0932 and WTL/WO/24-25/1330 dated 22.09.2023, 17.09.2024 and 16.12.2024 respectively and other relevant documents enclosed with their written submission, concluding that the requisite Junior Engineers were deployed by the appellant to PHE.

xx. That the appellant submitted that for administrative convenience of the State Government, WTL has been provided with the contract by PHE but for actual performance, the same was assigned on back-to-back basis, to the appellant. In other words, WTL has contracted or instructed the appellant to supply/provide services to PHE and therefore PHE has received the services from the appellant. Thus, service was provided by the appellant to PHE, who is the actual recipient, whereas WTL merely facilitates payments or coordinates.

xxi. The as the Junior Engineers (having the same name and identity) were deployed in the PHE department by the appellant through a recruitment process (all exclusively done by the appellant), the appellant cannot be deprived of exemption.

xxii. That the relevant notification never envisaged direct supply to the government, as such when the conditions are fulfilled, there is no justification to deny exemption.

xxiii. That the appellant further stated that the basic remuneration of Junior Engineer in the instant case was Rs.25,000/ -, whereupon the appellant has charged 13% Employers Provident Fund i.e., Rs.3,250/ - to make it Rs.28,250/ -, whereupon the margin @ 2.3% i.e., Rs.706/ - was again imposed by the appellant to make the invoiced amount of Rs.28,956/ -, while WTL invoiced the same to PHE at Rs.29,663/ - adding again Rs.706/- (being their margin also @ 2.5%). That it confirmed that the supply was made by the appellant to PHE, while WTL acted only as a facilitator.

Consideration paid by WTL to the appellant does not imply that the recipient of the service was WTL rather the actual service was provided to PHE.

xxiv. That the services as provided by WTL for supply of data entry operator & junior engineer (System Administrator, Software Support Personnel) throughout the West Bengal in connection with JJM was found by the WBAAR to be covered by the subject matter as listed in the Eleventh and/or Twelfth Schedule thereby was regarded as a supply in relation to functions entrusted to a Panchayat under article 243G and/or to a municipality under article 243W of the Constitution of India and it was held that as direct and proximate relationship was established, the supply qualifies for exemption under entry No. 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

xxv. That the same findings are also applicable in the case of the appellant, thus holding that the supply of manpower as provided by the appellant also satisfies the conditions as laid down in the relevant Notification and therefore qualifies for exemption.

xxvi. The appellant has also cited the following case laws in support of their claim that they qualify for the benefit of the subject exemption:

i. Ruling of Uttar Pradesh AAR in M/s Rudrabhishek Enterprises Limited, vide Ruling No. UP ADRG-20/2023 dated 02.03.2023, [(2023) 151 taxmann.com 503];

ii. Ruling of Chhattisgarh AAR in M/s Aarav Consultancy Services Pvt. Ltd, vide Ruling No. STC/AAR/10/2021 dated 10.03.2022, [(2023) 146 taxmann.com 534];

iii. Ruling of Rajasthan AAR in M/s Sunrise Construction Company, vide Ruling No. RAJ/AAR/2019-2010/28 dated 18.12.2019, [(2020) 113 taxmann.com 502]; and

iv. Ruling of Maharashtra AAAR in M/s Shree Construction, vide Ruling No. MAH/AAAR/SS-RJ/15/2018-19 dated 03.01.2019, [(2019) 103 taxmann.com 448].

12. The Advocates on record of the appellant reiterated the points in their grounds of appeal and written submission during the personal hearing, as previously mentioned.

13. The Deputy Commissioner of the Large Taxpayer Unit of the WBGST also reiterated his written submission during the personal hearing, which concluded that the aforementioned exemption notification is not applicable in this case.

Discussion and Findings:

14. We have considered the rival submissions carefully. The documents and the citations submitted by both the appellant and the revenue were also taken on record. We find that the issue to deliberate upon is whether the appellant's supply satisfies all of the following conditions stipulated in entry No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 in order to qualify for the aforementioned exemption notification:

    (i) whether the instant supply of services can be regarded as pure services;
    (ii) whether the applicant provides services to the Central Government, State Government or Union Territory or local authority; and
    (iii) whether the said services are in relation to any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution of India.

15. In relation to the first condition, we have observed that the WBAAR has extensively addressed the matter in its Order dated 20.12.2024 and has determined that the applicant's services can be classified as pure services. We are unable to find any reason to dispute the findings of the WBAAR and note that there is no need for further discussion on the matter.

16. To address the second condition, we find that it is necessary to review the entry No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 along with the definitions of and the definitions of “consideration”, “recipient” and “supplier” under the GST Act.

    i. The entry No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is as follows:

S1. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
3	Chapter 99	Pure Services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union Territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	NIL	NIL

It is therefore mandatory that the pure services have to be provided to the Central Government, State Government or Union Territory or local authority.

ii. Section 2(31) of the CGST Act, 2017 defines “consideration”, as below:

"consideration" in relation to the supply of goods or services or both includes-

a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

iii. “Supplier” in Section 2(105) of the CGST Act, 2017 has been defied as:

"supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied:

[Provided *that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims;*]

iv. “Recipient” has been defined under Section 2(93) of the CGST Act, 2017 as:

"recipient" of supply of goods or services or both, means-

a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,
and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

17. In light of the aforementioned definitions and the case records, it is evident that the appellant has provided a supply of pure services for consideration. However, the issue at hand is the identity of the supplier and the recipient of this supply.

18. The person who would be responsible for paying the consideration would be the initial default criterion for identifying the recipient. In addition, the recipient of services is irrelevant; rather, the issue is who is responsible for paying for them.

19. It is clear from the case records that the PHED has awarded the contract to Webel Technology Limited for the provision of manpower services for the JJM project. Therefore, it is evident that the work order was received by WTL from the Public Health Engineering Department of the Government of West Bengal. Subsequently, WTL has contracted the appellant to supply the aforementioned manpower services. Therefore, PHED would not be accountable for the appellant's payment; rather, WTL would be responsible for paying the appellant for the services they provided.

20. The appellant in his submission has stressed that the supply of pure service is being provided to the Dir. of PHE, Govt. of West Bengal on behalf of WTL and under the capacity of a sub contractor. So, it is beyond any doubt that the appellant is the Supplier and WTL is the recipient of such supply of service. This raises the question of whether WTL is a Local Authority, a State Government, a Union Territory, or a Central Government.

21. From website of WTL, it is found that the constitution of WTL is a West Bengal Government Undertaking Company where the share of holding by the Govt. of West Bengal is more than 50%. Therefore, in terms of Sec. 2(69)(c) of the GST Act, WTL cannot be termed as local authority having no power to control or manage the municipal or local fund. It is working as PSU only.

22. Moreover, the appellant has raised Invoice to WTL for providing such manpower service with a breakup as follows: [Manpower cost (Basic remuneration of Junior Engineer:Rs.25,000/- + 13% Employers Provident

Fund: Rs.3,250/-) = Rs.28,250/- + margin @ 2.5% thereon = Rs.706/ = Total: Rs.28,956/-. WTL in turn has charged such margin and raised Invoice to PHE at (Manpower cost: Rs.28,956 + margin: Rs.706/ = Total: Rs.29,663/- . This automatically means that the entire consideration flows in two arms – one from PHE to WTL for Rs. 29,663/- and another from WTL to the appellant for Rs. 28,956/. Thus, it is clear in this case that a consideration is payable by WTL to the appellant against a supply which is actually made by the appellant. So, as per sub-clause (a) to clause (93) of Section 2 of the GST Act, WTL is liable to pay that consideration is the recipient of such supply.

23. The appellant, at the time of personal hearing, has also argued that the entry in sl. no. 3 of the CGST Rate Notification No. 12/2017-Central Tax (Rate) and corresponding WBGST Rate Notification No. 1136-F.T., both dated 28.06.2017 speaks out as "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" and does not explicitly specify that such supply is to be made directly to the Central Government, State Government or Union Territory or local authority. In this case, as the supply of manpower service is ultimately channelized to PHE, i.e. the Government on back-to-back basis, this supply made by the appellant should also be treated as a supply to the Government.

24. In this context, it is important to note that the entry in the aforementioned GST rate Notifications is explicit in that it specifies that the supply in question must be made to the Government or a local authority. We find that an extension of meaning considering the entire supply chain is not required.

25. This can be made more explicit by providing a good example. To remove any ambiguity relating to applicability of tax rate of 12% on composite supply of works contract as defined in clause (119) of section 2 of the GST Act, involving predominantly earth work (that is, constituting more than 75% of the value of the works contract), separate entries for allowing such tax-rate, when such supply is provided to the Central Government, State Government, Union territory or a local authority, as well as when such supply is provided by a sub-contractor to the main contractor providing services specified above to the Central Government, State Government, Union territory or a local authority, have been made in Sl. no. 3(vii) and 3(x) of the CGST Rate Notification No. 11/2017-Central Tax (Rate) and corresponding WBGST Rate Notification No. 1135-F.T., both dated 28.06.2017, as amended from time to time.

26. Therefore, in our opinion, there is no ambiguity regarding the meaning of the phrase "Pure Services (excluding works contract service or other composite supplies involving the supply of any goods) provided to the Central Government, State Government, Union Territory, or local authority" as it is

defined in entry sl. no. 3 of the CGST Rate Notification No. 12/2017-Central Tax (Rate) and corresponding WBGST Rate Notification No. 1136-F.T., both dated 28.06.2017. This term refers to a direct supply to the Central Government, State Government, Union Territory, or local authority, without the involvement of any other supplier, as has been the case in this instance.

27. The appellant has also drawn reference to section 16(2)(b)(ii) of the GST Act, and as the ITC is allowable to any supplier where the services are provided by the supplier to any person on the direction of and on account of such registered person, likewise the exemption benefit should also be allowable to any person where the supply is made on the direction of a third person. However, we don't see any justification for associating the availability of ITC with this case, as the issue is entirely distinct.

28. The appellant's citations in their grounds of appeal and during the hearing, as mentioned in the paragraph 11(xxvi), are noted. However, we find that, in terms of Section 103 of the GST Act, a ruling in another case cannot be held to be binding precedent. This is because sub-section (1) of Section 103 of the GST Act explicitly states that:

> (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only-
>
> (a) on the appellant who had sought it in respect of any matter referred to in sub section (2) of section 97 for advance ruling;
>
> (b) on the concerned officer or the jurisdictional officer in respect of the appellant.

Hence, we find it unnecessary to delve into the specifics of the case laws that have been cited.

29. Given the aforementioned discussions, we conclude that the second condition of paragraph 14, that the appellant provides services to the Central Government, State Government, Union Territory, or local authority, is not satisfied in the present instance.

30. As the appellant has failed to satisfy the second condition of paragraph 14, as previously discussed, we refrain from further examining the admissibility of the condition mentioned under serial number (iii) in paragraph 14, which pertains to whether the aforementioned services are in relation to any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution of India, as it is mandatory to satisfy all three conditions as previously mentioned in paragraph 14 in order to qualify a service for exemption under serial number 3 of the Notification No. 12/2017-Cenral Tax (Rate) dated 28.06.2017, as amended.

31. Thus, in view of the foregoing, we pronounce our ruling as under:

Ruling:

The supply of services under question would not qualify to be an exempted supply under serial number 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended. The WBAAR Ruling No. 16/WBAAR/2024-25 dated 20.12.2024 thus stands confirmed.

Send a copy of this order to the Appellant and the Respondent for information.

Sd/-
(Devi Prasad Karanam)

Member, West Bengal Appellate Authority for Advance Ruling

Sd/-
(Shrawan Kumar)

Member, West Bengal Appellate Authority for Advance Ruling

WEST BENGAL AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

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

ORDER UNDER 102 OF THE THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND THE WEST BENGAL GOODS AND SERVICES TAX ACT, 2017

Members present:

Dr Tanisha Dutta, Joint Commissioner, CGST & CX Joyjit Banik, Senior Joint Commissioner, SGST

Name of the applicant	Webel Support Multipurpose Service Cooperate Society Limited
Address	Module No. 334, S.D.F. Building, 2nd floor, SECTOR V, SALTLAKE, KOLKATA-700091
GSTIN	19AAAAW0552G1ZK
Order number and date	16/WBAAR/2024-25 dated 20.12.2024
Rectification Application filed on	17.01.2025
Order number and date	29/WBAAR/2024-25 dated 27.02.2025
Applicant's representative heard	Mr. Goutam Chakrabarty, Advocate

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

1.2 The applicant is a Co-operative Society registered under the West Bengal Co-operative Societies Registration Act. The applicant provides multipurpose services including supply of manpower support services to various Government Departments under M/s Webel Technology Limited (WTL, for short). The applicant has received a work order from WTL for providing manpower services to the Public Health Engineering Directorate of the Government of West Bengal for executing their 'JAL JEEVAN MISSION' Project in the state of West Bengal.

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

Question 1: Whether Jal Jeevan Mission is correct in classifying the services provided to Government entities as exempted services?

Question 2: Whether the services are exempted under notification no. 12/2017 Central Tax (Rate) dated 28.06.2017?

1.4 This authority vide order dated 20.12.2024 held that the applicant provides services to Webel Technology Limited and not to the Public Health Engineering Department, Government of West Bengal. The instant supply of services therefore would not qualify to be an exempted supply under serial number 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended.

1.5 The applicant has filed an application for rectification of the said order passed by this authority under following grounds:

- The applicant is supplying pure labour services to Webel Technology Ltd., which is a Government Undertaking concern. The said supply is exempted under Notification no. 12/2017 Central Tax (Rate) dt 28.06.2017 as Webel Technology Ltd is supplying the same services to Public Health Engineering Department, Government of West Bengal relating to "Jal Jeevan Mission" Project.

- The applicant as well as the service recipient (Webel Technology Ltd) filed application before the Hon'ble West Bengal Authority for Advance Ruling as to whether the supply of pure labour to the Government is exempted or not.

- The Advance Ruling authority has passed an order in favour of Webel Technology Limited that their supply to Public Health Engineering Department, Government of West Bengal is exempted from payment of tax.

- On the contrary, in the case of applicant, the exemption is not allowed by the Advance Ruling authority.

- Thus, the applicant has sought rectification and requested to allow the exemption to the applicant also as provided to Webel Technology Ltd.

1.6 In connection to the application for rectification, the applicant has been allowed an opportunity of being heard. Mr Goutam Chakrabarty, authorised advocate of the applicant has appeared on 18.02.2025 and has reiterated the submission as noted in the preceding para.

1.7 In terms of section 102 of the GST Act, the Authority or the Appellate Authority or the National Appellate Authority may amend any order passed by it under section 98 or section 101 or section 101C respectively, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority or the National Appellate Authority on its own

accord, or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant appellant, the Authority or the Appellate Authority within a period of six months from the date of the order.

1.8 Any mistake which is manifest, plain, or obvious may be regarded as a mistake apparent on the face of the record and thereby may be rectified invoking the provision of section 102. A rectification is done when there is an error which is apparent on the face of record in such decision or order or notice or certificate or any other document. Thus, errors which involves question of law cannot be rectified. The Supreme Court in the case of T. S. Balaram, ITO v Volkart Bros (1971) 82 ITR 40 (SC), held that; “a mistake apparent on the record must be an obvious and patent mistake and not something which can be established by a long-drawn process of reasoning on points on which there may be conceivably two opinions.

1.9 The Assistant Commissioner, CGST & CX, Bidhannagar Division, Kolkata North Commissionerate has submitted that the relief sought by the applicant is of the nature of merit which is a subject of interpretation of law and therefore the applicant is not entitled to seek rectification under section 102 of the GST Act.

1.10 We are also of the same view as expressed by the officer concerned from the revenue that the issue raised by the applicant is a matter of legal interpretation and this authority, after a detailed discussion, has pronounced the ruling. The applicant, being aggrieved by the ruling, may approach before the Appellate Authority under section 100 of the GST Act. There is no scope to invoke the provision of section 102 in the instant case.

1.11 In light of above, we are unable to accept the application for rectification of the order filed by the applicant. The same is therefore rejected.

(Dr. Tanisha Dutta)
Member
West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member
West Bengal Authority for Advance Ruling

Place – Kolkata

Date: 27th February, 2025

To

Webel Support Multipurpose Service Cooperate Society Limited
Module No. 334, S.D.F. Building, 2nd floor, SECTOR V, SALTLAKE, KOLKATA-700091

Copy to:

(1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107

(2) The Commissioner of State Tax,West Bengal,14, Beliaghata Road, Kolkata-700015

(3) The Special Commissioner, Large TaxPayers Unit, 14, Beliaghata Road, Kolkata-700015

(4) The Commissioner, Kolkata North Commissionerate, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107

(5) Office Folder