

समक्ष अग्रिम विनिर्णय प्राधिकारी उत्तराखण्ड (माल और सेवा कर)
**BEFORE THE AUTHORITY FOR ADVANCE RULINGS FOR THE STATE OF
UTTARAKHAND**
(Goods and Services Tax)

Present:

श्री अनुराग मिश्रा (सदस्य)

Shri Anurag Mishra (Member)

श्री विवेकानंद मौर्य (सदस्य)

Shri Vivekanand Maurya (Member)

The 10 day of June, 2026

अग्रिम विनिर्णय संख्या. 02/2026-27

Ruling No: 02/2026-27

in

आवेदन संख्या. 05/2025-26

Application No: 05/2025-26

1	आवेदक Applicant	M/s Dehradun Smart City Limited Ground Floor, 777, Satvik Tower, Kaulagarh Road Rajendra Nagar, DEHRADUN, Dehradun, Uttarakhand, 248001
2	अधिकारिता अधिकारी Jurisdictional Officer	-----
3	आवेदक की ओर से उपस्थित Present for the Applicant	Sh. Harpreet Singh Sabharwal, FCA
4	अधिकारिता अधिकारी की ओर से उपस्थित Present for the Jurisdictional Officer	None
5	Concerned Officer	Ms. Maneesha Saini, Deputy Commissioner
6	आवेदन प्राप्ति की तिथि Date of receipt of application	27.03.2026
7	सुनवाई की तिथि Date of Personal Hearing	07.05.2026

नोट: इस अग्रिम विनिर्णय की प्राप्ति के 30 दिन के अन्दर उत्तराखण्ड माल और सेवाकर अधिनियम 2017 की धारा-99 के अन्तर्गत गठित अग्रिम विनिर्णय अपीलप्राधिकारी के समक्ष धारा- 100(1) के अन्तर्गत अपील दायर की जा सकती है।

Note: An appeal against this ruling lies before the appellate authority for advance ruling under Section 100(1) of the Uttarakhand Goods and Services Tax Act, 2017, constituted under Section 99 of the Uttarakhand Goods and Services Tax Act, 2017, within a period of 30 days from the date of service of this order.

**AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX
UTTARAKHAND**

PROCEEDINGS

This is an application under Sub-Section (1) of Section 97 of the Central Goods & Service Tax Act, 2017 and Uttarakhand State Goods & Service Tax Act, 2017 (hereinafter referred to as CGST/SGST Act) and the rules made there under filed by M/s Dehradun Smart City Limited, Ground Floor, 777, Satvik Tower, Kaulagarh Road Rajendra Nagar, DEHRADUN, Dehradun, Uttarakhand, 248001, (herein after referred to as the "applicant"/ "DSCL") and registered with GSTIN 05AAGCD3672G1ZR under the CGST Act, 2017 read with the provisions of the UKGST Act, 2017.

2. At the outset, we would like to state that the provisions of both the CGST Act and the SGST 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 would also mean a reference to the same provisions under the SGST Act.

3. The Advance Ruling under GST means a decision provided by the authority or the appellate authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub section (1) of section 100 in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

4. As per the said sub-section (2) of Section 97 of the Act advance ruling can be sought by an applicant in respect of:

- (a) Classification of any goods or services or both
- (b) Applicability of a notification issued under the provisions of this Act,**
- (c) Determination of time and value of supply of goods or services or both,**
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid
- (e) Determination of the liability to pay tax on any goods or services or both
- (f) Whether the applicant is required to be registered
- (g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both within the meaning of that term.**

4.2 In the present case applicant has sought advance ruling on the determination of the liability to pay tax on any goods or services or both, covered under Section 97(2)(b),(c)&(g) of the Act.

5. **BRIEF FACTS**

5.1.1 **In their application dated 27.03.2026**, the applicant submitted that:

- a. For the purpose of implementing the smart cities project in Dehradun, a Special Purpose Vehicle ("SPV") was formed viz., Dehradun Smart City Limited CIN: U45309UR2017SGC008127, which was incorporated as a State Government Company, under the Companies Act, 2013, with its registered office in Dehradun, Uttarakhand.
- b. The objects of DSCL include:
 - i. To plan, approve, fund, implement, manage, operate, monitor and evaluate Smart City development projects under the SCP of Dehradun, including convergence with national and State-level missions and programmes.
 - ii. To exercise such powers, rights and obligations of the Municipal Corporation (Nagar Nigam Dehradun) in respect of Smart City development projects as may be delegated by the State Government and/or the Municipal Corporation from time to time.
 - iii. To undertake comprehensive urban development, including promotion of mixed land use, provision of housing for all, creation of walkable localities, preservation and development of open spaces, provision of urban infrastructure, and promotion of various transport modes. including public transport and last-mile connectivity.
 - iv. To incorporate joint ventures and subsidiaries, and to enter into contracts, Public-Private Partnerships (PPP) and service-delivery arrangements with Indian and foreign firms, as required for implementation of Smart City development projects.
- c. The present application arises in the context of the implementation of an ESCO-based energy efficiency project under the Smart Cities Mission in Dehradun city. Under a **tripartite contractual arrangement** between **Dehradun Smart City Limited (DSCL), Uttarakhand Jal Sansthan (UJS) and M/s GCKC Projects and Works Private Limited (Contractor)**, DSCL performs supervisory, financial agency and monitoring functions in relation to the implementation of energy-efficient pumping infrastructure forming part of the municipal water supply system. In view of the nature of the arrangement and the flow of consideration between the parties, certain questions have arisen regarding the status of DSCL as a Governmental

Authority, the applicability of exemption under Notification No. 12/2017-Central Tax (Rate), and the valuation implications under Rule 33 of the CGST Rules.

5.1.2 Questions on which the Advance Ruling is sought : In view of the above facts, 'the applicant' under section 97(2) of the CGST / SGST Acts is seeking advance ruling as to;

- Q1.** Whether Dehradun Smart City Limited ("DSCL") : qualifies as a "Governmental Authority" as per the Explanation to notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 32/2017-Central Tax (Rate) dated 13.10.2017 ?
- Q2.** Whether the services provided by DSCL in relation to execution of smart city/ESCO projects to Uttarakhand Jal Sansthan ("UJS") viz Service Recipient, in respect of functions entrusted to a Municipality under article 243W read with the Twelfth Schedule of The Constitution of India, qualify for exemption under Serial No. 4 of Notification No. 12/2017-Central Tax (Rate) as amended by Notification No. 14/2018-Central Tax (Rate)?
- Q3.** Whether the arrangement under the Tripartite Agreement results in two distinct supplies of services, viz. (a) supervisory/financial-agency services by DSCL to UJS and (b) implementation-cum-O&M services by M/s GCKC Projects and Works Private Limited (the "Contractor") to UJS ?
- Q4.** Whether DSCL, in respect of the amounts received from UJS for remittance to the Contractor without any markup, deduction or value addition, acts as a "pure agent of the recipient of supply" under Rule 33 of the CGST Rules / UKGST Rules 2017, so that such amounts do not form part of the value of the taxable supply by DSCL to UJS, under section 15 of CGST/SGST Acts 2017 ?

5.2 APPLICANT SUBMISSION:

5.2.1 Shareholding and Control Structure of DSCL

A. Shareholding

The entire paid-up share capital of DSCL is held by the representatives of **Mussoorie Dehradun Development Authority and Dehradun Nagar Nigam** in equal proportion, who hold such shares in their official capacity on behalf of the respective government bodies.

Mussoorie Dehradun Development Authority ("MDDA") was setup under the U. P. Government GO dated 07.11.1984 under Uttar Pradesh Urban Planning and Development Act No. 11 of 1973 (based on Delhi Development Act 1957). The authority is governed by the

Board of Management consisting of Officers involved in the development of Mussoorie & Dehradun which functions directly under the control of State Government.

Nagar Nigam Dehradun ("NND") is an ULB constituted as a Municipal Corporation under the article 243Q of The Constitution of India. The administrative composition of the Corporation is appointed by the State Government.

B. Control Structure

Control and management of the company vest in its Board of Directors under Section 179 of the Companies Act, 2013.

Dehradun Smart City Limited (DSCL) is a wholly state-controlled Special Purpose Vehicle incorporated by the Government of Uttarakhand under the Smart Cities Mission. Its Board of Directors comprises serving government officials, predominantly IAS and PCS officers along with nominees from state departments and entities.

The Chairman is the Divisional Commissioner, Garhwal Division (IAS); CEO & Director is District Magistrate, Dehradun (IAS); and directors include IAS/PCS officers (Additional Director Urban Development, Vice Chairman MDDA, Municipal Commissioner) plus government officials from UPCL, PWD, and other state departments

These government officials, appointed through official government orders and serving ex-officio in their administrative capacities, exercise complete management, strategic direction, and operational control over DSCL's projects, funding, and execution, ensuring direct and unqualified state government control over the company.

5.3 Transactions in respect of which Ruling is sought

5.3.1 Overall nature of the project

Pursuant to the consideration and approval of the Expenditure Finance Committee ("EFC") of the Government of Uttarakhand for the project titled "Supplying, Installation, Operation & Maintenance of Energy Efficient Pumping Machinery including Electrical & Mechanical Installations Works and Complete SCADA System at Various Tube Wells & Booster Pumping Stations Under PPP Mode (ESCO Model) Including Operation & Maintenance of 10 years AND Necessary Instrumentation for Complete Automation of Various Tube Wells & Booster Pumping Stations under Item Rates Including Operation & Maintenance of 10 years in Dehradun City under "Smart City Mission", a tripartite agreement was entered into by DCSL, UJS and the Contractor vide. Contract no. 03/DSCL/19-20/NCB/ESCO.

The said agreement provides for implementation of energy efficiency measures, automation, and Supervisory Control and Data Acquisition-SCADA systems for pumping stations and tube wells in Dehradun city, and for operation and maintenance of the installed system under the ESCO Model, with energy savings forming the basis of consideration and sharing between the parties in accordance with the agreed mechanism.

5.3.2 ESCO-based project structure (as per the Agreement)

The ESCO Model is lucidly explained in the Point 1.0 of the tripartite agreement on page# 0004, which explains the ESCO arrangement forming the basis of the present project, and the same is reproduced below:

"1.0 Background

1.1 Energy saved sharing Model (ESCO Project) is a particular form of contracting arrangement used in energy consumption-intensive industries or infrastructure services, like pumping water supply, where the ESCO Contractor is responsible for all the activities and has to **quote price of Services, considering the "Compulsory Saving", and over & above this the "Additional Expected Saving" in the energy bill for all pumping stations & tube wells and the entire Compulsory Saving and part of Additional Expected Saving amount, on a monthly basis, to be shared with authority during "ESCO Operation and Maintenance Period. On completion of ESCO Operation and Maintenance Period the contractor shall handover the project to the End-User or Owner of the Services.**

5.3.3 Scope of the parties under the tripartite agreement:

A. Dehradun Smart City Limited (DSCL)

- i. A Tripartite agreement has been formed between M/s GCKC Projects and Works Private Limited (Contractor), DSCL & UJS for the operation and maintenance period of 10 years as DSCL shall be financial agency.
- ii. Training and capacity building of Engineers, technicians and other support staff of DSCL, Uttarakhand Jal Sansthan & any other designated line UJS(s) shall be carried out during the O&M duration as per the directions and to the satisfaction of DSCL to prepare them to take over the Works and to operate & maintain the automation and SCADA system efficiently after expiry of 10 years O&M period.
- iii. The system shall include a Central Management System, which aggregates data about the fleet of RTUs (Remote Terminal Unit), allows enabling or disabling of onboard interfaces, and a web services interface so that this data can be consumed by external applications.
- iv. At present, supervision of Operation & Maintenance of Automation and SCADA system for 10 years including operation & maintenance of all software, hardware, sensors, analyzers, monitors, electrical equipment & wiring, actuators, flow meters, pressure sensors, energy meters, automated chlorinators etc. installed under this contract is being carried out.

B. GCKC Projects and Works Private Limited (Contractor)

- i. The overall scope of this project covers supply, installation, commissioning & testing of automation system comprising of the entire network of RTUs (Remote Terminal Unit), instruments, cabling etc., in order to facilitate logical, sequential and automatic operations of the tube wells.
- ii. Establishment of SCADA software & hardware at well-equipped Local Control Station (LCS) and at Master Control Stations (MCS), and integration of the tube well sites with MCS & LCS equipped with functional SCADA system suitably located at circle and zonal offices.
- iii. Supply, installation and commissioning of RTUs, Touch Screen HMI, up gradation of electrical panels cum starters, auto phase reversal units, web based SCADA software & hardware at LCS & MCS, SCADA servers, 4G GPRS based communications system with all accessories at the sites, digital type smart energy meters, isolation transformers, auto chlorination system, flow meters, valve actuators, pressure transmitters, ultrasonic level sensors, chlorine analyzer and depth sensors.
- iv. Testing and calibration of all hardware, sensors, analyzers, monitors, electrical equipment & meters from approved test labs and also third-party inspection at the discretion of the Employer and submission of test reports and obtaining approval thereof from the Employer.
- v. Installation & commissioning of all the SCADA, automation & instrumentation system listed above.
- vi. Operation & Maintenance of Automation and SCADA system for 10 years including operation & maintenance of all software, hardware, sensors, analyzers, monitors, electrical equipment & wiring, actuators, flow meters, pressure sensors, energy meters, automated chlorinators etc. installed or repaired under this contract.
- vii. The contractor shall be responsible for operation and maintenance (including preventive & periodical maintenance) of machinery installed, switch yards at various pump houses and tube wells.
- viii. The contractor shall procure the spares for plant & machinery and maintain an inventory of spares, and all consumables' items shall be arranged by the contractor free of cost.
- ix. Contractor will have to keep control room 24 hours operational during the contract period and provide personnel at control room and pumping station for keeping all the

information & record regarding running of project, pumping machinery, power failure, total production, level of reservoirs as well as any type of break down in system.

C. Uttarakhand Jal Sansthan (UJS) :

- i. UJS Shall be responsible for periodical quality monitoring.
- ii. Testing, inspection and operation shall be carried out, and approval shall be obtained from the Employer and Engineer-in-charge.
- iii. Log books, records and maintenance history shall be maintained and produced periodically for proper monitoring and log books of previous month shall be deposited to the DSCL/UJS concern every month.
- iv. Pump sets in the pumping station are to be operated for 24 hours a day or as per direction of Engineer in charge.

5.3.4 Energy-savings mechanism and sharing arrangement

- a) Pursuant to the implementation of automation, SCADA and energy efficiency measures under the project, reduction in electricity consumption, compared to the baseline, results in monetary savings in the electricity expenditure.
- b) As per the agreed sharing mechanism, and as also provided in the ESCO Model, supra, the energy savings achieved comprise of two components viz., Compulsory Saving and Additional Saving.
- c) In this regard, DSCL in accordance with the calculation methodology specified in the Tripartite Agreement and the approved bid of the lowest (L1) Contractor, determines and computes:
 - i. **Compulsory Saving:** The Compulsory Saving shall be equivalent to 10% of the baseline power consumption. This portion represents the minimum guaranteed saving and belongs exclusively to DSCL
 - ii. **Additional Saving:** Any energy savings achieved over and above the aforesaid 10%
- d) **Compulsory Saving shall be shared between DSCL and the Contractor**, in the following ratio:

Share attributable to DSCL:	25%
Share to be passed on to the Contractor:	75%

5.3.5 Payment mechanism under the ESCO-model

- a. UJS transfers the total measured energy savings amount to DSCL as per the tripartite agreement and the mutually agreed energy baseline and savings calculation methodology.
- b. **DSCL's Role and Share Retention along with remittance made to Contractor is detailed as under:**





- i. **DSCL retains the following from total savings received:**
 - Compulsory 10% savings (statutory baseline share as per tripartite agreement)
 - 25% contractual share of the additional verified savings
- ii. **DSCL immediately remits the Contractor's 75% share of additional verified savings to the Contractor without any markup, deduction, or value addition.**

5.4.1 In view of the above facts stated, it is evident that the transaction under the Tripartite Agreement comprises two distinct service-components:

- (i) Implementation-cum-O&M services rendered by the Contractor as the ESCO-contractor for energy-efficient automation and SCADA-based O&M of the pumping infrastructure; and
- (ii) Financial-agency and supervisory-cum-monitoring services rendered by DSCL, including fund-flow management, baseline-and-savings-verification, and capacity-building support, without carrying out the actual O&M.

5.4.2 In view of the nature of the contractual arrangement and the role performed by each party, certain issues arise concerning the status of DSCL, the exemption of services rendered by it, and the value of supply of amounts received and remitted under the ESCO model. Accordingly, applicant has sought an advance ruling on the questions stated above.

6. APPLICANT'S VIEW POINT AND SUBMISSIONS.

6.1.1 Established by the Government: The applicant has quoted the definitions of 'Government Authority', as per Explanation to Notification No. 12/2017-Central Tax(Rate) dated 28.06.2017, as amended.

6.1.2 The applicant has submitted that DSCL is a State Government company incorporated as a Special Purpose Vehicle (SPV) under the Smart Cities Mission for implementation of the Smart Cities Mission in Dehradun pursuant to directions issued by the Government of Uttarakhand. It has been contended that DSCL was established by the Government through Mussoorie Dehradun Development Authority (MDDA) and Nagar Nigam Dehradun(Urban Local Body) in terms of Government Order dated 22.08.2017 and, therefore, qualifies as an entity "established by Government" within the meaning of Explanation (zf) to Notification No. 12/2017-CT (Rate) as amended.

6.1.3 90% and more participation of Government by way of equity or control : The applicant has further submitted that the condition of 90% or more Government participation by way of equity and control stands satisfied in their case. It has been

stated by the applicant that the entire paid-up share capital of DSCL is held by nominees of MDDA and Nagar Nigam Dehradun (NND) in their official capacity, and not in personal capacity, therefore the beneficial ownership vests with such statutory public authorities functioning under the administrative and functional control of the Government of Uttarakhand.

6.1.4 Participation of Government by way of control : It has also been argued by the applicant that Government participation by way of "control" exists as senior Government officials and officers of MDDA, NND and the State Government occupy positions on the Board of Directors in an ex-officio and nominee capacities and are responsible for superintendence, direction and control of the affairs of DSCL. In support of the meaning and scope of the term "control", the appellant has placed reliance on provisions of the Companies Act, SEBI Regulations, IBBI Regulations and judicial pronouncements including *Ajay Hasia v. Khalid Mujib Sehravardi*, *State of Mysore vs Allum Karibasappa* and *Arcelor Mittal India Private Limited v. Satish Kumar Gupta*. Accordingly, the applicant submitted that the condition relating to "participation of Government by way of control" under Explanation (zf) to Notification No. 12/2017-Central Tax (Rate), as amended by Notification No. 32/2017-Central Tax (Rate), stands clearly satisfied in the case of Dehradun Smart City Limited (DSCL).

6.1.5 DSCL carries out functions entrusted to a Municipality under Article 243W of the Constitution : The applicant has further contended that DSCL carries out functions entrusted to a Municipality under Article 243W of the Constitution. It has been submitted that DSCL has been constituted for urban planning, infrastructure development, water supply management, public amenities, environmental protection and other municipal functions enumerated in the Twelfth Schedule to the Constitution. Reference has been made to Clause III(A) (2) of the Memorandum of Association which empowers the DSCL to undertake comprehensive urban development and infrastructure activities, including inter alia:

- urban planning and area development;
- implementation and management of urban infrastructure projects;
- development, operation, and maintenance of public infrastructure and utilities;
- provision and improvement of civic services and public amenities;
- implementation of smart and sustainable infrastructure solutions; and
- coordination with Government departments and Urban Local Bodies for delivery of public services.

Accordingly, it has been argued by the applicant that DSCL acts as an institutional mechanism for implementation and execution of municipal functions entrusted under Article 243W of the Constitution.

In view of the above the applicant further submits that:

- DSCL is a body **established by the Government of Uttarakhand**;
- Participation of Government is established both **by way of equity and control**; and
- DSCL has been **established to carry out functions entrusted to a Municipality under Article 243W** of the Constitution, as expressly provided in its Memorandum of Association and as evidenced by its statutory mandate and operational functions.

Accordingly, the applicant submits that DSCL qualifies as a "Governmental Authority" under Explanation (zf) to Notification No. 12/2017-CT (Rate), as amended by Notification No. 32/2017-CT (Rate). In support of the above contention, the applicant has placed reliance upon advance rulings/orders in the cases of Tirupati Smart City Corporation Limited, Tirunelveli Smart City Limited and Jaipur Smart City Limited, wherein Smart City SPVs were held to be "Governmental Authorities" for the purposes of GST notifications.

- 6.2 Eligibility of the DSCL's Services for Exemption under Serial No. 4 of Notification No.12/2017-Central Tax (Rate):** Further, the applicant has submitted that the services provided by DSCL in relation to execution, implementation and monitoring of the ESCO-based energy efficiency and SCADA automation project for pumping infrastructure of UJS are exempt under Serial No. 4 of Notification No. 12/2017-CT (Rate), as amended.

Serial No. 4 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 originally provided exemption to:

"Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution."

The said entry was subsequently amended by Notification No. 14/2018-Central Tax (Rate) dated 26.07.2018, enclosed as Annexure - 8, whereby the entry now reads as follows:

***"Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution.*"**

It has been contended by the applicant that the project pertains to automation, monitoring and operational management of municipal water supply infrastructure, which falls within the municipal function of ***"water supply for domestic, industrial and commercial purposes"*** under Entry 5 of the Twelfth Schedule. It has also been mentioned by the applicant that the project also advances the municipal function relating to ***"urban forestry, protection of the environment and promotion of ecological***

aspects" under **Entry 8 of the Twelfth Schedule**. Therefore, the project is connected with functions relating to environmental protection and ecological aspects.

The applicant has further submitted that the expression "**in relation to**" used in the exemption notification has a wide amplitude, covering both direct and indirect nexus with municipal functions. The applicant in this regard has placed reliance upon the judgment of the Hon'ble Supreme Court in Doypack Systems Pvt. Ltd. v. Union of India. Accordingly, it has been contended that the services rendered by DSCL to UJS are integrally connected with the functioning, efficiency and sustainability of the municipal water supply functions under Article 243W of the Constitution and therefore qualify for exemption under Serial No. 4 of Notification No. 12/2017-CT (Rate), as amended by Notification No. 14/2018-Central Tax (Rate) dated 26.07.2018.

6.3 Two Distinct Supply of Services: The applicant has submitted that the arrangement under the Tripartite Agreement involves two distinct supplies of services, each of which is required to be examined separately for the purposes of valuation and determination of GST liability under the CGST/SGST Acts.

It has been submitted that:

- i. DSCL functions primarily as a financial-cum-supervisory agency for UJS, responsible for receiving and managing the energy-savings proceeds, retaining its own share (Compulsory 10% plus 25% of additional savings), and overseeing the project on behalf of the State Government and the Municipal Corporation.
- ii. The Contractor's role is that of the implementation-cum-O&M contractor, responsible for supply, installation, commissioning and 10-year operation and maintenance of the ESCO-based automation and SCADA-enabled pumping-station infrastructure for UJS.

The applicant has further submitted that DSCL is not the principal recipient of the Contractor's services and that the benefit and title in such implementation and O&M activities vest with UJS, while DSCL merely receives the amounts from UJS and remits the Contractor's contractual share.

6.4 DSCL as a Pure Agent: The applicant has further submitted that the portion of savings remitted by DSCL to the Contractor is merely passed on in the capacity of a pure agent, therefore liable to be excluded from the value of DSCL's taxable supply to UJS in terms of Rule 33 of the CGST/UKGST Rules, 2017 read with Section 15 of the CGST/UKGST Acts. The applicant has also reproduced Rule 33 and submitted that DSCL satisfies all the prescribed conditions for qualifying as a "pure agent".

The applicant has submitted that the Tripartite Agreement itself establishes that DSCL merely acts as a conduit for remittance of the Contractor's share of savings. The

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applicant has placed reliance upon Clause 28.2(a)(4) of Annexure-1 to the Tripartite Agreement

*"(4) The **contractor will offer % of DSCL's share** in the Additional Energy Cost Savings (in excess of Minimum Guaranteed Saving of 10%)."*

Also as per the note appended thereto,

"Note: Schedule-A has been designed such that if the Bidder quotes DSCL's share (option less in price-bid) as X%, then bidder's quoted rate will automatically be totaled as $(35,30,80,152.49 \times (100-X)/100)$ i.e. **the bidder's share of Schedule-A which will be paid by DSCL to him out of the savings in energy cost, beyond 10% compulsory saving.**"

The applicant has submitted that these clauses demonstrate that the Contractor's remuneration is not consideration paid by DSCL for services rendered to it, but rather a contractually earmarked share of the energy savings belonging to the Contractor and merely routed through DSCL.

Further the applicant has placed reliance on Clause 18.1 of the Special Conditions of Contract,

"14. % Share to be passed on to the contractor from the sharable savings as per the approved bid of the lowest contractor (P)."

The applicant has submitted that the said clause clearly establishes that DSCL merely transfers the Contractor's entitled share of savings without acquiring any beneficial interest therein.

The applicant has further submitted that all the conditions stipulated under Rule 33 stand satisfied in the present case:

i. DSCL acts as a pure agent on authorisation by UJS:

Under the Tripartite Agreement, UJS (the recipient of supply) transfers the total measured energy-savings amount to DSCL, with the understanding that DSCL will retain its own share (Compulsory 10% plus 25% of additional savings) and remit the Contractor's 75% share to M/s GCKC Private Limited. This arrangement constitutes authorisation by UJS to DSCL to make payment to a third party (Contractor) on its behalf. The Contractor's implementation-cum-O&M services are effectively procured by UJS, and DSCL merely receives and passes on the Contractor's share of savings without initiating or controlling the Contractor-related component. Thus, DSCL acts

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as a pure agent of the recipient of supply (UJS) when making the payment to the Contractor, **satisfying the first condition under Rule 33.**

ii. Payment is separately indicated in the transaction-chain

The Tripartite Agreement and DSCL's internal records clearly distinguish between:

- the Compulsory 10% savings;
- the 25% contractual share retained by DSCL; and
- the 75% share payable to the Contractor.

The Contractor's 75% is treated as pass-through funds, not as part of DSCL's own consideration, and is separately tracked in the records. The Essential Requirements and Explanation to Rule 33 are interpreted to require that the payment to the third party be clearly identifiable and separate in the transaction-chain; the functional segregation of the 75% share in the Agreement and records fulfils this requirement. Hence, **the second condition under Rule 33 is satisfied.**

iii. Contractor's supplies are additional to DSCL's own services

The services procured by DSCL from M/s GCKC Private Limited are the implementation-cum-O&M services for energy-efficient pumping machinery, SCADA and automation at the tube wells and booster pumping stations, supplied to UJS as the end-user. These services are distinct from and in addition to the supervisory/financial-agency-cum-monitoring services rendered by DSCL to UJS. DSCL does not use the Contractor's services for its own interest; the actual benefit of such services lies with UJS's water-supply infrastructure. Therefore, the supplies procured by DSCL from the Contractor are in addition to the services DSCL supplies on its own account, **satisfying the third condition under Rule 33.**

Further the applicant has also submitted that the four conditions prescribed in the Explanation to Rule 33 are fulfilled.

- i. **Contractual authorisation :** DSCL has entered into a Tripartite Agreement with UJS and the Contractor under which UJS (recipient) authorises DSCL to receive the total measured energy-savings amount and to remit the Contractor's 75% share, thereby making DSCL a contractual pure agent incurring expenditure/costs on behalf of UJS.
- ii. **No title or beneficial interest:** DSCL neither intends to hold nor actually holds any title in the Contractor's O&M services or infrastructure; the benefit and title in such services and resultant infrastructure rest with UJS as the public water-supply provider.

- iii. **No use for DSCL's own interest:** DSCL does not use the Contractor's services for its own interest; they are used exclusively for UJS's water-supply operations in Dehradun City. DSCL only facilitates the project and oversees performance as a mission-implementation SPV.
- iv. **No markup, retention, or value addition:** DSCL receives only the actual amount required to procure the Contractor's services (the 75% share of additional verified savings) from UJS, in addition to the Compulsory 10% and 25% constituting its own consideration for the supervisory/financial-agency-cum-monitoring services, and without any markup, deduction or value addition.

In support of the above submissions, reliance has been placed upon the following judicial precedents:

- i. Intercontinental Consultants and Technocrats Pvt. Ltd. v. Union of India
- ii. Bharti Cellular Ltd. v. Assistant Commissioner
- iii. Intercontinental Consultants and Technocrats Pvt. Ltd. v. Union of India

Accordingly, the applicant has submitted that DSCL satisfies all the conditions prescribed under Rule 33 of the CGST/UKGST Rules, 2017 and that the amounts remitted by DSCL to the Contractor on behalf of UJS constitute expenditure incurred as a pure agent and not consideration for DSCL's own supply. Therefore, such amounts are liable to be excluded from the taxable value of supply under Section 15 of the CGST/UKGST Acts read with Rule 33 of the CGST/UKGST Rules.

7. PERSONAL HEARING

- 7.1 To meet the ends of natural justice, opportunity of personal hearing was granted to the applicant on 07.05.2026. Sh. Harpreet Singh Sabharwal, FCA, on behalf of the applicant appeared online for personal hearing on the said date and re-iterated the submission already made in their application.
- 7.2 Ms. Maneesha Saini, Deputy Commissioner, Concerned Officer from the State GST was also present during the hearing proceedings. She submitted that the applicant, Dehradun Smart City Limited, has sought an advance ruling on GST applicability to an ESCO-based project involving installation, automation, and operation of energy-efficient pumping infrastructure under a tripartite agreement with Uttarakhand Jal Sansthan and a private contractor. Further the Deputy Commissioner submitted that the activity is not eligible for exemption under Entry 3 of Notification No. 12/2017-CT (Rate), as the scope clearly involves supply of goods along with installation and operation, thereby constituting a composite supply of works contract service under Section 2(119) of the CGST Act. The presence of equipment supply and performance-linked obligations under the ESCO model further establishes that the contract is not "pure services". Even if DSCL is considered a Government entity, the exemption is

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strictly limited to pure services relating to functions entrusted to municipalities under Article 243W, which is not satisfied in the present case due to the integrated nature of supply. Accordingly, the activity is taxable at applicable GST rates as works contract service, and the benefit of exemption is not admissible.

- 7.3** After the hearing, the applicant vide email dated 07.05.2026, further submitted copies of Revised letter for award of contract to M/s GCKC Projects & Works Pvt. Ltd. dated 11.03.2020. Further the applicant also submitted copy of the Minutes of the Expenditure Finance Committee(EFC) meeting held on 01.11.2019 chaired by the Addl. Chief Secretary, Government of Uttarakhand, wherein the project under consideration was deliberated and approved, in which the project under consideration was considered and approved and further decided that a tripartite contract be drawn and signed by DSCL, UJS and contractor.

8. DISCUSSION AND FINDINGS

- 8.1** We have gone through the facts of the case and applicant's submission made.

- 8.2** The issues that arise for consideration before the Authority are as follows:

- (a) Whether DSCL qualifies as a "Governmental Authority" in terms of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended.
- (b) Whether the services provided by DSCL to UJS in relation to execution of Smart City/ESCO projects, pertaining to functions entrusted to a Municipality under Article 243W of the Constitution, are exempt under Serial No. 4 of Notification No. 12/2017-Central Tax (Rate), as amended.
- (c) Whether the arrangement under the Tripartite Agreement constitutes two distinct supplies of services, namely:
 - (i) supervisory/financial agency services by DSCL to UJS; and
 - (ii) implementation and O&M services by the M/s GCKC Projects and Works Private Limited (Contractor) to UJS.
- (d) Whether DSCL qualifies as a "pure agent" under Rule 33 of the CGST/UKGST Rules, 2017 in respect of amounts received from UJS for onward remittance to the Contractor, and consequently, whether such amounts are excludible from the value of taxable supply under Section 15 of the CGST/SGST Acts, 2017.

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8.3 Now we examine the issue one by one:

8.3.1 The **first issue** to examine is, whether the applicant, Dehradun Smart City Limited is a "Government Authority"?

The definition of 'Government Authority', as per Explanation to Notification No. 12/2017-Central Tax(Rate) dated 28.06.2017, as amended, which is reproduced as under:

Notification No. 12/2017-Central Tax(Rate) dated 28.06.2017
(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.

Now, we proceed to examine whether DSCL are qualified to be considered a Governmental Authority in view of the above conditions. Following questions need to be answered in the context:-

(A) Whether DSCL are set up by an Act of Parliament or a State Legislature?

DSCL is not set up by an Act of Parliament or State Legislation.

(B) Whether is it established by any Government?

DSCL is a special purpose vehicle (SPV) incorporated under the Companies Act, 2013 for the implementation of the Smart Cities Mission in Dehradun. The SPV was constituted by the Government of Uttarakhand through the Mussoorie Dehradun Development Authority and Nagar Nigam Dehradun (Urban Local Body) in accordance with the framework prescribed under the Smart Cities Mission. Government Order No. /IV (2)-शा.वि.०-2017-74 (साप) 14, T.C., IV dated 22/08/2017 issued by the Government of Uttarakhand is placed below:

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प्रेषक,
राधिका झा,
राधिका,
उत्तराखण्ड शासन।

सेवा में,
मुख्य कार्यकारी अधिकारी,
स्मार्ट सिटी,
देहरादून।

शहरी विकास अनुभाग-2

देहरादून : दिनांक 22 अगस्त, 2017

विषय : देहरादून स्मार्ट सिटी परियोजना के अन्तर्गत एसओपीओ के पंजीकरण एवं कम्पनी अधिनियम के अन्तर्गत एसओपीओ के स्वरूप की स्वीकृति के सम्बन्ध में।

महोदय,

उपर्युक्त विषयक नोडल अधिकारी, स्मार्ट सिटी, देहरादून/उपाध्यक्ष, एमओडीओ, देहरादून के पत्र संख्या 1143/PMU/2017, दिनांक 27.07.2017 के संदर्भ में मुझे यह कहने का निर्देश हुआ है कि भारत सरकार के स्मार्ट सिटी गार्ड फाईन्स के अन्तर्गत एसओपीओ के पंजीकरण हेतु एसओपीओ के स्वरूप को निम्नानुसार स्वीकृति प्रदान करते हुए पंजीकरण सम्बन्धी एओओएओ एवं एमओओएओ अनुमोदित किये जाने की श्री राज्यपाल सहित स्वीकृति प्रदान करते हैं :-

1. एसओपीओ का नाम - देहरादून स्मार्ट सिटी लि0
2. एसओपीओ का अधिकृत शेयर कैपिटल - ₹0 10,00,000/-
(उक्त अधिकृत शेयर कैपिटल की राशि भविष्य में निदेशक मण्डल की सहमति एवं कम्पनी अधिनियम, 2013 के प्राविधानों के अन्तर्गत आवश्यकतानुसार बढ़ायी जा सकती है)
3. शेयर मूल्य - ₹0 10.00 प्रति शेयर
4. एसओपीओ की पेज अप कैपिटल - ₹0 10,00,000/-
5. एसओपीओ के प्रथम निदेशक - (1) आयुक्त गढ़वाल मण्डल
(2) उपाध्यक्ष, मसूरी-देहरादून विकास प्राधिकरण।
(3) अपर सचिव, शहरी विकास उत्तराखण्ड शासन।
(4) अपर निदेशक, शहरी विकास निदेशालय
(5) नगर आयुक्त, नगर निगम, देहरादून

क्र0स0	शेयर धारकों का विवरण -	शेयरों की संख्या
1.	उपाध्यक्ष, मसूरी देहरादून विकास प्राधिकरण	49997
2.	सचिव, मसूरी-देहरादून विकास प्राधिकरण	01
3.	मुख्य लेखाधिकारी, मसूरी-देहरादून विकास प्राधिकरण	01
4.	अधीक्षक अभियंता, मसूरी-देहरादून विकास प्राधिकरण	01
5.	नगर आयुक्त, नगर निगम देहरादून	49997
6.	स्वास्थ्य अधिकारी, नगर निगम देहरादून	01
7.	स्वास्थ्य अधिकारी, नगर निगम देहरादून	01
8.	चरित्र विल अधिकारी, नगर निगम देहरादून	01
	योग	1,00,000

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7. निदेशकों की संख्या - सूचना 05, अधिकतम 14
8. एसओपीओ के अध्यक्ष - आयुक्त, गढ़वाल मण्डल
9. एसओपीओ के मुख्य कार्यकारी अधिकारी - मुख्य कार्यकारी अधिकारी एसओपीओ कम्पनी के निदेशक मण्डल के सदस्य भी होंगे। मुख्य कार्यकारी अधिकारी का संगन उत्तराखण्ड शासन द्वारा राज्य अखिल भारतीय सेवा संवर्ग के अधिकारियों में से अथवा उत्तराखण्ड शासन द्वारा निर्धारित योग्यताओं एवं अनुभव के मापदण्डों को पूरा करने वाले व्यक्ति का किता जायेगा।

10. उक्त कर्मांक 07 के पद धारक निदेशक मण्डल की सहमति एवं कम्पनी अधिनियम, 2013 के संगत प्राविधानों के अन्तर्गत परिचित किये जा सकेंगे।
11. एसओपीओ कम्पनी अधिनियम, 2013 के प्राविधानों के अन्तर्गत एक शासकीय कम्पनी होगी।
12. कम्पनी का पंजीकरण कम्पनी अधिनियम, 2013 के अन्तर्गत कराया जायेगा।
13. उक्त एसओपीओ के निदेशक मण्डल एवं शेयर धारक कम्पनी के एमओओएओ तथा एओओएओ एवं पंजीकरण से सम्बन्धित अन्य सभी अभिलेखों को हस्ताक्षरित करने हेतु अधिकृत होंगे।
14. उक्त एसओपीओ का पंजीकृत कार्यालय मुख्य कार्यकारी अधिकारी, स्मार्ट सिटी, देहरादून द्वारा निर्धारित किये गये स्थान पर अवस्थित होगा।

अतएव तदनुसार आवश्यक अपेक्षित कार्यवाही सुनिश्चित करते हुए कृत कार्यवाही से शासन को अवगत कराने का कष्ट करें।

संलग्नक-यथोक्त।

भवदीय,
(राधिका झा)
सचिव।

- संख्या: 953/IV(2)-शओवि0-2017, तददिनांक .।
- प्रतिलिपि निम्नलिखित को सूचनाार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-
- 1- आयुक्त, गढ़वाल मण्डल, लीड।
 - 2- उपाध्यक्ष, मसूरी-देहरादून विकास प्राधिकरण, देहरादून।
 - 3- अपर सचिव, शहरी विकास विभाग, उत्तराखण्ड शासन।
 - 4- निदेशक, शहरी विकास निदेशालय, उत्तराखण्ड, देहरादून।
 - 5- समस्त शेयर धारक, देहरादून स्मार्ट सिटी।
 - 6- गार्ड फाईल।

आज्ञा से,
(रमेश सिंह)
संयुक्त सचिव।

(C) Whether Government possesses ninety per cent or more participation in DSCL by way of equity or control?

As per sr. 11 of Order No. /IV (2)-शांवि-2017-74 (साप) 14, T.C., IV dated 22/08/2017 issued by the Government of Uttarakhand, DSCL is a State Government company incorporated under the Companies Act, 2013. As far as the 'equity' part is concerned, the details of Subscribers to the Memorandum of Association of DSCL provided by the applicant and as per the copy of Balance sheet for the FY 2020-21, we find total number of equity shares were 4,00,000 with equity participation as under:

S. No.	Name of the Subscriber	No. of Shares Subscribed (10 Each)	Distinctive No.
1	Vice Chairman, MDDA, Saharanpur Road, Transport Nagar, Dehradun.	199988	001-49997 100001-249991
2	Secretary, MDDA, Saharanpur Road, Transport Nagar, Dehradun.	4	49998 249992- 249994
3	Chief Finance Officer, MDDA, Saharanpur Road, Transport Nagar, Dehradun.	4	49999 249995- 249997
4	Superintending Engineer, MDDA, Saharanpur Road, Transport Nagar, Dehradun.	4	50000 249998- 250000
5	Municipal Commissioner, Dehradun, Municipal Corporation, Near Doon Hospital, New. Road, Dehradun, Dehradun.	199988	50001-99997 250001-399991
6	Senior Finance Officer, Nagar Nigam, Dehradun	4	99998 399992- 399994
7	Chief Municipal Health Officer, Nagar Nigam, Dehradun	4	99999 399995.- 399997
8	Health Officer, Nagar Nigam, Dehradun	4	100000 399998- 400000

On perusal of the above it is noticed that the nominees of MDDA and Nagar Nigam Dehradun are the subscribers to the MOA of DSCL having 50:50 equity shareholding, which together substantiate 100% of participation by way of equity of the Government. We note that the Officers of MDDA are appointed by the Government of Uttarakhand and Nagar Nigam Dehradun being local authorities are incorporated by Uttarakhand State Government.

From the above discussion and examination of facts on record, we find that DSCL is not set up by an Act of Parliament or State Legislature. However, DSCL has been established by the Government of Uttarakhand as a Special Purpose Vehicle (SPV) under the Smart Cities Mission framework for implementation of functions entrusted to Urban Local Bodies. Further, the equity participation in DSCL is held

entirely by Government bodies, namely Mussoorie Dehradun Development Authority (MDDA) and Nagar Nigam Dehradun, each holding 50% shareholding, thereby satisfying the condition of ninety per cent or more participation by way of equity/control by the Government. Accordingly, DSCL fulfils the conditions prescribed under clause (zf) of the Explanation to Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, and therefore qualifies as a "Governmental Authority".

8.3.2 The **second issue** to examine is, whether the services provided by DSCL to UJS in relation to execution of Smart City/ESCO projects, pertaining to functions entrusted to a Municipality under Article 243W of the Constitution, are exempt under Serial No. 4 of Notification No. 12/2017-Central Tax (Rate), as amended.

(I) In this regard the relevant portion of the Notification is appended as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
4	Chapter 99	Services by ⁷ *** governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.	Nil	Nil

⁷Words "Central Government, State Government, Union territory, local authority or" omitted by Notification No. 14/2018- Central Tax (Rate), dated 26-7-2018, w.e.f. 27-7-2018

Further the Twelfth Schedule of the Constitution enumerates the functions as matters entrusted to Municipalities, and entities established by the Government to implement such functions. The Twelfth Schedule is reproduced as under:

**"TWELFTH SCHEDULE
(Article 243W)**

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

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

(II) In this connection, we have gone through the submissions made by the Deputy Commissioner, State GST, wherein it has been contended that the activities undertaken under the ESCO model are not eligible for exemption under Serial No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, and is not a supply of "pure services".

The relevant portion of the Notification is appended as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	Nil

The above exemption is related to the pure services provided to the Central Government, State Government or Union territory or local authority or a Governmental authority.

Also it is noticed that following amendments have been made to the above Sr. 3 vide different notifications as under:

- A. Vide Notification No. 2/2018-Central Tax (Rate), dated 25-1-2018, w.e.f. 25-1-2018

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

(1)	(2)	(3)	(4)	(5)
3A	Chapter 99	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution	Nil	Nil

B. Vide Notification No. 16/2021 - Central Tax (Rate) dated 18.11.2021:

- (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;

C. Vide Notification No. 13/2023- Central Tax (Rate) dated 19.10.2023 after sr. 3A following sr. no. & entries have been inserted.

(1)	(2)	(3)	(4)	(5)
3B	Chapter 99	Services provided to a Governmental Authority by way of - (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.	Nil	Nil

(III) From the foregoing, it is observed that the concerned State GST Officer, in her submission, has not clearly specified the status of the recipients of the services, i.e., whether they qualify as the Central Government, State Government, Union Territory, or a Local Authority. Further, it is noted that specific services provided to a Government Authority are exempted under Serial No. 3B, inserted vide Notification No. 13/2023-Central Tax (Rate) dated 19.10.2023. It is also observed that the concerned State GST Officer has not provided any justification or reasoning as to why the exemption available under Serial No. 4 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 would not be applicable in the present case.

- (IV) We find that the applicant in the application filed has not sought any ruling on the applicability of Serial No. 3 of Notification No. 12/2017-Central Tax (Rate) or on the question whether the activities undertaken qualify as "pure services" or otherwise. Therefore, the scope of the present proceedings is confined to the specific questions raised by the applicant in the application for advance ruling. Accordingly, we refrain from examining or recording any finding on the applicability of Serial No. 3 of the said notification or the nature of the supply as "pure services", and restrict only to the issues on which a ruling has been sought by the applicant.
- (V) Now with regard to the applicability of Serial No. 4 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, have been examined which exempts services provided by a Governmental Authority by way of any activity in relation to any function entrusted to a Municipality under Article 243W of the Constitution. As discussed in the preceding para 8.3.1, DSCL qualifies as a Governmental Authority for the purposes of the said notification. Further, the activities undertaken by DSCL in the present matter relates to water supply under the Smart City/ESCO Project, which is one of the functions entrusted to a Municipality under Article 243W of the Constitution read with the Twelfth Schedule thereto. Since the services provided by DSCL to UJS are in relation to the performance of such municipal functions, the same squarely fall within the ambit of Serial No. 4 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended. Accordingly, the services supplied by DSCL to UJS are eligible for exemption from GST under the said entry.

8.3.3 The **third issue** to examine is, whether the arrangement under the Tripartite Agreement constitutes two distinct supplies of services, namely supervisory/financial agency services by DSCL to UJS; and implementation and O&M services by the M/s GCKC Projects and Works Private Limited (Contractor) to UJS.

We have examined the applicant's request seeking a ruling on the above issue. However, it is observed that while filing the application under Section 97(2) of the CGST Act, 2017, the applicant has sought an advance ruling only in respect of the matters specified under clauses (b), (c) and (g), namely:

- (b) applicability of a notification issued under the provisions of the Act;
- (c) determination of time and value of supply of goods or services or both; and
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both.

The question regarding whether the Tripartite Agreement gives rise to two distinct supplies between different parties does not pertain to the applicability of any notification under clause (b). Further, the said question does not involve determination of the time of supply or value of supply under clause (c). Also the issue

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does not seek a determination as to whether any particular activity undertaken by the applicant amounts to or results in a supply within the meaning of clause (g).

Further, the applicant has also sought the advance ruling on issues arising from the contractual arrangement between UJS and the Contractor i.e. M/s GCKC Projects and Works Private Limited, the both are separate and independent entities. It appears that applicant has no power to ask for advance ruling in relation to other independent entities.

Accordingly, we find that the aforesaid question does not fall within the scope of any of the categories selected by the applicant under Section 97(2) of the CGST Act, 2017. In view of the same, the said issue is not maintainable for consideration in the present proceedings and, therefore, we refrain from examining the merits thereof or recording any finding thereon.

8.3.4 The **last issue** to examine is, whether DSCL qualifies as a “pure agent” under Rule 33 of the CGST/UKGST Rules, 2017 in respect of amounts received from UJS for onward remittance to the Contractor, and consequently, whether such amounts are excludible from the value of taxable supply under Section 15 of the CGST/SGST Acts, 2017.

The relevant portion of the Notification is appended as under:

Rule 33. Value of supply of services in case of pure agent.-

Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;*
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and*
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.*

Explanation. - For the purposes of this rule, the expression "pure agent" means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;*
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;*

- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Illustration. - Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the Registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

From the terms of the Tripartite Agreement, DSCL emerges not merely as a channel for payment, but as an active and integral participant in the overall execution, supervision, financial management and implementation of the project. The Contractor has been engaged under a contractual framework in which DSCL itself is a principal party, and the payments made to the Contractor i.e. M/s GCKC Projects and Works Private Limited are essentially linked with DSCL's own obligations and responsibilities under the Agreement. Further, DSCL exercises monitoring, evaluation and supervisory functions in relation to the execution and performance of the Contractor, thereby indicating substantial involvement and interest in the underlying supply. Thus, DSCL does not qualify as a "pure agent" within the meaning of Rule 33 of the CGST/UKGST Rules, 2017 in respect of the amounts received from UJS and remitted to the Contractor, as the essential conditions prescribed under the said Rule is not satisfied in the present arrangement.

Moreover, the arrangement represents an integrated contractual framework for the implementation and operation of the project, under which DSCL is entitled to retain a specified portion of the savings and is responsible for administering the distribution of the balance amount in accordance with the contractual terms. Accordingly, the amounts so retained and distributed cannot be regarded as mere reimbursement of expenses incurred on behalf of UJS. The services of the Contractor are procured as an integral part of DSCL's own contractual obligations under the overall project arrangement and not as independent supplies obtained merely on behalf of UJS. In these circumstances, the amounts received and subsequently disbursed by DSCL are intrinsically linked to the execution of the overall supply undertaken by it. Accordingly, such amounts cannot be treated as reimbursements eligible for exclusion from the value of taxable supply under Section 15 of the CGST/SGST Acts read with Rule 33 of the CGST/UKGST Rules, 2017, and are liable to be considered as part of the consideration for the supply made by DSCL.

9. Thus, in view of the above discussions and findings, we pass the following ruling:

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RULING

Q1. Whether Dehradun Smart City Limited ("DSCL") qualifies as a "Governmental Authority" as per the Explanation to notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 32/2017-Central Tax (Rate) dated 13.10.2017 ?

Ans.1: Dehradun Smart City Limited ("DSCL") is covered under Government Authority as assigned in the Explanation to Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended.

Q2. Whether the services provided by DSCL in relation to execution of smart city/ESCO projects to Uttarakhand Jal Sansthan ("UJS") viz Service Recipient, in respect of functions entrusted to a Municipality under article 243W read with the Twelfth Schedule of the Constitution of India, qualify for exemption under Serial No. 4 of Notification No. 12/2017-Central Tax (Rate) as amended?

Ans.2: Yes. As per discussion at para 8.3.2 above, the services provided by DSCL in relation to the execution of Smart City/ESCO projects to Uttarakhand Jal Sansthan (UJS) qualify for exemption under Serial No. 4 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended.

Q3. Whether the arrangement under the Tripartite Agreement results in two distinct supplies of services, viz. (a) supervisory/financial-agency services by DSCL to UJS and (b) implementation-cum-O&M services by M/s GCKC Projects and Works Private Limited (the "Contractor") to UJS ?

Ans.3: As per discussion at para 8.3.3 above, the question does not fall within the scope of any of the categories selected by the applicant under Section 97(2) of the CGST Act, 2017. Accordingly, we refrain from examining its merits or recording any finding thereon.

Q4. Whether DSCL, in respect of the amounts received from UJS for remittance to the Contractor without any markup, deduction or value addition, acts as a "pure agent of the recipient of supply" under Rule 33 of the CGST Rules / UKGST Rules 2017, so that such amounts do not form part of the value of the taxable supply by DSCL to UJS, under section 15 of CGST/SGST Acts 2017 ?

Ans.4: No. As per discussion at para 8.3.4 above, DSCL, in respect of the amounts received from UJS for payment to the Contractor, cannot be regarded as a "pure agent" of the recipient of supply within the meaning of Rule 33 of the CGST Rules/UKGST Rules, 2017.


ANURAG MISHRA
(MEMBER)


VIVEKANAND MAURYA
(MEMBER)

AUTHORITY FOR ADVANCE RULING
GOODS & SERVICE TAX: UTTARAKHAND
OFFICE OF THE COMMISSIONER, SGST, UTTARAKHAND
LADPUR RING ROAD, UPPER NATHANWALA, DEHRADUN

F. No.: 05/S.Tax-UKD/GST/Sec-97/2025-26/DDN/ 933 Date: 10.06.2026

Copy to:

1. The Chief Commissioner, CGST, Meerut Zone, Meerut for information please.
2. The Commissioner, CGST, Commissionerate, Dehradun for information and necessary action please.
3. The Commissioner, SGST, Commissionerate, Uttarakhand for information and necessary action please.
4. The Commissioner, CGST, Audit Commissionerate, Dehradun for information please.
5. The Assistant Commissioner, CGST, Division- Dehradun, for information and necessary action.
6. The Concerned Officer, CGST, Dehradun.
7. The Concerned Officer, SGST, Dehradun.
8. The Appellate Authority of Advance Ruling, Uttarakhand for information please.
9. Guard File.