



AUTHORITY FOR ADVANCE RULING, HIMACHAL PRADESH
(Constituted under section 96 of HPGST/CGST Act, 2017)

BEFORE THE BENCH OF

- 1) Sh. Rakesh Sharma, Addl. Commissioner of State Tax (Member,SGST)
- 2) Sh. Abhay Gupta, Joint Commissioner of Central Tax (Member, CGST)

Advance Ruling No. HP-AAR-04/2020 31632-34-07-12-22

1.	Name & Address of the applicant	M/s HP Tourism Development Board, Shimla
2.	GSTIN of the applicant	02AAALT1197M1ZR
3.	Date of filing Form GST ARA-01	26.12.2019
4.	Represented by	Sh. Vinod Kumar Gautam, Section Officer (Finance & Audit)
5.	Question on which Advance Ruling is sought	(a) Whether the amount credited in favour of H.P Tourism Development Board by Department of Tourism, Govt. of H.P, as grant in aid or financial assistance is taxable or not ? (b) If the answer to the above question is in the affirmative, then who is liable for payment of tax?

29/12
[Signature]

**ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICE
TAX ACT, 2017 AND UNDER SECTION 98(4) OF HIMACHAL PRADESH
GOODS AND SERVICE TAX ACT, 2017**

1. The present application has been filed u/s 97 of Central Goods and Service Tax Act, 2017 and Himachal Pradesh Goods and Service Tax Act, 2017 by M/s HP Tourism Department Board, Shimla regarding taxability in respect of receipts being Grant in Aid (in the form of license fee), donations etc received from the Government of Himachal Pradesh for promotion of Tourism activities in the State.
2. At the outset, it is made clear that the provisions of both the Himachal Pradesh Goods and Service Tax Act, 2017 and Central Goods & Service Act, 2017 (hereinafter referred to as HPGST and CGST Act respectively) 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 corresponding similar provisions under the HPGST Act and vice versa.

3. BRIEF FACTS OF THE CASE:

3.1 The applicant M/s HP Tourism Development Board has been constituted under section 4 of The Himachal Pradesh Tourism Development Board & Registration Act, 2002. The main objective of the board is to promote and regulate the Tourism Activities in the State of Himachal Pradesh.

3.2 The applicant submitted that the Government of Himachal Pradesh, Department of Tourism agreed to credit the following amounts to Tourism Development Board (in lieu of Grant) for smooth functioning of the board:-

- (i) Receipts of amount from sale of Publicity material/ Literature books.
- (ii) Fee from parking lots and public places of convenience built by the Tourism Department, Adventure sports fee including helisking and paragliding fee, etc.

- (iii) 25% to be contributed by the Tourism Development Council from their resources
- (iv) Donation/grants received specially for tourism promotion/development
- (v) Annual License fee and success fee received to the department from BOOT/BOT basic project.

3.3 The applicant submitted that the amount received by the Tourism Department, on account of license fee or other levies is simply credited in the account of Tourism Development Board. The applicant is of the view that the amount so received by the Board is not 'receipts' within the meaning of Goods and Service Tax Laws but purely a grant in aid by the Government to the Board as subsisting fund.

3.4 The applicant has therefore requested to issue ruling in the matter whether the amount credited in favour of H.P Tourism Development Board by Department of Tourism, Govt. of H.P, as grant in aid or financial assistance is taxable or not?

If the answer to the above question is in the affirmative then who is liable for payment of tax:

- (i) Applicant i.e H.P Tourism Development Board
- (ii) H.P Tourism Department or
- (iii) Recipient of above supplies by virtue of reverse charge.

4. **RECORD OF PERSONAL HEARINGS:**

 The proceedings of the case got delayed initially due to a number of adjournments requested by the applicant and later due to COVID-19 pandemic Sh. Vinod Kumar Gautam, Section Officer (Finance & Audit) and other officials appeared on the behalf of the HP Tourism Development Board for personal hearing on dated 27/05/2020 and 22/06/2020 and reiterated the facts already submitted. Further, during the personal hearing proceedings on 06/07/2020, the

applicant made submissions on all the points raised and also submitted reframed questions for the advance ruling. The request of the applicant to give ruling on reframed questions was acceded to.

5. DISSCUSION AND FINDINGS:

- 5.1 We have considered the submissions made by the applicant in the application for advance ruling as well as submissions made during personal hearing.
- 5.2 The following entry was added to the list of exempted supply of services vide Notification No 32/2017- Central Tax (Rate) dated 13th October, 2017 :-

(1)	(2)	(3)	(4)	(5)
"9C	Chapter 99	Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.	Nil	Nil";

The said notification defines "Government Entity" as an authority or a board or any other body including a society, trust, corporation,

- (i) set up by an Act of Parliament or State Legislature; or
- (ii) established by any Government,

with 90 percent or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.”.

6. Therefore, in the view of above, The HP Tourism Development Board fulfils the criterion laid down for the “Government entity” as per Notification No 32/2017- Central Tax (Rate) because it has been established by the Government with 100% control to carry out the function of promotion and regulation of tourism activities in the state.
7. In view of the discussions as detailed above, we rule as under:-

RULING

- a) The amount credited in favour of H.P Tourism Development Board by Department of Tourism, Govt. of H.P, as grant in aid or financial assistance is exempt under GST as per Serial No 9C of Notification No 32/2017- Central Tax (Rate) dated 13th October, 2017.
- b) As the answer to Question No 1 is negative, therefore Question No 2 is not being replied.

Pronounced

Dated : 03.12.2020

Place : Shimla


(Abhay Gupta)
Member (Centre)


(Rakesh Sharma)
Member (State)

To

M/s HP Tourism Development Board,

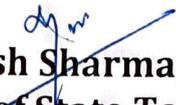
Block No 28, SDA Complex

Kusumpti, Shimla-9

Endst No. HP-AAR-4/2020 - 31635-36 dt 07-12-2020

Copy to:

1. The Commissioner of State Taxes & Excise, Himachal Pradesh
2. The Commissioner of Central Goods & Service Tax, Himachal Pradesh


(Rakesh Sharma)
Addl Commissioner of State Tax (Member,SGST)