



# ग्रेटर नौएडा औद्योगिक विकास प्राधिकरण

भूखण्ड संख्या-01, के0पी0-4, ग्रेटर नौएडा सिटी, जिला-गौतमबुद्ध नगर (उ0प्र0) ।

website: www.greaternoidaauthority.in email id: authority@gnida.in

पत्रांक :- 0620 / ग्रे0नौ0 / वित्त / 2017-18

दिनांक: 05 / 02 / 2018

सेवा में,

समस्त विभागाध्यक्ष (manager system)  
ग्रेटर नौएडा औ0वि0 प्राधिकरण।

जी0एस0टी काउंसिल द्वारा जारी ऑफिस मेमोरेन्डम दिनांक 20.12.2017 के द्वारा नौएडा प्राधिकरण को लोकल अथॉरिटी एवं गवरमेन्टल अथॉरिटी के रूप में सहमति प्रदान की गई है। चूंकि ग्रेटर नौएडा प्राधिकरण भी नौएडा प्राधिकरण की भांति एक समान दर्जे (Status) का है। अतः ग्रेटर नौएडा प्राधिकरण भी सी0जी0एस0टी एक्ट-2017 के अन्तर्गत लोकल एवं गवरमेन्टल प्राधिकरण की श्रेणी में आयेगा।

उक्त के क्रम में प्राधिकरण के चार्टर्ड एकाउटेन्ट मै0 सार्क एण्ड एसोसिएटस ने पत्र दिनांक 30.01.2018 के द्वारा जी0एस0टी0 के सम्बन्ध में अपना अभिमत निम्नानुसार दिया है, जिसके अनुसार कार्यवाही की जानी अपेक्षित है:-

1. Status of GNIDA is Local Authority and Governmental Authority as per CGST Act, 2017.
2. Any Services provided to Individual (Other than business Entity) in respect of leasing of residential plots and residential built up houses would be exempt from GST.
3. Any Services provided by GNIDA in relation to activities covered under 12<sup>th</sup> schedule of article 243W of the Constitution would be exempt from GST, such as service in relation to the Regulation of land-use and other services listed in the 12<sup>th</sup> Schedule to the Constitution which have been entrusted to Municipalities under Article 243W of the Constitution.
4. Any Services provided to Non Business Entities like Non-Governmental/Non-Profit Organisation for setting up schools, medical colleges, religious places etc. Would be exempt from GST.
5. Any Services provided to Business Entities other than Renting of Immovable Property having turnover up to Rs. 20 Lakhs and Rs. 10 Lakhs in case of a special category state would be exempt from GST.
6. GST on Services (other than Renting of Immovable Property provided to unregistered Person) by GNIDA would be deposited under Reverse Charge Mechanism by the Recipient of Service (Business Entity).
7. Any Services Provided by GNIDA whose consideration does not exceed Rupees Five Thousand (5,000/-) in a year to anyone would be exempt from GST.
8. Upfront amount received for industrial plots and plots for development of infrastructure for financial business would be exempt from GST.
9. Any fine on liquidated damages charged by GNIDA for non-performance of a contract would be exempt from GST.
10. Services by the GNIDA to governmental authority or government entity, by way of lease of land would be exempt from GST.
11. Composite supply of goods and services in which the value of supply of goods Constitutes not more than 25 percent of the value of the said composite supply provided to GNIDA 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 would be exempt from GST.
12. Services by way of providing information under the right to information Act, 2005 (22 of 2005) would be exempt from GST.



# ग्रेटर नौएडा औद्योगिक विकास प्राधिकरण

भूखण्ड संख्या-01, के0पी0-4, ग्रेटर नौएडा सिटी, जिला-गौतमबुद्ध नगर (उ0प्र0) ।

website: www.greaternoidaauthority.in email id: authority@gnida.in


पत्रांक :- / ग्रे0नौ0 / वित्त / 2017-18

दिनांक: / / 2018

13. GST won't be levied on legal services provided by an arbitral tribunal, a partnership firm of advocates or an individual as an advocate other a senior advocate and a senior advocate to GNIDA.


Charges as per notification no. 1/2018- Central Tax (Rate), 2/2018- Central Tax (Rate) and 3/2018 – Central Tax (Rate) dated 25.01.2018 has also been incorporated in this letter.

संलग्नक-उपरोक्तानुसार।

  
(हौसिला प्रसाद वर्मा)  
महाप्रबन्धक (वित्त)

प्रतिलिपि-

1. निजी सचिव को, मुख्य कार्यपालक अधिकारी महोदय के सूचनार्थ।
2. अपर मुख्य कार्यपालक अधिकारी (टी0/जी0) महोदय को सूचनार्थ।
3. विशेष कार्याधिकारी (वी0) महोदय को सूचनार्थ।
4. मै0 सार्क एण्ड एसोसिएटस्, चार्टर्ड एकाउंटेंट को अवलोकनार्थ।
5. मै0 राव भारद्वाज एण्ड क0, चार्टर्ड एकाउंटेंट को अवलोकनार्थ।

  
महाप्रबन्धक (वित्त)

30.01.2018

To  
The General Manager (Finance),  
Greater Noida Industrial Development Authority  
Plot No. 01, Knowledge Park-04  
Greater Noida, Gautam Budh Nagar,  
Uttar Pradesh 201308

**Subject: Executive Summary and detailed analysis in regard to GST applicability in case of GNIDA.**

Dear Sir,

Heartiest Congratulations, we are glad to inform you that due to persuasive representation and constant follow up with GST council regarding various issues pertaining to GST in regard to NOIDA, our view/ opinion has been confirmed by Ministry of Finance vide it's Office Memorandum dated 20th December 2017 and has given status of Local Authority and Governmental Authority to Noida.

Accordingly, as the status of both NOIDA and GNIDA is same i.e. "Local Authority" under CGST Act, 2017. Thus, GNIDA would be eligible for all exemptions and benefits available to Local Authority and Governmental Authority under CGST Act, 2017 summary of which is given below for your good self-reference:

1. Status of GNIDA is Local Authority and Governmental Authority as per CGST Act, 2017.
2. Any Services provided to Individuals (other than business entity) in respect of leasing of residential plots and residential built up houses would be exempt from GST.
3. Any services provided by GNIDA in relation to activities covered under 12<sup>th</sup> schedule of article 243W of the constitution would be exempt from GST, such as services in relation to the Regulation of land-use and other services listed in the Twelfth Schedule to the Constitution which have been entrusted to Municipalities under Article 243W of the Constitution.
4. Any services provided to Non Business Entities like Non-Governmental / Non-Profit Organisation for setting up schools, medical colleges, religious places etc. would be exempt from GST.
5. Any services provided to Business Entities other than Renting of Immovable Property having turnover up to Rs. 20 Lakhs and Rs. 10 lakhs in case of a special category state would be exempt from GST.

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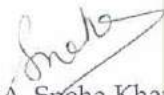
SARC & Associates  
Chartered Accountants

6. GST on services (other than Renting of Immovable Property provided to Unregistered Person) by GNIDA would be deposited under Reverse Charge Mechanism by the Recipient of Service (Business Entity).
7. Any service provided by GNIDA whose consideration does not exceed Rupees Five thousand (5,000/-) in a year to anyone would be exempt from GST.
8. Upfront amount received for industrial plots and plots for development of infrastructure for financial business would be exempt from GST.
9. Any fine or liquidated damages charged by GNIDA for non-performance of a contract would be exempt from GST.
10. Services by the GNIDA to governmental authority or government entity, by way of lease of land would be exempt from GST.
11. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 percent of the value of the said composite supply provided to GNIDA 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 would be exempt from GST.
12. Services by way of providing information under the Right to Information Act, 2005 (22 of 2005) would be exempt from GST.
13. GST won't be levied on legal services provided by an arbitral tribunal, a partnership firm of advocates or an individual as an advocate other than a senior advocate and a senior advocate to GNIDA.

Changes as per notification no. 1/2018 - Central Tax (Rate), 2/2018 - Central Tax (Rate) and 3/2018 - Central Tax (Rate) dated 25.01.2018 has also been incorporated in this letter.

Detailed opinion / analysis of the above mentioned summary is enclosed with this letter.

For SARC & Associates  
Chartered Accountants

  
CA. Sneha Khanna  
Chartered Accountant

**MEMORANDUM OF OPINION**

TO: Greater NOIDA Industrial Development Authority (hereinafter referred as "GNIDA")

FROM: SARC & Associates, Chartered Accountants

DATE: January, 30, 2018

**1. OUR UNDERSTANDING:**

- 1.1. That Greater NOIDA Industrial Development Authority (hereinafter referred to as 'GNIDA') has been constituted under section 3 of Uttar Pradesh Industrial Area Development Act, 1976, (U.P. Act No. 6 of 1976) (As passed by the Uttar Pradesh Legislature);
- 1.2. That GNIDA was established on January 28, 1991 in terms of the section 3(1) of the UPIDA vide State Government Notification No. 7436/BHA.U./XVII-1 1-107Bha./85 and also notified by the Governor of Uttar Pradesh in exercise of the powers under the proviso to clause(1) of Article 243Q of the Constitution of India vide Notification No. 6710/77-4-2001-56BHA/99 dated 24th December, 2001
- 1.3. That it may be noted that GNIDA is a creation of Statute, and statutorily charged to perform sovereign functions, including municipal functions.
- 1.4. That GNIDA is involved in performing the activities of General Public Utility. Further, Department had granted registration u/s 12AA of the Income Tax Act, 1961 vide Registration No. (U.R.N) 592/515/17-18 letter dated 01.05.2017.

**2. STATUS OF GNIDA UNDER THE CENTRAL GOODS AND SERVICE TAX:**

- 2.1. As per section 2(69) of the CGST Act, 2017 local authority is defined as follow:

*"local authority" means-*

- (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;*
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;*
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;*
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;*
- (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;*
- (f) a Development Board constituted under article 371 of the Constitution; or*
- (g) a Regional Council constituted under article 371A of the Constitution;*

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- 2.2. As per Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 read with explanation given in 2(16) of the IGST Act, 2017 Governmental Authority is defined as follow:

*“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 ninety percent or more participation by way of equity or control, to carry out  
any function entrusted to a municipality under Article 243W of the Constitution;*

- 2.3. In light of the above mentioned definitions, GNIDA is Local Authority as well as Governmental Authority as per CGST Act, 2017 and IGST Act, 2017.

This view has been confirmed by Department of Revenue, Ministry Of Finance, Government of India vide its Office Memorandum dated 20.12.2017 (“the office memorandum”). Vide this office memorandum, New Okhla Industrial Development Authority (“NOIDA”) has been treated as a “local authority” and “governmental authority” for the purposes of Central Goods and Service Tax Act, 2017, its ancillary Rules and Regulations, as well as the circular/notifications issued thereto.

As the status of both NOIDA and GNIDA is same i.e. “Local Authority” under CGST Act, 2017. Thus, the said office memorandum would be applicable on GNIDA also and GNIDA would also enjoy benefit available to the local authority.

- 2.4. It may further be noted that pursuant to such clarification vide the office memorandum, GNIDA shall be entitle for all exemptions as well as the GST rates applicable to “local authority” and “governmental authority”.
- 2.5. It may be further relevant to note that GNIDA has also been granted certificate of exemption under Section 12AA of the Income Tax Act. Accordingly, GNIDA shall be entitled for all exemptions as well as the GST rates applicable to the entities exempted under section 12AA.

3. **GST EXEMPTIONS AND ANOTHER BENEFITS AVAILABLE TO GNIDA AS “LOCAL AUTHORITY” AND “GOVERNMENTAL AUTHORITY”:-**

As per Notification no. 12/2017, Central Tax (Rate) dated 28.06.2017; issued by Ministry of Finance following exemptions are available to Local Authority/Governmental Authority:

- 3.1. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities (S. No. 1)

- 3.1.1. For the purpose of Notification “Charitable Activities” is defined as follow:

*“charitable activities” means activities relating to –  
(i) public health by way of, –*

- (A) care or counselling of
  - (I) terminally ill persons or persons with severe physical or mental disability;
  - (II) persons afflicted with HIV or AIDS;
  - (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
- (B) public awareness of preventive health, family planning or prevention of HIV infection;
- (ii) advancement of religion, spirituality or yoga;
- (iii) advancement of educational programmes or skill development relating to,-
  - (A) abandoned, orphaned or homeless children;
  - (B) physically or mentally abused and traumatized persons;
  - (C) prisoners; or
  - (D) persons over the age of 65 years residing in a rural area;
- (iv) preservation of environment including watershed, forests and wildlife;

3.2. 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. (Sr. No.3)

3.2.1. Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to GNIDA by way of activity in relation to any function entrusted to a Municipality under article 243W of the Constitution would be exempt from GST.

3.2.2. Details of activities covered under Twelfth Schedule of article 243W are given below:

**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.

**3.3. 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 243 W of the Constitution (Sr. No.4)**

3.3.1. In terms of the aforesaid, GST would not be charged by GNIDA on any services provided by it in relation to the activities covered under 12<sup>th</sup> schedule of article 243W of the constitution. (Details of activities covered under Twelfth Schedule of article 243W are given above at para 3.2.2).

For instance, any services in relation to the Regulation of land-use, construction of buildings and other services listed in the Twelfth Schedule to the Constitution which have been entrusted to Municipalities under Article 243W of the Constitution, when provided by local authority / governmental authority are exempt from payment of GST.

**3.4. Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution (Sr. No. 5).**

3.4.1. Article 243G in The Constitution Of India reads as follows:

243G. Powers, authority and responsibilities of Panchayats Subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

(emphasis supplied)

3.4.2. Further, Eleventh Schedule of the Constitution Of India lays down the subjects as follows:

1. Agriculture, including agricultural extension.



2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets

**3.5. Services by the Central Government, State Government, Union territory or local authority (Sr. No.6)**

- 3.5.1. The provision in Serial no. 6 exempts Services by the Central Government, State Government, Union territory or local authority excluding the following services-
- (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;
  - (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
  - (c) transport of goods or passengers; or
  - (d) any service, other than services covered under entries (a) to (c) above, provided to business entities

3.5.2. For the purpose of this notification, "Business Entity" means any person carrying out business. As per section 2 (17), CGST Act, 2017 business is defined as follows:

2(17) "business" includes--

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

3.5.3. Thus, as per clause (d) Of Sr. no. 6, services provided by GNIDA to a person other than business entity would be exempt.

3.5.4. Further, any service provided to Individuals other than business entity in respect of residential plots and residential built up houses would be exempt and any services provided to Non Business Entities like Non-Government Organisation for setting up schools , medical colleges , religious places etc. would be exempt.

**3.6. Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (Sr. No.7)**

3.6.1. The provision in Serial no. 7 exempts Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year.

3.6.2. The explanation to the entry reads as follows:-

Explanation.- For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to:

(a) services,-

(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;

(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) of transport of goods or passengers; and

(b) services by way of renting of immovable property.

3.6.3. Thus, service provided by GNIDA other than as specified in entry (a) and (b) above to a business entity having turnover upto Rs. 20 Lakhs and Rs. 10 lakhs in case of a special category state would be exempt. Further, for the purpose of this notification, definition of Business Entity is given above in Sr. No. 6.

3.7. Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority (Sr. No.8)

3.7.1. Sr. No.8 of the notification exempts Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.

3.7.2. Further, the proviso to the entry stipulates:-

“Provided that nothing contained in this entry shall apply to services

(i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;

(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) of transport of goods or passengers.”

3.7.3. Thus, any service other than given above in (i) to (iii) is provided by GNIDA to any State Government, Central Government, Union Territory or any other Local Authority (e.g. NOIDA, YEIDA etc.) would be exempt.

3.8. Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees (Sr. No.9)

3.8.1. Serial No. 9 exempts Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees.

3.8.2. Further, the proviso to the entry stipulates:-

Provided that nothing contained in this entry shall apply to  
(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;  
(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;  
(iii) transport of goods or passengers:  
Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.

3.8.3. Thus, if any service is provided by GNIDA whose consideration does not exceed Rupees Five thousand (5,000/-) in a year to anyone would be exempt.

3.9. One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.

3.9.1. Serial No.41 exempts one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (thirty years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.

3.9.2. Following amendment has been made in serial no. 41 vide Notification no 32/2017 Central Tax ( Rate ) dated 13th October,2017

“Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50 percent. or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.”

3.9.3. Thus, as per amended notification upfront amount (lease premium) received for industrial plots and plots for development of infrastructure for financial business would be exempt.

**3.10. Other Exemption to the "Local Authority" and the "Governmental Authority" in Notification no. 12/2017, Central Tax (Rate) dated 28.06.2017**

The following entries are also relevant to note with respect to the exemption

3.10.1. Serial. No. 47:- Services provided by the Central Government, State Government, Union territory or a local authority by way of-

- (i) Registration required under any law for the time being in force;
- (ii) Testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force;

3.10.2. Serial No. 62:- Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.

Thus, as per above fine or liquidated damages charged by GNIDA for non-performance of a contract would be exempt from GST.

3.10.3. Serial No. 63:- Services provided by the Central Government, State Government, Union territory or a local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products;

3.10.4. Serial No. 64:- Services provided by the Central Government, State Government, Union territory or a local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Government or the local authority before the 1st April, 2016.

Provided that the exemption shall apply only to service tax payable on one time charge payable, in full upfront or in instalments, for assignment of right to use such natural resource;

**3.11. Exemption as per entry no. b of Notification no. 32 /2017, Central Tax (Rate) dated 13.10.2017**

3.11.1. As per entry no. b of Notification no. 32 /2017, Central Tax (Rate) dated 13.10.2017 following exemption has been made available to Government Entity in regard of grant to local authority.

Entry no. b :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.

**3.12. Exemption as per Notification no 1/2018 Central Tax (Rate) dated 25.01.2018**

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3.12.1. Services by the GNIDA to governmental authority or government entity, by way of lease of land.

3.12.2. Supply of land or undivided share of land by way of lease or sub lease where such supply is a part of composite supply of construction of flats, etc. in respect of below mentioned cases:

- a) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.
- b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;
- c) a civil structure or any other original works pertaining to the "In-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);
- d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;
- e) a civil structure or any other original works pertaining to the "Economically Weaker Section (EWS) houses" constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);
- f) a civil structure or any other original works pertaining to the "houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)" under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);
- g) a single residential unit otherwise than as a part of a residential complex;
- h) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
- i) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under- (1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (2) any housing scheme of a State Government;

- j) low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March,2017;
- k) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

However, this exemption shall not apply if an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification.

In case of supply of service above , involving transfer of land or undivided share of land, as the case may be shall be equivalent to the total amount charged for such supply less the value of transfer of land or undivided share of land, as the case may be, and the value of such transfer of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation. –For the purposes of this paragraph, “total amount” means the sum total of,-

- (a) consideration charged for aforesaid service; and
- (b) amount charged for transfer of land or undivided share of land, as the case may be including by way of lease or sublease.”.

### 3.13. Exemption as per Notification no 2/2018 Central Tax (Rate) dated 25.01.2018

3.13.1. No GST would be charged on following services:

- a) 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 GNIDA 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.
- b) Services by way of providing information under the Right to Information Act, 2005 (22 of 2005).
- c) GST won't be levied on legal services provided by an arbitral tribunal, a partnership firm of advocates or an individual as an advocate other than a senior advocate and a senior advocate to GNIDA.

3.14. Reverse Charge Mechanism as per Notification no. 13 /2017, Central Tax (Rate) dated 28.06.2017 , Notification no 36/2017 Central Tax (Rate) dated 13.10.2017 and Notification no 3/2018 Central Tax (Rate) dated 25.01.2018

3.14.1. As per Notification no. 13 /2017, Central Tax (Rate) dated 28.06.2017, issued by Ministry of Finance on below mentioned services GST under reverse charge would be paid by Recipient of Service of Local Authority:-

Notification no 13/2017, Central Tax (Rate) dated 28.06.2017:-

Serial No. 5 of the above mentioned notification specifies that GST on the below mentioned service is to be paid by recipient of service on reverse charge basis.

Category of Supply of Services	Supplier of service	Recipient of Service
Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding- (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) Transport of goods or passengers.	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

3.14.2. Thus, if any service other than renting of immovable property is provided by GNIDA to a business entity, then the recipient of service i.e. business entity shall pay GST under Reverse Charge Mechanism.

3.14.3. Further, for the compliance purpose GNIDA is required to mention notification number on the invoice of the services provided, stating that GST under this service would be deposited by recipient of service (business entity).



3.14.4. As per Notification no 36/2017 Central Tax (Rate) dated 13.10.2017, issued by Ministry of Finance on below mentioned services GST under reverse charge would be paid by Recipient of Service of Local Authority:-

Notification no 36/2017 Central Tax (Rate) dated 13.10.2017

In terms of the above mentioned notification, following clauses are available to Local Authority / Governmental Authority:

Category of Supply of Services	Supplier of service	Recipient of Service
Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or local authority	Any registered person

3.14.5. Thus, if any service regarding sale of Used vehicles, seized and confiscated goods, old and used goods, waste and scrap is provided by GNIDA to a registered person, then the recipient of service i.e. any registered person shall pay GST under Reverse Charge Mechanism.

3.14.6. As per Notification no 3/2018 Central Tax (Rate) dated 25.01.2018, issued by Ministry of Finance on below mentioned services GST under reverse charge would be paid by Recipient of Service of Local Authority:-

Category of Supply of Services	Supplier of service	Recipient of Service
Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person Registered under the Central Goods and Services Tax Act, 2017.”;

3.14.7. Thus, if any service regarding renting of immovable property is provided by GNIDA to a registered person, then the recipient of service i.e. any registered person shall pay GST under Reverse Charge Mechanism.

3.14.8. Section 2 (94) of the CGST Act, 2017 defines registered person as follows:

“registered person” means a person who is registered under section 25 but does not include a person having a Unique Identity Number.

3.14.9. Further, for the compliance purpose GNIDA is required to mention notification number on the invoice of the services provided, stating that GST under this service would be deposited by recipient of service (registered person).

**3.15. Stipulation of the prescribed rate of services**

3.15.1. As per Notification no. 20 /2017, Central Tax (Rate) dated 22.08.2017 ,Notification no 24/2017 Central Tax (Rate) dated 21.09.2017 and Notification no 31/2017 Central Tax (Rate) dated 13.10.2017, issued by Ministry of Finance on below mentioned services specific rates would be charged on Local Authority / Governmental Authority

(A) Notification no 20/2017 Central Tax (Rate) dated 22.08.2017

Serial No. (iii) of the above mentioned notification specifies that following GST rates would be applicable to Local Authority / Governmental Authority on Work Contract Services:

Category of Supply of Services	Rate of Service
iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Government, a local authority or a Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of- (a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); (b) canal, dam or other irrigation works; (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.	12

(B) Notification no 24/2017 Central Tax ( Rate ) dated 21.09.2017

Serial No. (vi) of the above mentioned notification specifies that following GST rates would be applicable to Local Authority / Governmental Authority on Work Contract Services:

Category of Supply of Services	Rate of Service
(vi) Services provided to the Central Government,	12

Category of Supply of Services	Rate of Service
State Government, Union Territory, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of - (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.	

(C) Notification no 31/2017 Central Tax (Rate) dated 13.10.2017

Serial No. (vii) of the above mentioned notification specifies that following GST rates would be applicable to Local Authority / Governmental Authority on Work Contract Services:

Category of Supply of Services	Rate of Service
“(vii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority, a Governmental Authority or a Government Entity.	5

(D) As per Notification no 1/2018 Central Tax (Rate) dated 25.01.2018 following additions has been made:

- a. GST @ 12% would be charged by contractor from GNIDA on following Construction services:
  - i. a civil structure or any other original works pertaining to the “In-situ

- re development of existing slums using land as a resource, under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);
- ii. a civil structure or any other original works pertaining to the "Economically Weaker Section (EWS) houses" constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana (Urban);
  - iii. a civil structure or any other original works pertaining to the "houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)" under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);
  - iv. low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March,2017;
- b. GST @ 12% would be charged by Sub Contractor to Main Contractor in respect of below mentioned services provided by Main Contractor to GNIDA:
- i. Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to GNIDA by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -
    - (a) historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
    - (b) canal, dam or other irrigation works;
    - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.
  - ii. Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, provided to GNIDA by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -
    - (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or

(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.

- c. GST @ 5% would be charged by Sub Contractor to Main Contractor in respect of below mentioned service provided by Main Contractor to GNIDA:
- i. Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to GNIDA.

The aforesaid is exhaustive list of the provisions applicable to the GNIDA, pursuant to its qualification as "local Authority" and "governmental authority", as also its registration under the section 12AA of the Income Tax Act, 1961.

For SARC & Associates  
Chartered Accountants



CA. Sneha Khanna  
Chartered Accountant

*Disclaimer: "Our opinion is based on the present provisions of the CGST ACT, 2017 and rules made thereunder and may need review upon future change in law. We have no responsibility to update our advice for events and circumstances occurring after the date of this opinion, unless specifically requested by you. We do not, in giving this advice, accept or assume responsibility for any other purpose or to any other person to whom this opinion is shown or in whose hands it may come unless expressly agreed by us in writing. We have provided a restricted use opinion, which is advisory in nature. Our opinion is not binding upon any authority or any court and no assurance can be given that a position contrary to that expressed herein will not be asserted by any authority and ultimately sustained by a court. We assume no responsibility for any contradictory express by any authority, court or person. We also assume no responsibility towards any consequence of actions taken on the basis of this opinion."*