

# TAX INFO

**Dated: 31.10.2020**

**Latest update on GST Law: Information regarding Renting of immovable property by Governmental Authority is exempt based on the Judgement issued by Gujarat Authority for Advance Ruling.**

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<b>Name of Applicant</b>	M/s. National Dairy Development Board
<b>Name of Court</b>	AAR-Gujarat
<b>Appeal Number</b>	GUJ/GAAR/RULING/2019/02
<b>Date of Judgement</b>	22/02/2019

## **Facts of the Case:**

Applicant besides providing technical assistance and administrative & managerial services to promote, plan and organize programmes for the purpose of development of dairy and other agricultural industries and biological industries on a nationwide basis. It has allowed the “Anandalaya Educational Society”, an education institution created by NDDDB by way of trust, to occupy and use the building and premise owned by NDDDB within its campus through a lease deed at very nominal amount for enabling the institute to grow and prosper which eventually would encourage the activity of education.

## **Questions on which Advance Ruling is sought:**

- (i) Whether NDDDB would be qualified as “Governmental Authority” from GST perspective ?; and
- (ii) Whether renting of immovable property service provided by NDDDB to an educational institute would be exempted under Sl. No. 4 of Notification No. 12/2017-Central Tax (Rate)?

## **Contention of Appellant:**

The applicant believes that since the Anandalaya trust is indirectly controlled by NDDDB, it would fall within the definition of “related party” as provided in the GST legislation and the applicant apprehends that there may arise GST liability on the fair value of rent of the immovable property given on lease to Anandalaya Educational Society.

The applicant also submitted that as it qualifies as a “governmental authority” under the GST legislature, the service of renting or leasing of its property to encourage the education institute within its campus provided by the applicant to the Anandalaya Educational Society would qualify for exemption under SR. No. 4 of Notification No.12/2017-Central Tax (Rate)

## **Observations:**

The phrase “governmental authority” has not been defined in CGST Act. However, the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 wherein exemption from payment of tax is notified, defines the “governmental authority” in para 2(zf) as having the same meaning as assigned to it in the Explanation to clause (16) of Section 2 of the IGST Act, 2017.

## **Judgement:**

NDDDB would be qualified as “government authority” from Goods and Services Tax perspective, if it fulfils the condition namely “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”.

Renting of immovable property service provided by NDDDB to an educational institute would be exempted under Sr. No. 4 of Notification No. 12/2017-Central Tax (Rate) and corresponding State Tax Notification, if it qualifies as governmental authority

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