

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
ROOM NO.206, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD,
CHENNAI - 600 006.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING UNDER
SECTION 98 OF THE GOODS AND SERVICES TAX ACT 2017**

Members present:

Smt. D. Jayapriya, I.R.S., Additional Commissioner/ Member(CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. A. Valli, M.Sc., Joint Commissioner/Member(SGST), Office of the Commissioner of Commercial Taxes, Chennai-600 006.
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Advance Ruling (Remanded order) No. 20/ARA/2023, Dated: 27.06.2024

1. Any appeal against this Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, under Sub-section (1) of Section 100 of Central Goods and Services Tax Act / Tamil Nadu Goods and Services Tax Act, 2017('the Act' in short) within 30 days from the date on which the ruling sought to be appealed against is communicated.

2. In terms of Section 103(1) of the Act, this Advance ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab-initio in accordance with Section 104 of the Act.

5. At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

GSTIN Number, if any / User id	33AACCM4445J1ZJ
Legal Name of Applicant	M/s. Mannarai Common Effluent Treatment Plant Private Limited
Registered Address / Address provided while obtaining user id	No. 209/2A, S. Periyapalayam Post, Uthukuli Road, Tiruppur - 641 605.
1) Appellate Authority for Advance Ruling No. 2) Authority for Advance Ruling No. 3) Application Sl. No.	1) AAAR/07/2023, dated 20.12.2023 2) 20/ARA/2023, dated 19.06.2023 3) Form GST ARA – 01 Application Sl.No.45/2022/ARA dated 12.08.2022.
Concerned Officer	Centre: Coimbatore Commissionerate State: Thiruppur (Rural)-1 Assessment Circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for	
A Category	Service Provider
B Description (in brief)	Common Effluent Treatment Plant
Issue/s on which advance ruling required	Classification of outputs as supply of goods or Services
Question(s) on which advance ruling is Required	1. Whether the classification of supply of outputs as sale of goods is correct. 2. Whether the classification of water sold as 'water including natural or artificial mineral waters and aerated waters, not containing added sugar or sweetening matter, not flavoured (other than drinking water packed in 20 litre bottles) under heading 2201 is correct.

M/s Mannarai Common Effluent Treatment Plant Private Limited, No. 209/2A, S. Periyapalayam Post, Uthukuli Road, Tiruppur - 641 605 (hereinafter called as the 'Applicant') is registered under the GST Act with GSTIN: 33AACCM4445J1ZJ.

2. The applicant had filed an appeal before the Tamil Nadu Appellate Authority for Advance Ruling (hereinafter referred as AAAR), against the order No.20/AAAR/2023 dated 19.06.2023, passed by the Tamil Nadu State Authority for Advance Ruling (hereinafter referred to as AAR), in respect of the Application for Advance Ruling filed by the Applicant.

In their appeal, the appellant stated that they are an effluent treatment plant, promoted by the dyeing units. The Appellant planned to engage themselves in the purchase of effluent from dyeing units, treat the effluent at its plant and sell the recovered water, salts and other output to the member units.

3. Earlier, the Applicant by application number GST-ARA-01 dated 12th August 2022 had sought an advance ruling from the Tamil Nadu State Authority for Advance Ruling, as to whether

1. The classification of output, as supply of goods is correct?
2. The classification "Water including natural or artificial mineral waters and aerated waters, not containing added sugar or sweetening matter, not flavored (other than drinking water packed in 20 litre bottles) under heading 2201, is correct?

4. After hearing the applicant, the AAR passed a ruling vide its order No.20/ARA/2023, dated 19.06.2023 holding that:

1. Classification of outputs, as sale of goods is correct.
2. The classification of water sold by the applicant is correctly classifiable as per notification No.2/2017-Central Tax Rate, as under;

Sl No.	Heading	Description	Rate
99	2201	Water (other than aerated, mineral, distilled, medicinal, ionic, battery, demineralized and water sold in sealed container)	NIL

5. Aggrieved by the above decision with regard to classification of Water sold by the applicant, they preferred an appeal before the Tamil Nadu State Appellate Authority for Advance Ruling. The applicant raised the following grounds of appeal against the ruling:

- 5.1. The learned AAR failed to appreciate the nature of processing carried out by the applicant and failed to consider that the minerals and hardness are removed in the processing to make the output fit for reuse.
- 5.2. The learned AAR erred in equating the plant run by the applicant to process effluents with sewage water treatment plants and relying on the circular issued for the purpose of sewage plants when there are inherent differences in the processing as well as output which is characterized as Trade permeate, MEE condensate in Tamil Nadu Pollution Control Board consent order.
- 5.3. The learned AAR failed provide an opportunity to the applicant to make submissions to the materials relied on by the AAR in arriving at the decision and erred in not considering the materials submitted by the applicant.
- 5.4. The learned AAR erred in not considering the decisions of M/s Hojwala Infrastructure Limited (AAR Gujarat GUJ/GAAR/R/2002/48) and M/s Kasipalayam Common Effluent Treatment Plant Private Limited (AAR Tamil

Nadu 23/AAR/2021) wherein it has been held that demineralized water for industrial use is classifiable as water taxed at 18%.

6. Further, the applicant furnished the following documents before the AAAR, which were not earlier available to the AAR while deciding the matter, viz.,

- (i) Test report No.V2300446A dated 12.10.2023 of the South India Textile Research Association Laboratory (in short SITRA)
- (ii) Consent Order No.2308150947958 dated 24.03.2023 of Tamil Nadu Pollution Control Board, for renewal of consent for the operation of the plant and discharge of sewage and/or trade effluent under Section 25 of the Water (Prevention and control of pollution) Act 1974, as amended in 1988.
- (iii) Process Explanation furnished by the appellant,., etc.,

7. Based on the above contentions and documents produced, the appellant prayed before the AAAR to pass orders to set aside/modify the impugned order under appeal and pass such other orders, as deemed fit. After hearing the applicant the AAAR are of the view that the issue in the instant case requires a re-examination by the AAR, especially in view of the fact that a test report is now available in respect of the sample of the applicant themselves and production of other documents like consent letter, process explanation, etc., which had also been adduced by the applicant. In view of the above, the AAAR set aside the order passed by the AAR and held that the interest of justice will be met by remanding the case to the lower authority, with a direction to re-visit the issue, take into cognizance the documents now available such as the test report, consent order, etc., and to pass necessary orders as per the provisions of law, after offering an opportunity of personal hearing to the appellant, vide order in A.R. Appeal No. 04/2023 AAAR/ dated 20.12.2023.

8. Personal Hearing

In pursuance of the Remand Order of the AAAR, the applicant was heard in person by the AAR on 26.03.2024. The Applicant was represented by Sri S.Chandrakumar, Director, Sri. S.Harishankar, Chartered Accountant and Sri. R.Rajan, consultant as Authorised Representatives(AR). The AR furnished a copy of the Test Report No.V2300446A dated 12.10.2023 of SITRA in respect of the sample relating to M/s Mannarai CETP Pvt. Ltd., and a copy of the Consent order No.23081506947958 dated 24.03.2023 issued by the Tamil Nadu Pollution Control Board. They also furnished additional written submissions during the personal hearing and reiterated that the output, Viz., R.O Permeate is meant for industrial use only and that it merits classification under Chapter 28 as '**Other Inorganic Compounds**'. The AR further argued that even if the same is treated as water, it would fall under the 'Demineralised water' category only.

9. In the additional submissions made by the AR on behalf of the applicant, documents viz., Test Report No.V2300446A dated 12.10.2023 of M/s. South India Textile Research Association (SITRA), Process Explanation, Additional Written submissions, Consent Order dated 24.03.2023 of Tamil Nadu Pollution Control Board, relevant case laws, CBIC Circular No.179/11/2022-GST dated 03.08.2022, etc., have been furnished by the applicant. Further, in the additional written submissions, the applicant highlighted the following points;

9.1. The input in the treatment processing done by their plant is the effluent discharged from the textile dyeing industries. The effluent contains dyes, chemicals, salts etc., and the total dissolved solids is 7932 mg/l.

9.2. The effluent is subject to extensive processing at the treatment plant which includes equalization, biological aeration, nitrification, de-nitrification, biological degradation, secondary clarifier, oxidation reduction, filtration and evaporation.

9.3. The intention of the processing is to achieve zero liquid discharge as mandated by the Hon'ble Madras High Court and to make the resulting products fully reusable in the dyeing industries. The outputs of the processing and the mode of disposal / usage as per the consent order of Tamil Nadu Pollution Control Board are as follows:-

Description of outlet	Point of disposal
Sewage	Industry's own land
Trade effluent I (RO Permeate, MEE Condensate)	Distributed to member units for reuse
Trade effluent II (Brine solution, Recovered Salt)	Distributed to member units for reuse
Trade effluent III (Sale Residue)	ATFD

9.4. That they had applied for Advance Ruling including the query regarding the correct classification of RO Permeate, MEE condensate (Trade effluent I); that at the time of filing the application, they had applied under the name "Water including natural or artificial mineral waters and aerated waters, not containing added sugar or sweetening matter, not flavoured" falling under heading 2201 and the Advance Ruling authority passed the order grouping the product as Water [other than aerated, mineral, distilled, medicinal, ionic, battery, demineralized and water sold in sealed container] under heading 2201 with 'NIL' rate of tax.

9.5. The applicant has contended that the classification of RO Permeate as per the Advance Ruling order is incorrect for the following reasons:-

a) Characteristics of the RO Permeate and test report from SITRA

That in respect of RO Permeate, Phenolphthalein alkalinity, turbidity, phosphate, Fluoride, Nitrate, Iron, Silica is reduced to non-deductible or very negligible levels. Only minor number of chlorides, sulphates and bicarbonate which aid in the processing are retained. The intention of the processing is to make the Permeate fit for usage in the dyeing industry, whereby the dissolved solids are reduced from 7932 mg/l to 148 mg/l, and for achieving this result the company has made huge investment with the aid of Central and State Governments. In this regard, they have submitted the test report from "The South Indian Textile Research Association", an organization supported by Ministry of Textiles, which classifies the product as RO Permeate Industrial Use and not for human consumption.

b) Consent order of the "Tamil Nadu Pollution Control Board"

The 'Consent Order' from the Tamil Nadu Pollution Control Board which is the nodal organization, specifies the name of the product as RO Permeate (Trade Effluent I) and the only specified use permitted is reuse by the dyeing units. Hence the RO permeate is prohibited from being used for any other purpose such as drinking, irrigation, river discharge, and therefore cannot be termed as water falling under heading 2201.

c) Applicant's RO Permeate cannot be equated with Sewage treatment

The Advanced Ruling authority has equated sewage treatment plant with the effluent treatment plant run by the applicant. The authority has failed to appreciate the fact that the characteristics of the dyeing effluent and sewage are entirely different. Further the norms for sewage plants are different, as the treated sewage water is allowed to be permitted to be used for irrigation, discharged into water bodies. But the RO Permeate can only be discharged for reuse in dyeing units and cannot be used for irrigation or discharged into water bodies. Hence the exemption given to treated sewage water under the heading 2201 is not applicable to the RO permeate. This has been upheld by Gujarat AAR in case of *Palsano Enviro* while holding, "This clearly shows the intention of the legislature that any type of water which are being sold in terms of commercial purpose have been kept out of the purview of exemption as provided under entry No. 99 of the Notification."

d) Therefore, the RO permeate, do not get covered under the Chapter 22, "Beverages, Spirits, Vinegars", and that the same is classifiable under either of the following headings, viz.,

2853 00 99 – Other Inorganic Compounds

Since the RO permeate which is not fit for human consumption does not have the characteristic of water covered under 2201, it is classifiable under this residuary head. Comparable products like distilled water, conductivity water are grouped here.

2201 - Demineralised water

Without prejudice to the above, if in the opinion of authority, it is classifiable as water under 2201, the RO permeate is to be treated as 'Demineralised water' since most of the minerals and chemical elements including Phosphate, Fluoride, Nitrate, Iron, Silica are reduced to non-deductible or very negligible levels. This view has been followed in *Hojwala Infrastructure Limited* (AAR Gujarat), *Palsano Enviro Protection Limited* (AAR Gujarat) and *Kasipalayam Common Effluent Treatment Private Limited* (AAR TamilNadu).

10. Discussion and Findings:

10.1. We have carefully perused the Advance Ruling Application filed by the Applicant with supportive documents, Ruling dated 19.06.2023 issued by the Advance Ruling Authority, Ruling dated 20.12.2023 pronounced by the Appellate Authority for Advance Ruling and the submissions made by the Applicant before the Authority for Advance Ruling, during the Personal Hearing conducted on 26.03.2024 and examined in detail the relevant entries and the Consent Order No 2308150947958 dated 24.03.2023 issued by Tamil Nadu Pollution Control Board and the Test Report dated 12.10.2023 issued by the South India Textile Research Association in respect of the Applicant.

10.2. From the submissions made before us, we find that the applicant is engaged in the process of Common Effluent Treatment Plant, which undertakes collection conveyance, Treatment, Recovery and reuse of trade effluent arising from 18 member units (15 dyeing and 3 Bleaching unit) for 3748.5 KLD and obtained the necessary consent from Pollution Control Board. So far, they have been doing the same as a service provider i.e., they receive effluent from dyeing units through pipelines with automated monitoring and return the products resulting from processing to them including water and brine solution through pipelines and salt through vehicles.

10.3. The Applicant has stated that they are facing operational bottlenecks in the above said method. That at times the customer units are not having capacity to receive the products sent by them, resulting in shortage of storage in the plant thereby affecting the processing operations. Hence, they are planning to buy the effluents and sell the products to any of the units based on their requirement to do their operations without any backlog.

With the above factual matrix the Applicant is before us seeking for Advance Ruling on the following:

1. Whether the classification of supply of outputs as sale of goods is correct?
2. Whether classification of water sold as "Water including natural or artificial mineral waters and aerated waters, not containing added sugar or sweetening matter, not flavored (other than drinking water packed in 20 litre bottles) under heading 2201, is correct?

11. Discussion on Classification as to whether Supply of Outputs as sale of Goods is Correct?

11.1. In the statement of relevant facts filed by the Applicant, they have stated that they purchase the effluents from the member units and the Applicant becomes the owner of the effluent. After processing of the effluent, the applicant sells the resulting products to any of the member units based on the market price and as per the requirements of the member units. The Applicant has contract with member units for minimum quantity of effluent to be supplied and may charge a fee if the said quantity is not achieved. Also, as per the Consent Orders of the Tamil Nadu pollution Control Board, the CETP shall be allowed to generate from its participating 18 member units to the capacity of 90% of 4165 KLD of DPR quantity (i.e 3748.5 KLD) with the existing ZLD system.

11.2. In so far as the first question viz Classification of Supply of resulting Outputs in the effluent treatment process in the above mode of operation is concerned, we concur with the Advance Ruling dated 19.06.2023 and reiterate the same as below:

"In terms of Section 4 of The Sale of Goods Act, 1930,

"4. Sale and agreement to sell.—

(1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred."(emphasis applied)

11.3. The Hon'ble Supreme Court in the case of State of Madras Vs Gannon Dunkerley & Co., (Madras) (958 AIR 560, 1959 SCR 379) had observed, **interalia**, that,

*“Thus, according to the law both of England and of India, in order to constitute a sale it is necessary that there should be an agreement between the parties for the purpose of transferring title to goods which of course presupposes capacity to contract, that it must be supported by money consideration, and that as a result of the transaction property must actually pass in the goods. **Unless all these elements are present, there can be no sale.** Thus, if merely title to the goods passes, but not as a result of any contract between the parties, express or implied, there is no sale. So also if the consideration for the transfer was not money but other valuable consideration, it may then be exchange or barter but not a sale. And if under the contract of sale, title to the goods has not passed, then there is an agreement to sell and not a completed sale. (emphasis applied).”*

11.4. From the conjoined reading of Section 4 of The Sale of Goods Act, 1930 and the Hon'ble Supreme Court judgement cited *supra*, it is clear that the modus of operation as purchase of effluent and sale of output is applicable only if all the elements cited in the Section and judgement cited are present. If that is the case, then the classification of supply of treated water, salt and other products, as sale of goods is correct. However, it is emphasized that the mode of operation intended by the applicant i.e. purchase of raw effluent, treating the same and selling the resultant products, can be classified as sale of goods, if and only if, the applicant follows the procedures envisaged in the Sale of Goods Act and rationale of the observations of Hon'ble Supreme Court. If such is the case, the proposed mode of purchase of raw effluent, treat it on own account and supply of output, can be treated as **'sale of goods'** and consequently the first question is answered in the affirmative.

12. Classification of Treated Water:

12.1 As far as the second question i.e., the **“classification of Treated water”** sold by the applicant is concerned, the Applicant stated that the Advance Ruling authority passed the order grouping the product as Water [other than aerated, mineral, distilled, medicinal, ionic, battery, demineralized and water sold in sealed container] under heading 2201 with 'NIL' rate of tax and they contended that the classification of RO Permeate as per the Advance Ruling order is incorrect for the reasons that in respect of RO Permeate, Phenolphthalein alkalinity, turbidity, phosphate, Fluoride, Nitrate, Iron, Silica is reduced to non-deductible or very negligible levels. Only minor number of chlorides, sulphates and bicarbonate which aid in the processing are retained. The intention of the processing is to make the Permeate fit for usage in the dyeing industry, whereby the dissolved solids are reduced from 7932 mg/L to 148 mg/L, and for achieving this result, the company has made huge investment with the aid of Central and State Governments. In this regard, they have submitted the test report from “The South Indian Textile Research Association”, an organization supported by Ministry of Textiles, as a supportive document which classifies the product as RO Permeate Industrial Use and not for human consumption.

12.2. Further, the applicant stated that the effluent treatment plant run by the applicant cannot be equated to sewage treatment plant, as the characteristics of the dyeing effluent and sewage are entirely different and the norms for sewage plants are different, as the treated sewage water is allowed to be permitted to be used for irrigation, discharged into water bodies. But the RO Permeate can only be discharged for reuse in dyeing units and cannot be used for irrigation or discharged into water bodies.

Stating the above distinctions, the Applicant has contended that the exemption given to treated sewage water under the heading 2201 is not applicable to the RO permeate.

12.3. Further, the Applicant stated that the RO permeate, do not get covered under the Chapter 22, “**Beverages, Spirits, Vinegars**”, and that the same is classifiable under either of the following headings, viz.,

2853 00 99 – Other Inorganic Compounds

Since, the RO permeate which is not fit for human consumption does not have the characteristic of water covered under 2201, it is classifiable under this residuary head. Comparable products like distilled water, conductivity water are grouped here.

12.4. The applicant has stated that without prejudice to the above contention that the RO permeate/ treated water is classifiable under 2853 00 99 –i.e., under Other Inorganic Compounds, it is classifiable as water under 2201, as ‘Demineralised water’ since most of the minerals and chemical elements including Phosphate, Fluoride, Nitrate, Iron, Silica are reduced to non-deductible or very negligible levels. This view has been followed in *Hojwala Infrastructure Limited* (AAR Gujarat), *Palsano Enviro Protection Limited* (AAR Gujarat) and *Kasipalayam Common Effluent Treatment Private Limited* (AAR TamilNadu), by which the product in question falls under Sl.No 24 of Schedule-III of Notification No 1/2017-CT(Rate) dated 28.06.2017

12.5. In view of the above contentions of the applicant, it is imperative to examine the case, as to whether the R.O permeate is to be treated on par with the treated sewage water and qualify for the Nil rate of tax? (or)

As to whether the R.O permeate falls under the heading 2853 00 99 – Other Inorganic Compounds and classifiable under this residuary head, comparable products like distilled water, conductivity water (or)

As to whether the R.O permeate is classifiable as waters under the head 2201, as ‘Demineralised water’?

12.6. Before going in to the issue on hand, it becomes necessary to analyse techniques involved for de-mineralisation, characteristics of De-mineralised water, distilled water and conductivity water. It is well known that as a universal solvent, Water is capable of dissolving huge number of substances than any other solvent and hence, prone to contamination and thereby gets mineralized easily. This unique property of the Water

necessitated evolving techniques for removal of minerals to make it fit for drinking, Laboratory and Industrial uses. There are different techniques for de-mineralisation viz, distillation, ion-exchange and Reverse osmosis to remove the dissolved minerals, salts and to obtain de-mineralised water. Depending on the quality of input water and the nature of technique adopted for demineralization, the quality of output demineralized water also differs, as discussed below:

Distillation: In this process **distilled water** is obtained by heating the water in to its boiling point, until it turns into vapour. Because minerals have a higher boiling point than water, they are left behind and the water only turns into steam, at its boiling point. When the steam is cooled and condensed pure water is obtained, which have high degree of purity and are used for Laboratory purposes.

In cases where it is very important for water to be highly purified, when such distilled water is again subjected to double or triple distillation or multiple distillation, – i.e., water is subjected to boiling and condensation for several times, what is obtained is an almost insulator water. This ultrapure water is said to be **conductivity water** as it is used for conductivity measurements.

De-Ionisation is a common method for demineralization of water, wherein Raw water has to be passed through two special types of ion-exchange resins – cation and anion –which exchange for positive and negative ions of the salts that are dissolved in water as impurities and make it free from all soluble mineral salts and thereby yield demineralised water.

Reverse Osmosis (RO) system is a type of water purification system that pushes pre-filtered water through a membrane with very tiny pores. Because those pores are so small, almost all contaminants- both organic and inorganic impurities are gets removed or trapped and cannot pass through. In this process significant portion of mineral ions that are too large to pass through the membrane are removed and very tiny particles of the impurities can pass through the membrane, which results in the retention of certain quantity of minerals depending upon the specifications of R.O unit adopted and the quality of input water to be purified.

13. Whether the R.O permeate is to be treated on par with the treated sewage water and qualify for the Nil rate of tax?

13.1 As per Circular No.179/11/2022, dated 03.08.2022, issued by Ministry of Finance, regarding applicability of GST on various goods and services, it has been clarified that treated sewage water attracts **Nil** rate of tax.

The relevant portion of the Circular stated *supra*, is as under:

"5. Treated sewage water attracts Nil rate of GST:

5.1. Representations have been received seeking clarification regarding the applicable GST rate on treated sewage water. Treated sewage water was not meant to be construed as falling under "purified" water for the purpose of levy of GST.

5.2. In general, Water, falling under heading 2201, with certain specified exclusions, is exempt from GST vide entry at Sl. No. 99 of Notification No.2/2017-Central Tax (Rate), dated the 28th June, 2017.

5.3. Accordingly, it is hereby clarified that supply of **treated sewage water**, falling under heading 2201, **is exempt under GST**. Further, **to clarify the issue, the word 'purified' is being omitted** from the above mentioned entry vide notification No. 7/2022-Central Tax (Rate), dated the 13th July, 2022."

13.2. It is well known that sewage water is primarily a discharge from house hold waste water and the sewage water contains nitrogen and phosphorus from human waste, food remains and certain soaps and detergents, plastic article, plant waste, etc. Possibility of contamination of sewage water by hazardous chemicals is less, unless otherwise industrial effluent is discharged into the sewage water line. Hence, the sewage water treatment primarily involves removal of solid waste materials such as plant waste, Plastic waste, and removal of inorganic solid such as sand, pebbles, silt and substantially involves degradation of the biological content of the sewage which are derived from human waste, Food waste, soaps and detergent. The residual organic and inorganic substances in the sewage water are removed by filtration, followed by disinfection process either by chlorination or by UV treatment, which process amounts to treatment of water as far as sewage water is concerned.

13.3 It may be noted that the description at Sl.No.99 of Notification No.2/2017-CT (Rate) dated 28.06.2017, originally read as "Water [other than aerated, mineral, **purified**, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]". Since it was noticed that the Authority for Advance Ruling, Maharashtra had ruled in a couple of instances that 'Sewage Treated water' are covered under Sl.No.24 of the Schedule III of Notification No.1/2017-CT (Rate) dated 28.06.2017, attracting GST at 18%, the word 'purified' in the exclusion clause was omitted vide Notification No.7/2022-Central tax (Rate), dated 28.06.2022 with an intent to clear the confusion caused in this regard.

13.4 It is seen that under the 'Agenda for 47th GST Council Meeting', Volume II', in Sl.No.7 of the 'Recommendations made by the Fitment Committee for making changes in GST rates or for issuance of clarification in relations to goods - Annexure I', the very same issue involving 'Treated Sewage Water', has been dealt with and the extract of the same is reproduced below for appreciation, i.e.,

Sl.No	Description/ HSN	Present GST rate	Requested GST rate	Comments
7	Sewage Treated Water [2201]	18%	Nil	1. The description at S. No. 99 of notification 2/2017-CT(Rate) providing Nil GST rate reads as - "Water [other than aerated, mineral, <u>purified</u>, distilled, medicinal, ionic, battery, demineralized and water sold in sealed container]". 2. Advance Ruling Authority, Maharashtra, in two separate instances has ruled that these goods are covered under S. No. 24 of Schedule III, attracting 18% GST. 3. As per these Rulings, the issue is whether the word '<u>purified</u>' in S. No. 99 covers '<u>treated sewage water</u>' as well, as a result of which the said goods will be excluded from exemption and covered under 18% GST. 4. It is clear from these entries that premium;commercial water products were to be taxed, whilst regular water such as municipal supply, etc is to be at Nil GST rate. <u>Presence of word 'purified' in exclusion to exemption has caused confusion in this case.</u> 5. <u>Fitment Committee examined the issue and recommends that the word 'purified' may be omitted from the exception under S. No. 99, thereby making it clear that sewage treated water attracts Nil rate of GST.</u>

13.5 Whereas the effluent of the textile industries in question involves contamination of water by hazardous toxic waste, Organic chemicals from dyeing, Sodium Sulphate (Glauber Salt), Sodium Chloride and finishing salts. The treatment process carried out by the applicant in effluent treatment plant, as explained by the applicant, comprises of the following four phases;

Phase I - Pre- treatment: The raw effluent collected is subjected to activated sludge process to reduce organic load, TSS, colour and turbidity. Then suspended solids will be removed in filtration section and waste sludge from secondary clarifier is led to thickener followed by filter press for extracting sludge which is dried in sludge storage cum drying beds for further disposal.

Phase II – Reverse Osmosis: The treated effluent from phase I is fed into three stage RO system for removal of dissolved inorganic salts and 80 to 85% of water will be recovered as reusable water. Additional fourth phase and fifth phase RO treatment recovers brine solution for reuse of member units.

Phase – III- Thermal Evaporation: The reject from sixth RO is further subjected to thermal evaporation through Multiple effect evaporator to separate mixed salt and mother liquor.

Phase IV – Brine treatment: To overcome the difficulties in concentrating and crystallizing Sodium Sulphate and Sodium Chloride in the Evaporator system and to reduce fresh salt purchase by member units, the brine reuse technology has been implemented.

13.6 As a result of the treatment of the effluent water in the case of the applicant by the aforesaid process, the following output products are extracted, viz., (i) **R.O. Water**, (ii) Sodium Sulphate (Glauber Salt), (iii) Brine Solution, (iv) Sodium Chloride (Mixed Salt), etc., and the applicant is before us seeking advance ruling on the taxability of the above said **R.O water** obtained as output as a result of treatment of the effluent water. It is seen from the process description that three stage RO system is designed to get overall recovery of 80-85% of product water by removal of dissolved inorganic salts. From the South India textile Research Association (SITRA) Laboratory Analytical report No.V2300446A, dated 12-10-2023, furnished by the applicant, it is observed that TDS (Total Dissolved salts) present in the Raw effluent is 7932 mg/L, which has been reduced to 148 mg/L, after processing at their CETP. Further, detailed analysis of the aforesaid report also reveals the removal of major constituent dissolved salts, suspended solids and turbidity, colour from the effluent water, as follows:

Sl.No	Parameter	Quantity present in Raw Effluent	Quantity present in Treated water
1	Colour as Hazen	176	1
2	Total Suspended solids	168 mg/L	4 mg/L
3	pH	7.42	5.88
4	Phenolphthalein alkalinity	30 mg/L	0 mg/L

5	Turbidity	181	1
6	Phosphate as PO ₄	15.1 mg/L	0.1 mg/L
7	Fluoride as F ⁻	0.62 mg/L	ND(Lo D:0.01)
8	Nitrate-N	3.1 mg/L	0.4 mg/L
9	Iron as Fe	0.86 mg/L	0.02 mg/L
10	Silica as Si O ₂	28 mg/L	ND(LoD)
11	Total Dissolved salts	7932 mg/L	148 mg/L

13.7 From the above analysis of the test report issued by SITRA Laboratory, it is observed that the total dissolved salts or constituent chemicals/ minerals which was originally present in the raw effluent water have been substantially reduced to meagre quantity or non-detectable limit. In other words, the effluent water is **demineralized** to certain extent by three step Reverse Osmosis Units, leaving behind certain quantity of minute mineral/salts. It is noted from the statement of facts furnished by the Applicant that retention of meagre quantity of chemicals is with the intention of making the Permeate fit for usage in the dyeing industry, whereby the dissolved solids are reduced from 7932 mg/l to 148 mg/l. As the treated water obtained by the process of reverse osmosis is sold for specific usage in the dyeing industry, it is inferred that they have customized the process of demineralization to meet out the specific requirement of treated water to make it fit for the dyeing purposes and also meet the compliance of Zero Liquid Discharge.

13.8 The clarification issued by Ministry of Finance as in the Circular dated 03.08.2022, as well as under the recommendations of the Fitment Committee for the 47th GST Council Meeting, was solely with the intention of placing the 'Treated Sewage water' under the exempted category. While the word 'purified' stands omitted under the exclusion clause of the entry No.99 of Notification No. 2/2017 – Central Tax (Rate) dated 28th June 2017, to accommodate the exemption to 'Treated Sewage Water', the 'Treated effluent water/R.O permeate', on the other hand being the 'demineralized water', still gets covered under the exclusion clause of entry No.99 of the exemption notification even after the amendment, and it reads as below as on date :-

Sl. No.	Heading	Description of Service	Rate
99	2201	Water [other than aerated, mineral, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]	Nil

We are therefore of the view that the treated water obtained from CETP which is 'demineralized water' is not eligible for exemption under Serial No. 99 of Notification No.2/2017-CT (Rate) dated 28-6-2017, as amended.

14. Whether the R.O permeate falls under the heading 2853 90 10 – Other Inorganic Compounds and classifiable under this residuary head, comparable products like distilled water, conductivity water?

14.1. As discussed at para 12.6, water produced by methods like reverse osmosis is not completely free of impurities and the mineral content present in the purified water depends on the source water and the process specifications. That is to say, most of the minerals have been removed but not all. In general, if an application required highly purified water, then distilled water or most purified conductivity water should be used depending upon the application. But, the intention of the CETP, in the case of the applicant is to achieve zero liquid discharge as mandated by the Hon'ble Madras High Court and to make the resulting products fully reusable in the dyeing industries whereby the dissolved solids are reduced from 7932 mg/L to 148 mg/L.

14.2. We are the view that if the technique/process employed in the CETP of the Applicant is meant to yield the output water comprising of Total dissolved solids of zero mg/L or minuscule quantity of dissolved salts, then the resultant treated water would be equated with distilled water or conductivity water and water of similar purity and would be classified under **the heading 2853 90 10**.

14.3. But, as observed from the analytical test report issued by the SITRA laboratory, dated 12.10.2023, with reference to the samples submitted by the Applicant for testing to the SITRA Laboratory, vide reference No 28.09.2023, as well as from the test recordings in respect of characteristics of effluent at various stages of treatment, from their internal logs maintained by the Applicant at their plant, for the period 27.09.2023 to 30.09.2023, reveals the following:

As per Analytical Test Report given by SITRA,

Sample submitted date	Total Dissolved solids present in Raw Effluent	Total Dissolved solids present in Treated water
28.09.2023	7932 mg/L	148 mg/L

Details as per LOG Book maintained by the Applicant

Sl.No	Total Dissolved solids at receiving end	Total Dissolved solids at R.O I,II,III permeate
27.09.2023	6376	94
28.09.2023	6711	108
29.09.2023	5700	101
30.09.2023	7533	105

14.4. As observed from the above analytical report, though the raw water consisting of total dissolved solids at the range of 5700 mg/L to 7900 mg/L, the treated water contains the total dissolved solids at the range of 90 to 150 mg/L, which reveals that the treatment process adopted by the applicant removed substantial quantity of minerals and salts, but meagre amount of salts are retained in the Treated water sold for reuse by the dyeing industry. Hence, the said R.O permeate are not classifiable under the category of 'distilled water or conductivity water and water of similar purity'.

15.1 Accordingly, as observed from the chapter notes to the chapter 22 of the first schedule to the customs Tariff Act, it is seen that the said chapter does not cover Sea water, (which is covered under (heading 2501)) and distilled or conductivity water of similar purity, (which are covered under heading 2853) and it is seen that no other water is excluded from the Chapter 2201.

15.2 The entry 24 of Schedule - III of Notification No.01/2017-Central tax (Rate), dated 28.6.2017, is extracted as below for facilitation :-

Sl. No	Chapter Heading	Description	Rate of tax under CGST	Schedule
24	2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured (other than Drinking Water packed in 20 litres bottles)	9%	III

It is seen that the entry 24 of Schedule - III to Notification No.01/2017-Central tax (Rate) mentions Waters including natural or artificial mineral waters and aerated waters and excludes waters containing added sugar or other sweetening matter or flavoured and also Drinking water packed in 20 litres bottles from the said entry.

15.3 From the foregoing we are of the view that the R.O permeate is not falling under any of the exclusion clause. Though the R.O permeate / Treated water, for which the advance ruling sought is not explicitly reflected in the entry, the phrase "Waters, including...." enables the entry to hold R.O permeates under its ambit. The word "including" used in the entry reveals that the legislature doesn't intend to restrict the entry. It makes the entry enumerative but not exhaustive and the term 'Water' retains its ordinary meaning and its scope will be extended to bring the de-mineralized water of the applicant's case, within its ambit.

15.4 We further observe that the following rulings that dwell on similar cases involving treated water obtained from CETP, supports the above stand, i.e.,

1. In the case of *M/s Hojiwala Infrastructure Limited* (AAR Gujarat-GUJ/GAAR/R/2002/48), it was ruled that '**Treated Water**' obtained from CETP

(classifiable under Chapter 2201) is taxable at 18% by virtue of Sl.No.24 of schedule-III of Notification No.01/2017-CT(Rate) dated 28.06.2022 (as amended).

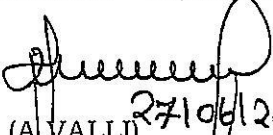
2. In the case of *Palsano Enviro* (AAR Gujarat-GUJ/GAAR/R/2002/47), it was held that *"It can be concluded that after undergoing out all the process treated water obtained from CETP have micro amount of dissolved minerals and chemical and virtually free from all types of toxic materials. This treated water is used in various industries viz., Pharmaceuticals, chemicals and leather industries for their manufacturing related process. Looking to the presence of small amount of metal and water obtained after treatment from CETP is covered under 'de-mineralize water'. Hence, we are of the view that the treated water obtained from the CETP is not eligible for exemption under Sr. No.99 of Notification No.2/2017-CT (Rate) dated 28.06.2017."*

3. In the case of *Kasipalayam Common Effluent Treatment Plant Private Limited* (AAR Tamil Nadu-23/AAR/2021), it was pronounced that, Water recovered, which is **de-mineralized water** for Industrial use' is classifiable under Heading No.2201 as Waters described under Sl.No.24 of Schedule-III of Notification No.01/2017-Central tax (Rate), dated 28.6.2017 taxable at the rate of 18% GST.

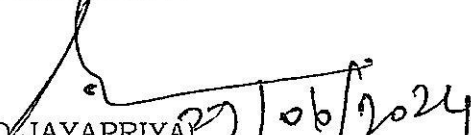
15.5 In view of the above discussions, we find that the de-mineralised water obtained as R.O permeate in the Common Effluent Treatment Plant run by the Applicant is classifiable under CTH 2201 and gets covered under the entry No.24 of the Schedule-III of Notification No.01/2017-CT (Rate) dated 28.6.2017, and we rule as below :-

Ruling

1. In the proposed modus of purchase of 'Raw effluent', treating it on own account, and the supply of output at market rates, the classification of supply of output as 'sale of goods' is correct, as discussed in para 11.4 of this order.
2. The classification of Water recovered, which is 'de-mineralized water' for Industrial use, is under CTH 2201 as Waters described under S.No.24 of Schedule - III of Notification No. 01/2017-C.T.(Rate) dated 28.06.2017.


(A VALLI)
MEMBER-SGST




(D JAYAPRIYA)
MEMBER-CGST

To
M/s. Mannarai Common Effluent Treatment Plant private Limited,
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Copy Submitted to:

1. The Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai-600 034.
2. Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chempauk, Chennai-600 005.
3. The Commissioner of GST & Central Excise,
Coimbatore Commissionerate.

Copy to:

1. The Assistant Commissioner (ST),
Tiruppur (Rural)-1. Assessment circle,
2. Master File/ Spare-2