

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI – 600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Thiru Senthilvelavan B., I.R.S Member/ Additional Commissioner,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Member/ Joint Commissioner (ST)/
Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 21 /AAR/2021 DATED: 18.06.2021

GSTIN Number, if any / User id		33AAATT3751D1ZT
Legal Name of Applicant		M/s. Tamil Nadu Labour Welfare Board
Registered Address/Address provided while obtaining user id		M/s. Tamil Nadu Labour Welfare Board. No.1, DMS Campus, 3 rd Anna Salai, Teynampet, Chennai. Tamil Nadu. 600 006.
Details of Application		GST ARA- 01 Application Sl.No.30/2020 ARA dated: 26.12.2020
Concerned Officer		State: Assistant Commissioner(ST) T. Nagar Assessment Circle, Centre: North Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Office/Sale Office; Service Provision
B	Description (in Brief)	Tamil Nadu Labour Welfare Board has been constituted by the Government of Tamil Nadu in the year 1972 by an Act. The Board is receiving income by way of contribution from employees and matching contribution from employers and Government of Tamil Nadu to the fund. The Tamil Nadu Labour

	welfare Fund is also receiving income which are in the nature of fines, donations, grants, borrowings etc., Besides the Board is receiving rental income from commercial properties leased out to Government/ Business entities.
Issue/s on which advance ruling required	<ol style="list-style-type: none"> 1. Determination of the liability to pay tax on any goods or services or both. 2. Whether applicant is required to be registered 3. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to/or results in a supply of goods or services or both, within the meaning of that term.
Question(s) on which advance ruling is required	<ol style="list-style-type: none"> 1. Applicability of GST registration to Tamil Nadu Labour Welfare Board 2. Applicability of GST towards the rental income received by the board from Government and business entities. 3. Applicability of Reverse Charge Mechanism for the rent on immovable properties received by the board from Government and business entities.

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service 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 Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s.Tamil Nadu Labour Welfare Board.No.1, DMS Campus, 3rd Anna Salai, Teynampet, Chennai.Tamil Nadu.600 006. (hereinafter called the Applicant) are registered under GST with GSTIN.33AAATT3751D1ZT The applicant has sought Advance Ruling on:

1. Applicability of GST registration to Tamil Nadu Labour Welfare Board
2. Applicability of GST towards the rental income received by the board from Government and business entities.
3. Applicability of Reverse Charge Mechanism on for the rent on immovable properties received by the board from Government and business entities.

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they have been constituted by the Government of Tamilnadu in the year 1972 by Tamilnadu Labour Welfare Fund Act 1972 (Act No.36 of 1972) enacted by the Legislature of the State of Tamil Nadu with a view to promote the welfare of the employees and their family/dependents with the Minister of Labour, Govt of Tamilnadu as the Chairman of the Board to administer the Tamilnadu Labour Welfare Fund and such other actions as assigned by or under the Act. The Tamil Nadu Labour Welfare Board is executing and implementing various welfare schemes for the benefit of the workers who contribute to Labour Welfare Fund. The Board is receiving contribution from employees and matching contribution from employers and Government of Tamilnadu to the fund. The Tamil Nadu Labour Welfare Fund is receiving the following as its income which are in the nature of contributions, fines, donations, grand, borrowings etc (at present)

- a) Contribution by every Employee Rs.10/- per year
- b) Contribution by employer Rs.20/- per employee per year
- c) Contribution by Government of Tamilnadu -Rs.10/- per employee per year
- d) All Unpaid Accumulations due to workers
- e) All fines realised from the employers
- f) Deduction made under the proviso to Sub-section(2) of section 9 of the Payment of Wages Act,1936 and the proviso to Sub-section (2) of section 36 of the Tamil Nadu Shops and Establishments Act, 1947.
- g) Any interest by way of penalty, paid under Section 14 of the Tamil Nadu Labour Welfare Fund Act, 1972.

Besides the above, The Fund is also receiving income by way of Interest from Fixed Deposits kept in Banks created out of its income and rent from immovable properties leased out to Government and business entities

2.2 They have further stated that they are receiving rental income from services of leased out of commercial properties. Rental income from leased out properties is subjected to GST as per GST Act. However as per the notifications no. 12/2007-Central Tax (Rate) dt.28.06.2017, 13/2007- Central Tax(Rate) dt.28.06.2017 r.w. notification no.3/2018 – Central Tax(Rate) dt.25.01.2018 issued by Government of India, Ministry of Finance (Department of Revenue), GST on services provided by way of letting out commercial properties by Central Government, State Governments and Local Authorities are to be paid by way of RCM by the recipient of the services. They are a Government Authority according to the explanation given in the notification no. 12/2017 Central Tax Rate dt.28.06.2017. Hence this application seeking the ruling on the subjects has been filed by the applicants.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the appellant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing for admission of the application was held on 19.02.2021. The Authorized representatives Shri. M.Ravi, Financial Advisor and Chief Accounts Officer and CA Prasanna R, Chartered Accountant appeared for the hearing virtually and reiterated their written submissions. They claimed that they are local Authorities. They were asked to furnish documents/submissions to establish themselves as a 'Local Authority', Rent receipts, rental agreements in respect of which the ruling is sought. They undertook to furnish the above details in a week's time.

3.2 In pursuant to the Virtual Personal Hearing held on 19.02.2021, the applicants submitted additional submissions vide their Letter No. E2/29880/2020-1 dated 26.02.2021, wherein apart from their earlier submissions, they stated as follows:

- The Statutory Labour Welfare Board was formed with effect from 1.4.1975 with the Minister In-charge of Labour as Chairman, five representatives of employees, five representatives of employers, three members of State Legislative Assembly, four Official members and two Non-Official members.

- The mission of the Board is to uplift the living standards of the workers and their family members who contributes to Labour Welfare Fund in the State of Tamil Nadu, by way of providing them adequate welfare measures after enrolling them as beneficiaries with the Board. The Board provides benefits by way of direct transfer into their bank accounts, under various welfare schemes of the board in a very transparent and efficient manner. The establishments covered under the scheme are:
- Factories covered under the Factories Act 1948.
 - Motor Transport undertakings covered by the Motor Transport workers Act 1961.
 - Plantation covered under the Plantations Labour Act 1951.
 - Catering Establishments covered under the Tamil Nadu Catering Establishments Act 1958 which employs five or more persons during the preceding twelve months.
 - Shops and Establishments hiring five or more employees for the previous twelve months. It is defined in Section 2 (d) (v) of Tamil Nadu Labour Welfare Fund Act, 1972.
- Every Employee contributes Rs.10 per year and every Employer in respect of each such Employee contributes a sum of Rs.20 per year to the Fund and the Government in respect of each such employee contributes a sum of Rs.10 per year to the Fund. All unpaid accumulations due to workers, all fines realized from the workers, Deduction made under the proviso to Sub-section (2) of section 9 of the Payment of Wages Act,1936 and the proviso to Sub-section (2) of section 36 of the Tamil Nadu Shops and Establishments Act, 1947, Any interest by way of penalty, paid under Section 14 of the Tamil Nadu Labour Welfare Fund Act, 1972 are paid to the fund.
- The other receipts are Income by way of Interest from Fixed Deposits kept in Banks created out of their income and rent from immovable properties.
- They are implementing various Welfare Schemes for the benefit of the workers who contribute to Labour Welfare Fund. The maximum Salary limit for availing the schemes is Rs.25,000/- (Basic Pay + Dearness Allowance) per month.
- The ruling that was sought on the applicability of GST Registration to them, was dependent on the 2nd and 3rd question hence, they submit the following with regard to the applicability of GST towards the rental income received by them from Government and business entities and Applicability of Reverse

Charge Mechanism on for the rent on immovable properties received by them from Government and business entities

- Since they are a Local authority as defined under section 2(69) of the CGST Act, 2017 GST on services provided by them by way of renting of commercial properties to business entities are to be paid by the recipient of services under reverse charge mechanism.
- Since they are a Local authority as defined under section 2(69) of the CGST Act, 2017 GST on services provided by the applicant by way of renting of immovable properties to Government and other local authorities are exempted from GST as per notification No. 12/2017-C.T.(Rate).
- From the above, it is clearly evident that the GST obligation is not cast on the applicant neither on the rent collected from business entities nor from Government and Local authorities.
- To substantiate their view that the applicant is a Local authority, they have referred to the definition of 'Local Authority' under Section 2(69) of the CGST Act 2017 and has stated that
 - they are covered under 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**
 - Under Section 20 of the TN Labour Welfare Act, 1972, Government may give the Board such directions as in their opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the purposes of the Act and it shall be the duty of the Board to comply with such directions.
 - The Board has control and management of the local fund. **Section 17. Vesting and application of Fund.** --- (1) The Fund shall vest in, and be held and applied **by, the Board as trustees** subject to the provisions, and for the purposes, of this Act.
- In view of the above, they are *covered under 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*
- Local fund is not defined under GST Act , hence it is pertinent to note the following Treasury Rule 652: "**local fund**" is said to denote "
 - (i) revenue administered by bodies which by law or rule having the force of law come under the control of the Government,
 - a. whether in regard to the proceedings generally, or

- b. to specific matters such as the sanctioning of their budgets, sanction to the creation or filling Up of particular appointments, the enactment of leave, pension or similar rules;
- (ii) the revenues of anybody which may be specifically notified by the Government as such."

➤ **Section 3 of Tamilnadu Labour welfare Fund Act, 1972 states that**

(1) ***The Government shall constitute a fund called the Labour Welfare Fund***, and notwithstanding anything contained in any other law for the time being in force or in any contract or instrument, all unpaid accumulations shall be paid, at such intervals as may be prescribed, to the Board, and be credited to the Fund and the Board shall keep a separate account therefore until claims thereto have been decided in the manner provided for in section 13.

(2) There shall also be credited to the Fund –

(a) unpaid accumulations paid to the Board under sub-section (2) of section 13;

.....

(f) any voluntary donations;

(g) ***any amount raised by the Board from other sources to augment the resources of the Board;***

.....

➤ **Section 12 of TN labour welfare Act, 1972 states that** The functions of the Board shall be the administration of the Fund and such other functions as may be assigned by or under this Act.

➤ **Section 17(2) of TN labour welfare Act, 1972 provides that:**

(2) Without prejudice to the generality of the provisions of sub-section (1), the moneys in the Fund may be utilised by the Board to defray expenditure on the following, namely: --

- (a) community and social education centres; (b) vocational training;
- (c) community necessities; (d) entertainment and other forms of recreation; (e) convalescent homes for tuberculosis patients;
- (f) holidays home in health resorts; (g) part-time employment for housewives of employees; (h) pre-schools;
- (i) nutritious food to children of employees;

(j) employment opportunities to the disabled employees or the widows of the deceased employees; (k) cost of administering this Act including the salaries and allowances of the staff appointed for the purposes of this Act; and (l) such other objects as would, in the opinion of the Board, improve the standard of living and education and ameliorate the social conditions of labour:

Provided that the Fund shall not be utilised in financing any measure which the employer is required under any law for the time being in force to carry out: Provided further that unpaid accumulations and fines shall be expended by the Board under this Act notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act IV of 1936) or any other law or agreement for the time being in force.

- 16. Poverty alleviation programme, 17. Education, including primary and secondary schools., 18. Technical training and vocational education, 21.Cultural activities. 24. Family welfare., 25. Women and child development are covered under **ELEVENTH SCHEDULE** (Article 243G) of the Constitution of India and 3. Planning for economic and social development. 11. Urban poverty alleviation. 13. Promotion of cultural, educational and aesthetic aspects. 14. Burials and burial grounds; cremations, cremation grounds; and electric crematoriums are covered under **TWELFTH SCHEDULE** (Article 243G) of the Constitution of India. various scheme and activities carried out the applicant are well within the meaning of Powers, authority and responsibilities of Panchayats. Under 243G and Powers, authority and responsibilities of Municipalities, etc. under 243 W of the Constitution, hence the applicant is a Municipality and panchayat as specified under the Articles of Constitution of India. The various scheme of board is applicable only to laboures and especially whose salary and DA is less than Rs.25,000/- Per Month (weaker section of the society). Though Rs.25,000/- is upper limit , the various schemes like education, marriage, cremation etc., is made available to those labourers who are member of fund whose economic and social conditions are very weak and desperate.
- Section **19. TN labour welfare Act, 1972 provides for deposit of of Fund and placing of accounts and audit report before the State.** As per rule 7 of **The Tamil Nadu Labour Welfare Fund Rules, 1973,** The accounts of the funds are to be prepared and maintained by the Accounts Officer of the Board in such form as may be prescribed by the Examiner of Local Fund Accounts,

Madras, and audited by him once a year. The Secretary of the Board is responsible for the disposal of the audit note.

- In view of the above, the fund of the applicant is local fund as mentioned in clause of 2(69) of the CGST Act, 2017 and the applicant is an 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; they can be classified as Municipal or local panchayat, hence the applicant is a Local authority as defined under section 2(69) of CGST Act,2017

The applicant had submitted the following documents:

- (i) Copy of the TN Welfare Fund Act 1972 and rules framed thereunder
- (ii) Scheme of Tamil Nadu Welfare Board,
- (iii) Sample Rental Agreements
- (iv) List of Tenants with address
- (v) Sample rental receipts
- (vi) Copy of he AAR filed by the applicant
- (vii) CGST Rate Notification No.12/2017, 13/2017 and 3/2018

4.1 The State Jurisdictional Officer, Assistant Commissioner(ST), T.Nagar Assessment Circle, who has the administrative jurisdiction over the applicant has submitted that the Labour Welfare Board collect the money from member for the membership and expend the money for the Educational facilities for the children of the workers, Medical facilities for both private and public sector employers for facilitate medical facilities for their workers and their families, transport facilities to the workers for commuting to work. Hence, the Board is liable for GST on expenditure from the Fund for the workers.

5.1 The Central Jurisdictional authority vide letter C.No. GEXCOM/TECH/MISC/187/2021-Tech dated 19.02.2021 stated that there is no pending proceedings on the subject issue in respect of M/s. Tamilnadu Labour Welfare Board.

6.1 We have carefully examined the written submissions of the applicant, supporting documents filed by the Applicant, oral submissions made at the time of Virtual hearing, comments of the Jurisdictional Authority and the relevant statutory provisions. The applicant is constituted by the Government of Tamilnadu in the year 1972 by Tamilnadu Labour Welfare Fund Act 1972 (Act No.36 of 1972) enacted by

the Legislature of the State of Tamil Nadu with a view to promote the welfare of the employees and their family/dependents with the Minister of Labour, Govt of Tamilnadu as the Chairman of the Board to administer the Tamilnadu Labour Welfare Fund and such other actions as assigned by or under the Act. They are executing and implementing various welfare schemes for the benefit of the workers who contribute to Labour Welfare Fund. They receive contribution from employees and matching contribution from employers and Government of Tamilnadu to the fund. The Tamil Nadu Labour Welfare Fund is receiving income which are in the nature of contributions, fines, donations, grand, borrowings etc (at present) and rental income from Government/business entities. The applicant has sought ruling on the following three questions:

1. Applicability of GST registration to Tamil Nadu Labour Welfare Board
2. Applicability of GST towards the rental income received by the board from Government and business entities
3. Applicability of Reverse Charge Mechanism on for the rent on immovable properties received by the board from Government and business entities

It is stated by the applicant that the ruling sought on the first question was dependent on the 2nd and 3rd question. Hence the applicability of GST towards the rental income received by them from Government and business entities and Applicability of Reverse Charge Mechanism on for the rent on immovable properties received by the board from Government and business entities are to be decided which would eventually answer the first question. Prima facie, the questions raised being applicability of GST on the supply of renting service and the applicability of the Notification providing for Reverse Charge Mechanism and whether the applicant has to get registered under the Act, the questions are admissible under Section 97(2) read with 95(a) of the GST Act and hence are admitted.

7.1 From the Submissions, we find that the applicant is constituted by the Government of Tamilnadu in the year 1971 by an executive order of the Government (G.O.Ms No. 222 Labour Dept. dated 20.02.1971). The Tamilnadu Labour Welfare Fund Act 1972 was passed by the State and was given effect from 1.1.1973 and the statutory Board was formed effective 01.04.1975 . The applicant has stated that as per the Tamilnadu Labour Welfare Fund Act 1972, and the Tamilnadu Labour Welfare Fund Rules 1973,

- The fund is constituted by the Government

- Any amount raised from other sources to augment the resources of the Board also is within the meaning of fund
- The functions of the Board shall be the administration of the Fund and such other functions as may be assigned by or under the Act
- The control and management of fund is vested with board
- The Board may, with the approval of the Government, make grants from the Fund to any local authority or any other body in aid of any activity for the welfare of employees
- The accounts are maintained and is audited by Local Fund Accounts Madras
- Welfare schemes and activities carried out by the applicant are well within the meaning of Powers, authority and responsibilities of Panchayats and Municipalities under Article 243G/243W of the Constitution

Thus the applicant claims that they are well within the meaning of 'Local fund' mentioned under Treasury rule 652 and they being an authority legally entrusted by the State Government with the control/management of the fund, they are "Local authority" as defined under GST Act. Therefore, they have sought clarification on the GST liability on the rental income received for supply of services of renting of commercial properties to Government/business entities and in turn their requirement for obtaining registration under GST.

7.2 Local authority is defined under Section 2(69) of CGST Act, 2017 as "local authority" means—

(a)(b)

(c) *a Municipal Committee, a ZillaParishad, 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**;*

The above definition in the leg 'other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund' is the same as that available under the General Clauses Act. Section 3(31) of the General Clauses Act, defines 'local authority' as under:

" Local authority' shall mean a municipal committee district board, body of port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund."

Hon'ble Supreme Court in the case of Union of India & ors Vs. R C Jain & Ors [1981 SCC (2) 308] has handed over the 'Tests for determining whether a body is a local

authority' when the 'other authority' leg of the definition is said to cover such authority. In the said case, the Apex court has observed as follows:

'Local Fund' is again not defined in the General Clauses Act. Though the expression appears to have received treatment in the Fundamental Rules and the Treasury Code, we refrain from borrowing the meaning attributed to the expression in those rules as it is not a sound rule of interpretation to seek the meaning of words used in an Act, in the definition clause of other statutes. The definition of an expression in one Act must not be imported into another. "It would be a new terror in the construction of Acts of Parliament if we were required to limit a word to an unnatural sense because in some Act which is not incorporated or referred to such an interpretation is given to it for the purposes of that Act alone" (per Loreburn L.C. in Macbeth v. Chislett). For the same reason we refrain from borrowing upon the definition of 'Local Authority' in enactments such as the Cattle Trespass Act 1871 etc. as the High Court has done.

Let us, therefore, concentrate and confine our attention and enquiry to the definition of 'Local Authority' in Sec.3(31) of the General Clauses Act. A proper and careful scrutiny of the language of Sec.3(31) suggests that an authority in order to be a local Authority, must be of like nature and character as a Municipal Committee, District Board or Body of Port Commissioners, possessing, therefore, many, if not all, of the distinctive attributes and characteristics of a Municipal Committee, District Board, or Body of Port Commissioners, but, possessing one essential feature, namely, that it is legally entitled to or entrusted by the Government with, the control and management of a municipal or local fund. What then are the distinctive attributes and characteristics, all or many of which a Municipal Committee, District Board or Body of Port Commissioners shares with any other local authority? First, the authorities must have separate legal existence as Corporate bodies. They must not be mere Governmental agencies but must be legally independent entities. Next, they must function in a defined area and must ordinarily, wholly or partly, directly or indirectly, be elected by the inhabitants of the area. Next, they must enjoy a certain degree of autonomy, with freedom to decide for themselves questions of policy affecting the area administered by them. The autonomy may not be complete and the degree of the dependence may vary considerably but, an appreciable measure of autonomy there must be. Next, they must be entrusted by Statute with such Governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality, like health and education services, water and sewerage, town planning and development, roads, markets, transportation, social welfare services etc. etc. Broadly we may say that they may be entrusted with the performance of civic duties and functions which would otherwise be Governmental duties and functions. Finally, they must have the power to raise funds for the furtherance of their activities and the fulfillment of their projects by levying taxes, rates, charges, or fees. This may be in addition to moneys provided by Government or obtained by borrowing or otherwise. What is essential is that control or management of the fund must vest in the authority.

In Municipal Corporation of Delhi v. Birla Cotton, Spinning & Weaving Mills Delhi & Anr., Hidayatullah, J., described some of the attributes of local bodies in this manner:

"Local bodies are subordinate branches of governmental activity. They are democratic institutions managed by the representatives of the people. They function for public purposes and take away a part of the government affairs in local areas. They are political sub divisions and agencies which exercise a part of State functions. As they are intended to carry on local self-government the power of taxation is a necessary adjunct to their other powers. They function under the supervision of the Government".

Thus, from the above, it is evident that for an entity to be local authority the following are to be in affirmative:

1. The authorities must have separate legal existence as corporate bodies.
2. They must function in a defined area and must ordinarily, wholly or partly, directly or indirectly, be elected by the inhabitants of the area.
3. They must enjoy a certain degree of autonomy, with freedom to decide for themselves questions of policy affecting the area administered by them.
4. They must be entrusted by Statute with such Governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality, like health and education services, water and sewerage, town planning and development, roads, markets, transportation, social welfare services etc. etc.
5. They must have the power to raise funds for the furtherance of their activities and the fulfillment of their projects by levying taxes, rates, charges, or fees.

7.3 Applying the above tests to the case at hand, we find that

- the applicant is a body corporate having perpetual succession and common seal, and shall, by the said name, sue and be sued(Section 4(2) of The Tamilnadu Labour Welfare Fund Act 1972)- has a separate legal existence;
- The Act applies to entire Tamilnadu; The applicant Board consists of Chairman who is the Minister-in-charge of Labour and members appointed by the Government- The members are **not elected** but appointed by the Government
- The Act under Section 17 provides for 'Vesting and application of Fund'- 17(1) states that the 'Fund shall be utilised by the Board to defray the cost of carrying out measures which may be specified by the Government from time to time to promote the welfare of the employees and of their dependents'; 17(2) provides the activities to which the fund can be put to use by the applicant; 17(4) provides that if any question arises whether any particular expenditure is or is not debitable to the Fund, the matter is to be referred to the Government whose decision is final- Thus it is evident that the applicant do

not have autonomy to decide for themselves, the questions of policy affecting the area administered by them.

- Section 12 of the Act, states that the function of the Board is administration of the Fund and such other functions as may be assigned by or under this Act and Section 33 provides the 'Power to supervise the welfare activities of an establishment'- Thus the functions of the applicant is to manage the 'Fund' for the purposes i.e, social welfare projects of the Government as stated in the Act and these are not functions and duties as are usually entrusted to municipal bodies.
- Section 3 of the Act, provides for the constitution of the Fund and 3(2), lists the various items to be credited to the Fund, in which 3(g)- provides 'any amount raised by the Board from other sources to augment the resources of the Board', under which the applicant claims that the rent receipts are accounted.- The applicant is not vested with any separate power to raise revenue by levying taxes, rates, charges, or fees.

Thus, it is seen that the applicant do not satisfy the tests advocated by the Hon'ble Supreme Court, to be considered as 'Local Authority' under 'other authority' in the definition of 'Local Authority', though they claim that the 'Fund' managed by them is a 'Local Fund' as per the Treasury Rules.

7.4 In this connection, it is pertinent to note that, Apex Court in the case of Commissioner of Income Tax Lucknow Vs. U.P, Forest Corporation. The Apex Court, in this case while deciding whether U.P. Forest Corporation is a 'Local authority' as defined under the General Clauses Act, has followed the tests laid in the R.C.Jain's case mentioned supra and on the issue of the 'Fund' of the U.P. Forest Corporation, being called 'Local fund', has stated as follows:

.....In the case of respondent Corporation, the Act does not enable it to levy any tax, cess or fee. It is the income from the sale of the forest produce which goes to augment its funds. It has no power under the Act of compulsory exaction such as taxes, fees, rates or charges. Like any commercial organisation it makes profit from sale of forest produce and it has been given the power to raise loans.

Whereas municipal or local funds are required to be spent for providing civic amenities, there is no such obligation on the respondent to do so. Merely because Section 17 of the U.P. Forest Corporation Act states that the fund of the Corporation "shall be a local fund" would not make it a local fund as contemplated by Section 3(31) of the General Clauses Act.

In the case at hand also, the applicant do not have any power under the Tamilnadu Labour Welfare Fund Act for compulsory exaction of fees and the fund is paid by the levies as per the Payment of Wages Act,1936, Tamil Nadu Shops and

Establishments Act, 1947, etc. The only own source is the rental income received by the applicant on lease rentals of their commercial properties. Therefore, applying the above judis-prudence, we hold that the applicant is not a 'Local Authority' for the purposes of the GST Act.

8.1 Having decided that the applicant is not a 'Local Authority', we take up the questions to be answered. The applicant has furnished that they have rented to
1. The Commissioner of Labour; 2. Indian Overseas Bank; 3. Tamilnadu Academy of Construction; 4. Jeeva Illam Canteen; 5. Adayar Ananda Bhavan; 6. Plaza Hotel; 7. TNEB Office; 8. Deputy Inspector of Labour Office. They have furnished copies of 'Agreement for Tenancy' entered with Indian Overseas Bank; Tamilnadu Academy of Construction and stamped receipt for receiving rent difference along with GST from the Commissioner of Labour. As seen from their submissions, the applicant stands clarified that the supply of leasing services of commercial properties is liable to tax under GST. The clarification sought is on their liability to pay when such properties are leased to Government and business entities i.e.,

- on the applicability of entry No. 8 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, when leased to Government, i.e., whether exempted, and
- entry No.7 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 read with Notification No. 13/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No. 3/2018-C.T.(Rate) dated 25.01.2018 when rented to business entities, i.e. taxable but the liability to pay is on the service receiver.

8.2 The entry No. 8 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 is as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
1	2	3	4	5
8	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority: 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	NIL	NIL

		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.		
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The above entry exempts services provided by Central /State Government/ Union territory/ local authority to another Central /State Government/Union territory /local authority. In the case at hand, it has been established in para 7 above, that the applicant is not a 'Local authority', therefore, the exemption provided in the entry No. 8 of Notification No. 12/2017-C.T(Rate) dated 28.06.2017 is not available to the applicant and the applicant is to discharge the tax liability on the services of renting of commercial properties to Central/State Government/Local Authority.

8.3 The entry No.7 of the Notification No.12/2017-C.T.(Rate) dated 28.06.2017 is as under:

Sl.No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent)	Condition
1	2	3	4	5
7	Chapter 99	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of upto twenty lakh rupees in the preceding financial year 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	Nil	Nil

		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		
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The above entry provides exemption for services provided by the Central /State Government/Union territory/local authority to a business entity with an aggregate turnover of upto twenty lakhs in the preceding financial year except for the services by way of renting of immovable property. In the case at hand, the services supplied is 'renting of immovable property service' and the applicant is not a 'Local Authority' as detailed in Para 7 above. Therefore this entry is not applicable to the applicant.

8.4 Notification No. 13/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No. 03/2018 -C.T.(Rate) dated 25.01.2018 provides **categories of supply of services** for which the liability to pay tax is fastened **on reverse charge basis by the recipient**. The relevant entry effective 25.01.2018, is as follows:

Sl.No.	Description of Services	Supplier of services	Recipient of Service
1	2	3	4
5A	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	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017

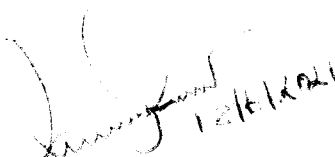
The above entry applies when the supplier of service is Central /State Government/Union territory/local authority and the recipient of service is any person registered under the GST Act. In the case at hand, the applicant do not fall under the specified class of 'Supplier of Services', therefore the above entry do not have any application in the case at hand.

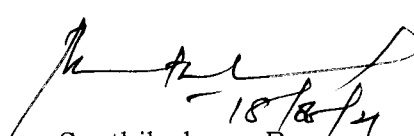
8.5 To sum up, the applicant being not a 'Local authority' is liable to pay GST on the services of renting of immovable property to Government and business entities under forward charge. As the liability to pay the GST is on the applicant, the applicant has to get registered under GST.

9. In view of the above we rule as under:

RULING

1. Tamilnadu Labour Welfare Board, being a person liable to pay GST, has to get registered under GST.
2. The rental income received by the applicant from Government and business entities are taxable to GST
3. The applicant do not fall under the 'specified class of supplier of services' under Notification No.13/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No.03/2018 dated 25.01.2018 and therefore 'Reverse charge Mechanism' is not available to the applicant.


KurinjiSelvaan V.S.,
Member, TNGST


Senthilvelavan.B
Member, CGST

To,
M/s. Tamil Nadu Labour Welfare Board.
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// RPAD//

Copy Submitted to:

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26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Principal Secretary/Commissioner of Commercial Taxes/Member,
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Copy to:

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4. Assistant Commissioner(ST)
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5.Master File/ Spare – 2.

