

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 16 / 2021

Date : 24-03-2021

Present:

1. Dr.M.P.Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri.Mashhood Ur Rehman Farooqui,
Joint Commissioner of Customs & Indirect Taxes, Member (Central)

1.	Name and address of the applicant	M/s Bishops Weed Food Crafts Pvt. Ltd., Sy.No.154, 77 Town Centre, Yemlur Main Road, Ammani Bellandur Khane village, Bangalore-560 037.
2.	GSTIN or User ID	29AAICB6302M1ZF
3.	Date of filing of Form GST ARA-01	07.10.2020
4.	Represented by	Sri T.R. Venkateswaran, C A, PWC & Authorised Representative
5.	Jurisdictional Authority - Centre	The Commissioner of Indirect Taxes, Bangalore East Commissionerate. (Range-AED5)
6.	Jurisdictional Authority - State	LGSTO-15, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from cash ledger vide reference number AA290920028774X dated 14.09.2020.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

1. Bishops Weed Food Crafts Pvt. Ltd., (called as the 'Applicant' hereinafter) Sy.No.154, 77 Town Centre, Yemlur Main Road, Ammani Bellandur Khane village, Bangalore-560 037., having GSTIN number 29AAICB6302M1ZF, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in FORM GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is engaged in the business of provision of services by way of Leasing of residential units for use as residence to Tenants. The applicant had sought advance ruling in respect of the following questions:



1. Whether leasing of property for use as residence along with basic amenities would qualify as composite supply under Section 2(30) of the Karnataka Goods and Services Tax Act, 2017.
2. Whether renting of property by Applicant is covered under entry 12 of the exemption Notification 12/2017 (Rate) dated June 28, 2017.
3. If the answer to 2 is negative, whether services by the Applicant are covered under entry 14 of the exemption Notification 12/2017 (Rate) dated June 28, 2017
4. Whether leasing of property for residential subletting would be covered under the exemption for residential dwelling via notification 12/2017 (Rate) dated June 28, 2017.

3. Admissibility of the application : The applicant, filed the instant application, in relation to classification of their services, applicability of a notification and determination of liability to pay tax on their services. Further the applicant has sought advance ruling in respect of the questions on the issues covered under Section 97(2)(a), (b) & (e) of the CGST Act 2017 and hence the application is admitted.

4. STATEMENT OF FACTS

4.1 The Applicant submitted that they are engaged in provision of services by way of **leasing of residential units for use as residence to Tenants** and furnished the following facts in relation to the questions on which advance rulings have been sought.

- a) The Applicant provides residential dwelling along with basic amenities such as maintenance, security and housekeeping. The services are generally provided as a comprehensive bundle and are not available as separate components.
- b) The charges are fixed for each month. The Tenant does not have the option to select individual supplies from the bundle. The Tenant would pay a fixed monthly rent which would cover the charges for entire bundle as a whole.

4.2 In addition to the said services specified under para 4.1, the Applicant is also engaged in **provision of services of leasing of residential units to other service providers** who are engaged in subletting the residential unit for use as residence. The flow of transaction in the said case is follows:

- a) The Applicant leases residential accommodations to commercial concerns. The premises are suitable only for residential purposes and are leased to the commercial concerns for use in the residential subletting.
- b) The commercial concerns further sublet the subject property to tenants for use only as residence.

5. APPLICANT'S INTERPRETATION OF LAW :

The applicant submitted their interpretation of law, question wise, and contends as under :



Question : 1 Whether the activity of leasing of residential units with basic facilities of maintenance, security and housekeeping constitute as composite supply?

- 5.1 When a supply consists of two or more components in a bundle, the taxability of the bundle shall depend on its qualification as a 'composite' or a 'mixed' supply. If the bundle qualifies as a composite supply, the entire bundle would be treated akin to the principle supply comprised in the bundle. If the bundle qualifies as a mixed supply, the entire bundle would be treated akin to the supply that attracts the highest rate of tax.
- 5.2 The terms composite supply, principle supply and mixed supply have been defined in section 2 of the CGST Act. The relevant extracts have been reproduced hereunder for ease of reference:

Composite supply

"(30). "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.- Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;"

Principle supply

"(90). "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;"

Mixed supply

"(74). "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.- A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;"

5.3 Based on the above, it can be observed that, in order for a bundle to qualify as a composite supply, the following cumulative conditions are required to be fulfilled:

- i. The supply consists of two or more taxable supplies;



- ii. The supplies are naturally bundled;
- iii. The supplied are made in conjunction with each other in the ordinary course of business; and
- iv. One of the supplies is a principal supply

5.4 In the instant case, the bundle of supplies provided by the Applicant consists of two or more taxable supplies *viz.*, renting of immovable property, security, maintenance and housekeeping services. Therefore, condition i. above stands satisfied. Hence, the point of determination for whether the bundle of supply of renting of residential dwelling along with basic amenities such as security, maintenance and housekeeping services provided by the Applicant qualifies as composite supply, is dependent on whether the supplies are naturally bundled in the ordinary course of business (conditions ii. and iii. Above).

5.5 In the subsequent paragraphs, the Applicant has provided a detailed explanation as to how the supply of renting along with basic amenities such as security, maintenance and housekeeping services provided as a comprehensive package are naturally bundled in the ordinary course of business.

5.6 The Applicant wishes to highlight that what constitutes as 'naturally bundled supplies' or 'supplies made in conjunction with each other in the ordinary course of business' is not defined in the GGST Act. However, the Applicant places reliance on the GST e-flyer issued by the Central Board of Indirect Tax and Customs which states that whether services are bundled in the ordinary course of business would depend upon the normal or frequent practices adopted in the area of business to which the services relate. A copy of the e-flyer has been enclosed herewith as **Annexure 1**.

5.7 As per the aforementioned e-flyer, such normal and frequent policies adopted in a business can be ascertained from several indicators such as:

- The perception of the consumer or the service receiver;
- Majority of service providers in a particular area of business provide similar bundle of services;
- Nature of the service – if the nature of the service is such that one of the service is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of the main service;

5.8 Other illustrative indicators of bundling of supplies in the ordinary course of business provided in the e-Flyer are as follows:

- The customer pays a single amount, no matter how much of the package they actually receive or use;
- The elements are normally advertised as a package;
- The different elements are not available separately;
- The different elements are integral to one overall supply – if one of more are removed, the nature of the supply would be affected.



- 5.9 In order to establish that the supply of renting of residential dwelling is naturally bundled in the ordinary course of business, each of the above indicators have been analyzed in light of the facts of the instant case:

Sl. No	Indicator	Applicability
1	Perception of the customer	<p>Whether the customer (Tenant) views the bundles as a naturally bundled supply (the components of which are often supplied in conjunction with each other) is an important factor in determining whether the supply qualifies as a composite supply.</p> <p>Supply of service by way of residential accommodation is ordinarily provided along with basic amenities such as security and maintenance. Availability of the same is a criteria for a substantial number of tenants while evaluating various options for residential dwelling.</p> <p>Hence, it can be established with reasonable certainty that the Tenant views and expects the services provided by the Applicant as a bundle and not as individual supplies.</p>
2	Majority of service providers provide similar bundle of services	<p>Security, maintenance and basic housekeeping are an essential component of supply by way residential dwelling. Security and housekeeping are indelibly linked with provision of residential dwelling.</p> <p>While there are service providers who provide renting services on a stand-alone basis, a considerable number of service providers provide the bundle of renting services along with security, maintenance and housekeeping.</p> <p>Further, the Applicant wishes to highlight the existence of a market of customers that expect security, maintenance and basic housekeeping to be supplies along renting of residential dwelling. The existence of such an established market further strengthen the contention that the said supplied are bundled in the ordinary course of business.</p>
3	Nature of service is such that one supply is the main supply and the other supplies are incidental or ancillary supplies	<p>The primary intention of the Applicant as well as the tenant is to provide or receive the renting service respectively. The services of security, maintenance and basic housekeeping are merely amenities that are incidental to the renting service and result in better experience of renting.</p>



Sl. No	Indicator	Applicability
	which assist in better enjoyment of the main service	It is apparent that the supply by way of security, maintenance and basic housekeeping are triggered by the supply of renting of residential dwelling. The question of provision of other services, without renting of premises, does not arise. Hence, it is clear that the main supply is the supply way of renting of residential dwelling and the other services are ancillary supplies.
4	The customer pays the same amount, irrespective of usage	A fixed amount is charged to the customers for the rent and common amenities, irrespective of usage by Tenant.
5	The elements are normally advertised as a package	The property for rent is advertised and provided as a package with security, maintenance and basic housekeeping.
6	Different elements are not available separately	A tenant cannot opt for stand-alone renting or stand-alone amenities. The elements form part of a comprehensive package being renting of residential dwelling and are not provided or advertised separately.
7	Different elements are integral to one overall supply – if one of more are removed, the nature of the supply would be affected	Security, maintenance and housekeeping severely impact the quality of residential dwelling experience to the clients. Dependability on the amenities is one of the crucial factors evaluated by the tenant while determining the quality of service by way of renting of residential dwelling.

5.10 Based on the above, the Applicant submits that each of the indicative parameters results in the conclusion that the bundle of supply by way of renting of residential dwelling along with security, maintenance and housekeeping is a naturally bundled supply made in conjunction with each other in the ordinary course of business.

5.11 In light of the same, it is evident that that the bundle of residential dwelling along with security, maintenance and house keeping qualifies as a composite supply under section 2(30) of the CGST Act.

5.12 In support of the above, the Applicant submits that a similar view has been adopted by the Chhattisgarh Authority for Advance Ruling in the case of **M/s Shri Kamal Agrawal, for RamnathBhimsen Charitable Trust**. In this case the Applicant operated a hostel and provided supply by way of renting of well furnished rooms along with ancillary facilities such as food, parking and security. In the said case it was observed that the hostel is approached for the primary service of renting of hostels and all other services are auxiliary. The relevant extract of the ruling has been reproduced below for ease of reference:



"There remains hardly any ambiguity as regards the fact that primarily the occupants approach the Hostel facility providers for having accommodation facility and only once this accommodation facility gets ensured, does the need for other facilities arise. Hence, in the instant case no other charges are being collected from the occupants for the allied services being provided"

- 5.13 Reliance is also placed on the ruling rendered by Maharashtra Authority for Advance Ruling in the case of **M/s Students' Welfare Association**. In the said case, the Applicant was engaged in operating hostels along with amenities and facilities of food, personality development courses, computer application training, morning yogasanas and sports activities. It was observed that the Applicant was engaged in providing a bouquet of services with no option to choose individual services. It was observed that the principal supply is to provide hotel accommodation.

Application of the aforementioned Rulings in the Applicant's case:

- 5.13.1 The Applicant understands that an Advance Ruling passed for an assessee is binding only on that assessee in the peculiar facts and circumstances of their case. Hence, it does not have a binding force on other assessee.

- 5.13.2 However, the same has been relied upon by the Applicant to reiterate the principles basis which the above Rulings were passed. While the above rulings are in the context of hotel accommodation, the principle emerging from the aforementioned rulings is that the primary intention of the recipient behind approaching the applicants is to avail accommodation services.

- 5.13.3 The said ratio can be applied in the instant case to conclude that the services provided by Applicant by way of renting of residential units along with basic amenities of housekeeping, maintenance and security would be considered as a composite supply of services as the essential nature of the bundle is supply of residential accommodation.

- 5.13.4 The above rulings is squarely applicable in the instant case as the facts are largely overlapping and the principle highlighted in the ruling was that the amenities are allied to the primary supply of renting as the question of independent supply of the amenities without renting does not arise. In light of the same, the Applicant submits that the supplies of renting of residential dwelling along with basic amenities such as security, maintenance and housekeeping should qualify as composite supply with the primary supply as renting of residential accommodation.

- 5.14 Further, as per Section 8 of the CGST Act, a composite supply shall be regarded as a supply of the principal supply. Hence, the entire bundle of services provided by the Applicant shall be treated and taxed as the principal supply.

Issue: 2 Whether activities conducted by the Applicant would be covered under entry 12 of the Exemption Notification



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- 5.15 Entry 12 of the Exemption Notification provides exemption to services by way of renting of residential accommodations for use as residence. The relevant entry has been reproduced hereunder for ease of reference:

Sl No.	Chapter, Section, Heading, Group or Service Code	Description of Services	Rate	Condition
12	Heading 9963 or Heading 9972	Services by way of renting of residential dwelling for use as residence.	Nil	Nil

- 5.16 From a bare perusal of the above entry, it evident that the entry covers letting out of residential dwellings for use as residence. It is pertinent to note that the entry does not specify any other qualification criteria, as long as the unit is let out for use as residence, the same appears to be covered under entry 12 of Exemption Notification.
- 5.17 The Applicant submits that the term 'residential dwelling' or scope of 'service by way of renting of residential dwelling' has not been expressly provided in the CGST Act. However, a similar entry existed in the negative list of service tax. The relevant entry from section 66D of the Finance Act, 1994 has been produced below for ease of reference:

"(m) services by way of renting of residential dwelling for use as residence;"

- 5.18 On perusal of the above, it is clear that provisions identical to entry 12 of the Exemption Notification existed in the service tax regime. In light of the same, reference is drawn to the 'Taxation of Services: An Education Guide' (hereinafter referred to as the "Education Guide") by the Central Board of Excise and Customs dated June 2012. The term 'renting' and 'residential dwelling' have been elaborated in Paras 4.13 and 4.13.1 respectively. The relevant extracts of the Education Guide have been reproduced hereunder for ease of reference:

"4.13 Services by way of renting of residential dwelling for use as residence"

'Renting' has been defined in section 65B as "allowing, permitting or granting access, entry, occupation, usage or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property'.

4.13.1 What is a 'residential dwelling'?

The phrase 'residential dwelling' has not been defined in the Act. It has therefore to be interpreted in terms of the normal trade parlance as per which it is any residential accommodation, but does not include hotel, motel, inn, guest house, camp-site, lodge, house boat, or like places...y"

- 5.19 On a conjoint reading of the above, it can be inferred that renting of residential dwelling shall entail allowing or granting usage access to an immovable property



which includes all residential dwellings but does not include hotel, motel, inn, guest house, lodges or similar places.

5.20 In the instant case, there is no doubt that the Applicant is engaged in renting of residential dwelling. The Applicant submits the following facts evidencing that the Applicant is engaged in provision of residential dwelling (not meant for temporary stay):

- The intention behind the supply of services by the Applicant is to offer and provide long term residential accommodation;
- The target audience for the Applicant consists of employees who seek long term employment near their workplace;
- The Applicant does not seek to target markets for commercial/ short term lodging;
- While there may be certain exceptional cases where the Tenant may terminate the contract prematurely, the general case would be to have tenancy contracts that are not meant for temporary stay.

5.21 In light of the above and based on the submissions above, it has been established that the Applicant is engaged in provision of a bundle of services that qualify as a composite supply of renting of residential dwelling.

5.22 In light of the above, given that the Applicant is engaged in provision of a composite supply with the principal supply being renting of residential dwelling, the entire bundle of services should be taxed at the rate applicable to the principal supply. Given that the principal supply, ie, renting of residential dwelling is exempt, the entire bundle should qualify for exemption under entry 12 of the Exemption Notification.

Issue: 3 Whether the activity of leasing of residential units for further residential leasing would qualify for exemption under entry 14 of the Exemption Notification

5.23 The Applicant wishes to submit that the grounds enlisted in this section are without prejudice to the above and are alternative in nature. While the Applicant believes that renting of residential dwelling qualifies for exemption under entry 12 of the Exemption Notification, if the answer to issue 2 is negative, then the Applicant should be entitled to exemption under entry 14, subject to satisfaction of conditions mentioned therein, irrespective of period of stay.

5.24 Entry 14 covers services provided by hotels, clubs, campsites and the like for residential or lodging purposes for a consideration less than INR 1000 per day. The relevant entry has been reproduced hereunder for ease of reference:



Sl No.	Chapter, Section, Heading, Group or Service Code	Description of Services	Rate	Condition
14	Heading 9963	Services by a hotel, inn, guest	Nil	Nil

Sl No.	Chapter, Section, Heading, Group or Service Code	Description of Services	Rate	Condition
		house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent.		

5.25 The above entry seeks to cover residential accommodation or lodging provided by a hotel, guest house, club or campsite (by whatever name called) for residential purposes. To the extent of renting of a unit residential accommodation, it appears that both the entries are competing in light of the fact that entry 14 covers service providers (by whatever name called) providing residential lodging.

5.26 Hence, in a scenario where answer to issue 2 is negative, then the Applicant should be entitled to exemption for provision of residential lodging where the consideration works out to less than INR 1000 per day.

Issue: 4 Whether the activity of leasing of residential units for further residential leasing would qualify for exemption under entry 12 of the Exemption Notification

5.27 On bare perusal of the Applicability of entry no. 12 of the Exemption Notification it appears that exemption is provided to leasing of residential dwelling for use as residence. It is pertinent to note that the entry appears to give an absolute exemption to the activity of leasing for use as residence, irrespective of the legal status of the supplier or recipient of supply.

5.28 It is submitted that the exemption under entry 12 of the Exemption Notification depends upon whether the dwelling unit is 'used as residence'. In the instant case, the applicant has let out residential units to commercial entities who have further let out the same for use as residence. Given that the condition of 'used as residence' is satisfied in the instant case, the activity of leasing out residential units to commercial concerns for the purpose of residential leasing should be eligible for exemption under entry 12 of the Exemption Notification.

5.29 Further, it appears that the intention behind the exemption is to provide relief from GST on residential dwelling. Accordingly, in order for the said objective to be fulfilled both legs of the transaction (i.e., renting of property by the Applicant to a business entity and further renting of the property by the entity to the Tenants for use as residence) should be covered under the exemption.

5.30 A similar position has been adopted by the West Bengal Authority of Advance Ruling in the case of **M/s Borbheta Estate Pvt Ltd**. In the said case, the Applicant had four residential dwellings. Three of the flats were rented out to individuals and one of the flats were rented out to a company. The employee of the said company uses the dwelling as residence. The Applicant was of the view that the dwelling is used for residential purpose, exemption should be available in both cases (i.e., when leased out to an individual as well as a company for use by



their employees). In the said case, it was observed that applicability of entry 12 of the exemption notification depends on whether the residential dwelling is used as residence. All four units of the assessee were being used as residence, irrespective of whether they are let out to individuals or commercial entities. Hence, it was held that the Applicant was entitled to exemption under entry 12 of the Exemption Notification. The relevant extract of the ruling is reproduced hereunder for ease of reference:

"4.2. The Applicant's service is classifiable as rental or leasing service involving own/leased residential property (SAC 997211). Applicability of Sl No. 12 of the Exemption Notification depends upon whether the dwelling unit is used as residence. It appears from the documents produced that all the above dwelling units are being used for residence, irrespective of whether they are let out to individuals or a commercial entity. The Applicant's service of renting/leasing out the dwelling units for residential purpose is, therefore, exempt under Sl. No.12 of the Exemption Notification."

5.31 Application of the above Ruling to the Applicant's case

5.31.1 The Applicant understands that an Advance Ruling passed for an assessee is binding only on that assessee in the peculiar facts and circumstances of their case. Hence, it does not have a binding force on other assessee.

5.31.2 However, the same has been relied upon by the Applicant only to reiterate the fact that exemption under entry 12 of the Exemption Notification is dependent on whether the premises is used as residence and not on whether the recipient entity is an individual or commercial entity.

5.31.3 In light of the above submissions, and also in light of the facts presented *vide* Point 4.2 (*supra*), it is evident that all units of the Applicant are used as residence. Further, even if the unit is let out to a commercial concern, the Applicant is entitled to adopt the exemption under entry 12 as the condition of 'used as residence' stands satisfied.

PERSONAL HEARING: / PROCEEDINGS HELD ON 15.12.2020

6. Sri. Venkateshwaran T.R. Chartered Accountant, Pricewaterhouse & Co., & duly authorised representative of the applicant appeared for personal hearing proceedings held on 15.12.2020; reiterated the facts narrated in their application and also furnished the written submissions.

FINDINGS & DISCUSSION

7.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. T R Venkateshwaran, C.A., Pricewaterhouse & Co., on behalf of the applicant, during the personal hearing. We have also considered the issues involved, on which advance rulings are sought by the applicant, and relevant facts.



7.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

7.3 The Applicant sought advance rulings in respect of the questions mentioned at para 2 supra. We proceed to consider each question at a time for discussion. The first question is *Whether leasing of property for use as residence along with basic amenities would qualify as composite supply under Section 2(30) of the Karnataka Goods and Services Tax Act, 2017 or not.*

7.4 The applicant submitted that they provide renting of immovable property service of residential dwelling along with basic amenities such as maintenance, security and housekeeping, for use as residence; the said services are generally provided as a comprehensive bundle and are not available as separate components; the charges are fixed for each month; the tenant does not have the option to select individual supplies from the bundle; the tenant would pay a fixed monthly rent which would cover the charges for entire bundle as a whole. The applicant on this basis contends that their service qualifies to be a composite supply and the renting of immovable property service is the predominant supply.

7.5 It is an admitted fact that the applicant takes a residential dwelling, having 3 or 4 BHK accommodation on lease/rent and gives the each bed room to an individual on lease / rent with a common kitchen for all the occupants. ***A residential dwelling is a unit with one or more habitable rooms constituting self-contained living quarters for use of 1 or more individuals including the provision of kitchen and sanitary facilities and sleeping accommodation for the exclusive use of such individual or individuals, and having a private entrance from outside the building or from a common hallway or stairway inside the building.*** Thus the applicant is not leasing/renting a residential dwelling on the whole but is leasing/renting the individual bed rooms to the occupants and hence the applicant's service does not qualify to be a "Renting of Immovable Property" service as the property leased or rented is not a residential dwelling, but amounts to provision of accommodation as "Rooming House".

7.6 A **Rooming house** is a residential **house**, of which most or some of the rooms are rented out to paying customers. It is a place where individuals who are living in rent in that **house** shares the bathroom and the kitchen. The Explanatory Notes to the Scheme of Classification of Services stipulates, at the exclusion clause to the SAC 997211, that accommodation services provided by rooming houses are covered under SAC 99631. Further SAC 996311 covers **Room or unit accommodation services** and includes **accommodation services consisting of rooms or units, with or without kitchens & with or without daily housekeeping services, provided by Hotels, INN, Guest houses, Clubs & other similar establishments on a single or multi occupancy basis, for purposes of leisure or business or others.**

In view of the above, the services of the applicant squarely get covered under SAC 996311 as accommodation services and hence the said services are not covered under renting of residential dwelling.



7.7 It could be seen from above that the house keeping service, if provided, becomes the part of accommodation service. Now the question before us is whether the maintenance and security services provided along with the accommodation services become composite supply or not. In this regard we invite the reference to the definitions of composite supply and principal supply under Section 2 of CGST Act 2017.

7.8 Section 2(30) & Section 2(90) of the CGST Act 2017 define the “Composite Supply” and “Principal Supply” respectively and on reading these definitions together it could be inferred that the following conditions have to be fulfilled for a bundle of services to qualify as a composite supply.

- a) The supply consists of two or more taxable supplies;
- b) The supplies are naturally bundled;
- c) The supplies are made in conjunction with each other in the ordinary course of business; and
- d) One of the supplies is a principal supply

7.9 In the instant case the applicant is supplying accommodation services, security services, & maintenance services as a bundle which all are taxable and hence the first condition is fulfilled. The second condition is these supplies must be naturally bundled. We proceed to examine whether these services are naturally bundled or not. The illustration given to the definition of composite supply reveals that the component services of a naturally bundled services are interdependent and are inseparable for a particular transaction i.e. the element of provision of one service is combined with the element / elements of provision of other services. In the instant case the component services are interdependent and are normally supplied together by the provider of accommodation services. Thus the impugned services are naturally bundled services.

7.10 The third condition is that the supplies are made in conjunction with each other in the ordinary course of business, which implies that it must be a normal practice followed by the service providers in this business. In the instant case the applicant contends that they provide their service along with maintenance & security services. Normally the providers of accommodation services do provide the maintenance and security services along with the accommodation services as the entire dwelling would be under their control, but not under the control of roomer. Thus in the ordinary course of business the maintenance & security services are supplied in conjunction with each other. Thus the third condition is also fulfilled. Thus we conclude that the impugned services of the applicant do qualify to be a composite supply.

7.11 The second question is *whether renting of property by Applicant is covered under entry 12 of the exemption Notification 12/2017 (Rate) dated June 28, 2017*. The applicant, in this regard, contended that *residential dwelling has not been defined in the Act, in terms of the normal trade parlance is any residential accommodation, but does not include hotel, motel, inn, guest house, camp-site, lodge, house boat, or like places* and hence they are engaged in renting of residential dwelling, not meant for temporary stay. The applicant stresses upon two factors i.e. (i) residential dwelling is given on rent for use as residence and (ii) it is rented for long term and hence claims the exemption under Sl.No.12 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017.

The services provided by the applicant are covered under accommodation services under SAC 996311, as held in the previous paras, the exemption under Sl.No.12 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017, is not applicable to the impugned transaction.

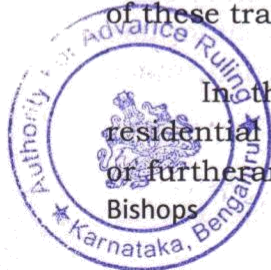
7.12 The third question is *whether the activity of leasing of residential units for further residential leasing would qualify for exemption under entry 14 of the Exemption Notification*. This question is subject to the condition that the answer to issue 2 is negative, in which case the applicant contends that they should be entitled to exemption under entry 14 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017, subject to satisfaction of conditions mentioned therein, irrespective of period of stay.

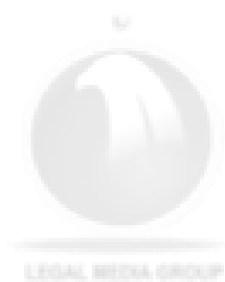
Notification 12/2017-Central Tax (Rate) dated 28.06.2017, vide Sl.No.14 exempts the Services provided by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent. In the instant case the services provided by the applicant are covered under SAC 996311 as accommodation services and hence the exemption is applicable to the transaction of the applicant subject to the condition that the value of supply is less than or equal to one thousand rupees per day or equivalent. Thus the applicant is entitled for exemption under Sl.No.14 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017, subject to fulfillment of the required conditions.

7.13 The last question is *whether the activity of leasing of residential units for further residential leasing would qualify for exemption under entry 12 of the Exemption Notification*. In the instant case, the applicant has let out residential units to commercial entities who have further let out the same for use as residence and contends that the entry No.12 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017 appears to give an absolute exemption to the activity of leasing for use as residence, irrespective of the legal status of the supplier or recipient of supply; the condition of 'used as residence' is satisfied even in this case also & hence the activity of leasing out residential units to commercial concerns for the purpose of residential leasing should be eligible for exemption under entry 12 of the Exemption Notification; the intention behind the said exemption is to provide relief from GST on residential dwelling. Accordingly, in order for the said objective to be fulfilled both legs of the transaction (i.e., renting of property by the Applicant to a business entity and further renting of the property by the entity to the Tenants for use as residence) should be covered under the exemption. They relied on the ruling passed by the Advance Ruling Authority of West Bengal in the case of **M/s Borbheta Estate Pvt Ltd.**

7.14 It is pertinent to mention here that the "Goods and Services Tax" (GST) is a transaction based tax, with seamless input tax credit at each transaction level. In the instant case two transactions are involved. The first being a transaction between the applicant & the business entity and the second between the business entity & the actual tenant. Thus the two transactions are different and the taxability / exemption of these transactions need to be examined individually.

In the transaction between the applicant & business entity, the renting of residential dwelling is not for use as residence by the business entity but in the course or furtherance of the business of the said entity and hence the exemption under entry





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