

TAX INFO

Dated 07/05/2022

Latest update on GST Law: Information regarding - **No benefit of exemption notification for ancillary supply when the principal supply is taxable in case of composite supply**, as given in **Judgment by GST AAAR Uttarakhand**.

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Name of Applicant	Corbett Nature Resorts
Authority	GST AAAR Uttarakhand
Date of Order	10/03/2022
Appeal Number	Order No. 03/2021-22

Brief Facts of the Case:

The applicant is running a Resort namely "Aahana- The Corbett wilderness" and also runs an independent unit namely "Aahana Naturopathy Centre" (referred to as "the Centre"), wherein they are providing various services in the form of Nature cure (drugless cure) & Yoga therapies (Health care services), which are not restricted only to the in-house customers, but also open to all. The applicant's unit is registered under the Clinical Establishment Act, 2010 as "Naturopathy Centre". The "Aahana Naturopathy Centre" is an independent clinical establishment and the applicant has appointed an authorized medical practitioner in their Naturopathy centre. Therefore, applicant's contention is that the said health care services (Naturopathy) provided by "The Centre" are exempt from the levy of GST under Notification No. 12/2017-Central Tax (Rate) dated 28.06 2017 under Entry 74 (SAC Heading 9993), which pertains to Services by way of health care services by a clinical establishment, an authorized medical practitioner or para-medics. According to the AAR, Uttarakhand, the supply of services, which is a provided by the applicant is a composite supply, and rightly classifiable under sub-heading No. 996311 as 'Room or unit accommodation services provided by Hotels, Inn, Guest House, Club and the like', whereas, the exemption at Entry No. 74 of exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06 2017 is applicable to services falling under the SAC 9993. Therefore, the AAR held that the applicant is not eligible to get the benefit of Entry No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06 2017. Being aggrieved with the said Ruling, the applicant has filed the present appeal before AAAR for seeking classification of services provided by "the Centre" under SAC 9993 as the said centre viz "Aahana Naturopathy Centre" provides healthcare services which attract nil rate of tax in terms of entry no. 74 of exemption Notification No. 12/2017-Central Tax (Rate).

Findings and Ruling:

As per Section 2(30) of the Act, "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. Further, as per Section 2(90) of the Act, "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. As per Section 8 of the Act, the tax liability on a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.

In the instant case the applicant has advertised and marketed their accommodation service as their main service and Naturopathy as additional service. Thus, the accommodation service and other services including Naturopathy rendered during the course of said service is covered under composite service and the accommodation service constitutes the predominant element and therefore, becomes the "principal supply" and Naturopathy services shall form the part of that composite supply. Therefore, the conclusion is that all services provided in relation to or in addition to accommodation service are liable to GST applicable to 'Accommodation Service'.

Therefore, the AAAR upheld the order of AAR that the applicant is not eligible to get the benefit of Entry No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06 2017.

Author View- Personally I feels that the facts shows Healthcare services and not the composite supply as the Centre is having medical practitioners and non residents are also treated there and people comes to this centre mainly for treatment and not with an intent to enjoy the property in question. In my view the Centre is providing Healthcare services and exempt from GST.

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