

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/RULING/2018/14
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017-18/AR/32)

Date : 30.7.2018

Name and address of the applicant	:	M/s. Sapthagiri Hospitality Private Limited, 17-18,Sapthagiri Complex, Opp. The Gateway Hotel, Near Akota Garden, Akota, Vadodara- 390 002
GSTIN of the applicant	:	24AAMCS8870KIZN
Date of application	:	14.11.2017
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(e) determination of the liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	07.12.2017
Present for the applicant	:	Shri Druvank Parikh, CA

The applicant, M/s. Sapthagiri Hospitality Private Limited, has stated that they are in the possession of Letter of Permission No. F.2/9/2003-EPZ dated 21.08.2009 issued by the Ministry of Commerce & Industry, New Delhi in favour of them as a Co-Developer for providing infrastructure facilities to establish a Hospitality Project in non-processing zone of Dahez SEZ. Accordingly, the applicant constructed a hotel in the non-processing zone of Dahez SEZ on the land allotted to it and started hospitality services therein.

1.1 The applicant submitted that the hospitality services provided by them inter-alia includes providing rooms on tariff, supplying food/beverages, laundry services, housekeeping services etc within the premises of the hotel.

1.2 The applicant further stated that considering the provisions of Section 16(1)(b) of the IGST Act, 2017, the company running a hotel in SEZ should not be made liable to pay GST considering the services provided by it as 'zero rated supply'. They further submitted that as place of supply in terms of Section 12 of IGST Act shall be the location of the hotel itself i.e. SEZ, to their belief and understanding, there shall not be the requirement to pay GST either on the services provided to clients located in SEZ or a visitor coming from a territory outside SEZ as place of supply as well as the location of supplier providing the said services is within SEZ only.

1.3 On the basis of above facts and submissions, the applicant has sought ruling on following questions-

(i) The hotel being located in non-processing zone of Dahez Special Economic Zone whether liable to pay GST on all the services provided by it to the clients located in SEZ which inter-alia included supply of services by way of providing accommodation services, supplying food and beverages and supplying services ancillary to providing accommodation services? and

(ii) Under extreme circumstances, if the hotel is required to provide accommodation services to a visitor other than a visitor located in SEZ, whether GST is required to be paid?

2 We heard Shri. Dhruvank Parikh, Chartered Accountant, for the appellant on 07.12.2017. We have gone through the submissions made by the applicant in their application for advance ruling and made at the time of personal hearing. We have also gone through the comments on the application offered by the department vide letter FNo. IV/16-32/GST/AAR-SHPL/T/17-18 dated 02.2018.

3. Section 2(20) of the IGST Act, 2017 states that 'Special Economic Zone developer' shall have the same meaning as assigned to it in clause (g) of Section 2 of the Special Economic Zones Act, 2005 and includes an Authority as defined in clause (d) and a Co-Developer as defined in clause (f) of Section 2 of the said Act.

4. As per Section 7(5)(b) of IGST Act, 2017 supply of goods and services or both to or by a SEZ developer or SEZ unit would be treated to be a supply in the course of interstate trade or commerce. As per Section 8 of the IGST Act, supply of goods or services to or by SEZ developer or unit would not be considered as intrastate supply. Hence the provisions of Section 7 and Section 8 of IGST Act, 2017 read with the definition of SEZ developer given at Section 2(20) of IGST Act, mandate that all the supply of goods or services made by or to SEZ Co-developer would be considered as interstate supply and the levy of IGST is attracted at the applicable rate. But the IGST law allows the benefit of zero rating to supplies made to an SEZ unit. As per Section 16(1) of IGST Act 'zero rated supply' means any of the following supply of goods or services or both namely (a) export of goods or services or both ; or (b) supply of goods or services or both to a SEZ developer or SEZ Unit. Section 2(m)(iii) of SEZ Act, 2005 defines export means supplying goods, or providing services, from one unit to another unit or developer, in the same or different special economic zone. A combined reading of Section 16(1) of IGST Act and Section 2(m)(iii) of SEZ Act indicate that supply of services made by the applicant to other units or developers of SEZ would be zero rated supply.

5. Rendering of services from SEZ to DTA does not qualify as Zero rated supply in terms of Section 16 of IGST Act, 2017. Therefore, SEZ Unit/developer making interstate supply to DTA would be liable to pay IGST under IGST Act. Therefore, supply of services by the SEZ unit or Developer from SEZ to DTA would be covered under the normal course of supply. Accordingly the applicant will be liable to pay GST at the prescribed rates for supplies made to the clients located outside the territory of SEZ .

6. In view of the foregoing, we rule as under :-

RULING

(i) The supplies made by M/s. Sapthagiri Hospitality Private Limited, 17-18, Sapthagiri Complex, Opp. The Gateway Hotel, Near Akota Garden, Akota, Vadodara-390 002 (GSTIN 24AAMCS8870KIZN), a SEZ Co-developer, from their hotel located in non-processing zone of Dahez Special Economic Zone to the clients located in Special Economic Zone for authorized operations will be treated as zero rated supplies under the provisions of Section 16(1) of Integrated Goods and Service Tax Act, 2017 read with Section 2(m) of SEZ Act, 2005

- (ii) The applicant is liable to pay GST on the services from their hotel located in non-processing zone of Dahez Special Economic Zone to the clients located outside the territory of Special Economic Zone under the provisions of Section 5(1) of Integrated Goods and Service Tax Act, 2017.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad

Date : 30.7.2018.