

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Act, 2017)

BENCH

Shri Sydney D'Silva, Joint Commissioner, CGST & CX
Shri Parthasarathi Dey, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such Appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Sarj Educational Centre
Address	Shantiniketan Complex, Jyotinagar, 2 nd Mile, Sevoke Road, Siliguri, PIN - 734001
GSTIN	19AAOFSS5729G1ZN
Case Number	42 of 2018
Date of application	December 24, 2018
ARN	AD1911180008924
Order No. & date	42/WBAAR/2018-19 dated 26/02/2019
Applicant's representative heard	Sumit Nandy, ACA Aloke Kumar Ghosh, Advocate

1. Admissibility of the Application

1.1 The Applicant is stated to be the owner of a private boarding house and is providing services of lodging and food exclusively to the students of a secondary school, run by a Charitable Society, namely Sunshine Educational Society. He seeks a ruling on whether his service to the students for lodging along with food is a composite supply within the meaning of section 2(30) of the GST Act, and whether supply of such service is eligible for exemption under Sl. No. 14 of Notification No. 12/2017-CT (Rate) dated 28/06/2017 (hereinafter the Exemption Notification). The Applicant also wants to know what should be the rate of tax for the combination of services he provides, if it is not considered a composite supply.

1.2 Advance Ruling is admissible under Section 97(2)(a) & (b) of the GST Act.

1.3 The Applicant states that the question raised in the Application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.4 The officer concerned from the Revenue has raised no objection to the admission of the Application.

1.5 The Application is, therefore, admitted.

2. Submissions of the Applicant

2.1. The Applicant, according to the Written Submission made at the time of Hearing, has entered into an MOU with St. Michael's School under the management of Sunshine Educational Society, for providing boarding facility exclusively to the students of the said school. The boarding facility shall include lodging, housekeeping, laundry, medical assistance and food. The consideration is a consolidated charge on the individual boarder for the combination of the services.

2.2. The Applicant refers to Circular No. 32/06/2018 dated 12/02/2018 of CBIC. It has clarified that accommodation service to students in a hostel having declared tariff below one thousand rupee per day is exempt under Sl. No. 14 of the Exemption Notification.

2.3. In his Written Submission the Applicant further refers to Sl. No. 66 of the Exemption Notification, and argues that his services to the boarders should also be considered exempt under that entry of the said notification.

3. Submissions of the Revenue

3.1 Revenue states that it appears that the services provided by the applicant will fall under Composite Supply as defined under Section 2(30) of the GST Act. However, the actual agreement between the applicant and the recipient requires to be verified. Revenue also points out that exemption under Sl. No. 14 of the Exemption Notification does not cover the service of providing food supplied by the applicant.

4. Observation & Findings of the Authority

4.1. Sl. No. 66 of the Exemption Notification is applicable to the services provided by or to an educational institution, as defined under clause 2(y) of the said notification. The Applicant is not an educational institution within the meaning of the above clause. Although the services are provided in terms of an MOU with St Michael's School, the Applicant charges the consideration on the individual students. Being liable to pay the consideration, such students are, therefore recipients of the Applicant's services and not the educational institution. Sl. No. 66 of the Exemption Notification is, therefore, not applicable.

4.2. The Applicant provides services to both day boarders and boarders requiring lodging facilities. In FY 2018-19, the annual consideration for the services without lodging facilities are segregated and charged on the day boarders at Rs.71,800/- per head, of which Rs.66,000/- is boarding fees. The boarding fees for those who enjoy lodging facilities is Rs.1,56,000/- per head. These lodgers have to pay an additional amount of Rs.13,600/- per head for housekeeping and laundry services, whereas the day boarders pay only Rs.5,800/- per head for such service.

The consideration charged is not, therefore, for lodging and food only. A flat amount is charged for maintenance, electricity and laundry instead of reimbursement of the actual cost. The consideration is, therefore, a consolidated charge for a combination of all these services.

4.3. The Application and the Written Submission do not disclose any separate charge for medical assistance extended to the boarders. However, such services can hardly be expected to be supplied

for an unspecified amount, and is not usually supplied with lodging and food service in ordinary course of business.

4.4. It appears from the consideration charged on the boarders who need lodging facility that such services are offered at a tariff below Rs.1000/- per unit per day. The lodging facility offered is, therefore, exempt under Sl. No. 14 of the Exemption Notification. The food served upon these recipients is taxable at 5% rate under Sl. No. 7(i) of Notification No. 11/2017-CT (Rate) dated 28/06/2017 (hereinafter the Rate Notification), as amended from time to time. Housekeeping, including maintenance, is classifiable under SAC 9987 and taxable at 18% rate under Sl No. 25(ii) of the Rate Notification. Laundry service is classifiable under SAC 9997 and taxable at 18% rate under Sl. No. 35 of the Rate Notification.

4.5. The bundle of services offered to the recipients, therefore, consists of both taxable and non-taxable supplies. It is also evident that although the services are offered in a bundle, they are not indivisible, and different considerations are paid for different packages of such services offered to the recipients, depending upon their requirement for lodging facility. For example, laundry service is not offered to the day boarders.

These are not, therefore, bundles of *taxable* supplies that are inseparable and supplied only in conjunction with one another in ordinary course of business. The services the Applicant supplies are not, therefore, composite supply, as defined under Section 2(30) of the GST Act.

4.6. It is evident from the above discussion that the Applicant is offering several individual services in two different combinations to the recipients, depending upon their need for lodging facility. Each of the recipients, however, is charged a consolidated amount for the combination of services he wants to enjoy. The combination of services is, therefore, offered as a mixed supply within the meaning of Section 2(74). In accordance with Section 8(b) of the GST Act it is stated that, "a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax." As has already been discussed, each of the combinations includes services taxable at 18% rate, which is the highest rate applicable to the services being offered vide Section 8(b) of the GST Act. Being mixed supply, value of the entire combination of services offered is taxable at 18% rate.

In view of the foregoing, we rule as under.

RULING

The Applicant is offering several individual services in two different combinations to the recipients, depending upon their need for lodging facility. None of the combinations of services being offered is a composite supply, as defined under section 2(30) of the GST Act. They are mixed supplies within the meaning of section 2(74) and taxable in accordance with section 8(b) of the GST Act. Being mixed supply, value of the entire combination of services offered is taxable at the applicable rate.

This Ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the GST Act.

Sd-

(SYDNEY D'SILVA)
Member

West Bengal Authority for Advance Ruling

Sd-

(PARTHASARATHI DEY)
Member

West Bengal Authority for Advance Ruling