

**KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING
6TH FLOOR, VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,
GANDHINAGAR, BANGALORE – 560009**

**(Constituted under section 99 of the Karnataka Goods and Services Tax Act, 2017 vide
Government of Karnataka Order No FD 47 CSL 2017, Bangalore, Dated:25-04-2018)**

BEFORE THE BENCH OF

SHRI. D.P.NAGENDRA KUMAR, MEMBER

SHRI. M.S.SRIKAR, MEMBER

ORDER NO.KAR/AAAR-16 /2019-20

DATE:02-03-2020

Sl. No	Name and address of the appellant	M/s ACHARYA SHREE MAHASHRAMAN CHATURMAS PRAVAS VYAVASTHA SAMITI TRUST,No.645/1, Bungal Mutt Road, V.V.Puram, Bengaluru 560004
1	GSTIN or User ID	29AAGTA1345L1ZK
2	Advance Ruling Order against which appeal is filed	KAR/ADRG 102/2019 Dated 30th Sept 2019
3	Date of filing appeal	03-12-2019
4	Represented by	Shri. Sanjay M. Dhariwal, Chartered Accountant.
5	Jurisdictional Authority- Centre	Commissioner of Central Tax, Bangalore South Commissionerate.
6	Jurisdictional Authority- State	LGSTO 100, Bangalore
7	Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. CIN No IOBA19122900012668 dated 03.12.2019 for Rs 20,000/-

PROCEEDINGS

(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *parimateria* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

2. The present appeal has been filed under section 100 of the Central Goods and Service Tax Act 2017 and Karnataka Goods and Service Tax Act 2017 (herein after referred to as CGST Act, 2017 and SGST Act, 2017) by M/s Acharya ShreeMahashramanChaturmasPravasVyavastha Samiti Trust, No.645/1, Bungal Mutt Road, V.V.Puram, Bengaluru 560004 (herein after referred to as Appellant) against the advance Ruling No. KAR/ADRG 102/2019 dated 30th Sept 2019.

Brief Facts of the case:

3. The Appellant is a religious charitable trust registered under Section 12 AA of the Income Tax Act, 1961 carrying out religious and charitable activities. The Appellant is principally engaged in the field of spreading knowledge and advancement of Jain Dharma.

4. The Appellant conducted a religious function from July 2019 to November 2019 at Kumbalagodu Village, Mysore Road, KengeriHobli, Bengaluru South Taluk. The main activities conducted were Pravachanas, Spiritual Speeches, Dhyana, Meditation, prayer, etc. The Appellant provided boarding and lodging facility to the devotees for which purpose, the Appellant erected temporary residential rooms and facilities consisting of the following categories:

- i. Category-I: 2 BHK 430 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, one AC, and having two rooms, hall, kitchen, rest-room + toilet, with cooking facility and no cleaning services.
- ii. Category-II: 1 BHK 300 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, one AC and having one room, hall, kitchen, rest-room + toilet, with cooking facility and no cleaning services.
- iii. Category-III: Single room, 100 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, common rest rooms and toilets and no cleaning and cooking facility services.
- iv. Category-IV: Single room, 150 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, one AC and having rest room and toilet. No cleaning and cooking facilities.

- v. Category-V: Dormitory consisting 12 beds, including facilities such as water, electricity, two AC, bed, pillow, bedspread, common rest rooms and toilets. Charges per bed ranging from Rs.250-00 per day.

- vi. Category-VI: Renting of space for stalls

The Appellant also provided food and beverages to the devotees at subsidized rates. Further the Appellant also provided space without consideration to other registered persons who supplied food and beverages to the devotees for consideration, which directly flows from devotees.

5. In this connection the Appellant sought an advance ruling in respect of the following question:

- a) *Whether the applicant is liable to pay tax on renting of temporary residential rooms for consideration to the devotees and renting of space for shops and stalls for the purpose of religious programs where the predominant object is not to do business but for advancement of religion?*
- b) *Whether the applicant is liable to pay tax on renting of temporary residential rooms under category I to category V, to the devotees to stay for the purpose of religious programs where charges per room is less than one thousand per day, if answer to the question 1 is yes?*
- c) *Whether applicant is liable to pay tax on renting of space for stalls, where the predominant object is not to do business but for advancement of religion, if answer to the question 1 is yes?*
- d) *Whether the applicant is liable to pay tax on supply of food and beverages at subsidized rates to the devotees, where the predominant object is not to do business but for advancement of religion?*
- e) *Whether the applicant is liable to pay tax on providing space for registered person without consideration for supply of food and beverages to the devotees, where consideration is received by registered person directly from devotees?*
- f) *Whether applicant is liable to pay tax for acting intermediary for booking hotel rooms to the pilgrims from outside?*

6. The Karnataka Authority for Advance Ruling vide ruling No KAR ADRG NO 102/2019 dated 30-09-2019 held as follows:

1. *The applicant is liable to pay tax in renting of temporary residential rooms for consideration to the devotees and renting of space for shops and stalls.*

2. *The applicant is liable to pay tax on renting of temporary residential rooms of all categories if the declared tariff of a unit of accommodation is Rs.1000-00 or more per day or equivalent.*
3. *The applicant is liable to pay tax on renting of space for stalls.*
4. *The applicant is liable to pay tax on supply of food and beverages at subsidized rates to the devotees*
5. *The applicant is liable to pay tax on providing space for registered person without consideration for supply of food and beverages to the devotees, only if the applicant and such registered person are covered under the definition of "related persons" as defined in Explanation to Section 15 of the CGST Act, 2017.*
6. *The applicant is liable to tax for acting as an intermediary for booking of hotel rooms to the pilgrims from outside, if he does not satisfy all the conditions prescribed for a pure agent (i.e the services must be procured from suppliers of accommodation service in addition to the service he supplies on his own account).*
7. The Appellant was aggrieved by the ruling given in respect of the following two categories viz:

Renting of dormitory consisting of 12 beds where the charges per bed is Rs 250 per day, including facilities such as water, electricity, two AC, bed, pillow, bedspread, common rest rooms and toilets.

Renting of 2 BHK having 430 sq.ft. where charges per room is less than Rs 1000/- per day, including facilities such as water, electricity, cot, bed, pillow, bedspread, one AC, and having two rooms, hall, kitchen, rest-room + toilet, with cooking facility and no cleaning services.

8. Aggrieved by the ruling on the above two aspects, the appellant has filed this appeal on the following grounds.

8.1. The Appellant submitted that entry No 13(b) of Notification No 12/2017 CT (R) dated 28-06-2017 provides exemption to renting of room where the charges are less than Rs 1000/- per day. It is generally accepted rule and normal business transaction that room shall be provided based on each contract with each person separately; that in the case of dormitory, it is not on basis of room but on the basis of each bed separately. They submitted that generally dormitory contains more than one bed. Therefore, in dormitory, the contract for renting shall be on the basis of bed only. Hence the exemption should be understood on the basis of each bed separately and not the whole dormitory.

8.2. With regard to the charges collected for renting of 2BHK, the Appellant submitted that Notification No 12/2017 CT (R) dt 28-06-2017 provides exemption for renting of rooms; that if the premises contain more than one room, the exemption shall be made applicable for each room separately. For the above reasons, the Appellant pleaded that the charges per bed needs to be considered in respect of renting of dormitory and charges per room needs to be considered in respect of premises containing more than one room and on that basis exemption should be granted if the said charges are less than Rs 1000/- per bed/room.

8.3. The Appellant also applied for condonation of delay of 23 days in filing this appeal. They submitted that the impugned order was received by them on 10-10-2019 and the appeal should have been filed on or before 09-11-2019. However, the person in charge of taxation matters was busy with the religious function being conducted by the Trust between July 2019 to November 2019 and hence the filing of the appeal was delayed by 23 days. They requested for condonation of the delay which was on account of bonafide reasons.

PERSONAL HEARING:

9. The Appellants were called for a personal hearing on 31st January 2020 and were represented by Shri. Sanjay M. Dhariwal, Chartered Accountant who reiterated the submissions made in the grounds of appeal. He confirmed that the Appellant was filing the appeal only on the limited ground that exemption is denied on the charges for dormitory and 2 BHK and stressed the fact that the word 'unit' used in the notification should refer to a bed and to a room.

DISCUSSIONS AND FINDINGS

10. We have gone through the records of the case and considered the submissions made by the Appellant in their grounds of appeal as well as at the time of personal hearing.

11. We find that the Appellant has sought for condonation of delay of 23 days in filing the present appeal. The impugned order of the lower Authority dated 30.09.2019 was received by the Appellant on 10.10.2019. In terms of Section 100(2) of the CGST Act, every appeal to this Authority should be filed within a period of 30 days from the date on which the Advance Ruling order is communicated to the aggrieved party. The proviso to Section 100(2)

empowers this Authority to condone the delay in filing the appeal by another period of 30 days. In this case, the due date for filing the appeal was 09-11-2019 but the Appellant has filed the appeal on the 3rd December 2019 after a delay of 23 days from the due date for filing appeal. The Appellant has stated that the delay had occurred since the person in charge of taxation matters was busy with the religious function organised by the Appellant. Considering the submissions made by the Appellant, the delay in filing the appeal is hereby condoned in exercise of the power vested in terms of the proviso to Section 100(2) of the CGST Act.

12. The issue which is in appeal is limited to the point whether exemption from GST is available to the Appellant on the renting of dormitory consisting of 12 beds and renting of 2 BHK where the charges per bed (in the case of dormitory) and per room (in the case of 2 BHK) is less than Rs 1000/- per day. The Appellant is a religious charitable trust and conducts religious functions for the propagation of Jain Dharma. In order to cater to the needs of devotees who come from afar, the Appellant has erected temporary accommodation facilities for the use of devotees during the period of the religious function. The Appellant provides five different types of accommodation for the devotees as follows:

- (i) Category-I: 2 BHK 430 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, one AC, and having two rooms, hall, kitchen, rest-room with toilet, with cooking facility and no cleaning services.
- (ii) Category-II: 1 BHK 300 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, one AC and having one room, hall, kitchen, rest-room with toilet, with cooking facility and no cleaning services.
- (iii) Category-III: Single room, 100 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, common rest rooms and toilets and no cleaning and cooking facility services.
- (iv) Category-IV: Single room, 150 sq.ft., including facilities such as water, electricity, cot, bed, pillow, bedspread, one AC and having rest room and toilet. No cleaning and cooking facilities.
- (v) Category-V: Dormitory consisting 12 beds, including facilities such as water, electricity, two AC, bed, pillow, bedspread, common rest rooms and toilets.

The charges for accommodation under Category I, II, III and IV are on per room basis and are less than Rs 1000/- per room per day. The charges for accommodation under Category V i.e. dormitory are on per bed basis ranging from Rs.250/- per bed per day but less than Rs 1000/- per bed per day. The Appellant has claimed the benefit of exemption from GST on the accommodation provided under the above five categories in terms of entry No 13 of Notification No 12/2017 CT (R) dt 28-06-2017. The lower Authority has held that the Appellant is liable to pay tax on renting of temporary residential rooms of all categories, if the declared tariff of a unit of accommodation is Rs 1000/- or more per day. The Appellant is aggrieved by this ruling in so far as the renting of 2BHK and dormitory is concerned since under these two categories the charges are per room for a 2 BHK unit and per bed for the dormitory and in both the cases, the charges are less than Rs 1000/- per room/bed per day.

13. For better clarity, the entry Sl.No 13 of exemption Notification No 12/2017 CT (R) dated 28-06-2017 is reproduced below:

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Service	Rate
13	Heading 9963 or Heading 9972 or Heading 9995 or any other Heading of Section 9	<p>Services by a person by way of-</p> <p>(a) conduct of any religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:</p> <p>Provided that nothing contained in entry (b) of this exemption shall apply to,-</p> <p>(i) renting of rooms where charges are one thousand rupees or more per day;</p> <p>(ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day;</p> <p>(iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.</p>	NIL

14. The Appellant has claimed the benefit of Sl.No 13 (b) above where, renting of a precincts of a religious place owned or managed by a religious trust is exempted from GST. It is not in dispute that the Appellant is a religious trust registered under Section 12AA of the Income Tax Act, 1961 and is carrying out religious and charitable activities. In terms of the entry Sl.No 13 of the above Notification, there are two activities/services which are exempted viz:

- a) conduct of a religious function;
- b) renting of precincts of a religious place to the general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961

We are concerned with the activity at (b) above. The entry clause (b) of Sl.No 13 merely states 'renting of precincts of a religious place to the general public'. To understand what gets covered under this clause, one has to look at the exclusions given in the proviso to this clause which states that the exemption shall not apply to the following:

- a) renting of rooms where the charges are Rs 1000/- or more per day,
- b) renting of premises, community halls, kalayanamantapsor open area, and the like where charges are Rs 10,000/- or more per day;
- c) renting of shops or other spaces for business or commerce where charges are Rs 10,000/- or more per month.

On a conjoint reading of the clause (b) of Sl.No 13 and the exclusions, it is evident that the exemption under clause (b) applies to renting of rooms where the charges are less than Rs 1000/- per day, renting of premises, community halls, kalayanaMantapsor open area, and the like where charges are less than Rs 10,000/- per day and to renting of shops or other spaces for business or commerce where charges are less than Rs 10,000/- per month.


15. In the instant case, the Appellant had erected temporary accommodations at Kumbalagodu Village, Mysore Road, KengeriHobli, Bangalore North Taluk where the religious event was conducted. We find that the Appellant is not renting out 'rooms' but rather is renting out units of accommodation comprising of 2 bedrooms, hall, kitchen, restroom, toilet. The entire unit with facilities like water, electricity, cot, bed, pillow,


bedspread and air-conditioner is given out on rent. The devotee is also given cooking facility in this unit. Therefore, a unit of accommodation of this kind which is termed by the Appellant as a 2BHK Category I type of accommodation cannot be considered as renting of rooms and will not be covered in the entry Sl.No 13 of Notification No 12/2017 CT (R) dated 28-06-2017. Similarly, the renting out of beds in a dormitory is also not akin to renting of rooms and hence it will not qualify for exemption under clause 13(b) of the said Notification. We agree with the ruling of the lower Authority and hold that the renting of the 2 BHK unit and the dormitory will be chargeable to GST as a single unit where the value of supply will be the charges for the full 2BHK unit / dormitory and not the charges for each room / bed and is liable to tax.in terms of entry Sl.No 7 of Notification No 11/2017 CT(R) dated 28-06-2017 as amended by Notification No 20/2019 CT (R) dated 30-09-2019.

16. In view of the above discussion, we pass the following order

ORDER

We uphold the Advance Ruling No KAR/ADRG 102/2019 dated 30-09-2019 and dismiss the appeal filed by M/s Acharya ShreeMahashramanChaturmasPravasVyavastha Samiti Trust on all counts.


(D.P.NAGENDRAKUMAR)
Member
Karnataka Appellate Authority
for Advance Ruling


(M.S. SRIKAR) 2.3.2020
Member
Karnataka Appellate Authority
for Advance Ruling

To,

The Appellant

Copy to

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