

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU
NO.206, 2ND FLOOR, PAPJM BUILDING , NO.1 , GREAMS ROAD,
CHENNAI -600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER
SECTION 98(4) OF THE TNGST ACT, 2017.**

Members present:

Smt. D. Jayapriya, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt. N. Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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Advance Ruling No. 91 /AAR/2023 Dated: 04.09.2023

- 1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed, is communicated.*
- 2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-*
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.*
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.*
- 3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.*
- 4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.*
- 5. The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act (herein referred to as an Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.*

GSTIN Number, if any / User id		UNREGISTERED
Legal Name of Applicant		M/s. STAY LADIES HOSTEL
Registered Address / Address provided while obtaining user id		7/132, 5&6, Sambiranikuttai Road, Karantham, Coimbatore 641 035
Details of Application		Form GST ARA - 01 Application Sl.No.49/2023/ARA, dated 19.04.2023
Jurisdictional Authority		Center: Coimbatore - 1 A Coimbatore Commissionerate State : Coimbatore Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for-		
A	Category	Service Provider
B	Description (in brief)	Taxability on Hostel accommodation services provided by the applicant to the students/office goers.
Issue/s on which advance ruling required		i. Classification of services/composite services. ii. Applicability of a notification. iii. Whether applicant is required to be registered under the Act.
Question(s) on which advance ruling is required		(1) Whether the hostel and residential accommodation extended by the Applicant hostel would be eligible for exemption under Entry 12 of Exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and under the identical Notification under the TNGST Act, 2017 and also under Entry 13 of Exemption Notification No.9/2017- Integrated Tax-Rate dated 28.06.2017 as amended? (2) Whether the Applicant hostel being eligible for exemption under Sl. No. 12 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 dated 28.06.2017 as amended would at all be required to register under the GST enactments by virtue of the exemption notification as afore mentioned and also under the provisions of Section 23 of the CGST/TNGST Act, 2017? (3) Whether any specific tariff entry is applicable to hostels under the Tariff Notification, in the event of requirement of registration?

	(4) Whether, in the event of the hostel accommodation being an exempt activity, whether the incidental activity of supply of in-house food to the inmates of the hostel would also be exempt being in the nature of a composite exempt supply? (5) Whether the judgement of the Division Bench of the Hon'ble Karnataka High Court in the case of Taghar Vasudeva Ambrish - vs- Appellate Authority for Advance Ruling, Karnataka reported in Manu/KA/0327/2022 is applicable to the facts of the applicant?
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M/s. Stay Ladies Hostel, 7/132, 5&6, Sambiranikuttai Road, Karantham, Coimbatore 641 035 (herein after referred to as 'The Applicant'), is unregistered with GST. The Applicant is running a ladies residential hostel for college students and working people.

2.1. The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2.2. The Applicant submitted that they have taken the premises on rent and they further let it out for college female students and working women as hostel accommodation, as since most of the students and working people travel far and wide from their remote villages. The applicant herein also provides food as part of hostel services at nominal rates. But, the choice is given to the inmates to opt for lodging or for boarding and lodging. The Applicant has its own in-house kitchen facilities with their own staff, to provide homely, tasty and healthy food for the inmates. The total charges collected for boarding/ boarding and lodging ranges between Rs. 40/- per day to Rs. 250/- per day. Thus, the monthly tariff per student or per inmate ranges between Rs. 1,200/- to Rs. 6,500/- per month per inmate. They provide single room occupation, or double room sharing, or dormitory style of accommodation and rates vary accordingly.

2.3. In their interpretation of law/facts in respect of the questions raised, the Applicant submitted that the occupants or the inmates of the residential hostel are either students or working women are not registered persons under the GST Enactments. Thus, in such an event, the exemption that is available under Entry 12 of Exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as also under the TNGST Act, 2017 and also under Entry 13 of Exemption Notification No.9/2017- Integrated Tax-Rate dated 28.06.2017 is applicable on all force to the Applicant herein, irrespective of the threshold limit. They heavily relied on the decision of the Hon'ble Karnataka High Court in the case of Taghar Vasudeva Ambrish -vs- Appellate Authority for Advanced Ruling, Karnataka, wherein the Hon'ble High Court has held the identical question of law in favour of "hostels" and has held that the exemption available in Entry 13 of Exemption Notification No.9/2017- Integrated Tax-Rate dated 28.06.2017 is available to a residential hostel/residential dwelling meant for students or working people.

3. The Applicants were offered personal hearing on 26.07.2023, wherein Smt. Aparna Nandakumar, Advocate (Authorised Representative -AR) appeared for the Applicant and reiterated the submissions made in the application. She also made additional submissions during the personal hearing. She also relied on certain judgments in their favour.

4. The Applicant's jurisdictional State Authority had submitted the motive of the Applicant is to run the ladies hostel against the CONSIDERATION which clearly falls under the ambit of definition of SUPPLY as provided in Section 7 of the TNGST /CGST Act. They also stated that they are rendering services by way of renting of immovable property with a business motive for pecuniary benefit. These services are classified under Heading 9963 (Accommodation, food and beverage services). The services rendered by the applicant clearly falls under Entry No. 7 (ix) of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 viz. Accommodation, food and beverage services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above and the rate of tax to the services are the settled one as per rate notification. From the above analysis of the issue in the hands, rate of tax of 18% is to be levied for the services rendered by the applicant with effect from 01.07.2017 up to 29.09.2019. They also opined that since the definition of Hotel accommodation was broadly expanded in the Notification No. 20/2019 Central Tax (Rate) dated 30.09.2019, wherein all the accommodation services including hostel accommodations services were brought in

to the tax net @ 12% and hence rate of tax for the hostel accommodation services may be taxable @ 12% with effect from 30.09.2019 onwards. The Joint Commissioner (ST), Intelligence, Coimbatore has informed that no proceeding is pending in respect of the applicant.

5. The Applicant's jurisdictional Central Authority has submitted their remarks on the questions raised that Entry 12 of Exemption Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 covering Heading 9963 or Heading 9972 deals with "Service by way of renting of residential dwelling for use as residence". The two conditions of 'residential dwelling' and 'for use of residence' are to be satisfied. However, hostels even though given for residential or lodging purposes are commercial places registered as "commercial establishments" for the purposes of electricity, water, trade licence etc. Therefore, the applicant's hostel cannot be termed as "residential dwelling" and has to be treated as a commercial place only. Further to the second condition of the entry in the notification that the place intended for residential dwellings which are rented out for use as residence. Whereas it is rented out for use as a hostel facility or paying guest accommodation facility and thereby not for use as residence. Hence, the place rented out is neither a residential dwelling nor being rented out for use as residence. Therefore, the applicant is not eligible for the benefit of this entry in the notification. Further, it was opined that in the event of requirement of registration, hostel accommodation service provided by the applicant will fall under Sr. No. 7 (i) under the heading 9963 (Accommodation, food and beverage services) i.e. Supply of 'hotel accommodation' having value of supply of a unit of accommodation less than or equal to seven thousand five hundred rupees per unit per day or equivalent and will attract 12% GST with effect from 18th July, 2022 as per the Principal Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 20/2019 - Central Tax (Rate) dated 30.09.2019 and further amended by Notification No. 03/2022 - Central Tax (Rate) dated 13.07.2022. Further, the Central Authority stated that the questions raised in the application are not pending or has not been decided in any proceedings in the case of the applicant as per the Centre's record.

6. Meanwhile, the Applicant vide their letter dated Nil (received by the registry of the Authority on 30.08.2023) have informed that they intend to withdraw their application for Advance Ruling.

DISCUSSION AND FINDINGS:

7. We take on record the Applicant's letter dated Nil (received by the registry of the Authority on 30.08.2023), wherein they have informed that they intend to withdraw their application for Advance Ruling. The Applicant's request is considered and the application is treated as withdrawn without going into the merits or detailed facts of the case.

In view of the above, we rule as under:

RULING

The ARA Application Sl.No.49/2023/ARA dated 19.04.2023 filed by the Applicant seeking Advance Ruling is dismissed as withdrawn as per the request of the Applicant.


(N. USHA) 4.9.2023
Member (SGST)


(D. JAYAPRIYA) 04/09/2023
Member (CGST)

To
M/s. Stay Ladies Hostel,
7/132, 5&6, Sambiranikuttai Road,
Karantham, Coimbatore 641 035.
Copy submitted to:-

//by SPAD//

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam,
Chennai – 600 034.
2. Principal Secretary & Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Principal Commissioner of GST & C.Ex.
Coimbatore Commissionerate.
6/7, ATD Street, Race Course Road
Coimbatore 641018
2. The Assistant Commissioner (CT), Saravanampatti West,
Coimbatore Division, Commercial Taxes Building,
Dr. Balasundaram Chettiar Road, Coimbatore 641018.
3. Master File / Spare – 1.