



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Additional Commissioner of State Tax (Member)
2. Sri. A. Syam Sundar, Additional Commissioner of Central Tax (Member)

AAR No. 01/AP/GST/2021 dated:11.01.2021

1	Name and address of the applicant	The President, Vijayawada Wholesale Commercial Complex Members Welfare Society, Mahendranagar, Gollapudi, Vijayawada, Krishna-521225.
2	GSTIN	Un-Registered
3	Date of filing of Form GST ARA-01	30.12.2019
4	Hearing (Virtual)	21.12.2020
5	Represented by	CA. A.R.S.Krishnarao CA. MSR Prasad
6	Jurisdictional Authority	Not applicable
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(f) whether applicant is required to be registered; (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

ORDER

(Under sub-section (2) of Section 98 of Central Goods and Services Tax Act, 2017 and sub-section (2) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by The President, Vijayawada



Wholesale Commercial Complex Members Welfare Society, Vijayawada (hereinafter referred to as applicant), who is an unregistered dealer.

The applicant states that Vijayawada Wholesale Commercial Complex Members Welfare Society is an association formed by a group of members for the following purposes such as, purchase of land; division of land into plots of identical sizes and transfer of the said plots to the individual members; monitoring and supervision of construction of shops and transferring them to the members as stipulated by the financing bank; provision of common amenities and facilities to the members who are shop owners for the purpose of enabling them to utilize the shops for their business purposes, etc. The total funds required for the above activities of the Association were provided by its members.

Subsequently Society has provided the following amenities/ facilities to all its members commonly such as, internal roads and their maintenance; electricity with transformer; sanitation and drainage; common lighting; water provision for drinking and usage; and other miscellaneous facilities/amenities. For the provision of the above facilities, each member has to contribute Rs.600/- per floor.

Some of the members who defaulted were removed from the membership. Their shops reverted to the Society by payment of consideration and the Society has rented these shops so owned by it. Part of the assets of the Society consisted of these shops. The Society has given these shops for renting to State Bank of India for utilization of this bank facility by its members. The details of revenue earned by the Society during the FY 2017-18 are

Particulars	Amount (in Rs.)
Maintenance charges collected from members towards provision of common facilities/amenities supra	1,07,37,926/-
Rent/lease amount received from rented shops devolved upon the Society on account of defaulting members	14,16,096/-
Miscellaneous income collected from members towards late payments	26,400/-
TOTAL	1,21,80,422/-



The applicant admitted that the Asst. Commissioner (ST), Bhavanipuram Circle, No. I division, Vijayawada vide notice no. JA.V/2/2019 dated 14.08.2019 has directed the applicant to obtain registration stating that the society is liable to get registered as the services rendered by them to their members is purely commercial activity. The society was issued a notice under the provisions of the Act, to obtain the registration under Section 22(1) of the Act.

Sec 22(1) reads as under:

"Every supplier making a taxable supply of goods or services or both in the State shall be liable to be registered under this Act, if his aggregate turnover in a financial year exceeds twenty lakh rupees: Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees"

Besides, the assessing officer has taken a view that the activities done by the society fit into the definition of business under Section 2(17) (e) of the said Act.

" 2. In this Act, unless the context otherwise requires,--

(17) "business" includes--

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

Thus, upon verification of Income Tax Returns filed by the Society, assessing officer confirmed that they have collected an amount of Rs. 1,21,80,422/- from the members of the society for the financial year 2017-18, crossing the threshold limit.

The total amount so collected during the year 2017-18 is approximated to the period July -2017 to March -2018 (as the Goods Services Tax is implemented w.e.f. 01.07.2017) which amounts to Rs.91,35,317/- on which the society has to pay tax portion of Rs. 16,44,356/- Goods and Service Tax @ 18% (CGST @ 9% + CGST @ 9%). Thus, vide Form GST ASMT-14 dated 25.11.2019 relying on the



provisions of Sec. 2(17) (e) read with section 22(1) of both CGST and APSGST Acts; the said authority directed the applicant to file objections for the proposed levy of taxes.

In this context the applicant approached the AAR seeking clarification for the following questions.

Questions raised before the authority:

- a) Whether under the facts and circumstances of the case, the activities of the applicant can be considered as supply of goods and/or services under the APSGST / CGST Acts?
- b) If not, whether under the facts and circumstances of the case, the applicant is required to obtain registration under the said Acts?

Virtual Hearing:

The authorized representatives of the applicant, CA. A.R.S. Krishna Rao and CA. MSR Prasad, finally appeared for Virtual Hearing on 21.12.2020, after availing two adjournments on their request. Additional submissions on admissibility of the application were submitted by the applicant, which were reiteration of the same.

Discussion and Findings:

We have examined the issues raised in the application and the submissions of the applicant as well. In the context of the remarks submitted by the assessing officer, we examine the admissibility of the application without going into the merits of the case.

It is evident from the application that the applicant approached the Authority for Advance Ruling on an issue which has already been pending with the proper officer.

It bars this authority to take up or admit an application which has been already pending or decided in any proceedings in case of the applicant under any of the provisions of the Act under proviso to section 98(2), which reads as under,



"(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:"

Hence, the applicant's plea for admission of his application for advance ruling in terms of provisions of sub section (2) of section 98 of CGST Act, 2017 is rejected.

Proceedings

In view of the foregoing, the application is not admitted.

Sd/-D. Ramesh
(MEMBER)

Sd/-A. Syam Sundar
(MEMBER)

//t.c.f.b.o//


Deputy Commissioner (ST)
DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

TO

- 1) The President, Vijayawada Wholesale Commercial Complex Members Welfare Society, Mahendranagar, Gollapudi, Vijayawada, Krishna - 521 225 **(By Registered Post)**.

Copy to

1. The Assistant Commissioner of State Tax, Bhavanipuram Circle, Vijayawada-I Division. **(By Registered Post)**

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Godavari, Vijayawada.



2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035 (A.P) **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.



DEPUTY COMMISSIONER (ST)
O.o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

