

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
ROOM NO.207, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD,
CHENNAI-600 006**

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

Members present:

Shri. Balakrishna. S, I.R.S., Additional Commissioner/ Member(CGST), Office of the Commissioner of GST & Central Excise, Audit II Commissionerate, Chennai -600 034.	Shri. B. Suseel Kumar, B.E, MBA., Joint Commissioner/Member(SGST), Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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Advance Ruling No. 16 /ARA/2025 Dated: 07 .05.2025

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai as under Sub-Section (1) of Section 100 of CGST Act / 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.

GSTIN Number, if any / User id		UNREGISTERED
Legal Name of Applicant		M/s. CRIMSON DAWN APARTMENT OWNERS WELFARE ASSOCIATION
Registered Address / Address provided while obtaining user id		SNR College Road, Nava India, Peelamedu, Coimbatore - 641004.
Details of Application		GST ARA – 01 Application Sl. No. 15/2024/ARA, dated 29-07-2024.
Jurisdictional Officer		Centre:
Concerned Officer		Commissionerate: Coimbatore
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Recipient
B	Description (in brief)	<p>(1) M/s. Crimson Dawn Apartment Owners Welfare Association ('the Applicant') is a resident welfare association formed by individual apartment/flat owners is duly registered under the provisions of the Taminadu Societies Registrations Act, 1975. The applicant performs its activities in accordance with its registered by-laws and also as per Tamilnadu Societies Registrations Act.</p> <p>(2) The Association has 120 members and is engaged in providing maintenance and repairs of common areas of apartment complex such as corridors, garden, play area, pathway, clubhouse, swimming pool Gymnasium, electrical equipment etc., by collecting monthly maintenance charges from its members based on the super-built-up area owned by the members, not exceeding Rs. 7500/- per month.</p> <p>(3) The applicant collects sinking fund/corpus fund (which is a capital contribution), in addition to regular subscription for future</p>

		contingencies, either planned or unplanned capital expenses such as painting, repair/replace any major equipment like lifts, generators etc. These funds are managed separately.
Issue/s on which advance ruling required		Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		<p>Query-1: Whether the collection of Corpus fund/sinking fund/capital amounts from residents for the purpose of painting and carrying out some building maintenance work, in the common area of the apartment would be subject to the levy of GST.</p> <p>Query-2: If GST registration is required, can the payment made to our service providers for painting and building maintenance activities, which are intended to be carried out, be offset against the GST payable on the corpus/sinking funds collected?</p> <p>Query-3: Upon obtaining GST registration are we obliged to impose or collect GST on maintenance charges as long as not exceed Rs. 7,500/-?</p>

1.0 At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *pari materia* and have the same provisions in like matters and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2.0 M/s Crimson Dawn Apartment Owners Association (hereinafter '**the Applicant**') has made a debit in their Electronic Cash Ledger with reference Number DC3306240157093 dated 19-06-2024 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. The online application form for advance ruling dated 10th Nov, 2023 was physically received on 09-07-2024 as mandated under Rule 107A.

3.0 STATEMENT OF FACTS AS NARRATED BY THE APPLICANT:

- The Applicant is a residents welfare Association formed by individuals/flat owners and is duly registered under the provisions of the Taminadu Societies Registrations Act, 1975 (TNSRA). Applicant performs its activities in accordance with its registered by-laws and also as per the TNSRA Act.
- The applicant is having 120 members and engaged in providing maintenance & repairs of common areas of the apartments such as the corridors, garden, play area, pathway, clubhouse, swimming pool, gymnasium, electric equipment etc.
- Based on the area occupied by the members, maintenance charges at a specified rate not exceeding Rs.7,500/- per month per apartment towards maintenance charges and this collection is done on quarterly basis.
- The applicant collects 'Corpus fund' or 'Sinking fund' for specific purposes distinct from regular maintenance activities. This fund is intended to cover planned or unforeseen capital expenses in the future such as painting the exterior/common area, repairing/replacing major equipment like lifts and generators. This fund is maintained separately from regular maintenance charges and are designated for their specific purposes as outlined in the apartment's by-laws.
- The total amount expected to be collected from the members is Rs.2,00,00,000/- for the intended purpose as mentioned above. As per the existing practice, the applicant account the collections as a liability in the balance sheet of the books of accounts of the association.
- The applicant is seeking advance ruling in respect of the following.
 - Whether the corpus /Sinking Fund collected from members liable to GST? If charged to GST, what is the rate of GST to be charged on the collection of Sinking fund? What is the SAC Code?
 - If the corpus/Sinking fund collected from members liable to GST, whether the GST paid on such services (input service) be set off against the GST payable on the amounts collected as corpus/sinking funds.
 - Once GST registration is taken, whether required to levy or collect GST on maintenance charges, provided that the monthly sum does not exceed Rs.7,500/-?

4. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW:

- Quoting Section 7 and the definition of 'consideration' given under Section 2(31) the applicant contended that the amount collected is merely capital contributions and thus not forming part of consideration.
- The applicant viewed that these separate contribution to the enhancement of the common area infrastructure of the apartment is not directly tied to the services provided to individual clients and consequently the funds so collected will not be regarded as consideration for supply of service.
- The collection of corpus fund typically utilized for specific purposes, is not classified as an application of funds in same sense as regular operational expenses. Instead, it represents an enhancement of common area infrastructure of the apartment. These are earmarked for a specific projects or investments aimed at bolstering the company's long term viability and growth prospects. So it differs from regular expenditure and is viewed as a strategic allocation aimed at fortifying the business asset portfolio rather than day-to day operational cost.
- Therefore, the amount collected towards Corpus fund/sinking fund is not in the course of furtherance of business.
- It is fact that the corpus fund/sinking fund is mandatory under the bye-laws of the Cooperative societies/Resident Welfare Association and it is in the nature of deposit towards unforeseen events or planned events. Hence, collection in the form of sinking fund/corpus fund or capital contribution should be considered as payment for current/future supply of service.
- In the present scenario, the corpus/sinking fund collected will be applied as and when the requirement arises. The contributions towards corpus fund is not in relation to any rendition of services, rather the funds are maintained for future contingencies.
- At the time of collection, the association is not aware of as to where such funds will be utilized since the same has been collected to cater the future need/contingencies. Hence it does not constitute as consideration for service supply at the time of collection/utilization and are therefore not subjected to GST.

- In common business terms, 'Corpus fund denotes a reserved sum of money designated for a particular purpose or entity and it represent the principal amount or initial investment capital, typically preserved for specified activities. In the context of RWA, the creation of corpus/sinking fund aims to address future needs such as structural repairs or reconstruction projects. Members contribute with the understanding that the RWA will utilize the fund to provide certain services in future.
- Thus the contribution towards the sinking/corpus fund represent an acknowledgement by RWA members that these funds will be utilized to cover expenses related to further service provisions, including common area maintenance and other potential contingencies. Once contributed, these funds remain with the RWA and are not refunded to the members, serving as a resource for future expenses.

5. Comments offered by Additional Commissioner, Coimbatore CGST Commissionerate

- As per Section 7, 'scope of supply' includes the following
 - (i) All forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made;
 - (ii) For a consideration;
 - (iii) By a person;
 - (iv) In the course of furtherance of business.
- As per the definition of 'consideration', 'person', and 'business' contained in Section 2(31), 2(84) and 2(17) respectively, the activity of the applicant would fall within the scope of clause (a) of Section 2(31), clause (f) of Section 2(84) and clause (e) of Section 2(17) of the CGST/TNGST Act, 2017, thus satisfying all the above four conditions contained in the definition 'scope of supply'.
- Hence, for query-1, it is opined that the collection of Corpus/sinking fund/capital amount by the applicant from residents for the purpose of painting and carrying out some building maintenance work in the common area of the apartment is a supply and would be leviable to GST. Further, the activity of the association are covered under 'Services of membership organisation' which are taxable supplies and specific entry is

made against service accounting code (SAC) 9995 and chargeable to 18% vide Notification No. 11/2017-CT(Rate) dated 28-06-2017.

- However, full exemption is provided under Notification No. 12/2017-CT(Rate) dated 28-06-2017 at Sl. No. 77, if the subscription or contribution collected from the members, if the amount does not exceed Rs.5,000/- per month per member, which was subsequently increased to Rs.7,500/- vide amendment Notification No. 02/2018-CT(Rate) dated 25-01-2018.
- The threshold exemption is available to the applicant if the aggregate turnover in a year is upto 20 Lakhs, even if charges per month per member are more than Rs.7,500/-. This was clarified by the Board in circular No. 109/2/2019-GST dated 22-07-2019. Hence, opined that the applicant is liable to take registration & pay GST. Further he is allowed to take Input Tax Credit under Sec. 16(1) of the Act subject to fulfilment of conditions under Section 16, 17 of the Act and under Rule 42, 43 of the CGST Rules.
- The applicant is entitled to take ITC in respect of GST paid on Capital Goods (such as generators, water pump, lawn furniture etc.), goods (such as taps, pipes, other sanitary/hardware fillings etc.) and input services (such as repair and maintenance services).
- Upon taking registration and availment of ITC is allowed, the applicant is obliged to impose or collect GST on entire amount/subscription collected from its members towards corpus/sinking fund as well as regular maintenance charges if it is more than Rs.7,500/- per month per member and the annual turnover is also more than Rs.20 Lakhs.
- Finally, the Additional 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 their records.

6. Comments offered by Joint Commissioner(ST), Intelligence, Coimbatore SGST Commissionerate.

Joint Commissioner(ST), Coimbatore has stated that there is no pending proceedings with them against the taxable person, Tvl. M/s. Crimson Dawn Apartment Owners Welfare Association.

7. Personal Hearing:

The Applicant, was given an opportunity to be heard in person on 27th Mar, 2025. Shri. CA P. Paul Thangam, Senior Partner in M/s. Paul Aravind LLP

Chartered Accountants & Authorised Representative appeared for the personal hearing as scheduled for M/s. Crimson Dawn Apartment Owners' Welfare Association. AR reiterated the submissions made in their original application. AR stated that the applicant is registered under the provisions of the Tamilnadu Societies Regulation Act, 1975 and performs activities as per the by-laws. The members asked AR, copy of by-laws or resolution copy or any other documents available collection, maintenance of corpus fund, its nature & purpose, expenditure to be incurred. In addition, members requested to furnish copies of receipts and balance sheets for three years to see how the corpus fund is accounted. The applicant vide e-mail dated 11-04-2025 has submitted the documents called for during the personal hearing.

8. DISCUSSION AND FINDINGS:

8.1 We have carefully considered the submissions made by the applicant in the advance ruling application and also the submissions made during the personal hearing.

8.2 The issue involved in the first question is, *as whether collection of corpus fund/sinking fund/capital amounts from the residents for the purpose of painting and carrying out some building maintenance work in the common area of the apartment would be subject to the levy of GST.*

8.3 Sl. No. 77 of Notification No. 12/2017-CT (Rate) dated 28-06-2017 exempts intra-state supply of "Services by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution-(c) up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex" and charged at NIL rate of tax. The amount specified was increased to Rupees Seven Thousand Five Hundred vide amendment Notification No.2/2018-CT (Rate) dated 25-01-2018.

8.4 Various issues related to monthly subscription and contribution charges by a Resident Welfare Association (RWA) from its members have been clarified by TRU's Circular No.109/28/2019-GST (F. No. 332/04/2017-TRU) dated 02-07-2019.

8.5 However on the clarification sought by the applicant, they have stated that corpus/sinking fund is collected from the members to address future capital expenditure, whether planned or unplanned, for specific

purpose and are managed separately from regular maintenance activities such as painting, carrying out some building maintenance work in the common area of the apartment etc., and as an existing practice, this collection is accounted as liability in the balance sheet of the association books of accounts. They further contended that the amount collected towards corpus/sinking fund is a capital contribution and hence is not a part of day-to-day regular activities of the RWA and thus it is not in the course of furtherance of business. This clarification by the board on the exemption provided in Notification No.12/2017-CT (Rate) dated 28-06-2017 as amended by Notification No.2/2018-CT (Rate) dated 25-01-2018 is very specific only on the monthly contribution of the each member to the association.

8.6 Primarily, the activity of a Resident Welfare Association includes all the activities provided to its members within a society. A society is akin to a club which is composed of its members. Therefore, service provided by a housing society to its members shall be treated as service provided by one person to another.

8.7 As per Section 7 of the Act, "supply" includes-

"All forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course of furtherance of business"

8.8 The definition of "person" in Section 2(84) of the Act specifically include,

- (i) *A cooperative society registered under the Societies Registration Act, 1860 (21 of 1860)*

8.9 The applicant has stated in their application with regard to facts that they are registered under the provisions of the Tamilnadu Societies Registration Act, 1975 and hence fall within the definition of 'person'.

8.10 The definition of "consideration" is required to be analysed to establish that the activity rendered by the applicant is a service. Section 2(31) of the Act defines 'consideration' as,

(31) *"consideration" in relation to the supply of goods or services or both includes-*

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

8.11 As per the above definition, any collection in any form, from the members is a consideration and the activity done by the applicant is in the nature of 'supply of service'.

9. The next question is whether the activity of the society can be said to be in the course of furtherance of business. As per the definition of 'business' defined under Section 2(17) of the Act.

"business includes-

(a) Any trade, commerce, manufacture, profession, vocation,

(b) any activity of transaction with or incidental or

(c) any activity or transaction in the nature of sub-clause (a)

(d) supply of acquisition of goods including capital goods and services.....

(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;

(f)

(g) ...

(h)

(i)

10. The applicant has stated that the amount collected as corpus/sinking fund is for specific purposes, apart from regular maintenance, like painting exterior/common area, repairing/replacing major equipment such as lift, generators etc. It could be seen that all the above activities by the applicant is the service provided to its members, not immediately, but at a later date as and when contingencies arises which may be planned or unplanned. Generally, a sinking fund/corpus fund/capital fund is constituted in a Resident Welfare Association to meet the future contingencies and expenses, which serves as a backup fund for supply of specific services to its members. A member of the association will only contribute to the sinking/corpus fund with an agreed condition that the association will

provide some specific services as and when required out of the fund. We find from the copy of 'Minutes of the meeting' submitted by the applicant, the Secretary of the association proposed to the members of the association, the amount to be collected from residents and the timeline for collecting sinking fund' towards repair work that are considered critical and needs immediate attention'. He further explained in detail about the various activities proposed to be undertaken such as painting, building maintenance etc., and listed the activities for an amount of Rs.2,07,96,931/-. Then the association unanimously passed resolution that "an amount of Rs. 2,00,000/- per apartment be collected from the residents as sinking fund contribution for carrying out the painting and other identified building related works/activities and the said amount be collected in 4 installments on or before 31st May, 2024". Thus, the amount collected by the applicant from its members towards sinking fund is only meant for meeting expenses for future supply of services and therefore such contribution cannot qualify as 'deposit'.

11. Proviso to the definition of 'consideration' states that deposit given for supply of goods or services shall not be considered as payment for the supply of goods or services unless the supplier appropriates such deposit as consideration for the said supply. The term 'deposit' in normal parlance, is 'an amount being held in any bank account, especially to earn and accumulate interest'. In most of the case, the amount collected as security deposit is kept as a security for providing supply of goods or services. Further, any amount which is returned back to the person who have made payment is termed as 'security deposit'.

12. As the amount collected now is being used to render service to its members in future, it shall be rightly termed as 'Advance' towards the provision of service to be rendered in future. Therefore, the consideration received by the applicant from its members for the 'supply of service', agreed to be made' is liable to tax. The amount collected by the association is otherwise treated as 'Advance', since the amount is utilized for providing service to its members at a later date is similar to the analogy adopted under the service tax regime on the advance received for the service to be provided later. Hence, we hold that the amount collected by the applicant from its members for setting up a sinking fund is an advance payment towards future supply of services and such payment comes under the definition of 'consideration' under clause (31) of Section 2 of the GST Act. The applicant is, therefore, liable to pay tax on such supply in terms of sub-section (2) of Section 13 of the GST Act.

13. Thus, all the conditions for an activity fell under the 'scope of supply' is satisfied, the collection of 'corpus fund/sinking fund/ capital fund' by the applicant from the residents for the purpose of painting and carrying out some building maintenance work, in the common area of the apartment is a supply and hence would be chargeable to GST. The activity of the housing society would thus attract the levy of GST and the housing society would be required to register under Section 22 of the Act, if the turnover of the housing society exceeds 20 Lakhs and comply with the GST law. However, an exemption is provided at Sl. No. 77, vide Notification No. 12/2017-CT (Rate) dated 28-06-2017 up to an amount of Rs. 7,500/- per month per member for sourcing of goods and services from a third person for the common use of the members in a housing society or a residential complex. If the monthly contribution received from the members is less than Rs. 7,500/-, no GST is to be charged by the housing society on the monthly bill raised by them. TRU vide Circular No.109/28/2019-GST (F. No. 332/04/2017-TRU) dated 22-07-2019 has given an extensive clarification on all possible questions arise on this issue. However, this clarification is applicable only to the monthly subscription collected from the members in Resident Welfare Association. As long as the monthly subscription per member is less than Rs.7,500/-, GST is not liable to be paid as per the above Notification.

14. Section 16 of the Act, allows the claim of ITC subject to the conditions and limitations as may be prescribed in the rules. Section 17(2) of the Act reads as under,

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

15. The applicant is providing partly taxable (liable to pay GST on the corpus/sinking/capital fund) and partly exempted supply of service (Nil rate of Tax for subscription per month per member is less than Rs.7,500/-). Therefore, the applicant is liable to restrict the claim of input tax credit to the extent of exempt turnover as per Rule 42 of the GST Rules.

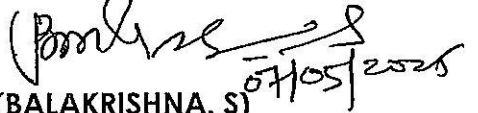
16. Based on the above discussion, we rule as under.

RULING

- (i) The amount of corpus/sinking/capital fund collected from the residents for the purpose of painting and carrying out some building maintenance work in the common area of the apartment is subjected to CGST and SGST and applicable tax need to be paid.
- (ii) As the applicant liable to pay GST on the collection of corpus/sinking/capital fund, they can utilize the ITC availed towards their outward liability subject to following the provisions of Section 17(2) of the Act and Rule 42 of the Rules.
- (iii) In terms of Sl. No. 77 of Notification No. 12/2017-CT(Rate) dated 28-06-2017, read with Circular No.109/28/2019-GST (F. No. 332/04/2017-TRU) dated 22nd Jul, 2019, if the subscription/contribution per month per member is less than Rs.7,500/-, no GST is liable to be charged and collected from the members.


(B. SUSEEL KUMAR)
Member (SGST)




(BALAKRISHNA. S)
Member (CGST)

To

M/s. CRIMSON DAWN APARTMENT OWNERS WELFARE ASSOCIATION
SNR College Road,
Nava India, Peelamedu,
Coimbatore - 641004

//by RPAD//

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600 034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.
3. The Commissioner of GST & Central Excise,
Coimbatore Commissionerate.

Copy to:

1. The Assistant Commissioner (ST),
Peelamedu North Assessment Circle,
Coimbatore - 641 018.
2. Master File/ Spare – 2.