
	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR – 302005 (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2022-23/02

Vikas Kumar Jeph Additional Commissioner	: Member (Central Tax)
M. S. Kavia Additional Commissioner	: Member (State Tax)
Name and address of the applicant	M/s Gurkripa Career Education Private : Limited, Plot No. 60, Jyoti Nagar, Samrathpura, Piprali Road, Sikar-332001, Rajasthan
GSTIN of the applicant	08AAHCG0218N1ZI
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	(b)Applicability of a notification issued under the provisions of this act; : (e)Determination of liability to pay tax on any goods or services or both;
Date of Personal Hearing	: 29.03.2022
Present for the applicant	: Shuchi Sethi, C.A. (Authorised Representatives)
Date of Ruling	: 19.05.2022

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

At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s Gurkripa Career Education Private Limited, Plot No. 60, Jyoti Nagar, Samrathpura, Piprali Road, Sikar-332001, Rajasthan (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (b)& (e) given as under: -

- (b)Applicability of a notification issued under the provisions of this act;
- (e) Determination of liability to pay tax on any services;

Further, the applicant being a registered person (GSTIN is 08AAHCG0218N1ZI as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

A. SUBMISSION OF THE APPLICANT:(in brief)

- M/s Gurkripa Career Education Private Limited (hereinafter referred to as "applicant") a private limited company bearing GSTIN 08AAHCG0218N1ZI in the state of Rajasthan, is engaged in imparting commercial coaching service in the field of science stream to the students inspiring to clear medical and engineering entrance examinations like NEET, JEE etc. and provides the best facilities to the students in terms of video lectures, Digital learning, online mock tests etc.
- That the applicant intends to provide hostel facility not only to the students who are enrolled with applicant for coaching service but also to the students of nearby schools/educational institutions.
- The service of hostel is optional and not coming out from the package and separate consideration is charged for providing such hostel facility to the students. It can be evident from the fees receipt of the applicant given to the students at time of enrollment for course that hostel fees are not part of package.
- The applicant intends to provides basic residential facilities which include well-maintained furnish residence, Light, water, food etc., and in consideration hostel intends to charge a nominal lump-sum fee of Rs. 1,02,000/- per year per student i.e., Rs. 279/- (Approx.) per day. Further students are also not allowed for stay of parents or friends in their rooms.

APPLICANT'S INTERPRETATION

Legal Provisions and Interpretation in light of Facts of the Case

- The charging section for GST i.e., Section 9 of the Central Goods and Services Tax Act 2017 provides as under

9. (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.
- Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended has been issued by Central Government to exempt the intra-State supply of services as specified in the said Notification from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act and respective notifications have been issued under Rajasthan GST and IGST Acts.
- Understanding about the services intend to be rendered by the applicant:
 - From the above-mentioned facts, it is clear that the applicant intends to provide hostel facility to the enrolled students with the institute/

other than enrolled students on their demand after charging additional fees from students.

- That the hostel facility provided by the applicant to students is optional facility. Further, the hostel fees are not included in the training/coaching fees collected from the students. In fact, the hostel fees are not a part of any package of commercial training and coaching services rendered by the applicant.
- That the separate consideration is charged for providing hostel facility to the students. The hostel provides basic residential facilities which include well-maintained residence, Light, water, etc.
- That the hotel charged a lump sum consideration for all the services amount of Rs. 1,02,000/- per year per student i.e., Rs. 279/- (Approx.) per day.
- The contention of the applicant is that the above services to be treated as composite supply as defined under section 2(30) of the CGST Act. Following provisions of CGST Act should be discussed hereunder.

- For such supplies CGST Act specifically provides as under:-

- Section-2(30) **“composite supply”** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration - Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

- Section-2(90) **“principal supply”** means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;
- Section 2(74) **“mixed supply”** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration - A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

- **SECTION 8. Tax liability on composite and mixed supplies —**

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely—

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) 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.

- From the above provisions it can be concluded that:

when two or more taxable supplies either of goods or services or both occurs, it may be treated as mixed or composite supply.

When two or more supplies occurs against a rate of tax, then it is termed as 'mixed supply'.

- Whereas following conditions are fulfilled, supplies of goods and services is termed as composite supply:
 1. Two or more taxable supplies of goods or services or both, or any combination thereof,
 2. Supplies are naturally bundled,
 3. Supplied in conjunction with each other in the ordinary course of business,
 4. One of which is a **PRINCIPAL SUPPLY**
- With regards to the above provisions and the nature of service as explained by the applicant, it is clear that applicant is providing hostel facility to the students with various facilities like food supply, light, water etc. All the facilities are only for the occupants of the hostels. Further since in this supply, all the supplies are made as a package with the accommodation service being the principal supply, the entire supply would be treated as a composite supply of accommodation service as per section 8 of the CGST Act, 2017.
- In this regards it is submitted that primarily the students approach the Hostel facility providers for having accommodation facility and the allied facilities acts as a incentive to choose the given hostel. Here in the applicant case, no other charges are being collected from the occupants for the allied services being provided and single consideration is charged from the students against the facility of accommodation. Therefore, hostel service provided by the applicant is to be treated as "Composite Supply" as defined under Section 2(30) of the CGST Act.
- That the applicant is of the understanding that services of hostel facility to the student wherein consideration charged from student much less than Rs. 1000/- per day per student, is covered by the exemption as Notified in Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended time to time by the entry No. 14 of the said notification.
- The Government in the interest of public at large, exempt the specific establishments who are providing the low-cost residence vide entry no. 14 of Notification No 12/2017-Central Tax (Rate), dated 28th June, 2017. The Notification prescribes that the "Services by a hotel, inn, guest house, club

or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent” is exempted from GST.

- The relevant extract of the said notification is reproduced hereunder:

S No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.	NIL	NIL

- That to qualify for the above-mentioned exemption the supplier of services must provide the service by way of hotel, inn, guest house, club or campsite, by whatever name called.
- To qualify for this exemption, the main question is that whether the **“Hostel”** will be covered under the hotel, inn guest house, club or campsite or not. In this regard the term “Hostel” or the terms hotel, inn, guest house, club or campsite is neither defined in any of GST Acts, nor under the exemption Notification. Therefore, we are borrowing the definition from various dictionary for these terms.

Meaning of Hostel

As per Merriam Webster, Hostel means “an inexpensive lodging facility for usually young travelers that typically has dormitory-style sleeping arrangements and sometimes offers meals and planned activities.”

As per Cambridge Dictionary Hostel means “a large house where people can stay free or cheaply or a place where people, especially young people, can stay cheaply for short periods when they are traveling, with shared rooms and sometimes some private rooms

As per Collins Dictionary “A hostel is a large house where people can stay cheaply for a short period of time. Hostels are usually owned by local government authorities or charities.”

As per Oxford Learner Hostel is “a building that provides meals and a cheap place to stay to students, workers, or travelers”

In Common Parlance: A hostel is an establishment which provide inexpensive food and lodging for a specific group of people, such as students, workers, or travellers. The word Hostel can also be used as synonyms of Cheap Hostel, Youth Hostel, bed and breakfast, boarding house, guest house etc.

Form the above definitions it can be perceived that the hostel is meant for residential and lodging purpose or can also be interpreted as guest house, inn for the purpose of staying with amnesties.

Meaning of Hotel

As per Oxford Learners Hotel means “a building where people stay, usually for a short time, paying for their rooms and meals.”

As per Cambridge dictionary Hotel means “a building where you pay to have a room to sleep in, and where you can sometimes eat meals.”

Meaning of Club

As per Oxford Learners Club means “an organization for people who share an interest or do a sport or activity together.”

As per Cambridge dictionary Club means “an organization of people with a common purpose or interest, who meet regularly and take part in shared activities”

Meaning of Guest House

As per Oxford Learners Guest House means “a small hotel”

As per Cambridge dictionary Guest House means “a small house near a larger one, where guests who are invited to the larger house can stay”

Meaning of INN

As per Wikipedia “INNs are generally establishments or buildings where travelers can seek lodging, and usually, food and drink.”

In general parlance, INNs are an inexpensive lodging facility for usually has dormitory-style sleeping arrangements and planned activities.

- Therefore, in view of the above learned and widely definitions, it can be concluded that the **Hostel** can also be interpreted as INN, club, guest house, hotel where people stay and paying for their rooms and meals and other allied services.
- That the Government in his wisdom, while issuing the Exemption Notification has specifically used the term “by whatever name called”, which takes the wide coverage so as to include even other related terms/places which is working as lodge/hotel/inn.

- In other words, the exemption notification is even applicable to other service provider who actually providing the services of giving the space on rent for residence and not falling under the definition/scope of hotel, inn, guest house club or campsite' as the Notification specifies the term '**by whatever name called**' which implies that even other related services providers will be exempted even though the same is not known to be hotels, inn etc.
- Therefore, in view of the above definitions and contentions stated above applicant is of opinion that, exemption is not only for Hotel, INN, guest house, Club or Campsite, but it also includes the places under the term 'by whatever name called' i.e., such as '**Hostel**' which is provided to the students for residential or lodging purpose only, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.
- Since, the hostel is Rs 102000/- per year per student, therefore, per day charges will approximately be Rs 279/- per day i.e., below Rs 1000/- per day. Thus, service provided by Applicant by way of hostel facility to the students are squarely covered under the above-mentioned chapter heading which is subject to nil rate of tax.
- In support of the above contention, the applicant wants to quote the **Circular No. 32/06/2018-GST, dated 12-2-2018 issued by CBIC.** Relevant extract is as under:

S. NO	Issue	Clarification
1	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of Notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No.12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers]

- As per circular No, 32/06/2018-GST, dated 12-02-2018 issued by Ministry of Finance (Department of Revenue), Govt. of India, services by a hostel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation

below one thousand rupees per day or equivalent are exempt. It has further been clarified that accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [S. No 14 of notification No12/2017 -C.T. (Rate)]

- From the above said clarification, it is clear that CBEC has considered both Hostel and Hotel are one and the same, Accordingly, concluded that the exemption under Sr. No. 14 of the Notification No 12/2017-C. T. (Rate) dated 28.06.2017 is also available on Hostel facility provided to the students.
- That this exemption was also available under erstwhile Service tax vide Sr No 18 of Notification No 25/2012 -ST dated 20.06.2012 i.e., "Services by hotel, inn, guest house, club, campsite by whatever name called, for residential or lodging purpose, having declared tariff of a unit of accommodation below rupees one thousand per day or equivalent".
- The above similar view has been confirmed by Authority for Advance Rulings of Maharashtra in case of **M/s Ghodawat Eduserve LLP (Order No GST-ARA-72/2019-20/B-51 dated 27.08.2021)** where the applicant in exactly similar background and in relation to the same service, asked the following questions:

Question 1. Whether the activity of providing the hostel on the rent to various students by applicant is exempt (where hostel fees charged per student per day is much less than Rs. 1000/-)?

Question 2. If it is exempt it shall be claimed as exempted under Serial Number 12 or Serial Number 14 of Notification No 12/2017-Central Tax (Rate) (as amended time to time) dated 28.06.2017.

Relevant extract of the ruling is reproduced hereunder for the reference:

*"5.14 From the scrutiny of above exemption entry no. 14, we find that the description of service is user based, meaning that, **if the accommodation is used for residential or lodging purpose then it is immaterial who the user is.** The said entry mentions "Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes". The word 'hostel' not being specifically mentioned implies that the same would be covered under the term 'Whatever name called'. The services provided by such hostel, for residential and lodging purposes would be covered by the scope of notification entry where the declared tariff of a unit of an accommodation is below one thousand rupees per day. **Therefore, the scope of the entry is restricted to use of the accommodation unit for residential and lodging purpose only.***

*5.15 The contention of Jurisdictional Officer, stating that the subject activity is taxable is not acceptable. **The applicant is providing hostel on the rent to various students where fees charged per student per day per room is much less than Rs. 1000/- per day per person. Therefore, considering the provisions of Notification Entry No. 14,***

and clarification given by CBIC in circular No. 32/06/2018-GST dated 12th February 2018, it is held that, the applicant's activity is satisfying the conditions of Entry Sr.no. 14 of said Notification and hence would be exempt from taxes.

5.16 It is pertinent to mention at this juncture that, the applicant in both the oral and written submissions has stated that the hostel stay for the students is optional. Further, the applicant has also mentioned that the stay in hostel being optional to the students, the hostel fees are not included in the training/coaching fees collected from the students. In fact, the hostel fees are not a part of any package concerning commercial training and coaching services rendered by the applicant. The decision is being made in this order taking into consideration the said submissions made by the applicant.

For reasons as discussed in the body of the order, the questions are answered as under: —

Question 1. Whether the activity of providing the hostel on the rent to various students by applicant is exempt (where hostel fees charged per student per day is much less than Rs. 1000/-)?

Answer: - Answered in Affirmative.

Question 2. If is it exempt it shall be claimed as exempted under Serial Number 12 or Serial Number 14 of

Notification No 12/2017-Central Tax (Rate) (as amended time to time) dated 28.06.2017.

Answer: - The present activity of the applicant is exempted under Serial Number 14 of Notification No. 12/2017-C.T. (Rate) dated 28.06.2017 (as amended time to time).

- Now, with reference to certain judicial pronouncements, applicant would like to further assess this applicability in support of our say as follows:

(a) GST AAR Chhattisgarh in case of Kamal Kishore Agarwal Ramnath Bhimsen Charitable Trust (Order No STC/AAR/11/2018 dated 2nd March 2019)

In this Advance Ruling authority pronounced that:

“The activity of providing accommodation services by the applicant in their hostel for which the applicant is collecting an amount below the threshold limit of Rs. 1000/- per day and no other charges are being collected for providing other allied facilities / services therein viz, canteen food, parking space for vehicles, coaching, library, entertainment etc. merits exemption as stipulated under Notification No. 12/2017-State Tax (Rate) No. F-10-43120t7/CT/V(80), Naya Raipur, Dated 28.06.2017 under Serial No. 14, Chapter 9963. This amount received for such supply by the applicant falling under tariff heading 9963 qualifies being treated as nil rate tax exempted supply.”

(b) **GST AAR Maharashtra in case of Students Welfare Association (Order No GST-ARA-55/2018-19/B- 170 dated 29.12.2018)**

“Wherein AAR responded affirmatively to following question raised by Applicant. -

Q. Whether the supply of residential or lodging services@Rs.22,250/- per annum covered by Sr. No.14 of Notification No 12/2017 - CT(Rate)”.

Relevant extract of the ruling is reproduced hereunder:

“Question-2 Whether different treatment would be required for use of hostel rooms given by us for residential purposes but ultimately been used by the hirer for commercial use.

Answer: The clarification issued vide Circular No. 32/06/2018-GST dated 12thFebruary2018, we find that the distinction between services by a hotel, inn guest house club or composite, by whatever name called, for residential or lodging purposes and Hostel accommodation service is done away. In the present case applicant submits that during the vacation period hostel is offered for residential purpose and hired for labourers of a commercial organization.

We may now refer to entry Sr. No. 14 of the Notification no. 12/2017 to ascertain whether different treatment would be required for use of hostel rooms given for residential purposes and commercial purposes.

Sr. No. 14

S No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.	NIL	NIL

From the scrutiny of above exemption entry, we find that the description of service is use based, meaning that if the accommodation is used for residential or lodging purpose then it is immaterial who the user is. The services provided by such hostel, for residential and lodging purposes would be covered by the scope of notification entry where the declared tariff of a unit of an accommodation is below one thousand rupees per day. Therefore,

the scope of the entry is restricted to use of the accommodation unit for residential and lodging purpose."

- It is also pertinent here to discuss the Advance Ruling pronounce in the matter of **IN RE: SRISAI LUXURIOUS STAY LLP 2020 (36) G.S.T.L. 462 (A.A.R GST Kar.)** in this respect. The facts of the Ruling are as under:

The applicant in said ruling was providing following services along with lodging service in hostel

- Meals which includes breakfast, lunch and dinner
- Fully furnished rooms
- Round the clock security guards at the premises
- Housekeeping facilities
- Washing Machine facilities
- Television in each room
- Internet facilities (WIFI available)
- Vehicle parking facilities

The above facilities were part and parcel of the services provided for which single price was charged from the service recipients.

The advance Ruling authority pronounced its ruling in respect of the facilities included in the package of services with lodging service as under:

"7.6 The issue to be seen is what is the proposed tariff of the applicant. The details provided by the applicant shows that he is providing in addition to accommodation services, other facilities and charging a consolidated amount, including for all the mentioned facilities. The monthly rent charged is Rs. 12,500-00 at maximum and the daily tariff would amount to Rs.416-00, which is less than Rs. 1000-00 per day. Further, even when given on daily basis, it is seen that the maximum amount charged is Rs.500-00 per day which is below Rs. 1000-00 per day. Hence the tariff amount per unit of accommodation is less than Rs. 1000-00 per day. Hence the services provided is where the tariff is below Rs. 1,000-00 per day or equivalent.

7.7 Further, the Entry No. 14 of Notification No. 12/2017-Central Tax (Rate) Is analysed and it says all services of SAC 9963 provided by such a supplier having a declared tariff of less than Rs. 1000-00 per day or equivalent would be exempt. Further since in this supply, all the supplies are made as a package with the accommodation service being the principal supply, the entire supply would be treated as a composite supply of accommodation service as per Section 8 of the CGST Act, 2017. Hence, the proposed supply of services in question by the applicant would not be liable to tax as per Entry No. 14 of the Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 as amended from time to time."

- In view of the above rulings, it is clear that, CBEC has considered both hostel and hotel are one and the same and accordingly concluded

that the exemption under Sr. No. 14 of Notification No. 1272017-C. T. (Rate) dated 28.06.2017 is also available to hostels in view of CBEC Circular No.32/06/2018-GST dated 12th February, 2018.

- It is also pertinent to mention at this juncture that, the hostel facility provided by the applicant to students is optional. Further, the hostel fees are not included in the training/coaching fees collected from the students. In fact, the hostel fees are not a part of any package of commercial training and coaching services rendered by the applicant.
- That from the above, it is clear that applicant is providing hostel on the rent to various students where fees charged per students per day per room is much less than Rs. 1000/- per day per person. Therefore, considering the provisions of Notification No 12/2017-CT(Rate) dated 28.06.2017 Entry No. 14, and the clarification given by CBIC in circular No. 32/06/2018 dated 12th February 2018, applicant is of opinion that, his activity of providing hostel facility is satisfying the conditions of Entry Sr.no. 14 of said Notification and hence would be exempt from taxes.

B. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

- A. Whether the activity of providing the hostel facility on the rent to various students by applicant is exempt (where hostel fees charged per student per day is much less than Rs.1000/-)?
- B. If it is exempt, under which entry of Notification No.12/2017-Central Tax (Rate) (as amended time to time) dated 28.06.2017, it is covered?

C. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 29.03.2022 at NCRB, Statue Circle, Jaipur. Miss Shuchi Sethi, CA (Authorised Representatives) of applicant appeared for PH. During the PH, they reiterated the submissions already made in the application. She submitted additional submissions dated 12.04.2022 to take on record in the matter.

D. COMMENTS OF THE JURISDICTIONAL OFFICER

The jurisdictional officer (Dy. commissioner, State Tax, Circle-B, Sikar, Rajasthan) has submitted his comments vide letter dated 11.01.2021 which can be summarized as under:

- M/s Gurkripa Career Education Private Limited (GSTIN 08AAHCG0218N1ZI) is running foundation/pre foundation course for the student of class 6th to 12th.
- M/s Gurkripa Career Education Private Limited (GSTIN 08AAHCG0218N1ZI) is accepting coaching fees through cash, cheque and online medium. The firm is having bank account in *M/s Bandhan Bank, Sikar* bearing no. 101700004419605.
- *No hostel is being conducted by M/s Gurkripa Career Education Private Limited (GSTIN 08AAHCG0218N1ZI).*

- There are 13 hostels running under the name of M/s Gurkripa Career Education Hostel. Hostel fees is Rs. 8000/- per month per head. Main component is residence and in other components there are mess facilities for students.
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E. FINDINGS, ANALYSIS & CONCLUSION:

1. We have perused the records on file and gone through the facts of the case and the submissions made by the applicant as well as the department. On the basis of submission made, we are of the view that the applicant i.e Gurkripa Career Education Private Limited (GSTIN 08AAHCG0218N1ZI) is engaged in imparting commercial coaching service in the field of science stream to the students inspiring to clear medical and engineering entrance examinations like NEET, JEE etc. and intends to provide hostel facility not only to the students who are enrolled with the applicant for coaching service but also to the students of nearby schools/educational institutions.
2. Based on the submission made by the jurisdictional officer, we observe that Applicant is running hostel in the name of 'M/s Gurkripa Career Education Hostel' for residential facilities. A separate consideration is charged for providing such hostel facility to the students and hostel fees are not part of package of commercial coaching service.
3. The applicant in their written submission stated that they wish to charge a consolidated amount of Rs. 1,02,000/- per year i.e., Rs. 279/- (Approx.) per day per student against provision of hostel residential facilities which include well-maintained residence, Light, water, etc.
4. Further, the applicant in their written submission stated that Exemption is available for their services under Sr. No. 14 of Notification No. 12/2017-Central Tax (Rate) as amended, for Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below one thousand rupees per day or equivalent.
5. In compliance with the information/ document asked by the Authority, the applicant vide additional submission dated 12.04.2022 stated that:
 - they have no rent agreement of Hostel as location and premises has not been finalized.
 - As no location is final therefore, there is no License obtained from the Local Authority.
 - since the entity has not reached in operational stage yet, no material like brochure has been prepared by the applicant till date.
 - Hostel facilities depending upon the choice of student which will include Single Occupancy, Double Occupancy and Triple Occupancy.
6. The question before the authority is that whether activity of providing the hostel facility on the rent to various students by applicant is exempt (where hostel fees charged per student per day is much less than Rs.1000/-) under Notification No.12/2017-Central Tax (Rate) (as amended time to time) dated 28.06.2017 or otherwise.
7. Before we delve deep to decide the case, it would be proper in the fitment of justice to discuss the relevant provisions of the statute which are as under-

- 7.1 First, the provision of hostel accommodation alongwith ancillary facilities falls under 'Supply' as defined under Section 7 of the GST Act, 2017 which is as under-

(1) For the purposes of this Act, the expression “supply” includes— (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

As the applicant is supplying accommodation services along with some ancillary services like Light, water, food etc for a consideration of Rs. 1,02,000/- per year i.e., Rs. 279/- (Approx.) per day per student in course of business, the activity falls under the definition of supply.

- 7.2 Concept of 'composite supply' under Section 2(30) of GST Act, 2017 defines 'composite supply' as under:

*"composite supply" means a supply made by a taxable person to a recipient consisting of **two or more taxable supplies** of goods or services or both, or any combination thereof, which are **naturally bundled and supplied in conjunction with each other** in the **ordinary course of business**, one of which is a **principal supply**;*

In view of above, we find that essential components of a composite supply are as under-

- two or more taxable supplies;
- services should be naturally bundled;
- supplied in ordinary course of business;
- one of the supply out of whole should be a principal supply.

- 7.3 Mixed Supply has been defined in Section 2(74) of GST Act, 2017 as below-

(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

Further, tax liability on a mixed supply shall be determined as defined in Section 8 (b) of GST Act, 2017 which is as below-

“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.”

- 7.4 the relevant portion of Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, are as below-

ANNEXURE to 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
76	Group 99632		Other accommodation services
77		996321	Room or unit accommodation services for students in student residences
78		996322	Room or unit accommodation services provided by Hostels, Camps, Paying Guest and the like
79		996329	Other room or unit accommodation services nowhere else classified

Notification No. 12/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.	Nil	Nil

7.5 The relevant portion of the CBIC Circular No. 32/06/2018-GST dated 12thFebruary, 2018. is as below-


Sl. No.	Issue	Clarification
1	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers]

8. In view of aforesaid legal provisions, in order to examine the applicability of exemption/ taxability, there should be documentary evidences which support the contention of the applicant. In the instant case, documentary evidence like rent/lease agreement of the premises and License from the Local authority in respect of Hostel are keenly required. Further, Brochure mentioning thereunder the facilities / services which to be provided to the occupants of the said Hostel and Break up of fees to be charged from the occupants is also required to decide whether it is accommodation & lodging service or otherwise. Moreover, we find that the services to be supplied in the present case are more than two but in the absence of Brochure of Hostel facilities, Break-up of fees in respect of facilities/services to be provided, License from the Local Authority, Details of rooms occupancy and Rent/ lease Agreement etc; we are not in the position to decide whether the accommodation services alongwith allied services like service of Light, water, food etc. are only to be provided by Hostel or other services will be there. In the absence of above required documents/information, we are not in position to decide whether the said supply is mixed or composite supply. Thus, we are of the view that in absence of supporting documentary evidence in support of services to be provided by the applicant, how it can classify in HSN provided in the CGST Act, 2017 and thus there is no question to discuss the exemption under Sr. No. 14 of the of the Notification No. 12/2017-CT(Rate) dated 28.06.2017. Thus, with the limited material fact submitted by the applicant, with no Brochure of Hostel facilities, Break-up of fees in respect of facilities/services to be provided, License from the Local Authority and Rent Agreement etc.' we find it prudent to refrain from pronouncing a Ruling. Therefore, no ruling is extended on the clarifications sought by applicant.


9. In view of the foregoing, we rule as follows: -

RULING

No ruling is extended for the reasons stated in para 8 above.


(Vikas Kumar Jeph)
MEMBER
CENTRAL TAX




(M. S. Kavia)
MEMBER
STATE TAX

SPEED POST

O/C

M/s Gurkripa Career Education Private Limited,
Plot No. 60, Jyoti Nagar, Samrathpura,
Piprali Road, Sikar-332001, Rajasthan.

F. No. AAR/GCEPL/2022-23/ 67-71

Date: 19/11/2022

Copy to: -

1. The Chief Commissioner, CGST and central Excise, (Jaipur Zone), NCRB, Statue Circle, Jaipur, Rajasthan 302005
2. The Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
3. The Commissioner, CGST and Central Excise Commissionerate Alwar, Rajasthan.
4. The Deputy/Assistant Commissioner, Jaipur-I, Sikar-B-I, SGST, Sikar, Rajasthan.