

 सत्यमेव जयते	RAJASTHAN APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN) Email : aaarjpr@gmail.com	
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Proceedings under Section 101 of the Central GST Act, 2017 read with Rajasthan GST Act, 2017

Before the Bench of

1. Sh. Pramod Kumar Singh, Member (Central Tax)
2. Sh. Ravi Jain, Member (State Tax)

ORDER NO. RAJ/AAAR/01/2021-22 DATED ²⁷.10.2021

Name and address of the Appellant	:	M/s Mody Education Foundation, NH 11, Lakshmangarh, Sikar - 332311
GSTIN of the appellant	:	08AABTM0215E1Z5
Issues under Appeal	:	Whether Hostel facility which includes Lodging and Boarding service provided by MEF to the students of Mody University of Science & Technology (MUST) having value of service upto Rs.1000/- per day would be eligible for exemption under entry No. 14 of the Notification No. 12/2017 CTR dated 28.06.2017 ?
Date of Personal Hearing	:	14.09.2021
Present for the appellant	:	Sh. Ritul Patwa, CA (AR)
Details of Appeal	:	Appeal No. RAJ/AAAR/APP/01/2021-22 against Advance Ruling No. RAJ/AAR/2021-22/02 dated 07.07.2021

(Proceedings under section 101 of the Central GST Act, 2017 read with section 101 of the Rajasthan GST Act, 2017)

At the outset, we would like to make it clear that the provisions of both the Central GST Act, 2017 and the Rajasthan GST Act, 2017 are same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central GST Act, 2017 would also mean a reference to the same provisions under Rajasthan GST Act, 2017.

2. The present appeal has been filed under Section 100 of the Central GST Act, 2017 (**hereinafter also referred to as 'the CGST Act'**) read with Section 100 of the Rajasthan GST Act, 2017 (**hereinafter also referred to as 'the RGST Act'**) by M/s Mody Education Foundation, NH 11, Lakshmangarh, Sikar - 332311 (**hereinafter also referred to as 'the appellant'**) against the Advance Ruling No. RAJ/AAR/2021-22/02 dated 07.07.2021

BRIEF FACTS OF THE CASE

3. M/s Mody Education Foundation, NH 11, Lakshmangarh, Sikar - 332311 (herein after referred as (MEF/Appellant) has filed appeal against Ruling issued by Authority for Advance Ruling Rajasthan vide order No. RAJ/AAR/2001-22/02 dated 07.07.2021. The Appellant has submitted appeal in this office in hard copy and also enclosed acknowledgement in respect of e-filing of appeal on 06.08.2021 on online



common portal. Fee of CGST Rs. 10000/- and SGST Rs. 10000/- have been paid vide Challan dated 06.08.2021. Brief facts of the case are as under:-

3.1 The Appellant is a Society registered under Societies registration Act, 1860 with Registration No. S-10560/. The Appellant is registered as a Public Charitable Trust u/s 12AA of the Income Tax Act, 1961 having registration no. DLI(C)(I_1178). The Appellant is running a CBSE affiliated school from class 3rd to 12th at NH-11, Lakshmangarh, Distt. Sikar (Rajasthan)-332311 and registered under GST law having GSTIN 08AABTM0215E1Z5. The appellant is also the sponsoring body of Mody University of Science & Technology (hereinafter referred as **MUST**). Appellant is considering a proposal to allow the students of **MUST** to use the 'Hostel Accommodation' in its surplus infrastructure which includes Hostel Seat for the students along with serving meals (Food & Beverages) including Breakfast, Lunch and Dinner. Appellant will directly charge 'Boarding and Lodging Charges' from the students of **MUST**. 'Boarding and Lodging charges' shall be based on the type of '**Hostel Seat**' opted by the student of **MUST**. Following four categories of Hostel Seats are being offered by appellant for the students of **MUST**:-

- i) Hostel Seat in a Single Occupancy A.C. Room;
- ii) Hostel Seat in a Single Occupancy Non A.C. Room;
- iii) Hostel Seat in a Double Occupancy A. C. Room;
- iv) Hostel Seat in a Double Occupancy Non A. C. Room;

3.2 That Key Features of the Hostel Accommodation Service provided by appellant to students of **MUST**:-

- i) The *principal service* of 'Accommodation' and *ancillary service* of serving Meals (Food & Beverages) including Breakfast, Lunch and Dinner, shall be delivered as a single Package under 'Hostel Accommodation Service';
- ii) The charges of Accommodation and Meals (F&B) are inseparable;
- iii) The student will pay a single price or same amount, for the entire package, irrespective of the quantum or amount of each service in the package that they actually use or receive;
- iv) *Accommodation and Meals (Breakfast, Lunch and Dinner)* covered under the 'Hostel Accommodation Services' are otherwise not available separately;
- v) Being an education institution, the students are living in a closed compound with restriction on movement outside the institute. The Girls who are staying and utilizing the Hostel Accommodation Services, have to essentially eat their meals (F&B) inside the campus as part of the package and the student do not have an option to avail them partially or separately. Further, in absence of meals (F&B) facility along with the package, it is not possible for the students to avail the Hostel Accommodation and the entire package becomes useless for the students;
- vi) The amount to be charged by appellant from the students of **MUST** for a 'Hostel Seat' shall be less than Rs.1000/- per day. The Boarding & Lodging Charges shall be collected for the entire year either as one-time payment or in Installments.

4. Appellant filed an application before the Rajasthan Authority for Advance Ruling (AAR) to seek an Advance Ruling "Whether Hostel facility which includes Lodging and Boarding service provided by appellant to the students of **MUST** having value of service upto Rs.1000/- per day would be eligible for exemption under entry no. 14 of the notification 12/2017 CTR Dt. 28-06-2017?"

5. Rajasthan Authority for Advance Ruling (AAR) has observed that the Service provided by appellant to students of **MUST** is a mixed supply under section 2(74) and not a composite supply under Section 2 (30). Further AAR has considered 'Room' as a 'Unit of Accommodation' for exemption upto Rs.1000/- per day and passed Ruling that the applicant would not be eligible for exemption under entry no. 14 of the Notification No. 12/2017 Central Tax (Rate), dated 28.06.2017.



6. Aggrieved by the ruling the appellant filed present appeal before this forum on 06.08.2021 on online portal and in hardcopy on 09.08.2021 on following grounds:

6.1 Appellant submitted that Advance Ruling No. RAJ/AAR/2021-22/02 dated 07/07/2021, is bad in law, as well as on the facts of the Case. Legal Provisions and Clarifications related to Hostel Accommodation Service and its natural bundling with the serving of Meals (F&B) to students, in the ordinary course of business, are as below:-

6.1.1 In respect of the classification of the Hostel Accommodation Service provided by Trusts to students covered within the definition of charitable activities, CBIC has clarified at S. No. 1 of Circular No. 32/06/2018-GST dated 12-2-2018 as below:-

TABLE 1

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-C.T. (Rate)?	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-C.T. (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-C.T. (Rate) refers]

Thus, an analysis of the above clarification by the CBIC, makes the Hostel Accommodation Service at par with the "Service by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purpose" which falls under Service Accounting Code (SAC) - 9963.

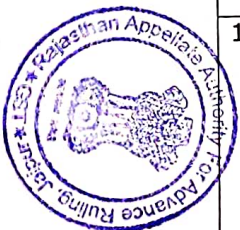
6.1.2 Applicability of Notification No. 12/2017-CT (Rate) and Tax Liability on Hostel Accommodation Service

The clarification given by CBIC at S. No. 1 of Circular No. 32/06/2018-GST dated 12-2-2018 is self-explanatory and by mere 'Literal Construction' of the language used by CBIC in its clarification, it is clear beyond doubts, that Sl. No. 14 of Notification No. 12/2017 - C.T. (Rate) is applicable on the Hostel Accommodation Service.

The verbatim of Sl. No. 14 of Notification No. 12/2017 - C.T. (Rate) is produced below for ready reference:-

TABLE 2

Sl. 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



6.1.3 Section 15(1) provides the 'Value of Supply' as below:-

"15. (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply."

In the current case the total package fees charged from the students as 'Boarding and Lodging Charges' should be treated as the Value of Supply, which is less than Rs. 1000/- per day for a 'Unit of Accommodation'.

6.1.4 The appellant submitted that in this case, the Unit of Accommodation is a 'Hostel Seat', whereas the Hon'ble bench of the AAR in Para 9 of the Advance Ruling has considered a 'Room' as the Unit of Accommodation. Following illustrations have been submitted by the appellant to understand the issue of 'Unit of Accommodation': -

- a) In case of Dharamshala's, single bed accommodation is being offered to 10 persons in a Dormitory (i.e. a Room) for Rs.150/- per night. In this case the total collection from the room shall be Rs.1500/- per night on full occupancy, but the same is considered as exempt under S. No. 14 of the Notification No. 12/2017 - CT (Tax) dated 28/06/2017;
- b) In case of Suit Room of a Hotel, comprising of 2 Rooms at a price of Rs.12000/- per night. The combined both rooms are considered as a 'Unit of Accommodation' for application of Rate of GST @ 18% and the hotel is not permitted to split both rooms at Rs.6000/- per room night and reduce the Rate of GST @12%.
- c) In case of Airports, sleeping capsules (bunkers) are provided to passengers for resting for Rs.3000/- per night. There are total 10 sleeping capsules (bunkers) in the Room where this facility is offered. The GST is charged @ 12% for each sleeping capsule and not @ 18%, on the entire Room of Capsules assuming full occupancy.

6.1.5 The appellant submitted that due to nature and complication of the Hospitality Industry, the GST Council has specifically used the term "Unit of Accommodation" which reflects its intention to allow an assessee to provide services as per their own business model. If the intention would have been to charge GST on each Rooms basis, then there was no need to use the term 'unit of accommodation' and simply 'Room' would have been used in the said notification. We strongly contest the claim of the Hon'ble Rajasthan Authority of Advance Ruling in the Para 9 of the Advance Ruling on Page 16, that Room should be considered as Unit of Accommodation.

6.1.6 Determination of the Nature of Service as 'Composite Supply' u/s 2 (30) or Mixed Supply' u/s 2 (74) of the CGST Act, 2017

In the case of appellant, two services are offered under the package:-

- | | | | |
|-----|------------------------------|---|-------------------|
| i) | Hostel Accommodation Service | : | Principal Service |
| ii) | Meals (F&B) Service | : | Ancillary Service |

The combination of both the services is being offered as an inseparable package to the students. For evaluation of the nature of supply, the definitions are given below for ready reference:-

Section 2(30) of the CGST Act, 2017 defines 'Composite Supply' as below:-

"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



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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(74) of the CGST Act, 2017 defines 'Mixed Supply' as below:-

"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;

6.1.7 Appellant submitted following clarification on Natural Bundling of Meals (F&B) provided as part of the Package along with Hostel Accommodation Service in the ordinary course of business

The concept of services which are naturally bundled in the ordinary course of business, has been dealt in detail by the CBEC in its "Taxation of Services: An Education Guide" dated 20/06/2012.

The relevant extract of the Education Guide is produced hereunder-

"9.2.1 Services which are naturally bundled in the ordinary course of business

The rule is - 'If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character'

- *A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.*

...."

The appellant submitted that in the above illustration CBEC has clarified, that when Breakfast is provided as part of the room package, the same is considered as naturally bundled service of the Hotel in the ordinary course of business, therefore, when a Trust provides a Hostel Accommodation Service along with Meals (F&B) including Breakfast, Lunch and Dinner to the students as part of the package, the same are naturally bundled with the Hostel Accommodation Service in the Ordinary Course of Business.

6.1.8 In para 9.2.4 of "Taxation of Services: An Education Guide" dated 20/06/2012, certain parameters have been given to determine if the services are bundled in the ordinary course of business. This has also been mentioned by the Hon'ble AAR in Para 6 of the Advance Ruling on Page 12. However, in the Advance Ruling it has not been clarified as to why the applicant is complying/ not complying in each of the parameters referred to in the para 9.2.4 of the Education Guide.

For clarity of understanding we are drawing a comparison of the parameters provided by CBIC in Para 9.2.4 of the Education Guide for 'Composite Supply' and the actual Service to be offered by the Applicant:-



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S. No.	Parameter given in Para 9.2.4	Applicability of Parameter in Applicant Case for Advance Ruling
1.	<i>The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package then such a package could be treated as naturally bundled in the ordinary course of business.</i>	The Hostel Accommodation Service is provided inside the Campus of an Education Institution, which is located in a remote village with restricted movement of students for their own security - In this case the students and their parents come with a standard expectation, that the Meals (F&B) will be part of the Hostel Accommodation Service, which cannot be separated from the main service.
2.	<i>Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines</i>	In all Education Institutions and Hostels operated by Trusts, in a remote location especially for Girl Students (as in the case of Applicant), meals are part of the Hostel Accommodation and they cannot be separated from one another.
3.	<i>The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. For example service of stay in a hotel is often combined with a service or laundering of 3-4 Items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.</i>	Having regard to the location and circumstances of the applicant, in order to provide the Hostel Accommodation Service - serving Meals (F&B) including Breakfast, Lunch and Dinner to the students, is essential, without which the students cannot stay in the hostel. Thus, both the services are complementing and integral to each other.
4.	<i>Other Indicators:-</i>	
a)	<i>There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.</i>	Yes - Students pay same amount (single price) irrespective of, how much of the package they actually receive or use
b)	<i>The elements are normally advertised as a package.</i>	Yes - Both Hostel Accommodation and Meals (F&B) are advertised as a package only.
c)	<i>The different elements are not available separately.</i>	Yes - There is no option to avail each service individually or separately. Both services have to be either opted together or they cannot be opted as all.
d)	<i>The different elements are Integral to one overall supply - if one or more is removed, the nature of the supply would be affected.</i>	Yes - In absence of any one of the service, the other service cannot be delivered and becomes redundant.

In view of appellant, from the above comparison that in their case, the Hostel Accommodation Service along with supply of Meals (F&B) including



Breakfast, Lunch and Dinner is a "Composite Supply" where the Principal Supply is 'Hostel Accommodation' and the Ancillary Supply is 'Meals (F&B) including Breakfast, Lunch and Dinner'.

6.1.9 The tax liability in case of 'Composite Supply' has been provided under Section 8 of the CGST Act, 2017 as below:-

"8. 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."

As provided in Section 8 of the CGST Act, 2017, in case of 'Composite Supply' the entire package including supply of ancillary services [Meals (F&B) including Breakfast, Lunch and Dinner], shall be treated as a supply of principal service only, which in the current case is Hostel Accommodation.

The combined fees charged from the students for Hostel Accommodation is less than Rs.1000/- per day, therefore, the same is exempted under S. No. 14 of the Notification No. 12/2017.

6.2 Appellant submitted that Jurisdictional Officer (Superintendent CGST Range - XXXI, Sikar Rajasthan), has given his comments as below:-

"Whether Hostel facility which includes Lodging and Boarding service provided by MEF to the students of MUST having value of service upto Rs.1000/- per day would be eligible for exemption under entry no. 14 of the notification 12/2017 CTR Dt 28-06-2017?" Entry No. 14 of the Notification 12/2017 Central Tax (Rate) dated 28.06.2017, is produced verbatim:-

Sl. 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



Thus service of accommodation having declared tariff of a unit below one thousand rupees is charged at Nil rate in GST. Now, the point is that the accommodation services provided by Mody Education Foundation are bundle of lodging, boarding, food etc. services. This issue has been covered under Advance Ruling No. KAR ADRG 20/2020, Dated 31st March, 2020, wherein it has been ruled that

"If the applicant charges additional charges for extra facilities opted by the inhabitants in addition to the facilities that are currently included in the tariff

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received by the inhabitants but the overall price would be less than the present exemption limit of Rs.1,000-00 per day per unit, then the same is liable to tax at the rates applicable to them as they are independent supplies, if they do not belong to the Group 9963. If they belong to the Group 9963, then the same are exempt as per entry no. 14 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017".

SAC code 9963 includes services of (Accommodation, food and beverage services).

In view of above it appears that Hostel facility which includes lodging and boarding service provided by MEF to the students of MUST having value of service upto Rs.1000/- per day would be eligible for exemption under entry No. 14 of the notification 12/2017 CTR dated 28.06.2017"

6.3 The appellant submitted that their case is unique and the ancillary service of serving Meals (F&B) including Breakfast, Lunch and Dinner, are integral part of the main service, which is naturally bundled with the Hostel Accommodation Service and in absence of Meals (F&B), the nature & quality of main service will be effected and becomes non-usable by the recipient of service due to reasons stated below:-

- i) MEF is located in a remote village of Sikar district which is 25 Kms from the main city;
- ii) MEF and MUST are both providing education to Girls students only and due to the safety concerns of female students in this remote location, the entry and exit from the campus is restricted and the girls do not have freedom to 'opt in' or 'opt out' of ancillary service of meals (F&B) including breakfast, lunch and dinner, and this service is an essential element of the package;
- iii) In order to practically use the hostel accommodation service at the campus, the ancillary service of Meals (F&B) including Breakfast, Lunch and Dinner are inseparable from the main service;
- iv) Both Hostel Accommodation and Meals (F&B) are offered as a package by MEF to the students of MUST and the fees is charged for the entire package, irrespective of the quantum or amount of each service in the package that the students actually use or receive;
- v) The entire fees of Hostel Accommodation including Meals (F&B) are advertised as a single package and there is no bifurcation of charges for Accommodation and Meals in the package.
- vi) MEF is offering the ancillary service of serving Meals (F&B), exclusively to facilitate the main service of hostel accommodation and these ancillary services are otherwise not available separately for any other purpose.

6.4 The appellant placed reliance on the following, Advance Rulings in this matter:-

- (i) Srisai Luxurious Stay LLP (Karnataka AAR GST) Advance Ruling No. KAR ADRG 20/2020 dated 31/03/2020
- (ii) M/s. Logic Management Training Institutes Pvt. Ltd. (Kerela AAR GST) Advance Ruling No. KER/76/2019 Dated 20.05.2020
- (iii) M/s. Ramnath Bhimsen Charitable Trust (Chattisgarh AAR GST) Order No. STC/AAR/ 11/2018 dated 02/03/2019



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PERSONAL HEARING

7. A virtual hearing in the matter was held on 14.09.2021. Sh. Ritul Patwa, Authorized Representative of the appellant has attended hearing on 14.09.2021. They reiterated the submissions already made under grounds of appeal. During the course of the personal hearing, the members of the Appellate Authority directed the appellant to submit the additional information discussed during personal hearing in written. Appellant vide his letter dated 14.09.2021 submitted as under:

7.1 Appellant has submitted that the Day Scholars are not permitted to use the Dining Hall for Breakfast, Lunch or Dinner. The Dining Hall is exclusively for the use of boarding students and no separate amount is charged from the students for use of Dining Hall. The cost of meals served in the dining hall is inclusive in the Boarding and Lodging Charges to be charged from the Boarding Students. The Entry of Day Scholars is restricted in the Dining Hall.

7.2 For Day Scholars there is a separate Cafeteria (Canteen) in which they can optionally take snacks and F&B as per their choice. The Cafeteria (canteen) raises a GST invoice in respect of sale of all F&B products at the applicable rates and for which the students have to make the payment immediately.

DISCUSSION AND FINDINGS:

8.1 We have carefully gone through the Appeal papers filed by the Appellant, the Ruling of the AAR, Rajasthan, written as well as oral submissions made by the authorized representative(s) of the appellant, at the time of personal hearing held on 14.09.2021.

8.2 We find that the Appellant is running a CBSE affiliated school from class 3rd to 12th at NH-11, Laxmangarh, Distt. Sikar and registered under GST law. The appellant is also the sponsoring body of Mody University of Science & Technology (MUST). Appellant is considering a proposal to allow the students of MUST to use the 'Hostel Accommodation' in its surplus infrastructure which includes Hostel Seat for the students along with serving meals. Appellant will directly charge 'Boarding and Lodging Charges' from the students of MUST. 'Boarding and Lodging charges' shall be based on the type of 'Hostel Seat' opted by the student of MUST. Single occupancy and double occupancy (AC/Non AC) Hostel Seats are being offered by appellant for the students of MUST. Appellant filed an application before the Rajasthan Authority for Advance Ruling (AAR) to seek an Advance Ruling "Whether Hostel facility which includes Lodging and Boarding service provided by appellant to the students of MUST having value of service upto Rs.1000/- per day would be eligible for exemption under entry no. 14 of the notification 12/2017 CTR Dt 28-06-2017?"

8.3 Rajasthan Authority for Advance Ruling (AAR) has observed that the Service provided by appellant to students of MUST is a mixed supply under section 2(74) and not a composite supply under Section 2 (30). Further AAR has considered 'Room' as a 'Unit of Accommodation' for exemption upto Rs.1000/- per day and passed Ruling that the applicant would not be eligible for exemption under entry no. 14 of the Notification No. 12/2017 Central Tax (Rate), dated 28.06.2017. Aggrieved by the ruling the appellant filed present appeal before this forum.

8.4 Before examining the contention of the appellant it is imperative to go through the relevant provision of the CGST Act which defines the term Composite supply and Mixed supply. We find that as per Section 2(30) of CGST Act, 2017 "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;



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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;

In the above illustration, it is obvious that the packing material or the insurance cannot be supplied separately if there is no transportation of goods. As such, for the transportation of goods, the supply of packing material and the insurance is a composite supply, wherein the supply of goods is a principal supply. Accordingly, from the above definition, we are of the view that a composite supply can be determined on the basis of following 3 main criteria:

- (i) Supply of two or more goods or services or combination of both.
- (ii) The supply is made in a natural bundle, i.e. the goods and/or services are provided as a combination in the natural course of business.
- (iii) The individual items (goods and/or services) cannot be supplied separately.

8.5 We further note that as per Section 2(74) of the CGST Act the term "*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.

From the definition it emerges that a mixed supply is two or more independent products or services which are offered together as a bundle but can also be supplied separately.

8.6 We find that in the instant case the appellant is supplying services of food along with Hostel Accommodation service. In view of the discussion of above paras 8.4 and 8.5, we are of the view that supply of food with Hostel Accommodation service is not naturally bundled in normal course of business. It has been also informed by the appellant that a cafeteria (canteen) has been provided for day scholars, in which they can optionally take snacks and F&B as per their choice. The above said facts itself proves that food service is an independent service and can be supplied separately in the appellants own case. It is obvious that a person can live in the hostel without availing other service like food but to make ones stay more comfortable, the said ancillary services are availed by him. We find that the Rajasthan Authority for Advance Ruling has held that *naturally bundled services are those services wherein one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. If current nature of supply of services is tested based on above factors, it can be ascertained that the provision of hostel accommodation could be a principal supply but ancillary service food cannot be said to arise naturally with the principal service of hostel accommodation and therefore are not bundled naturally with principal supply.* We find that in the present case, others services being provided by the Appellant are not naturally bundled or ancillary to Hostel service as the inhabitants of Hostel seats can avail these services from any other source. In fact the inhabitants have been restricted from sourcing these other services from any other person. Consequently, the inhabitants have to avail these services from the Appellant. In such situations we are of the view that the other services are not ancillary to or bundled with the Hostel service.

We further note that West Bengal Authority for Advance Ruling in the case of *Sarj Educational Centre* [2019 (22) G.S.T.L. 315 (A.A.R. - GST)] involving similar facts and circumstances, wherein the applicant was engaged in supplying food and other services and it was held that they are not naturally bundled with the lodging service. All these components are independent of each other. The said ruling has



been upheld by the Appellate Authority for Advance Ruling of West Bengal [2019 (27) G.S.T.L. 131 (App. AAR - GST)]. Therefore, we held that supply of hostel accommodation along with food is not a composite supply but it is a mixed supply.

8.7 Further the appellant has contested that in this case, the Unit of Accommodation is a 'Hostel Seat'. Per unit of accommodation has not been defined in GST anywhere. There is many ways to fix the tariff in the business of accommodation service. Authority for Advance Ruling has considered room as the unit of accommodation. In this regard we have contrary view as legislature has used the term 'per unit of accommodation' instead of other criteria. The word 'per unit of accommodation' should be understood as per general practice adopted by large number of service provider in similar business model. In hotels, generally it fixes per room, per suit whereas in hostels, inns and dharmshalas, it fixes per room, per bed, per seat and per person. From the facts mentioned by the appellant, it would emerge that they provides accommodation service in hostel and fix the tariff on the basis of hostel seat, therefore, we agreed the contention of appellant and finds that hostel seat should be considered as a unit of accommodation.

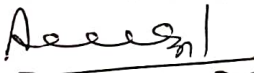
8.8 Further, as per Section 8 (b) of the CGST Act, 2017 as below:-

"8. (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."

As provided in Section 8 of the CGST Act, 2017, in case of mixed supply of accommodation and food, highest rate of both will be applicable.

8.9 The appellant has also placed reliance of various case laws passed by Advance Ruling authorities. We are of the opinion that these orders have not been passed by the higher forum than the present one. Further, each case has to be examined individually in the backdrop of several factors.

9. Accordingly, appeal filed by appellant is disposed off in above terms.


27-X-2021.
(Pramod Kumar Singh)
Member (Central Tax)


27/10/21
(Ravi Jain)
Member (State Tax)

SPEED POST

To
M/s Mody Education Foundation,
NH 11, Lakshmangarh,
Sikar - 332311.

F. No. IV (16)AAAR/RAJ/01/2021-22/

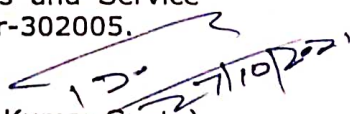
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Date. 27.10.2021

Copy to:-

1. The Chief Commissioner of CGST (Jaipur Zone), NCR Building, Statue Circle, Jaipur.
2. The Chief Commissioner of SGST, Rajasthan, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.
3. The Commissioner, CGST Commissionerate, Alwar.
4. The Deputy Commissioner, CGST Division G Sikar.
5. The Member, Rajasthan Authority for Advance Ruling, Goods and Service Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.
6. Guard File.




(Shiv Kumar Gupta)
Superintendent