

**THE AUTHORITY ON ADVANCE RULINGS  
IN KARNATAKA  
GOODS AND SERVICE TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU – 560 009**

**Advance Ruling No. KAR ADRG 02 / 2018**

**Dated: 21<sup>st</sup> March, 2018**

Present:

1. Sri. Harish Dharnia,  
Joint Commissioner of Central Tax,  
Bangalore West Commissionerate,  
Bengaluru.  
. . . . Member (Central Tax)
2. Dr.RaviPrasad.M.P.  
Joint Commissioner of  
Commercial Taxes (Vigilance)  
Bengaluru  
. . . . Member (State Tax)

1.	Name and address of the applicant	M/s GOGTE INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED, 146, Budhwarapeth, Tilakwadi, Belgaum – 590006.
2.	GSTIN or User ID	29AAACG9426F1Z1
3.	Date of filing of Form GST ARA-01	30-11-2017
4.	Represented by	Sri RajendraBarve, Chartered Accountants & Authorised Representative
5.	Jurisdictional Authority – Centre	Bangalore North Commissionerate, North Division-2, Range – BND2 29/2, Basaveshwara Building, Crescent Road, Bengaluru - 560001
6.	Jurisdictional Authority – State	LGSTO – 390, Belagavi
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged Rs.5,000-00 CGST : Rs.NIL and KGST: Rs.5,000-00 CIN: UTIB17112900307729 dated 24-11-2017

**ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017**

M/s Gogte Infrastructure Development Corporation Limited, 2<sup>nd</sup> Floor, NASCO ISHANNYA, 27/1, Khanapur Road, Tilakwadi, Belgaum – 560 006, having GSTIN number 29AAACG9426F1ZI, have filed an application, on 25.11.2017, for advance ruling under Section 97 of CGST Act,2017, KGST Act, 2017 & IGST Act, 2017 read with rule 104 of CGST Rules 2017 & KGST

Rules 2017, in form GST ARA-01. They also enclosed copy of challan for Rs.5,000/- bearing CIN number UTIB17112900307729 dated 24.11.2017.

2. The Applicant is engaged in hotel business, having hotel “Fairfield Marriott” and provides hotel accommodation & restaurant services. They are providing services to the employees & guests of some of the units in SEZ, Belgavi, in addition to the regular customers. They are charging SGST & CGST at the applicable rates. The SEZ units contended that the services are being supplied / rendered to SEZ units only and hence rate of GST is NIL as per provisions of Section 16(1)(b) of IGST Act’2017. Therefore the applicant filed this instant application seeking advance ruling on the following issue :

*“Whether the Hotel Accommodation & Restaurant services provided by them, within the premises of the Hotel, to the employees & guests of SEZ units, be treated as supply of goods & services to SEZ units in Karnataka or not ?”*

**PERSONAL HEARING: / PROCEEDINGS HELD ON 09.02.2018.**

3. The Applicant submitted Specific authorization, issued by Sri. Prabhakar S Apte, Director, M/s Gogte Infrastructure Development Corporation Ltd., authorizing Sri. R.L. Barve, Chartered Accountant to represent the applicant in and to produce accounts and documents connected with the proceedings before the authorities in respect of the instant application for Advance Ruling under CGST / SGST Act’2017.

4. The authorized representative Sri. R.L. Barve, Chartered Accountant during the personal hearing proceedings stated / pleaded that the applicant is a public limited company; that they are into the hotel business providing hotel accommodation & restaurant services in Belgaum; that the hotel is situated outside the SEZ and also independent of SEZ; that the billing is done on SEZ company for employees of SEZ; that they have not entered into any contract with either SEZ or any unit in the SEZ; that they are not giving any concessional rate to the billings of SEZ at present; that SEZ units contended for concession; that SEZ units gave letter to the hotel to provide billing in their name whenever any of their guest / employee uses the services/ facilities and hence they filed the instant application.

**FINDINGS & DISCUSSION:**

5. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri R.L. Barve, Chartered Accountant during the personal hearing. We also considered the issue/transaction(s) involved on which advance ruling is sought by the applicant, relevant facts of the transaction(s) involved, the applicant’s understanding of rate of tax in respect of the transaction(s).

6. The Applicant, filed this application dated 25.11.2017 for advance ruling, seeking clarification as to ***“Whether the Hotel Accommodation & Restaurant services provided by them, within the premises of the Hotel, to the employees & guests of SEZ units, be treated as supply of goods & services to SEZ units in Karnataka or not ?”***

7. Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit are treated as ‘Zero Rated Supply’ in terms of Section 16(1)(b) of IGST Act’ 2017. Further Rule 46 of CGST Rules 2017 stipulates that the invoice shall carry an endorsement “Supply meant for export / Supply to SEZ unit or SEZ Developer for authorised operations on payment of Integrated Tax” or “Supply meant for Export / Supply to SEZ unit or SEZ Developer for authorised operations under Bond or Letter of Undertaking without payment of Integrated Tax” as the case may be.

8. Therefore on reading Section 16(1)(b) of IGST Act’ 2017 & Rule 46 of CGST Rules 2017 together it is clearly evident that the supplies of goods or services or both towards the authorised operations only shall be treated as Supplies to SEZ Developer / SEZ Unit.

9. The place of supply of the services by way of lodging accommodation by a hotel, shall be the location at which the immovable property (hotel) is located or intended to be located, as per Section 12 (3)(b) of the Integrated Goods and Services Tax Act, 2017. Also the place of supply of restaurant and catering services shall be the location where the services are actually performed, as per Section 12 (4) of the Integrated Goods and Services Tax Act, 2017. In the instant case, admittedly, the applicant is located outside the SEZ. Therefore the services rendered by the applicant are neither the part of authorised operations nor consumed inside the SEZ.

10. Since place of provision of services in case of Hotel has been prescribed under the Act 'location of the Hotel' the rendition of services of restaurant, short term accommodation and Banqueting/conferencing cannot be said to have been 'imported or procured' into SEZ Unit/Developer. Hence, by no stretch of imagination and therefore, in the instant case, the supply is intra state supply.

11. In view of the foregoing, we pass the following

**R U L I N G**

The Hotel Accommodation & Restaurant services being provided by the Applicant, within the premises of the Hotel, to the employees & guests of SEZ units, can not be treated as supply of goods & services to SEZ units in Karnataka & hence the intra state supply and are taxable accordingly.

**(Harish Dharnia)**  
**Member**

**(Dr.RaviPrasad.M.P.)**  
**Member**

Place : Bengaluru,  
Date : 21.03.2018

gone through the records of the application, filed by M/s Gogte Infrastructure Development Corporation Limited, Belgavi (the Applicant),

The applicant is a registered taxable person registered under the Central Goods and Services Tax Act, Karnataka Goods and Services Tax Act and Integrated Goods and Services Tax Act. He is having a Hotel in Belagavi by the name Fairfield Marriott, in which he is providing restaurant and lodging services to all his guests/customers. These customers include the employees, customers, visitors and guests of SEZ Units in Karnataka.

The applicant has filed FORM GST ARA-01 seeking advance ruling being desirous to know whether the transaction of providing restaurant services and lodging services provided within the premises of Hotel to employees and guests of SEZ Units can be treated as supply of services to SEZ Units situated in Karnataka.

The assessee is a registered taxable person in the State of Karnataka and has made the payment of Rs.5,000-00 under the Karnataka Goods and Services Tax Act as fees for advance ruling and hence the application is in order and hence admitted.

1. Sri Rajendra Barve, Chartered Accountant and the duly authorised representative of the above applicant appeared and presented the following –
  - a. That the business enterprise which is a hotel is providing restaurant services and lodging services to customers who included the employees and guests of SEZ Units. The business enterprises itself is not a SEZ Unit nor is situated on the Special Economic Zone.
  - b. The Business enterprise is in agreement with the SEZ Unit situated in Belagavi and is providing accommodation and restaurant services to its employees and guests and the billing for the services provided is done on the SEZ Units concerned. They are now billing the SEZ Units for the above services like any other recipient collecting taxes and not providing any exemption of taxes with the place of supply being Belagavi.
  - c. The SEZ Companies are giving letter to the applicant for providing services and only on the basis of such letters, the services are provided and not directly to such employees and guests of SEZ Units.
  - d. The applicant wants to know, whether the services provided in his business premises to the employees and guests of SEZ Unit

based on the letters of request would amount to supply of goods and services to SEZ Units?

2. The issue under question is whether the supplies made to the employees and guests of a SEZ Unit in a hotel outside the SEZ area based on the letter of SEZ Unit be treated as supplies to SEZ Units?
3. Admittedly, the applicant is not located within a Special Economic Zone. He is providing services to the employees and guests of the SEZ Unit on the request of a SEZ Unit and billing the same to the SEZ Unit. The issue here is whether this amounts to providing service to a SEZ Unit?
4. the invoice
5. shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ
6. UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON
7. PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR
8. EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR
9. OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING
10. WITHOUT
11. PAYMENT OF INTEGRATED TAX", as the case may be, and shall, in lieu of the
12. details specified in clause (e), contain the following details, namely,- (i) name and
13. address of the recipient; (ii) address of delivery; and (iii) name of the country of
14. destination:]7
15. Provided also that a registered person may not issue a tax invoice in
16. accordance with the provisions of clause (b) of sub-section (3) of section 31 subject
17. to the following conditions, namely,-
18. (a) the recipient is not a registered person; and
19. (b) the recipient does not require such invoice, and
20. shall issue a consolidated tax invoice for such supplies at the close of each day in
- respect of all such supplies.

21. and shall, in lieu of the details specified in clause (e), contain the details namely (i) name and address of the recipient; (ii) address of delivery; and (iii) name of the country of destination:

7. Section 97(2) of the CGST Act'2017 stipulates that the advance ruling can be sought only on the following questions/issues, under this Act.

- a) classification of any goods or services or both;
- b) applicability of a notification issued under the provisions of this Act;
- c) determination of time and value of supply of goods or services or both;
- d) admissibility of input tax credit of tax paid or deemed to have been paid;
- e) determination of the liability to pay tax on any goods or services or both;
- f) whether applicant is required to be registered;
- g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

8. The applicant's question on which advance ruling has been sought does not fall under any of the above categories. Therefore the application is liable for rejection.