



**HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,**



**HARYANA VANIYA BHAWAN, PLOT NO I-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)**

ADVANCE RULING NO.HAR/HAAR/R/2018-19/ 18

(In Application No.: 18/2018-19, dated 18.07.2018)

Name & Address of the Applicant	:	M/s Complete Solutions Service Apartment Pvt. Ltd., Ground Floor, C-1518, Sushant Lok-1, Gurugram (East).
GSTIN of the Applicant	:	06AAGCC6484K1Z9
Date of Application	:	18.07.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	:	(b) Applicability of a notification issued under the provisions of this Act.
Date of Personal Hearing	:	09.10.2018
Present for the Applicant	:	Sh. Sushank, Advocate, Sh. Mukul Jain, CA.

1. Factual Background as Per Applicant

- (a) The Applicant carries on the Business of **taking Residential Dwelling unit on Lease** and further **Sub Leasing the Residential Dwelling unit** to the Various Individual/Corporates for Residential Purposes along with various amenities.

List of Amenities Provided by the Applicant is as follows: -

Housekeeping (5 days a week, Monday to Friday)

This includes the following-

Cleaning the floors of all the rooms

Cleaning of all the balconies

Dusting of all the furniture and fixture

Cleaning of utensils

Changing of Linen (Twice a week)

Changing of Towels (Twice a week)

Cable or DTH connection in living room

Gas pipeline or cylinder

The broadband connection with the dedicated telephone (charges would be on actual)

Electricity (charges would be on actuals)

Water bottles 20ltr Jar - 4 bottles a month included (above Rs. 100 per bottle)

Ground Water (Charges would be on actual)

Pest Control once in 3 months

AC service once in 3 months

RO service once in 6 months

Round the clock security guard

- (b) *The Applicant Charges for Sub Leasing the Residential unit and also for Amenities which the applicant provides separately from own account to the tenant.*
- (c) *Currently, Applicant is **Charging GST** only on amount charged by them against the **Amenities** provided to Sub-Lessee. The Applicant is **not charging GST** on Amount Charged **for Sub Leasing Out Residential Dwelling Unit.***

2. Question on which advance ruling is required: -

Whether the **Residential Dwelling Unit** taken on Lease from Various Individuals/Owners **for Sub Leasing** the same Residential Dwelling unit **to Corporates** as well as Individuals **for Residential Purposes along with** various amenities such as Furniture, Appliance, Cleaning, Security, Pest Control, AC Service etc. is Exempt Supply as per the Entry No. 12 of Notification No. 12/2017- Central Tax (Rate) dated 28th June 2017 (Copy of the Notification Enclosed for your reference and record).

3. Applicant's interpretation of law and/or facts,

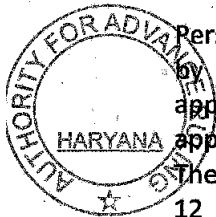
- (a) *As per the Interpretation of Law as mentioned in the Entry no. 12 of Notification no. 12/2017- Central Tax (Rate) dated 28th June, 2017 **Services by way of renting of residential dwelling for use as residence shall be exempt from GST under SAC Code of 9972.***
- (b) *Further, Amount Charged against Maintenance Services shall be taxable at 18% under SAC Code of 9987 and Services by way renting of Furniture **and appliances** shall be taxable at 18% under SAC Code of 9973.*

4. Record of Personal Hearing

Personal hearing in the case was conducted on 09.10.2018 which was attended by Sh. Sushank, Advocate and Sh. Mukul Jain C.A. duly authorized by the applicant. The applicant besides reiterating the submissions made in their application had given samples of lease agreements which were taken on record. The question referred for ruling by the applicant is regarding applicability of entry 12 of Notification no. 12/2017 CT(R) dated 28.06.2017 and the corresponding notification of the State Tax on the lease agreements executed between the applicant and the property owners and subsequent occupants of such leased properties. The application was admitted being covered under section 97(2)(b) of the CGST/HGST Act, 2017. The decision on merit was reserved which is being released today.

5. Discussion and finding of the authority

- (a) From the discussions on the facts as presented by the applicant it is understood that the applicant enters into lease of residential dwelling units with the property owners and further sub-leases these dwelling units to various



individuals/corporates for residential purposes along-with various amenities such as, provision of housekeeping services, DTH connection, Gas pipeline or cylinder, broadband facility, drinking water in Jars/ bottles, pest control etc.

- (b) For a better understanding of the issue raised by the applicant, the business of the applicant can be understood to be falling into three segments as under:
- (i) The applicant enters into lease agreements with the owners of residential units for a fixed period, generally for 22 months at a fixed monthly amount, for use of residential purpose only.
 - (ii) The Lessor, i.e., the owner of the residential property leases the property with a right to the Lessee to sub-let the property only for residential purpose.
 - (iii) The applicant Lessee further sub-leases the property to individuals/corporates and executes two separate lease agreements with the Sub- Lessees, one for the property and another for the maintenance services as discussed above.
- (c) The applicant, as admitted, is paying GST on the amount involved in the Service agreement only. The other two agreements , one with the owner of the property and it's sub-letting, is claimed by the applicant to be covered vide entry 12 of the Notification no. 12/2017 CT(R) dated 28.06.2017, hence not exigible to GST.

The relevant entry in question is reproduced as under for ready reference:

Sr. No	Chapter,Section,Heading, Group or service code (Tariff)	Description of Services	Rate (per cent)	Condition
12	Heading 9963 or Heading 9972	Services by way of renting of residential dwelling for use as residence.	Nil	Nil

- (d) To better appreciate the concept of the above Tariff heading, the relevant group of services concerned with the question raised by the applicant is Group 9972- Real Estate Services. Precisely, service code 997211 (Rental or leasing services involving own or leased residential property) dealing with the issue in hand need to be understood in it's true sense.



- (e) It is understood that the First Lease agreement between the owner and the applicant is in the nature of only a right given to the applicant for further sub-letting the property, though with a condition that it can be sub-letted only for residential purpose.

- (f) It is the second Lease agreement (Sub-Lease) which is between the applicant and the actual user of the property which is for residential purpose. This agreement, to our understanding qualifies under service code 997211(Rental or leasing services involving own or leased residential property) and falls under the said entry 12 of the notification in question.

- ✓ (g) The First Lease agreement between the owner and the applicant, at the most can be termed as property management services falling under service code 997221. The third Lease relating to services is rightly understood by the applicant as taxable and hence out of the purview of the said entry 12 of the above notification.
- 7 Feb

6. Advance ruling under section 98 of the CGST/HGST Act 2017

In the backdrop of above discussions and findings the advance ruling on the questions is pronounced as under: -

Question: Whether the Residential Dwelling Unit taken on Lease from Various Individuals/Owners for Sub Leasing the same Residential Dwelling unit to Corporates as well as Individuals for Residential Purposes along with various amenities such as Furniture, Appliance, Cleaning, Security, Pest Control, AC Service etc. is Exempt Supply as per the Entry No. 12 of Notification No. 12/2017- Central Tax (Rate) dated 28th June 2017.

Ruling:

The First Lease agreement between the owner and the applicant, at the most can be termed as property management services falling under service code 997221, hence not covered in entry 12 of Notification No. 12/2017- Central Tax (Rate) dated 28th June 2017.

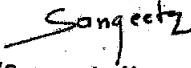
It is the second Lease agreement (Sub-Lease) which is between the applicant and the actual user of the property which is for residential purpose. This agreement, qualifies under service code 997211(Rental or leasing services involving own or leased residential property) and falls under the said entry 12 of the notification in question.

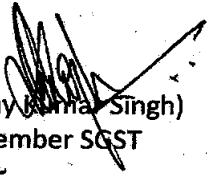
Ordered accordingly.

To be communicated.

Dated : 17.10.2018

Panchkula.


(Sangeeta Karmakar)
Member CGST


(Vijay Kumar Singh)
Member SGST

Certified true copy.

Regd. AD/Speed Post

M/s Complete Solutions Service Apartment Pvt. Ltd.,
Ground Floor, C-1518, Sushant Lok-1,
Gurugram (East).



Copy to

1. Commissioner, CGST, GST Bhawan, Plot No. 36-37, Sector-32, Gurugram-122011.
2. Deputy Excise & Taxation Commissioner (ST), Gurugram (East).
3. The Assistant Commissioner, Central Tax Division, Gurugram, CGST, GST Bhawan, Plot No. 36-37, Sector -32, Gurugram-122001.