



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

**HARYANA VANIJYA BHAWAN, PLOT NO. 1-3,
SECTOR 5, PANCHKULA-134151 (HARYANA)**

ADVANCE RULING NO. HR/ARL/18 /2022-23 DATED



Name & Address of the Applicant.	M/s Valley Residents Welfare Society, DLF Valley, Sector-3, Pinjor Kalka urban Complex, Panchkula, 134105.
GSTIN of the Applicant.	06AACAV0981G1ZH
Date/Receipt of Application:	08.03.2022
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the questions have been raised.	(b) Applicability of a notification issued under the provisions of this Act; (e) Determination of the liability to pay tax on any goods or services or both. (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.
Date of Hearing:	18.05.2022, 08.07.2022

Memo 320

Dated: 22/9/2022

APPLICANT'S ELIGIBILITY FOR SEEKING AN ADVANCE RULING:

To file an application before the Authority of Advance Ruling, the applicant must satisfy the conditions prescribed under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act, 2017) and Haryana Goods and Services Tax Act, 2017 (hereinafter referred to as HGST Act, 2017). Since the provisions of both the Acts are parimateria, any reference to provisions of CGST Act, 2017 in this order should be construed as a reference to corresponding provisions in HGST Act, 2017 as well. Sections 97(2) of the CGST Act, 2017 prescribes that Advance Ruling may be sought inter alia on the question of (b) Applicability of a notification issue under the provisions of this Act. (e) Determination of the liability to pay tax on any goods or services or both. (g) Whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term. Proviso with reference to the Section 98(2) of CGST Act, 2017 states that where the questions raised in the application is

pending nor decided in any proceedings under any of the provisions of the Act. Besides the applicable fees in the case has been paid. So, he is eligible to seek an Advance Ruling under the above provisions and the case is being heard on merits.

Statement of facts as per ARA-01:-

The Valley Residents welfare Society having its office at DLF Valley, Pinjore Kalka Urban Complex Sector-3 panchkula is a registered body having registration number: 00632. The VRWS is a registered society under the Societies Registration Act, 1860. The applicant is providing the following welfare services to its resident members:-

- a). Supply of water
- b). Sewerage Disposal and its Maintenance
- c). Security through an agency (GST Being Paid),
- d). Garbage Collection
- e). Horticulture - Maintenance of Gardens
- f). House Keeping - Cleanliness of Common Area /
- g). Collection and Payment of Electricity Bills (Billing/Payments of Electricity used by the residents)
- h). Provision of standby power supply in case of break down

The applicant is collecting CAM (Common Area Maintenance) charges on monthly basis in lieu of services rendered to its members. The minimum & maximum monthly CAM charges for residents are Rs.1415/- & Rs. 4294/- respectively per member for floor. Sinking Fund: Minimum Rs.244/- & Maximum Rs.1500/- per month per flat.

Further, he has referred the following provisions of the Act:-

(A) Section 9 (Levy and Collection) 9(1) Subject to provisions of sub section (2), there shall be levied a tax called the Haryana Goods & 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 20%, 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.

(B) Section 7 (Scope of Supply) 7(1) 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

- c) A company
 - d) A firm
 - e) A limited liability partnership
 - f) An association of persons or a body of individuals, whether incorporated or not, in India or outside India
 - g) Any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act 2013(Central Act 18 of 2013)
 - h) Anybody corporate incorporated by or under the laws of a country outside India
 - i) A co-operative society registered under any law relating to co operative societies
 - j) A local authority
 - k) Central Government or a State Government
 - l) Society as defined under the societies Registration Act, 1860(21 of 1860)
 - m) Trust; and
 - n) Every artificial juridical person, not falling within any of the above
- (D) Section 2(17) “business” includes:**
- a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
 - c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
 - d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

The applicant has interpreted the facts and legal provisions of his case as under:-

That Section 9 of Haryana Goods & Services Tax Act, 2017 provides for levy of GST on supply of Goods & Services. In view of Section 2 (84), Person includes both individual & Co-operative society under the GST law. Broadly seen the services provided by the society to its members seem taxable under the GST law unless these are specifically exempt.

its members in the residential society. However, the term third person is not defined under the GST Act.

The RWA has employed workers for the services to be provided to its members. Under the GST law services by employees to its employer has been specifically kept outside the levy of GST (entry 1 to the schedule iii). The Society has employed (Admin- 12, Multi Skilled Boys-9, Horticulture -20, House Keeping-32, Plumbers /Electricians-32 (Total approx. 103 Employees). However, the RWA is paying GST on the services being obtained from the Third Person with reference to the security services. The RWA is getting Services from Nova Security Pvt. Ltd. The Society has been paying GST on the amount disbursed to this Company for Security Services.

The circular issued /notified by CBIC dated 22/7/2019 has a specific bearing for exemption from levy of GST on the Common Area Maintenance (CAM) charges collected by the society in lieu of services given to its resident members. Since the RWA is collecting maximum Rs. 4294/- from individual resident members per floor per month, therefore, there is specific exemption from the payment of GST. It is also made clear that the RWA has not been collecting any GST on the CAM charges received from its resident members.

Queries on which Advance Ruling has been sought:-

1. Whether the welfare activities done by the society for its resident members fall within the ambit of Goods & Services Tax Act, 2017?
2. Whether these activities attract any levy of GST?
3. Whether the society collecting the CAM charges in lieu of services provided to its resident members attract any levy under the GST Act?
4. Whether the collection of CAM charges collected from the residents fall in the exempt category?

Comments of the jurisdictional Officer:-

The clarification sought under advance ruling on CAM charges charged by the applicant on account of services provided by it to the residents of the DLF valley. In reference to the above queries the CBC vide Circular No. 109/28/2019-GST dated 29.7 2019 has made clarification regarding tax paid/ exemption on CAM charges collected by welfare societies from the flat holders.

RWA	charge	
More than 20 Lakh	More than Rs. 7500/-	No
	Rs 7500/- or less	Yes
Rs. 20 lakhs or less	More than Rs. 7500/-	Yes
	Rs 7500/- or less	Yes

PERSONAL HEARING:

Sh. S.K Saini, advocate appeared on behalf of the applicant and enumerated the facts of the case with legal provisions.

DISCUSSION AND FINDING:

The matter has been examined in detail by the Authority, it is noticed that on completion of the flats, a society is formed to take care of the maintenance of the building complex. A fix monthly amount is collected from the members of the society for the said purpose. In this case, the society has employed approximately 103 persons for the upkeep of the society premises besides security services has been hired from NOVA Security Pvt. Ltd on which GST is being paid.

Monthly contribution collected from the members by the society is used for the purpose of making payments to the third parties in respect of commonly use services or goods which includes facilities like lift, water pump, health and fitness centre, swimming pool, payment of electricity bill for common area, maintenance of parking spaces, maintenance of parks, disposal of garbage and cleanliness etc.

In this matter, a monetary ceiling has been prescribed for the exemption with reference to the services provided by an incorporated body and non-profit entity registered under any law for the time being in force such as RWA to its own members. The prescribed limit is of Rs. 7500 per member per month to the society for sourcing of goods or services from third person for the common use. If per month per member contribution of any or some members of RWA exceeds the limit, the same would be ineligible for the exemption. The GST shall be leviable on the aggregate amount of monthly contribution of such members.

The applicant has not submitted any of the bill with reference to any activity

development. This is taxable on the receipt basis and as it is for the common purpose it is to be counted for the threshold limit.

The applicant has submitted the copy of order of Maharashtra Advance Ruling Authority dated 13.07.2021 in the case of Emerald Court Cooperative housing Society Ltd. and order of the Hon'ble High Court of Madras dated 01.07.2021 in the writ petition no. 5518 and 1555 of 2022 and 27100 and 30004 of 2019.

On the issue at hand, reference is being made to Entry No. 77(heading 99955) of the notification No. 12/2018 - Central Tax (Rate) dated 28.06.2019 which is as under:-

Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution-

- (a) *As a trade union;*
- (b) *For the provision of carrying out any activity which is exempt from the levy of Goods and Service Tax; or*
- (c) *Up to an amount of 7500 rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.*

From the above, it can be said that the supply of services by the applicant to its own members by way of reimbursement of charges or share of contribution for providing services and goods for common use of its member are nil rated under the GST Act, 2017. This is subject to the condition that the charges received from the members has an upper limit of Rs. 7500 per month per member. Further, the definition of the business is quite comprehensive under the GST Act. The vocation of the applicant society cannot be considered as welfare activity as stated by him. Section 2(17)(a) of the Act states that any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit. So, the activities done by the applicant society for its member falls within the purview of the taxability under the Act.

Whether the welfare activities done by the society for its resident members fall within the ambit of Goods & Services Tax Act, 2017?	Yes
Whether these activities attract any levy of GST?	Yes
Whether the society collecting the CAM charges in lieu of services provided to its resident members attract any levy under the GST Act?	Yes
Whether the collection of CAM charges collected from the residents fall in the exempt category?	No


(Sunder Lal)
Member CGST


(Kumud Singh)
Member SGST

Regd. /Speed Post

M/s Valley Residents Welfare Society
Sector-3, Pinjor Kalka urban Complex,
Panchkula, 134105.

Copy to:

1. The Addl. Commissioner, Central Goods & Service Tax Commissionerate, Plot No. 5, Sector 25, Panchkula (Haryana).
2. The Deputy Excise and Taxation Commissioner (ST), Panchkula.
3. The Deputy/ Assistant Commissioner, Central Goods & Service Tax, Commissionerate, Plot No. 5, Sector 25, Panchkula

Note: An Appeal against this advance ruling order lies before the Haryana Appellate Authority for Advance Ruling for Goods and Service Tax Haryana Vaniiva Bhawan, Plot No. 1-3, Sector 5, Panchkula, 134 151 (Haryana) within