

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

**Advance Ruling No. KAR ADRG 29/2022**

**Date : 12-08-2022**

Present:

**1. Dr. M.P. Ravi Prasad**

Additional Commissioner of Commercial Taxes

.... Member (State)

**2. Sri. T. Kiran Reddy**

Additional Commissioner of Customs & Indirect Taxes . . . .Member (Central)

1.	Name and address of the applicant	M/s. MERCARA DOWNS GOLF CLUB, PB # 79, K Badaga Village, Madikeri – 571 201, Kodagu District, Karnataka.
2.	GSTIN or User ID	29AAAAM6918J1Z8
3.	Date of filing of Form GST ARA-01	27-06-2022
4.	Represented by	--NA--
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, Mysuru Commissionerate, Mysuru. (Madikere Range)
6.	<b>Jurisdictional Authority – State</b>	ACCT, LGSTO-300, Madikere.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from Electronic Cash Ledger vide Entry No.DC2902220243871 dated 21.02.2022.

**ORDER UNDER SECTION 98(2) OF THE CGST ACT, 2017  
& UNDER SECTION 98(2) OF THE KGST ACT, 2017**

M/s. Mercara Downs Golf Club (herein after referred to as 'Applicant'), PB # 79, K Badaga Village, Madikeri – 571 201, Kodagu District, Karnataka, having GSTIN 29AAAAM6918J1Z8, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act, KGST Act.



2. The applicant is a society registered under The Karnataka Society Registration Act, at Madikeri, which is a century old club involved in Golf activities. They received a donation of Rs.1 Crore, during 2021-22, from a person, who is not a member of their club; the donation received with natural love and affection towards Golf and without any consideration and no publicity involved in the form of Advertising and Promotion of business.

3. In view of the above, the applicant has sought advance ruling in respect of the question that **whether the donation amount is taxable under GST or not? If taxable whether the rate of GST applicable on the said donation is 18% or not?**

4. **Applicant's Interpretation of Law:** The applicant submitted a copy of the letter from the donor to the applicant wherein the donor mentioned that the donation has been given, by the donor, without any instructions or without a quid pro quo in the form of supply of any goods or services by the club to the donor; The donation is without any favour or for favour in return and is a financial help or any other support from the donor, which is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of business of the donor and hence there is no supply of service for a consideration. The applicant, in view of this, without furnishing any interpretation of law, contends that the said donation is not taxable under GST.

5. **Comments/Observations of the Concerned Officer:** The Assistant Commissioner of Commercial Taxes, LGSTO-300, Madikeri furnished their opinion/observations, which are as under:

5.1 M/s Mercera Downs Golf Club is a registered society under Karnataka Society Registration Act, involved in Golf activities as mentioned by them. As per their profile details in GST Prime they are involved in provision of the services of **Membership of Clubs** (HSN-00440322) and **Accommodation in Hotels/Inn/Guest House/Club or Camp Site etc.,** service (HSN-00441070). On the outset, it does not seem to be involved in any charitable work nor does it seem to be registered as **Charitable Trust** under Section 12AA of Income Tax Act 1961.

5.2 The applicant is not involved in any services mentioned under Sl.No.1 of Notification No.12/2017 dated 28.06.2017. All payments will be taxable.

5.3 As per the application, Mr. Mahendran Balachandran, who has donated Rs.1 Crore on voluntary basis is neither a member of the club nor does he have any relationship with the club. The donation has been made out of natural love and affection without a quid pro quo. This claim is hard to believe as the club is not involved in any kind of social work and donation to such organization can't be without a motive.



5.4 In this case, the donation given by the person in the form of money consideration to club to carry out their business activities as narrated as per Section 7(aa) is a supply and this consideration can be for future supply of service. Keeping all these points in view, in our opinion this can be considered a supply and the payment will be taxable.

6. A personal hearing opportunity, scheduled on 07-07-2022, was provided to the applicant, but the applicant vide their letter dated 04.07.2022, requested to dispose the instant application on merits quoting the reasons that they are preoccupied with other assignment and also they have already submitted all the required documents including the related case law.

### **FINDINGS & DISCUSSION**

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matters and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issue involved on which advance ruling is sought by the applicant and relevant facts.

9. The applicant received a donation of Rs. 1 Crore (Rupees One Crore Only) from a donar and thus sought advance ruling as to whether the said donation is exigible to GST or not. The applicant contends on the basis of the letter of the donar that the donation is without any instructions or without any quid pro quo in the form of any supply of goods or services by the applicant; there is no relationship between donor and the applicant; the donation is without any favour in return; the donor provides financial support in the form of donation and the said donation is not aimed at giving publicity to the donor in such a manner that it would be an advertising or promotion of donar's business; there is no supply of service for consideration; the donation was given out of natural love & affection and thus the amount of donation is not taxable under GST.

10. The applicant placed reliance on the ruling of AAR, Maharashtra in the case of M/s Jayashankar Gramin Va Adivasi Vikas Sanstha, which is a charitable trust, registered under Maharashtra Public Charitable Trust Act 1950; also registered under Societies Act as well as registered under Section 12AA of the Income Tax Act 1961 e.f. 08.10.2009. In the instant case the applicant is a society, registered under Karnataka Society Registration Act, at Madikeri, but not a charitable trust. Thus the ruling of AAR, Maharashtra is not relevant to the instant case.



11. In the instant case, it is an admitted fact that the donor has donated Rs.1 Crore to the applicant out of natural love & affection and there is neither quid pro quo nor any supply is involved.

12. In view of the above we proceed to examine the admissibility of the instant application. We invite reference to Section 97, Section 95(a) and Section 7(1) to understand the scope of advance ruling. Relevant provisions are reproduced as under-

**Section 97. Application for advance ruling.—** (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the **question on which the advance ruling** is sought.

**Section 95(a) – “advance ruling”** means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, **in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;**

**Section 7. Scope of supply.—** (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;** (emphasis added)

It is evident from the above provisions that advance ruling can be sought under Section 97 only for supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. Supply, as per Section 7(1), includes all forms of supply of goods or services or both, made or agreed to be made for a consideration by the applicant in the course or furtherance of business.

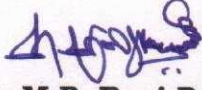
13. In the instant case the applicant admittedly is not involved in supply nor intends to supply any goods or services or both to the donor and thus the first limb of the Section 7(1) supra is not fulfilled. Also admittedly there is no quid pro quo involved to treat the amount as consideration and there is no business relationship between the donor and the applicant and hence the receipt of donation is not towards any supply. Thus from the facts brought forth in the application for advance ruling, the applicant admittedly is neither undertaking nor proposed to undertake any supply of goods or services or both to the donor in respect of the donation received and thus there is no supply in terms of Section 7(1) of the CGST Act 2017 and hence the instant application does not qualify as an application for advance ruling in terms of Section 97 read with Section 95(a) and Section 7(1) of the Act, *ibid*, and is liable for rejection in terms of Section 98(2) of the CGST Act 2017.



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

**R U L I N G**

The application is rejected as "inadmissible", in terms of first proviso to Section 98(2) of the CGST Act 2017.



(Dr. M.P. Ravi Prasad)

Member

MEMBER

Karnataka Advance Ruling Authority  
Place : Bengaluru  
Bengaluru - 560 009



(T. Kiran Reddy)

Member

MEMBER

Karnataka Advance Ruling Authority  
Bengaluru - 560 009

Date : 12-08-2022

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Tax, Mysuru Commissionerate, Mysuru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-300, Madikeri.
5. Office Folder.

