

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

Advance Ruling No. KAR ADRG 75 / 2021

Dated: 06-12-2021

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
Joint Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. Healersark Resources Private Limited, No.174/1, Meu Square Building, Bannerghatta Main Road, Bengaluru-560 076.
2.	GSTIN or User ID	29AAECH2332P1Z9
3.	Date of filing of Form GST ARA-01	12-08-2021
4.	Represented by	Sri Manoj Kumar, Manager
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Taxes, Bangalore South Division-4, Range-BSD4
6.	Jurisdictional Authority - State	ACCT, LGSTO-25, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST and KGST Act vide Debit reference number DC 2905210011535 dated Dtd: 05-05-2021

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Healersark Resources Private Limited, No.174/1, Meu Square Building, Bannerghatta Main Road, Bengaluru-560076 having GSTIN 29AAECH2332P1Z9 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 and KGST Act.

2. The Applicant is a Private Limited Company registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act



Healersark Resources Private Limited

respectively). The Applicant is in the hospitality industry and is into the business of providing boarding, lodging facilities and such other services to M/s. Apollo Med Skills Limited (AMSL).

3. The applicant has sought advance ruling in respect of the following questions:

- a. *What is the applicable GST SAC and GST rate for the supply of service described in this application?*
- b. *Is it a composite supply or a mixed supply?*
- c. *Whether the service is exempted vide Notification No.12/2017-CT (Rate) dated 28-06-2017?*

4. **Admissibility of the application:** The question is about “classification of any goods or services or both” and “applicability of a notification issued under the provisions of this Act,” and hence is admissible under Section 97(2)(a) and (b) of the CGST Act 2017.

5. **Brief Facts Of The Case:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant states that they are into hospitality industry and is into the business of providing boarding, lodging facilities and such other services to M/s. Apollo Med Skills Limited (AMSL).

5.2 AMSL is into training youth in various Healthcare related vocational programmes as part of implementation of its Projects under Deen Dayal Upadhyay Grameen Kaushalya Yojana (DDU-GKY) by providing upskilling courses for Doctors, Nursing Professionals and skilling courses for Paramedical and Hospital Support Staff. AMSL has established training centres across the country for training and skilling of health care professionals. AMSL is also required to provide boarding and lodging facilities to the candidates enrolling for the courses under the projects. After successful completion of the course, AMSL provides certificate to the candidates in collaboration with Healthcare Skills Sector Council (HSSC).

5.3 In this regard, AMSL has engaged the applicant to provide the boarding, lodging facilities and such other agreed services in line with the SOP given by the Government of India for the implementation and furtherance of its projects under DDU-GKY.

5.4 In order to render the above services, they would tie up with various other third-party service providers to ensure that such agreed services are rendered to AMSL.

5.5 The applicant has entered into an agreement with AMSL for providing boarding, lodging and other services to the trainees at all places in Karnataka. The applicant provides the below services.

5.5.1 The applicant states that they shall explore the hostels and provide boarding and lodging facilities separately for boys and girls to accommodate the candidates / students enrolled for the courses offered at the Training Centres of AMSL in the State of Karnataka as per the requirement of AMSL.



5.5.2 The hostels identified shall be within a maximum distance of not more than 1-2 kilometers.

5.5.3 The applicant states that they shall arrange for the dining space, kitchen space for cooking and shall arrange food as per the menu specified by AMSL for breakfast, lunch and dinner to the candidates / students staying at the hostels.

5.5.4 The applicant shall arrange for the below amenities-

- i. Partition work, if any, for security of girls.
- ii. Toilets and bathrooms in Girls Hostels and Boys Hostel in the ratio of 10:1.
- iii. One urinal for every 20 boys in the hostel.
- iv. Wash basins for boys & girls.
- v. Furniture / Fixtures viz., Tables, fans, exhaust fans, lights etc.
- vi. Cots, Mattresses, Pillows with Covers, Blankets and Bed Sheets for each candidate.
- vii. Plates and Glasses for each candidate.
- viii. Kitchen Utensils and Vessels for cooking and serving food.
- ix. On call Doctor, First Aid kit, Fire Extinguisher.
- x. Safety lockers for students.
- xi. Appointment of separate wardens for Boys and Girls to ensure students safety.
- xii. Depute House Keeping staff.
- xiii. Installation of Ro water purifiers in both Boys and Girls Hostel.
- xiv. Electrification of RO water purifiers in both Boys and Girls Hostel.
- xv. Recreation facilities such as Carrom Board, Chess, Ludo, etc.,
- xvi. Genset for 24 hours Power Backup for both Boys and Girls Hostels.
- xvii. Installation of CCTV camera.
- xviii. Any other facility in compliance with all relevant rules, regulations as may be required.

5.5.5 For the above services provided, a consideration of Rs.9,000/- per candidate per month is charged by the applicant as mentioned below-

- a. Rs.3,500/- towards rent for the accommodation at fixed cost
- b. Rs.5,500/- towards the Food and other facilities on Head Count/actuals number of candidates residing at the Hostel.

5.5.6 As required by AMSL, the applicant is engaged to take care of the candidates by providing all the facilities including accommodation, food and other amenities to the candidates as per the SOP provided by the Government of India.

6. Applicant's Interpretation of Law:

6.1 The applicant states that they are providing boarding and lodging services along with food and other amenities to Apollo Med Skills Limited. Apollo Med Skills Limited is the Project Implementation Agency for the DDU-GKY under the Ministry of Rural



Development across 22 states with 29 training centres in India providing various skill courses in the field of healthcare.

6.2 The applicant is of the view that since there are two or more supplies being made, the service supplied is a composite supply under the GST law.

6.3 Composite supply is defined under Section 2 (30) of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017) as-

“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;

On perusal of the above definition, it can be inferred that a composite supply has to fulfil the below criteria-

- Supply of two or more taxable supplies of goods or services or both.
- The two or more taxable supplies are naturally bundled and are supplied in conjunction with each other in the ordinary course of business, and
- One of the two taxable supplies is a principal supply.

6.4 The above criteria are analysed as below-

6.4.1 Supply of Two or More Taxable Supplies of Goods or Services or Both: The prerequisite for a composite supply is that the supply should be a mixture of taxable goods or services or both. This means that composite supplies consist of different supplies which in other circumstances might have been their own individual supply with their own specific tax treatments.

Taxable supply has been defined in Section 2(108) of the CGST Act, 2017 as –

“Taxable supply means a supply of goods or services or both which is leviable to tax under this Act;

6.4.2 Supply Are Naturally Bundled In the Ordinary Course Of Business: In general every transaction shall be normally regarded as distinct and independent. However, in certain circumstances, several distinct supplies are considered to be a single supply when they are bundled. The Phrase “naturally bundled” has not been defined in the GST law. Supplies can be considered to be a naturally bundled when two or more supplies made are so closely linked that they objectively form a set of interrelated action which would be artificial to split.

6.5 The CBEC Education Guide goes on to list some of the indicators to ascertain such normal and frequent practices:-

- **The perception of the consumer or the service receiver:** - If a large number of service recipients of such bundle of services reasonable expect such services to be provided as a package, then such package could be treated as naturally bundled in the ordinary course of business.



- **Majority of service providers in a particular area of business provide similar bundle of services:-** In the example of air transport services along with catering service on board, majority of the airlines provide a bundle of these services.
- **The Nature of the various services in a bundle of services:-** The nature of services is such that one of the services is the main service and the other services combined with such main service are incidental or ancillary services which held in better enjoyment of the main service.

6.6 Identification of Principal Supply:

In order to determine whether several distinct supplies are being made or a single supply is made, the essential features of the transaction must be ascertained and regard must be had to all the circumstances in which that transaction takes place.

“Principal supply” means the supply which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.”

A supply must be regarded as ancillary to the principal supply if it does not constitute and end in itself but a means of better enjoying the principal supply. This means that the principal supply is superior to the ancillary supply. The ancillary supplies share the tax treatment of the principal supply. Thus, Principal supply is the supply which gives the entire bundle its essential character.

6.7 The applicant is of the view that by applying the above analysis to the service in hand, the primary and predominant activity of the applicant is to provide accommodation to the candidates at the hostels. They have created the infrastructure to mainly provide the services of accommodation by taking up hostel buildings etc., on rent/lease and then supplying a significant package of services to the occupants. The supply of food and other amenities to candidates is an ancillary but an integral part of the principal supply. The case in hand can be compared to the example of a Hotel providing the facility of breakfast cited in the Education Guide. The same has been considered to be a composite supply with the principal supply being accommodation service. Hence they are of the view that the activity is a composite supply where the principal supply is accommodation service.

PERSONAL HEARING / PROCEEDINGS HELD ON 07-10-2021

7. Shri G Manoj Kumar, Manager & Duly Authorised Representative of the applicant appeared for personal hearing proceedings held on **07-10-2021** and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. 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 matter 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.



9. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the applicant and also their submissions made by their learned representative during the time of hearing.

10. The applicant is in the hospitality industry and is into the business of providing boarding, lodging facilities and such other services to M/s. Apollo Med Skills Limited (AMSL for brevity).

11. AMSL is the project implementing agency for Deen Dayal Upadhyay Grameen Kaushalya Yojana (DDU-GKY for brevity), a central Government scheme, which is a placement linked skill training scheme which caters to the largest rural poor youth of the country. As a part of the implementation of the project, AMSL is required to provide boarding and lodging facilities to the candidates enrolled for the training. In this regard AMSL has engaged the Applicant to provide boarding, lodging facilities and such other agreed services to the candidates enrolled for the training, as per the terms of SOP provided by GOI with respect to the implementation of its projects under DDU-GKY.

12. As per the terms of the agreement between the Applicant and AMSL, the consideration payable by AMSL to the applicant is hereunder:

- Within the region of Bangalore-
 - Rs.9000/- per candidate per month which is allocated as under:
 - Rs.3500/- towards rent for the accommodation(Fixed Cost)
 - Rs. 5,500/- towards food and other facilities(Variable Cost)
- Any region out of Bangalore-
 - Rs.7500/- per candidate per month which is allocated as under:
 - Rs.3000/- towards rent for the accommodation(Fixed Cost)
 - Rs. 4,500/- towards food and other facilities(Variable Cost)

It is seen from the above that the Applicant is providing accommodation, food and other services to AMSL.

13. The applicant is providing boarding and lodging facilities and other services which are taxable under CGST Act 2017. The applicant has submitted few sample invoices raised by him towards the services provided by him to AMSL, which shows that he is raising 2 separate invoices, one towards hostel rent and one towards hostel food. Also from the agreement it is seen that the charges are defined separately for accommodation and for food and other facilities. Since the Applicant is raising separate invoices for the services supplied by him to AMSL, there is no provision of 'bundled services' to AMSL by the applicant, but two separate supply of services.



14. The Applicant intends to know whether the services provided by him to AMSL amounts to composite supply or not. "Composite Supply" is defined in subsection 30 of section 2 of CGST Act 2017 as under:

"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;"

Since there is no provision of 'bundled services' by the applicant to AMSL, the same is not covered under the definition of 'composite supply.'

15. The Applicant also intends to know whether the services provided by him to AMSL amounts to Mixed Supply or not. "Mixed Supply" is defined in subsection 74 of section 2 of CGST Act 2017 as under:

"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".

The applicant is providing two separate services to AMSL as explained in para 13 supra for two different prices and not for a single price. Hence the same is not covered under 'mixed supply'.

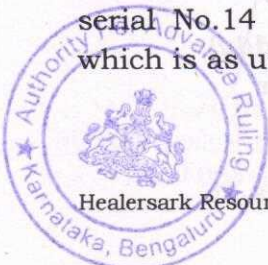
16. The applicant is providing boarding, lodging facilities and such other agreed services to the applicant for a consideration of Rs.9000/- (within Bangalore) and Rs.7500/- (outside Bangalore), per candidate per month.

'Declared tariff' is defined at clause 2 of Notification No. 12/2017- Central Tax (Rate) dated: 28.06.2017 as below:

(w) "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit;

Since the consideration received by the applicant is for providing boarding, lodging facilities and such other agreed services, the same may be considered as 'declared tariff' as per Notification No. 12/2017- Central Tax (Rate) dated: 28.06.2017.

17. The consideration received by the applicant per candidate per month is Rs. 9000/- which works out to be Rs.300 per day. Hence the declared tariff of a unit of accommodation is below one thousand rupees. Since the declared tariff of a unit of accommodation is below one thousand rupees, the rate of tax for the same is NIL as per serial No.14 of the Notification No. 12/2017- Central Tax (Rate) dated: 28.06.2017 which is as under:



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

18. The applicant is also into supply of food along with accommodation but raising different invoices for each. As per Notification No. 13/2018-Central Tax(Rate), dtd.26.07.2018, "(i) Supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent" is taxable at 5% GST without input tax credit. The service of supply of food provided by the applicant is also covered under the above entry of the notification mentioned supra and hence attracts GST at 5%.

19. In view of the foregoing, we rule as follows

RULING

- The applicable GST SAC for the supply of service described in this application is 9963.
- It is neither a composite supply nor mixed supply but two separate supplies.
- The accommodation service (SAC 99632) provided by the applicant to AMSL is exempted vide Notification No.12/2017-CT (Rate) dated 28-06-2017 as the declared tariff of a unit of accommodation is below one thousand rupees. But the service provided by the applicant through supply of food (SAC 99633) attracts GST @ 5% as per Sl.No. 7(ii) of Notification No. 11/2017-Central Tax(Rate) dtd 28.06.2017 as amended by Notification No. 13/2018-Central Tax(Rate), dtd.26.07.2018.



(Dr. M.P. Ravi Prasad)

**Member
MEMBER**

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Healersark Resources Private Limited

(T. Kiran Reddy)

**Member
MEMBER**

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Page 8 of 9

Place: Bengaluru,
Date: 06-12-2021

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 Principal Commissioner of Central Tax, Bangalore South GST
Commissionerate, South Division-4, Bengaluru
4. The Assistant Commissioner of Commercial Taxes, LGSTO-25, Bengaluru.
5. Office Folder.

