

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
**GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.**  
**(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

- (1) **Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)**  
(2) **Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

ARN No.		AD270720005913A
GSTIN Number, if any/ User-id		27AAEAR6136K1Z7
Legal Name of Applicant		M/s. ROTARY CLUB OF NAGPUR VISION
Registered Address/Address provided while obtaining user id		2 FLOOR, S11 GIRISH HEIGHTS, NEAR LIC SQUARE NAGPUR-440013
Details of application		GST-ARA, Application No. 14 Dated 31.08.2020
Concerned officer		NAG-VAT-D-010, Nagpur Division
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in brief) (As per applicant)	The applicant club is affiliated to Rotary International, an International organization whose stated purpose is to bring together business and professional leaders in order to provide humanitarian service and to advance goodwill and peace around the world. It is a non-political and non-sectarian <b>organization</b> open to all people regardless of race, color, creed, religion, gender, or political preference.
Issue/s on which advance ruling required		➤ 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.
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

**NO.GST-ARA- 14/2020-21/B- 95**

**Mumbai, dt. 22.11.2021**

**PROCEEDINGS**

**(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively ] by **M/s. Rotary Club of Nagpur Vision**, the applicant, seeking an advance ruling in respect of the following questions.

**The amount collected as membership subscription and admission fees from members by the applicant club to meet out the expenses for the object for which it is incorporated viz; meeting**

expenses, communication expenses, Audit fees, Rotary International (RI) per capita dues, subscription fees to the Rotarian or Rotary regional magazine and the like. As there is no furtherance of business in this activity and neither any services are rendered, whether the above transaction can be considered as supply of services to its Members under GST?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

## **2. FACTS AND CONTENTION – AS PER THE APPLICANT FACTS:**

The submissions made by the applicant are as under:-

2.1 *"The applicant club is affiliated to Rotary International which is an International organization whose stated purpose is to bring together business and professional leaders in order to provide humanitarian service and to advance goodwill and peace around the world.*

2.2 *Applicant Club receives fees from its members: purely to defray its expenditure on meetings and communication, Rotary International (RI) per capita dues, subscription fees to the Rotarian or Rotary regional magazine, district per capita dues, club annual dues, etc. Rotary Club holds Programs, Seminars and Institutes for Leadership Development and other forums and these programs are only for Rotary Club members and non-members are not allowed to take part. Thus, funds received from members are utilized for mutual benefit of members. The administration and working of the Club and implementation of policies are established and are implemented on the concept of mutuality.*

2.3 *As per Section 9 of CGST Act, 2017, levy of tax is on an event called 'supply'. Scope of supply is stated under Section 7 of CGST Act. Perusing the relevant provisions of the GST Act, 2017, transaction between an association or club and its members will not be covered within the scope of supply u/s. 7 of the CGST Act, 2017. Hence the same shall not be taxable. In the context of GST, 'persons' are defined under section 2(84) of the CGST Act, 2017. As per said definition, there is no deeming fiction to treat association and members as different persons. Hence the key condition to tax a transaction under section 7(1) (a) of CGST, that supplier and recipient must be different, is not satisfied. Hence the transaction of providing services by an association to its members should not be taxed under section 7(1) of CGST.*



- 2.4 Further, Hon'ble AAAR Maharashtra vide Order No. MAH/AAAR/SS RJ/15/2019-20 dated 06.11.2019 held that amount collected as membership subscription and admission fees from members is not liable to GST as supply of services."

**03. CONTENTION – AS PER THE CONCERNED OFFICER:**  
**OFFICER SUBMISSION DATED 21.06.2021:-**

- 3.1 As to applicant M/s Rotary club Nagpur Vision it is noticed that collection is made separately for administrative expenses as Subscription dues and fellowship expenses as Fellowship dues. Further social services are funded separately by raising separate fund for the projects. Major portion of Administrative expenses spent from Subscription dues is for providing facility of meetings to members. Fellowship dues are charges for providing facility of occasional (Diwali, Sankranti, Summer etc) get together to members. Direct purpose of meetings & gatherings as per information on website of Rotary seems to facilitate personality development of members through opportunities of better communication, promoting friendship, trainings, entertainment, activities participation etc. These facilities are not available to non-members. Certainly personality development of members indirectly support services which is main objective of Rotary. Hence it is incorrect to say that Rotary doesn't provide any facility to members.
- 3.2 The term "business" under the GST Act includes, under Section 2(17) (e): "Provision by a club, association, society, or any other body (for a subscription or any other consideration) of the facilities or benefits to its members. It is, thus, clear that the Applicant is doing "business" as defined under section 2(17) (e) of the GST Act. The subscription and fellowship dues are to be considered as consideration for the supply of such services, which are classifiable under SAC Heading 99959 under the category 'Services furnished by other membership organization'.
- 3.3 In the instant case applicant is not noticed to be registered as charitable trust. Also the activities undertaken by the Applicant do not conform entirely to the definition of charitable activity. Activities of training workshops or meetings for personality/ skill development out of subscription/ fellowship dues are only for members and not for people mentioned in above definition of charity. At best, the activities undertaken by the Applicant may be broadly defined as social welfare activities. Such activity by an entity is an "adventure" and may be treated as a business under Section 2(17)(a) of the GST Act, and a taxable supply of service in consideration is charged from the recipient. The term "business" under GST Act includes, under Sec 2(17)(a) & (b)
- 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);

Thus subscription and fellowship dues are to be considered as consideration for the Taxable supply of such services.

3.4 The activity of the Applicant, therefore, is to be considered in the light of Section 7(1)(a) of the GST Act. The language used therein is '**all forms of supply** of goods or services or both **such as** .....'. The expression 'such as' is meant to illustrate and covers the supplies made by club to its members even though a specific mention was not made therein.

### 3.5 **Amendment of section 7.**

3.5.1 In the CGST Act, 2017, in section 7(1), after clause (a), clause (aa) was inserted with retrospective effect, as per which, the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration will amount to 'supply' of goods/services.

**Explanation.**—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”.

3.5.2 Hon'ble AAR Karnataka authority noted that Finance Act 2021 by way of explanation cleared that members and club are separate entities for section 7 of CGST act over ruling earlier court decisions on principle of mutuality and observed that subscription fees and infrastructure development fund collected from members will be taxable after notification of amendment.

3.6 Thus various provisions in GST read collectively made it clear that the legislature intentions was always to treat association and its members as different entity which is also endorsed by amendment in Finance act 2021.

3.7 Hence, in view of the above, Subscription & Fellowship dues collected from members for activities of M/S Rotary Club, Nagpur Vision are in the furtherance of “business” as termed in section 2(17) and taxable as “supply of services” in section 7(1)(a) of GST act.”

## 04. **HEARING**

4.1 Preliminary e-hearing in the matter was held on 22.06.2021. Authorized Representative of the applicant, Shri. Abhay Upadhye, CA was present. Jurisdictional officer Shri. Shyam Raghute, ACST, NAG-VAT-D-10 was also present. The Authorized Representatives made oral submissions with respect to admission of their application.

4.2 The application was admitted and called for final e-hearing on 29.10.2021. Authorized Representative of the applicant, Shri. Abhay Upadhye, CA was present. Jurisdictional officer



Shri. Shyam Raghute, ACST, NAG-VAT-D-10 was also present. Both the sides have made oral as well as written submissions.

4.3 We heard both the sides.

**05. DISCUSSIONS AND FINDINGS:**

5.1 We have perused the documents on record, facts of the matter and oral/written submissions made by both, the applicant as well as the jurisdictional officer.

5.2 The question raised by the applicant is with respect to the amounts collected as, as membership subscription and admission fees from its members to meet out the various expenses of the applicant viz; meeting expenses, communication expenses, Audit fees, Rotary International (RI) per capita dues, subscription fees to the Rotarian or Rotary regional magazine and the like. According to the applicant since there is no furtherance of business in this activity and neither any services are rendered, whether the said transaction can be considered as supply of services to its Members under GST?

Thus the applicant is asking whether the supply rendered by it to its members as mentioned above can be considered as 'supply' under the GST Act. The question raised is very specific.

5.4 It is admitted fact that the applicant club is a group/association of persons, which undertakes social activities. The Funds collected as fees are pooled together to be expended for meeting expenses & forwarding to international office for administrative expenses. The applicant has submitted that it is working towards the betterment of the society by carrying out various charitable causes and activities. According to applicant meetings are held for all the members to meet from time to time to review existing activities for keeping a tab on the same and consider new projects for execution.

5.5 Since the specific question raised is whether the transactions of the applicant to its members amounts to supply or not we refer to the definition of the term 'supply' under Sec. 7 (1) of the GST Act.

5.6 The term "supply" is defined under Section 7 of the CGST Act and was amended last, in the Budget 2021. Prior to the amendment "supply" was defined as :

*7 (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;*

*(b) the activities specified in Schedule I, made or agreed to be made without a consideration; and*

(c) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

.....  
(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

1. a supply of goods and not as a supply of services; or
2. a supply of services and not as a supply of goods.

5.7 Vide clause 99, an amendment was proposed in the CGST Act, 2017, whereby, in section 7, in sub-section (1), after clause (a), the following clause was to be inserted and deemed to have been inserted with effect from the 1st day of July, 2017, namely:

*“(aa) the activities or transactions, by a person, other than an individual, to their members or constituents or vice versa, for cash, deferred payment or other valuable consideration.*

*Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and their members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”.*

5.8 The amendment mentioned above has received the assent of the President of India on the 28<sup>th</sup> March, 2021 and in view of the same the issue of principles of mutuality in the case of cooperative societies like the applicant has been settled.

5.9 As per section 2(84) the term “person” includes

(a) an individual

.....  
(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India.

5.10 Therefore, in view of the amended Section 7 of the CGST Act, 2017, we find that the applicant society and its members are distinct persons and the fees received by the applicant, from its members are nothing but consideration received for supply of goods/services as a separate entity. The principles of mutuality, which has been cited by the applicant to support its contention that it is not rendering any supply to its members and GST is not leviable on the fees collected from its members, is not applicable in view of the amended Section 7 of the CGST Act, 2017 and therefore, the applicant has to pay GST on the said amounts received from its members.



5.11 As per clause (aa) of Section 7 (1) of the CGST Act, the expression “supply” includes *the activities or transactions, by a person, other than an individual, to their members or constituents or vice versa, for cash, deferred payment or other valuable consideration*. The said clause (aa) clearly specifies that all or any activities or transactions by a person (in this case, the applicant) to their members will be treated as ‘supply’. The meetings conducted by the applicant which includes food, refreshment, etc. are nothing but activities carried out by the applicant for its members and therefore we hold that, contributions from the members, recovered for expending the same for the weekly and other meetings and other petty administrative expenses incurred including the expenses for the location and light refreshments, amounts to or results in a supply, in the subject case.

5.12 The reliance placed by the applicant on the order of the Appellate Authority for Advance Ruling, is not proper as said order was passed prior to amendment. The words *the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration* cover all types of activities/transactions of the present applicant. **There is no list or limit or any restriction prescribed in this respect in this amendment. The fees/donation/subscription/amount (by whatever name called), collected by the applicant, is nothing but the “consideration” for the such “supply” and is covered by the scope of the term “business”.** The club and the member are two distinct persons. The principle of mutuality has no application after this amendment. All the other case laws relied upon, also do not provide any guidance on the legal situation, particularly after the amendment.

5.13 We further refer to Section 2(102) of the CGST Act which defines “services” to mean anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. The impugned activities performed by the Applicant for the welfare activities of its members which includes meetings with food and refreshment, etc., is a service rendered by the Applicant to its members as per the definition of the term ‘services’ mentioned above.

5.14 To be taxable under GST laws, the services must be supplied in the course or furtherance of their business. The term ‘business’ is defined under Section 2(17) of the CGST Act includes,-

.....

e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

.....

5.15 Clause (e) of the above said definition is relevant and it is clear from the said clause that the activity of providing facilities or benefits by an association to its members for a subscription is a business under GST Act. Hence the transactions between the association and its members is a service.

5.16 Further, Section 2(31) of the CGST Act states that 'Consideration' in relation to the supply of goods or services includes,-

(a) any payment made or to be made, whether in money or otherwise, in respect of in response to, or for the inducement of the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

PROVIDED that a deposit, given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies the deposit as consideration for the said supply ;

5.17 In the instant case, the monthly contribution made by the members to the association is in return for receiving the services of the Applicant Club. The money collected by the Appellant from its members is used to procure services and goods from a third party and provide the benefits of such procured goods and services to the members of the association. Under GST, the term 'person' has been defined in Section 2(84) of the CGST Act, 2017, to include an 'individual' as well as an 'association of persons or a body of individuals, whether incorporated or not. Therefore, the individual members who are members of the Applicant Club are beneficiaries and the contributions made by them is to be considered as consideration for the services received.

5.18 Therefore, in view of the above, we find that the applicant club and its members are distinct persons and the amounts/consideration received by the applicant from its members are nothing but consideration received for supply of goods/services as a separate entity. The principles of mutuality, which has been cited by the applicant to support its contention that GST is not leviable in its case, is not applicable in view of the amended Section 7 of the CGST Act, 2017 and therefore, the applicant has to pay GST on the said amounts received against membership subscription and admission fees from members.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:



## ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus –

**Question:** - The amount collected as membership subscription and admission fees from members by the applicant club to meet out the expenses for the object for which it is incorporated viz; meeting expenses, communication expenses, Audit fees, Rotary International (RI) per capita dues, subscription fees to the Rotarian or Rotary regional magazine and the like. As there is no furtherance of business in this activity and neither any services are rendered, whether the above transaction can be considered as supply of services to its Members under GST?

**Answer:** - In the affirmative.



**RAJIV MAGOO  
(MEMBER)**

**T. R. RAMNANI  
(MEMBER)**

### Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr.Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint Commissioner of State Tax, Mahavikas for Website.

**Note:-**An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on [gst.gov.in](http://gst.gov.in) for online appeal application against order passed by Advance Ruling Authority.