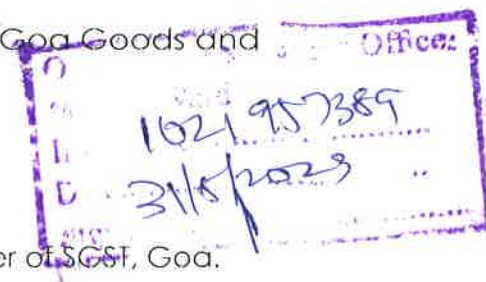


GOA AUTHORITY FOR ADVANCE RULING

[Constituted under Section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and Services Tax Rules, 2017]

BEFORE THE BENCH OF

Smt. Sarita S. Gadgil, Additional Commissioner of SGST, Goa.
Shri. Basant Kumar, Additional Commissioner of CGST, Goa.



Advance Ruling No. GOA/GAAR/05 of 2022-23/ 587

Name of the Applicant	Nandgopal Laxmikant Kudchadkar
Address	H. No. 409, Vaddy, Candolim, Bardez-Goa.
GSTIN	30ACQPK0592B1ZZ
Date of Application	19.01.2023
Under Section 97(2) of the CGST/SGST Act, 2017 under which question raised	<ol style="list-style-type: none">1. Whether I am covered under the Classification Heading "Museum"(Code 9996) as per Serial No. 79 of the Notification 12/2017 – Central Tax (Rate) dated 28/06/2017 (the said Notification);2. Whether the service provided by me falls under the ambit of the said Notification and thereby exemption from tax is available to me;3. In case I am not exempt in terms of the said Notification, whether I can claim ITC of the tax paid or deemed to have paid;4. In case I am not exempt in terms of the said Notification, whether I am liable to obtain registration;5. How the liability to pay tax on goods and / or services will be determined in the facts and circumstances of operating a Museum for tourism purpose;6. What will be the time and value of the supply of service;

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	7. Whether any additional service provided free of cost to persons visiting the Museum (like distribution of pamphlets/ brochures/ information leaflets etc.) will amount to supply of goods and / or services and whether the same will be liable to tax within the meaning of that term.
Date of Hearing	27.02.2023
Persons Present for Hearing	Shri Jairam Kholkar, C.A

PROCEEDINGS

(Under Section 98 of the Goa Goods and Services Tax, Act 2017)

The present application has been filed under section 97 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the '**SGST Act**' and '**CGST Act**') **Nandgopal Laxmikant Kudchadkar H. No. 409, Vaddy, Candolim, Bardez-Goa.**, seeking an Advance Ruling in respect of the following questions:

- Classification of any goods or services or both.
- Applicability of a notification issued under the provisions of this Act.
- Determination of time and value of supply of goods or services or both.
- Admissibility of input tax credit of tax paid or deemed to have been paid.
- Determination of the liability to pay tax on any goods or services or both.

BRIEF FACTS

Applicants Background:

Nandgopal Laxmikant Kudchadkar H. No. 409, Vaddy, Candolim, Bardez-Goa., and hold GSTIN: 30ACQPK0592B1ZZ. The Applicant is engaged in the business of Alcohol Museum in the direction of promoting tourism in the State of Goa. This museum has been established under the name and style of 'ÁLL ABOUT ALCOHOL', which is an additional place of his business. The museum is home to hundreds of artifacts related to Feni, a drink made from cashews, and also

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houses of traditional glass vats in which the liquor had been stored centuries ago. The applicant states that:-

Every guest is allowed to enter the museum upon payment of a mandatory entry fee. There are no other charges collected at the museum besides the entry fee. A dedicated guide is offered to the visitors/ guests who explain the history and relevance of the art effects during the entire tour at the museum. There are no separate charges collected towards services of the guide. Moreover, there are no other services or goods supplied at the museum besides the above.

In respect of which the applicant is seeking through the advance ruling for the purpose of determination of the following question:

CLARIFICATION REQUIRED ON THE BELOW POINTS:

1. Whether I am covered under the Classification Heading "Museum"(Code 9996) as per Serial No. 79 of the Notification 12/2017 – Central Tax (Rate) dated 28/06/2017 (the said Notification);
2. Whether the service provided by me falls under the ambit of the said Notification and thereby exemption from tax is available to me;
3. In case I am not exempt in terms of the said Notification, whether I can claim ITC of the tax paid or deemed to have paid;
4. In case I am not exempt in terms of the said Notification, whether I am liable to obtain registration;
5. How the liability to pay tax on goods and / or services will be determined in the facts and circumstances of operating a Museum for tourism purpose;
6. What will be the time and value of the supply of service;
7. Whether any additional service provided free of cost to persons visiting the Museum (like distribution of pamphlets/ brochures/ information leaflets etc.) will amount to supply of goods and / or services and whether the same will be liable to tax within the meaning of that term.

INTERPRETATION OF LAW AND/OR FACTS BY APPLICANT

Sec 9 is the charging section of the CGST Act, 2017. As per the said section there shall be a levy of GST on supply of service or goods as defined under sec.7 of the Act. Further Sec. 11 of the Act empowers the Government to issue exemption notifications(s) in public interest on the recommendations of the GST council.

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Accordingly, in light of the spirit of Sec. 11 the Central Government issued Notification 12/2017- Central tax (Rate) dated 28 June, 2017. Serial No. 79 of the Notification 12/2017-Central Tax (Rate) dated 28/06/2017 read as under:

Sl. NO.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (percent)	Condition
79	Heading 9996	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo	Nil	Nil

The term "Museum" has not been defined anywhere under the Central Goods and Service Tax Act, 2017. However, as per Oxford Dictionary the term **"Museum"** means **"a building where collections of valuable and interesting objects are kept and shown to the public"**.

It is a settled principle of interpretation that if a statutory provision is peon to mare that one interpretation, one has to choose that interpretation which represent the true intention of the legislature. A statute is to be construed according to the intent of them that make it and the duty of judicature is to act upon the true intent to he legislature i.e men's or sentential legis (Salmond: "Jurisprudence" 11th Edition). This principle of interpretation has been enshrined in various judicial pronouncements including the following:

- Venkataswami Naidu, R vs Narasram Naraindas { AIR 1966 SC 361 } = 1965 (4) TMI 122 – SUPREME COURT.
- District Mining Officer vs Tata Iron and Steel Con. { AIR 12001 SC 3134 } = 2001 (7) TMI 1277 – SUPREME COURT.
- Bhatia International vs Bulk Trading SA { AIR 2002 SC 1432 } = 2002 (3) TMI 824 – SUPREME COURT.
- South Asia Industries (Pvt) Ltd vs Sarup Singh { AIR 1966 SC 346 } = 1965 (4) TMI 112– SUPREME COURT.
- Katar Singh vs State of Punjab [JT (1994) 2 SC 423] = 1994 (3) TMI 379 – SUPREME COURT.

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- Narayanaswami vs G. Panneersevlam (AIR 1972 SC 2284) = 1972 (4) TMI 95 – SUPREME COURT.

Words used in a statute should be interpreted in the light of their ordinary sense. When a word is not defined in the Act itself, it is permissible to refer to dictionaries to find out the general sense in which that word is understood in common parlance.

Dictionaries can be consulted by the courts whenever the need arises to know the ordinary sense of a word. However, in selecting one out of the various meanings of a word, regard must always be had to the context as it is fundamental rule that "the meanings of words and expressions used in an Act must take their colour from the context in which they appear".

The apex court in the case of Star Paper Mills Ltd. vs. Collector of C. Ex. In Civil Appeal No. 3474 of 1988 dated 22-08-1989 held that in absence of any definition of a term it is permissible to refer to the dictionary meaning of the word.

Museums are generally understood to be a storehouse of precious articles or art effects concerning the historical past and it may be concerned with any subject and not just restricted to a particular field.

The several artifacts displayed at our museum explain the significance of several constituents concerning the alcohol right from the manufacture of Goa's vintage drink "Cashew Feni" to the display of vintage collection of glasses and other related articles.

As per the harmonious interpretation of the Act and the above notification, entry fees collected by me from the guests qualify for an exemption as per the said entry in the notification.

PERSONAL HEARING

Shri Jairam Kholkar, C.A, duly authorized representative appeared for personal hearing on 27/02/2023 before this authority and reiterated the points deliberated in written submissions made along with application.



DISCUSSION AND FINDINGS

Relevant Extract from explanatory notes to SAC

99964 Museum and preservation services

999641 Museum and preservation services of historical sites and buildings

This service code includes:

- i. display services of collections of all kinds (art, science and technology, history)
- ii. management and conservation services for such collections
- iii. organization of travelling exhibitions for such collections
- iv. operation of historical sites, monuments and buildings, including access and visiting services
- v. preservation services for historical sites, monuments and buildings

The relevant entry of the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 is as under:

Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
79	Heading 9996	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.	NIL	NIL

The applicant argues that when words used in the statute should be interpreted in the light of their ordinary sense. When a word is not defined in the Act itself, it is permissible to refer to dictionaries to find out the general sense in which that word is understood in common parlance.

It is a fact that word 'Museum' is not defined under the GST Act and therefore we rely upon the current definition as provided by the International Council of Museum (ICOM) in the Statutes adopted by the 22nd General Assembly in Vienna, Austria, on 24 August 2007. The current definition is as follows:

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"A museum is a non-profit, permanent institution in the service of society and its development, open to the public, which acquires, consents, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment for the purposes"

Thus going by the definition of "Museum" provided by International Council of Museum, 'museum is a non-profit, permanent institution in the service of society'. In our opinion non-profit organisation/ institution is one which promotes public good rather than making profits. However, in case of taxpayer we find that taxpayer is deriving economic benefits from the consideration charged towards the services, therefore it cannot be termed as non-profit institution. Although the taxpayer doesn't collect any fees separately from guest/visitors for dedicated guide, it is implied that cost of this included in the entry fee charged during the entry. We also note that Village Panchayat has issued a Trade License to this establishment, which indicates that it is a commercial operation. Further, it is not the contention of the applicant that they are non-profit, permanent institution. Thus we find that primary goal of the business is profit making and it is not permanent institution. Therefore it cannot be termed as museum.

In view of above facts and above discussion, we find that operation in name and style of "ALL ABOUT ALCOHOL" from the premises situated at H. No. 409, Vaddy, Candolim, Bardez, North Goa falls under the chapter 'Recreation, cultural and Sporting Service' (SAC 9996). Since, the operation cannot be termed as 'Musuem' as discussed above it cannot be classified as 'Museum and preservation services' (SAC 99964) and it is to appropriately classifiable under 'Other recreation and amusement services n.e.c.' (SAC 999699).

Therefore, the taxpayer is not eligible to avail the benefits under the entry 79 of the the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017. The services provided/to be provided by the applicant will be classified under item No. (vi) of column No. 3 of S. No. 34 (heading 9996) of the Notification No. 11/2017-CT(R) dated 28.06.2017 as "Recreational, Cultural and sporting services other than (i), (ii), (iia), (iii) (iiia), (iv) and (v) above".

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RULING

ADVANCE RULING UNDER SECTION 98 OF THE CGST/ GGST ACT, 2017.

The ruling so sought by the applicant is accordingly answered as under: -

- I. Whether I am covered under the Classification Heading 'Museum' (Code 9996) as per Serial No. 79 of the Notification 12/2017 – Central Tax (Rate) dated 28/06/2017 (the said notification)?**

Operations of the applicant cannot be termed as 'Museum' and hence the taxpayer is not eligible for exemption from tax under the entry no. 79 of the Notification 12/2017 – Central Tax (Rate) dated 28/06/2017.

- II. Whether the service provided by me falls under the ambit of the said Notification and thereby exemption from tax is available to me;**

Services provided by the taxpayer do not fall under the ambit of the said and therefore exemption under said notification are not available to applicant.

- III. In case I am not exempt in terms of the said Notification, whether I can claim ITC of the tax paid or deemed to have paid;**

The taxpayer can claim ITC on input goods and services or both used in providing taxable services or goods or both as per the provisions of CGST Act and rules made thereunder.

- IV. In case I am not exempt in terms of the said Notification, whether I am liable to obtain registration?**

Applicant is required to get registered if his aggregate turnover in a financial year exceeds Rs 20 lakhs as per section 22 of CGST Act and /or falls under any of the categories falls under any of the category under section of 24 of CGST Act during the course of business.

- V. How the liability to pay tax on goods and/or services will be determined in the facts and circumstances of operating a Museum for tourism purpose;**

The services provided by the applicant is classified under item No. (vi) of column No. 3 of S.No.34 (heading 9996) of the Notification No. 11/2017-CT (R) dated 28.06.2017 under 'Recreational, Cultural and sporting services other than (i), (ii), (iia), (iii), (iiia), (iv) and (v) above', and the applicant is liable to pay GST @ 18% (9% CGST + 9% SGST).

- VI. What will be the time and value of supply of service?**

The conditions and provisions for time and valuation supply are well laid in the Sections 12, 13, 14 & 15 of the CGST Act and same are required to be followed by the applicant.

- VII. Whether any additional service provided free of cost to persons visiting the Museum (Pamphlets/brochures/information leaflets, etc.) will amount to**

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supply of goods and/ or services and whether the same will be liable to tax within the meaning of that term.

Schedule II of the CSGT Act provides for list of activities to be treated as supply even if made without consideration. Since the distribution of pamphlets/brochures/information leaflets etc. to guest/ visitors do not fall under said schedule same cannot be term as supply. However, as per Section 17(5) of CGST Act, ITC on such goods distributed free of cost shall not be available.


(Basant Kumar)
Member


(Sarita S. Gadgil)
★ Member

Dated: - 30/05/2023
Place: - Panaji – Goa

To,

Nandgopal Laxmikant Kudchadkar,
H. No. 409, Vaddy,
Candolim, Bardez-Goa.

Copy to:

1. The State Tax Officer, Mapusa Ward, Mapusa-Goa.
2. The Dy. Commissioner of State Tax, Mapusa Ward, Mapusa-Goa.
3. The Commissioner of State GST, Panaji – Goa.
4. The Commissioner of Central GST, Panaji – Goa.
5. Office file.
6. Guard file.

