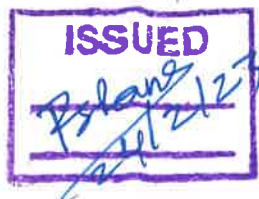


GOA AUTHORITY FOR ADVANCE RULING

[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/01 of 2022-23/ 3472

Name of the Applicant	M/s. Nanu Resorts Pvt. Ltd.
Address	Nanu House, Varde Valaulikar Road, Margao, Goa 403601.
GSTIN	30AAACN7114P1ZI
Date of Application	22.10.2022
Under Section 97(2) of the CGST/SGST Act, 2017 under which question raised	<ul style="list-style-type: none">• Whether the Notification No.46/2017 Central Tax (Rate) dated 14th November 2017, which provides rate of GST to be charged by restaurants, is to be seen from the point of each single hotel premises at different locations within a state under the common GST registration of the dealer or for all the hotels falling under one GST number;• Whether the contention of the applicant in the given facts is correct as to charging GST @5% (i.e. CGST 2.5%+SGST 2.5%) without input tax credit on restaurant comprised in the premises where the declared tariff of all units of accommodation charged is less than Rs. 7500/- and at the same time charging GST @18% (CGST @9%+SGST @9%) with Input Tax Credit on restaurant comprised in the other premises where the declared tariff of any unit of accommodation is Rs.7500/- or more;



Date of Hearing	25.01.2023
Persons Present for Hearing	Shri. Rohit Kamat, C.A Authorized Representative of the Applicant.

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**') by **M/s. Nanu Resorts Pvt. Ltd., Nanu House, Varde Valaulikar Road, Margao, Goa 403601**, 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 the liability to pay tax on any goods or services or both.

BRIEF FACTS

A. Applicants Background:

M/s. Nanu Resorts Pvt. Ltd. Nanu House, Varde Valaulikar Road, Margao, Goa 403601 and hold GSTIN 30AAACN7114P1ZI. The Applicant is a private Limited company which is into hospitality business. The Taxpayer is running three hotels under its umbrella. All three hotels are located at three different cities in the State of Goa. 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:

- Whether the Notification No.46/2017 Central Tax (Rate) dated 14th November 2017, which provides rate of GST to be charged by restaurants, is to be seen from the point of each single hotel premises at different locations within a state under the common GST registration of the dealer or for all the hotels falling under one GST number;



- Whether the contention of the applicant in the given facts is correct as to charging GST @5% (i.e. CGST 2.5%+SGST 2.5%) without input tax credit on restaurant comprised in the premises where the declared tariff of all units of accommodation charged is less than Rs. 7500/- and at the same time charging GST @18% (CGST @9%+SGST @9%) with Input Tax Credit on restaurant comprised in the other premises where the declared tariff of any unit of accommodation is Rs.7500/- or more;

INTERPRETATION OF LAW AND/OR FACTS BY APPLICANT

1. The Applicant is a Private limited company which is in to hospitality business. The Company is running 3 hotels under its umbrella.
2. All 3 hotels are located at 3 different cities in same state of Goa. Accordingly, the Company has one GST NUMBER & One PAN number for all three hotels.
3. Each of the 3 hotels has its own distinct professional management team and staff.
4. Each of the 3 hotels has its own distinct billing software and accounting software as well as separate bank accounts.
5. The GST Returns are filed together for all 3 hotels by compiling the information from the respective accounting software of the hotels.
6. Among the 3 hotels, two hotels are in 4 star category resorts and the third hotel is in 3 star category hotel. Hence there will be rate variance due to hotel star category.
7. All 3 hotels have distinct in-house restaurants with their separate billing and accounting system. The input of raw materials and the output of finished products and services are maintained separately for each hotel.
8. At present there has been no case in either of the hotels where the declared tariff has exceeded the limit of Rs. 7500/- in the 4 star hotels, and the 3 star hotel will continue to charge declared tariff below Rs.7500/-.
9. The applicant is of the opinion that 5% rate (without ITC) will be charged on restaurant bills for restaurants which are situated in hotels promised where declared tariff does not exceed Rs.7500/- throughout

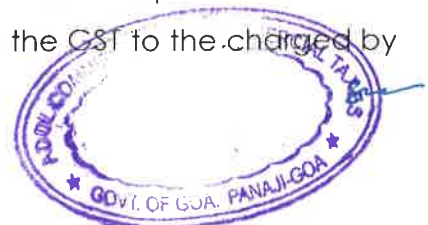


the year. The company is further of the opinion that 18% reate (with ITC) will be charged on restaurant bill for restaurant in all 4 star category hotel premised where the declared tariff may exceed Rs.7500/- at any time of the year.

10. The applicants has formed its opinion as follows:

- i. Notification No.46/2017 Central Tax (Rate) dated 14th November 2017, provides for the rate of GST to be charged by Restaurants.
- ii. The Notification bifurcates the rates to be charged by restaurants being part of a hotel, based on the declared tariff being charged by such hotel for the accommodation services it offers.
- iii. The notification clarified that where the restaurant is located within a hotel premises, other than those located in hotel premises wherein the declared tariff of any unit of accommodation charged is Rs.7500 or more, the GST rate on restaurant supplies or services will be 2.5% CGST + 2.5% SGST. All together GST rate of 5% (without ITC).
- iv. It further provides that where the restaurant is located within a hotel premises, having declared tariff of any unit of accommodation charged at Rs.7500 or more, the GST rate on restaurant supplies or services will be 9% CGST + 9% SGST. All together GST rate of 18%
- v. From the reading of the above provision, the assessee is of the opinion that the rate to be charged by restaurant will be based on the declared tariff charged by hotel premises in which it is located. The Notification uses the word 'premises of hotel' and not 'premises of registered dealer' thereby making it clear that the rate to be charged by restaurants located in the premises of hotels is to be seen from respective hotel's point of view and not from overall Registered Dealer's point of view where more than one hotel is having common registration under GST.

11. Considering the above view point and the facts of the case as mentioned in earlier paras the applicant is of the opinion that since there are 3 hotels under one GST number, the GST to be charged by



a restaurant in the premises of a particular hotel will depend on the declared tariff which is charged by that particular hotel. Thus if one of the hotels is charging declared tariff of Rs.7500/- and above then the restaurant located in the premises of such hotel will be applicable for GST rate of 18% (with ITC). And if the other hotel is having declared tariff of less than Rs.7500/- then the restaurant in that particular hotel will be applicable for charging GST rate of 5% (without ITC).

PERSONAL HEARING

Shri. Rohit Kamat, Chartered Accountant, duly authorized representative appeared for personal hearing on 25/01/2023 before this authority and reiterated the points deliberated in written submissions made along with application.

FINDINGS AND DISCUSSIONS

1. The Applicant is running three hotels under its umbrella. All three hotels are located at three different cities in State of Goa.
2. The Taxpayer has one GSTIN Number and permanent Account Number for all the three hotels.
3. Each of the three hotels have distinct billing software and Accounting software as well as separate bank accounts.
4. The GST returns are filed together for all three hotels by compiling the information from the respective accounting software of the hotels.
5. Among the three hotels, two hotels are in 4 star category resorts and the third hotel is in 3 star category hotel. Hence there is room rate variance due to different hotels star category.
6. The input of raw material and the output of finished products and services are maintained separately for each hotel
7. All the three hotels have distinct in-house restaurants with their separate billing and accounting system.

The taxpayer sought advance ruling on rate of taxes applicable on restaurant service in restaurant located at different hotels. Notification No.46/2017 Central Tax (Rate) dated 14th November 2017 and Notification No.20/2019 Central Tax (Rate) dated 30th September 2019 (Notifications enclosed).



In view of the foregoing discussion, we rule as follows:

RULING

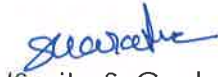
ADVANCE RULING UNDER SECTION 98 OF THE CGST/ GGST ACT, 2017.

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

1. Notification No.46/2017 Central Tax (Rate) dated 14th November 2017 is to be applied to the Restaurant or Hotel to which it refers and not to the taxpayer.
2. The rate of tax is 5% (without Input tax credit) to restaurant service provided by hotels other than those located in the premises of hotels having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent. The rate of tax is 18% (with Input tax credit) to restaurant service provided by hotels located in the premises of hotels having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.



(Basant Kumar)
Member



(Sarita S. Gadgil)
Member

Dated: - 23/02/2023
Place: - Panaji – Goa



To,

M/s Nanu Resorts Pvt. Ltd
Nanu House, Varde Valaulikar Road,
Margao-Goa, 403601.

Copy to:

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