
	RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX KAR BHAWAN, AMBEDKAR CIRCLE, NEAR RAJASTHAN HIGH COURT JAIPUR - 302005 (RAJASTHAN)	
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ADVANCE RULING NO. RAJ/AAR/2019-20/30

J.P.Meena Additional Commissioner	: Member (Central Tax)
Hemant Jain Joint Commissioner	: Member (State Tax)
Name and address of the applicant	M/s Kalani Infrastructure Pvt. Ltd., A-14-A, Road No.1, Indraprastha Industrial Area, Kota, Rajasthan
GSTIN of the applicant	08AACCK1540L1ZK
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	(a) Classification of any goods or services or both; (b) Applicability of a notification issued under the provisions of this act; (c) Determination of liability to pay tax on any goods or services or both;
Date of Personal Hearing	10.12.2019
Present for the applicant	Shri Keshav Maloo, C.A. & Shri Nikhil Mohan Jhanwar, C.A. (Authorised Representatives)
Date of Ruling	09.01.2020

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

- At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".
- The issue raised by M/s Kalani Infrastructure Pvt. Ltd., A-14-A, Road No.1, Indraprastha Industrial Area, Kota, Rajasthan (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a), (b)& (e) given as under: -
 - (a) Classification of Services;
 - (b) Applicability of a notification issued under the provisions of this act;
 - (e) Determination of liability to pay tax on any services;
- Further, the applicant being a registered person (GSTIN is 08AACCK1540L1ZK as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

1. **SUBMISSION AND INTERPRETATION OF THE APPLICANT:**

- That Fortuna Icon, a unit of the applicant is running a hostel for residential accommodation for students. They are registered in GST having GSTIN 08AACCK1540L1ZK. The applicant wishes to charge a consolidated amount of Rs. 17,000/- per month from the students against provision of hostel accommodation for residence purposes which would also include ancillary activity of food facility.

- Primarily the students approach for having accommodation facility and only when accommodation facility gets ensured, need for other allied facilities arises. That neither the applicant wishes to charge any separate amount for ancillary food facility from the students nor there is any bifurcation of the charges for residential accommodation along with food facility provided to the student. Further, there would be no option provided to the students to opt for hostel accommodation without food facility. All students would pay a consolidated amount of Rs. 17,000/- per month whether or not they use the food facility. Similarly, there is no option for any person to take only food without being resident of hostel.
- Since the hostel charges recovered from the student per day does not exceed Rs. 1000/-, the activity of hostel accommodation is exempt from GST under Sr. No. 14 of the CGST (Rate) Notification No. 12/2017 dated 28.06.2017 as amended read with CBEC Circular No. 32/06/2018-GST, dated 12.02.2018. However, there is no specific clarification on applicability of exemption on incidental food facility if provided along with principal supply of hostel accommodation especially when no separate charge is recovered from the students.
- The Applicant is running a hostel accommodation for students in Kota. The applicant principally provides hostel accommodation along with incidental food facility to all students wherein a consolidated amount of Rs. 17,000/- per month is charged from the students. There is no system wherein student is provided with a choice to opt for hostel accommodation without food facility. In other words, neither there is any choice with the student to opt for standalone hostel accommodation without opting for food facility nor there is any bifurcation of charges for food facility provided to the students.



- There is no dispute to the fact that the provision of hostel accommodation alongwith food facility falls under 'Supply' as defined under Section 9 of the CGST Act, 2017. Here the reference of CGST Act, 2017 may be treated as reference to State GST, UTGST and IGST Act also. The food facility is provided as an integral part and naturally bundled with the hostel accommodation and no separate amount is charged from the students. Since the provision of services comprises two or more components wherein the principal activity is of the rental services of hostel accommodation, the question before Advance ruling authority is whether the supply of hostel accommodation alongwith food facility would be treated as 'composite supply' as defined under CGST Act, 2017.
- To determine this, it is pertinent to refer to the concept of 'composite supply' provided in GST law. Section 2(30) of CGST Act, 2017 defines 'composite supply' 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;


Illustration- Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

A perusal of the above definition implies that a supply of goods and/or services will be treated as composite supply if it fulfills the following three criteria:



- (a) Supply of two or more goods and services together.
- (b) Goods or services are naturally bundled, i.e. they are provided together in the normal course of business, and
- (c) They cannot be separated.

In the present case, food facility is provided alongwith principal activity of hostel accommodation and they cannot be separated in normal course of the business. Bundling has not been defined in GST law, hence, reference can be taken from CBEC Education Guide issued after introduction of negative list in erstwhile service tax regime when concept of bundling was introduced for the first time. The relevant extracts of the Guide are reproduced below: -



"Bundled service' means a bundle of provision of various services where in an element of provision of one service is combined with an element or elements of provision of any other service or services. An example of 'bundled service' would be air transport services provided by airlines wherein an element of transportation of passenger by air is combined with an element of provision of catering service on board. Each service involves differential treatment as a manner of determination of value of two services for the purpose of charging service tax is different."

The rule is - 'If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character' 6. Further, CBIC has elaborated in its E-flyer issued on 'Composite and mixed supplies' after introduction of GST as under:

'Hotel provides a 4-D/3-N package with the facility of breakfast This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

- Whether services are bundled in the ordinary course of business would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below -

- ❖ The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a 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. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
- ❖ The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business



If current nature of transaction in question is tested based on above factors, it would be amply clear that the provision of hostel accommodation along with food facility is a 'composite supply' where hostel accommodation is the principal supply and food facility is ancillary activity which is not a means in itself but a means for better enjoyment of the principal supply i.e. 'hostel accommodation services'. The same is explained below in detail:

➤ Indicative Factors (as mentioned in the Education Guide) Applicability in current case

- ❖ There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use. In the current case, a consolidated price of Rs. 17000/- is charged from all students whether or not they actually avail food facility
 - ❖ The elements are normally advertised as a package and the different elements are not available separately. Applicant does not provide any facility wherein the student can avail hostel accommodation without food facility. Stay along with such facilities are advertised as a package.
 - ❖ The different elements are integral to one overall supply - if one or more is removed, the nature of the supply would be affected. Hostel accommodation is the principal supply here. In absence of hostel accommodation services, there would be no existence of food facility.
- The term 'principal supply' has been defined under Section 2(90) of the CGST Act, 2017 as the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. Here, the principal supply is the renting of hostel accommodation services. Thus, the accommodation facility at hostel is the only principal supply and all the other facilities are interrelated as they are provided exclusively to the occupants of hostel only, without any extra charge. It is reiterated that no other charges other than above amount of Rs. 17,000/- is collected from the occupants on account of other allied facilities being provided.
- It can be seen from the above that all factors which are relevant to determine the scope of 'composite supply' are fulfilled in the present case of hostel accommodation along with food facility. It is submitted that need for food facility cannot arise unless there is need of hostel accommodation. The applicant does not provide food to the student on

independent basis. Accordingly, as per interpretation of the applicant, the provision of hostel accommodation along with food should be treated as 'composite supply' and applicability of GST would be determined as per Section 8 of the CGST Act, 2017 which provides that tax liability on a composite supply would be that of what is applicable on principal supply. Hence, the same tax treatment would apply to entire package as applicable to hostel accommodation services.

- It is further relevant to submit that the Hon'ble Chattisgarh Authority for Advance Ruling under GST, Raipur in the matter of Kamal Kishor Agarwal, has issued an advance ruling No. STC/AAR/11/2018-Raipur dated 02.03.2019 reported at 2019 (24) G.S.T.L. 496 (A.A.R. - GST) on the similar issue of the ancillary services of food and parking provided to the students by the Charitable Trust along with hostel accommodation. The ARA held as under:

"Hostel run by charitable trust - Providing residence to students on rent - Nominal lump sum amount of 7000 and 6000 per month per bed depending upon number of beds per room, charged for giving residence - Ancillary services such as food, parking also provided without charging any amount over and above lump sum charges - As per C.B.E. & C. Circular No. 32/06/2018- GST, dated 12-2-2018, hostel accommodation service would not fall within ambit of charitable activities as defined in para 2(r) of Notification No. 12/2017- C. T. (Rate) - However, services by a hostel, 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 exempted under Serial No. 14 of said notification. No ambiguity as regards fact that primarily occupants approach Hostel facility providers for having accommodation facility and only when accommodation facility gets ensured, need for other allied facilities arose - No other charges collected from occupants for allied services provided."

- The same principle has been applied by Hon'ble Authority for Advance Ruling, Kerala in the case of M/s. Ernakulam Medical Centre Pvt. Ltd. vide Advance Ruling No. KER/16/2018, dated 19-9-2018 [2018 (18) G.S.T.L. 142 (A.A.R. - GST)], to hold that supply of medicines and allied items like food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care service and not separately taxable.
- In the case of M/S. ALL RAJASTHAN CORRUGATED BOARD AND BOX MANUFACTURERS ASSOCIATION, reported at 2019 (7) TMI 847 - AUTHORITY FOR ADVANCE RULING, RAJASTHAN, the question before Rajasthan Advance Ruling authority was whether the Service provided by the applicant to the delegates and exhibitors wherein all-inclusive registration fees is charged for technical seminars, access to exhibition, hotel room accommodation, airport pickup and drop, cultural programmes etc. is a composite supply or not. The authority answered in affirmative and held that the supply is composite supply with principal supply being organizing conference.
- Having mentioned above that hostel accommodation along with food facility would be treated as composite supply, it is relevant to determine the taxability on such composite supply. Kind attention is invited to Sr. No. 14 of the CGST (Rate) Notification No. 12/2017 dated 28.06.2017 as amended which provides that services of rental accommodation having value of supply up to Rs. 1000/- per day would be exempted from GST.
- In the current case, since the rent charged for residential accommodation in hostel from the student along with food facility is Rs. 17,000/- for full month the per day charges does not exceed Rs. 1000/-, the entire activity of hostel accommodation along with food facility would be exempt from GST under aforesaid Notification.

- It has been further clarified by CBIC vide Circular No. 32/06/2018-GST, dated 12th February, 2018 that accommodation services in hostels having declared tariff below Rs. 1000/- is exempt from GST.
- In view of the above facts and applicant's interpretation and understanding of the same, it is submitted that the provision of hostel accommodation along with food facility is a composite supply which is exempt from GST under Sr. No. 14 of the CGST (Rate) Notification No. 12/2017 dated 28.06.2017 as amended read with CBIC Circular No. 32/06/2018-GST, dated 12th February, 2018.
- The applicant also provided some additional submission vide dated 12.12.2019, received in this office on 17.12.2019 regarding list of other amenities provided along with hostel accommodation and some case laws.



2. **QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT**

- a) Whether provision of hostel accommodation along with food facility to the students wherein consolidated amount is charged from the students is a composite supply where principal supply is that of rent of hostel accommodation?
- b) Whether the entire charge recovered from the students would be exempt from GST under Sr. No. 14 of the CGST (Rate) Notification No. 12/2017 dated 28.06.2017 as amended if the charges per day is less than Rs. 1000/-
- c) To determine the taxability on supply of hostel accommodation along with food facility.
- d) To determine the appropriate classification and applicable rate of GST on supply of hostel accommodation along with, food facility.

3. **PERSONAL HEARING**

In the matter personal hearing was granted to the applicant on 10.12.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. Shri Keshav Maloo, C.A. & Shri Nikhil Mohan Jhanwar, C.A. (Authorised Representatives) of applicant appeared for PH. During the PH, they reiterated the submissions already made in the application. They submitted to provide some submissions within 2-3 days. Accordingly, additional submissions were received in this office on 17.12.2019. They requested for early disposal of the application.

4. **COMMENTS OF THE JURISDICTIONAL OFFICER**

The jurisdictional officer (STO, State Tax, Circle-B, Ward-1, Kota, Rajasthan) has submitted his comments vide letter dated 05.12.2019 which can be summarized as under:

The applicant in brief sought the declaration of ancillary supplies like coaching, library, entertainment catering, parking, canteen facilities etc. attached to Hostel as composite supply, the intra supply of which is not liable to state taxes under notification no. 12/2017 central tax dated 28th June 2017 as value of said supply is below or equal to one thousand rupees.

The contentions of applicants are both legally and factually incorrect on following grounds.

1) The composite supply is defined under section 2(30) of RGST Act as under:

" 'Composite supply' means a supply made by taxable person to a recipient consisting of two or more taxable supplies of goods and services or both, or any combinations thereof, which are naturally bundled or supplied in conjunction to each other in the ordinary course of business, one of which is principal supply.

2) Thus, there are two essential components of composite supply: First, both principal and ancillary supplies should be taxable supplies and secondly principal and ancillary supplies should be naturally bundled and supplied in conjunction to each other in the ordinary course of business. The applicant by own admission declares principal supply that is accommodation in the Hostel as non-taxable supply in terms of referred notification. Hence, condition precedent of composite supply of being taxable supplies is not fulfilled.

3) The litany of the ancillary supply of services as prayed by applicant to be treated as ancillary supplies of composite supply not liable to be taxed is quiet exhaustive covering all the conceivable services like coaching, catering, library, entertainment, parking etc. By, no stretch of imagination, supply of these services can be treated as naturally bundled and supplied in conjunction to each other in the ordinary course of business. Basically composite supply means those supplies involving principal and ancillary supplies which cannot be supplied separately in ordinary course of business and supplies of one occurs in conjunction to other.

4) Thus doctrine of inseparability is key to composite supply. However, in impugned case all the services like catering, coaching, entertainment etc., which are sought to be treated as ancillary supply, can be independently supplied to the boarders in the Hostel by tax payers. Similarly, there is no obligation of coupling of service of accommodation in hostel with these services. In fact, most of Hostels in KOTA are outsourcing these services independently. Hence, the applicant has not only misread the provision of act but misconstrued it for unstated purpose.

5) Further, the citation of advanced ruling authority of state of Chhattisgarh has no persuasive value in impugned case. Moreover, the cited case of advanced ruling authority pertains to charitable organization as such it is not relevant.

6) It is also to be kindly noted that applicant has not disclosed the license of hostel issued by local legal body in regards to accommodation and other ancillary supplies of services to buttress the bona-fide of its prayer.

Hence, the application deserves to be dismissed on cited legal grounds.



5. **FINDINGS, ANALYSIS & CONCLUSION:**

- We find that, Fortuna Icon, a unit of the applicant is running a hostel for residential accommodation of students in Kota, State of Rajasthan. The applicant wishes to charge a consolidated amount of Rs. 17,000/- per month from the students against provision of hostel accommodation for residence purposes which would also include ancillary activities like food facility, TV in dining hall, Play Room, Gym, Housekeeping, Room Cleaning etc.
- We observe that the applicant is providing accommodation service on rent to students and also providing some ancillary services like food facility, TV in dining hall, Play Room, Gym, Housekeeping, Room Cleaning etc.
- To examine the facts of application and contention of the applicant, we need to refer to concept of supply, composite supply, mixed supply, concept of naturally bundled, principal supply and various notifications and circulars incidental to these concepts.
- First, the provision of hostel accommodation alongwith ancillary facilities falls under 'Supply' as defined under Section 7 of the GST Act, 2017 which is as under-

(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;

As the applicant is supplying accommodation services along with some ancillary services for a consideration of Rs.17000/- per month in course of business, the activity falls under the definition of supply.

- Further, as the supply involves multiple services, the issue has to be examined whether the aforesaid supply is a Composite Supply or a Mixed Supply.

Concept of 'composite supply' under Section 2(30) of GST Act, 2017 defines 'composite supply' 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**;*

In view of above, we find that essential components of a composite supply are as under-

- two or more taxable supplies;
- services should be naturally bundled;
- supplied in ordinary course of business;
- one of the supply out of whole should be a principal supply.

We find that, the services supplied are more than two and taxable under GST Act, 2017 and are supplied in ordinary course of business by the applicant.

- ❖ Bundling/Naturally bundled has not been defined in GST law, hence, reference can be taken from CBEC Education Guide issued in 2012 after introduction of negative list in erstwhile Service Tax regime when concept of bundling was introduced for the first time. The relevant extracts of the Guide are reproduced below: -

"Bundled service' means a bundle of provision of various services where in an element of provision of one service is combined with an element or elements of provision of any other service or services. An example of 'bundled service' would be air transport services provided by airlines wherein an element of transportation of passenger by air is combined with an element of provision of catering service on board. Each service involves differential treatment as a manner of determination of value of two services for the purpose of charging service tax is different."

The rule is - 'If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character'

Further, CBIC has elaborated on its website in GST-flyers about 'Composite and mixed supplies' after introduction of GST as under:

'Hotel provides a 4-D/3-N package with the facility of breakfast This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.'

- ❖ Whether services are bundled in the ordinary course of business or not would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from many indicators some of which are listed below –

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

- ii. Majority of service providers in a particular area of business provide similar bundle of services.
- iii. The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business.

We find that naturally bundled services are those services wherein one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.

If current nature of supply of services is tested based on above factors, it can be ascertained that the provision of hostel accommodation could be a principal supply but ancillary services like food, gym, housekeeping, play room, cannot be said to arise naturally with the principal service of hostel accommodation and therefore are not bundled naturally with principal supply.

- ❖ As the jurisdictional officer has commented, the ancillary services as mentioned above are not provided with accommodation in Kota and is not a common practice. Further, the perception of a service recipient cannot be declared sacrosanct in respect of above said ancillary services. Further, the services like GYM and TV in dining hall will not help in better enjoyment of the accommodation service for students. If this criteria, contested by the applicant is applied then everything under the sun is included as ancillary to accommodation service which will defeat the rationale behind concept of composite supply.
- ❖ Further, GST flyers has mentioned that-Other illustrative indicators, not determinative but indicative of bundling of services in ordinary course of business are –
 - i. There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.

- ii. The elements are normally advertised as a package.
- iii. The different elements are not available separately.
- iv. The different elements are integral to one overall supply – if one or more is removed, the nature of the supply would be affected.

While going through the above determinative factors, we find that –

- the different services by the applicant have a declared tariff and single price of Rs. 17000/- per month is consideration towards it.
- The elements are whether advertised as a package or not has not been submitted to this Authority.
- The different elements are easily available separately. eg. Services like gym, TV in dining hall are very common to avail outside.
- The different elements are not integral to one overall supply – for example if food, gym or TV in dining hall is removed, the nature of the supply would not be affected.

In view of the above, we find that, the ancillary services like gym, housekeeping, play room, TV in dining hall are not naturally bundled with principal supply of accommodation service and therefore as per definition of Composite Supply discussed above, the supply by the applicant is not a composite supply.

- As the above said supply is not a Composite Supply, the facts of the case can be examined in respect of Mixed Supply. Mixed Supply has been defined in Section 2(74) of GST Act, 2017 as below-

*(74) “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.***

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

Further, tax liability on a mixed supply shall be determined as defined in Section 8 (b) of GST Act, 2017 which is as below-

“a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.”

We observe that the services supplied by the applicant such as hostel accommodation, food, gym, playroom etc. are provided for a single price of Rs. 17000/- per student and is not a Composite supply, therefore, the supply is a Mixed Supply under GST. The rate of GST on total supply will be that rate which is highest among the services provided by the applicant.

- To ascertain rate of GST on Mixed Supply, we have to examine rate of GST on services provided by the applicant to determine the highest rate of tax applicable on whole supply -
 - ❖ The service of hostel accommodation, consideration for which is less than Rs. 1000/- per day is classifiable under HSN 996329 as provided under Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and is exempted from GST by way of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, the relevant portion of the said annexure and notification is as below-

ANNEXURE to 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
76	Group 99632		Other accommodation services
77		996321	Room or unit accommodation services for students in student residences
78		996322	Room or unit accommodation services provided by Hostels, Camps, Paying Guest and the like
79		996329	Other room or unit accommodation services nowhere else classified

Notification No. 12/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
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

As applicant is charging Rs. 17000/- for a month (assuming it to 30 days in a month), the per day charges is below Rs. 1000, therefore the said service is exempted from GST. The same is also clarified vide CBIC Circular No. 32/06/2018-GST dated 12thFebruary, 2018. The relevant portion is as below-

Sl. No.	Issue	Clarification
1	Is <i>hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).</i>	<i>Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, 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 are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers]</i>

- ❖ The service of Gym or fitness centre is classifiable under HSN 999723 as provided under Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and attracts GST @ 18%(SGST 9% + CGST 9%) as defined under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The relevant portion of the said annexure and notification is as below-

ANNEXURE 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
708	Group 99972		Beauty and physical well-being services
709		999721	Hairdressing and barbers services
710		999722	Cosmetic treatment (including cosmetic or plastic surgery), manicuring and pedicuring services
711		999723	Physical well-being services including health club and fitness centre
712		999729	Other beauty treatment services nowhere else classified

Notification No. 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
35	Heading 9997	Other services (washing, cleaning and dyeing services; beauty and physical well-being services; and other miscellaneous services including services nowhere else classified).	9	-


- ❖ The applicant is providing service of serving of food to students in hostel. The said service is classifiable under HSN 996333 as provided under Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and attracts GST @ 5% (SGST 2.5% + CGST 2.5%) as defined under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended). The relevant portion of the said annexure and notification is as below-

ANNEXURE 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
80	Group 99633		Food, edible preparations, alcoholic and non-alcoholic beverages serving services
81		996331	Services provided by restaurants, cafes and similar eating facilities including takeaway services, room services and door delivery of food
82		996332	Services provided by Hotels, Inn, Guest House, Club and the like including room services, takeaway services and door delivery of food
83		996333	Services provided in canteen and other similar establishments
84		996334	Catering Services in exhibition halls, events, marriage halls and other outdoor/indoor functions
85		996335	Catering services in trains, flights and the like
86		996336	Preparation or supply services of food, edible preparations, alcoholic and non-alcoholic beverages to airlines and other transportation operators
87		996337	Other contract food services
88		996339	Other food, edible preparations, alcoholic and non-alcoholic beverages serving services nowhere else classified

Notification No. 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
7	Heading 9963 (Accommodation, food And beverage services)	[(i) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, 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	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)] ²⁵



		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. <i>Explanation.-</i> “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.		
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- ❖ The applicant is providing “playroom” services to students residing in hostel. The said service is a kind of sporting/recreational service classifiable under HSN 999652 as provided under Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and attracts GST @ 18% (SGST 9% + CGST 9%) as defined under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The relevant portion of the said annexure and notification is as below-

ANNEXURE 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
687	Group 99965		Sports and recreational sports services
688		999651	Sports and recreational sports event promotion and organisation services
689		999652	Sports and recreational sports facility operation services
690		999659	Other sports and recreational sports services nowhere else classified

Notification No. 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
34	Heading 9996 (Recreational, cultural and sporting services)	(i) Services by way of admission or access to circus, Indian classical dance including folk dance, theatrical performance, drama [or planetarium]	9	-
		(ii) Services by way of admission to exhibition of cinematograph films where price of admission ticket is one hundred rupees or less	9	-
		[(iii) Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go carting and ballet	9	-
		[(iiia) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, casinos, race club, any sporting event such as Indian Premier League and the like.	14	-
		(iv) Services provided by a race club by way of totalisator or a license to bookmaker in such club.	14	-
		(v) Gambling	14	-
		(vi) Recreational, cultural and sporting services other than (i), (ii), (iii), [(iiia),] (iv) and (v) above.	9	-

- ❖ The applicant is also providing housekeeping and room cleaning services to students residing in hostel. The said service is classifiable under HSN 998533 as provided under Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and attracts GST @ 18% (SGST 9% + CGST 9%) as defined under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The relevant portion of the said annexure and notification is as below-

ANNEXURE 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, or Group	Service Code (Tariff)	Service Description
(1)	(2)	(3)	(4)
400	Heading 9985		Support services
420	Group 99853		Cleaning services
421		998531	Disinfecting and exterminating services
422		998532	Window cleaning services
423		998533	General cleaning services
424		998534	Specialised cleaning services for reservoirs and tanks
425		998535	Sterilisation of objects or premises (operating rooms)
426		998536	Furnace and chimney cleaning services
427		998537	Exterior cleaning of buildings of all types
428		998538	Cleaning of transportation equipment
429		998539	Other cleaning services nowhere else classified

Notification No. 11/2017-CT (R) Dated 28.06.2017

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
23	Heading 9985 (Support services)	[(iii) Support services other than (i) and (ii) above	9	-

In view of the above, we find that highest rate of GST is 18% amongst various services provided by the applicant to students in hostel. As the services supplied by the applicant is a Mixed Supply and will attract GST @ 18% (CGST 9% + SGST 9%).

- The applicant has cited various case laws and references viz. *M/s. Ernakulam Medical Centre Pvt. Ltd. vide Advance Ruling No. KER/16/2018, dated 19-9-2018 [2018 (18) G.S.T.L. 142 (A.A.R. - GST)]*, *M/s All Rajasthan Corrugated Board and Box Manufacturers Association, reported at 2019 (7) TMI 847 - AAR, Rajasthan*, contending that the services supplied by them is a composite supply is not tenable as the facts are quite different from the present application. Further, no

straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above.

- We also observe that, Hon'ble West Bengal Authority for Advance Ruling under GST in the matter of M/s Sarj Educational Centre, has issued an Advance Ruling No. 42/WBAAR/2018-19 dated 26.02.2019 on the similar issue viz. *whether lodging along with food to the students by a private boarding house is a composite supply and eligible for exemption under Sl. No. 14 of Notification No. 12/2017-CT(Rate) dated 28.06.2017.* The Authority for Advance Ruling held as under:

"4.5. The bundle of services offered to the recipients, therefore, consists of both taxable and non-taxable supplies. It is also evident that although the services are offered in a bundle, they are not indivisible, and different considerations are paid for different packages of such services offered to the recipients, depending upon their requirement for lodging facility. For example, laundry service is not offered to the day boarders. These are not, therefore, bundles of taxable supplies that are inseparable and supplied only in conjunction with one another in ordinary course of business. The services the Applicant supplies are not, therefore, composite supply, as defined under Section 2(30) of the GST Act."

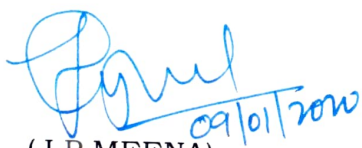
Further, the Appellate Authority for Advance Ruling (AAAR), West Bengal (GST) has confirmed the above order passed by Authority for Advance Ruling (AAR), West Bengal (GST) vide Order No. 05/WBAAAR/Appeal/2019 dated 29.03.2019.



6. In view of the foregoing, we rule as follows: -

RULING

- The provision of hostel accommodation along with food facility, Play Room, Gym, Housekeeping, Room Cleaning to the students wherein consolidated amount is charged from the students is a Mixed Supply.
- The entire charges recovered from the students is not exempted from GST under Sr. No. 14 of the GST (Rate) Notification No. 12/2017 dated 28.06.2017 (as amended).
- As various services provided by the applicant constitutes a Mixed Supply, the rate of GST on whole supply will be the rate of supply which attracts highest rate of GST. As the highest rate amongst services provided is 18%, accordingly, rate of GST on whole supply will be 18% (SGST 9% + CGST 9%).


(J.P. MEENA)
MEMBER
CENTRAL TAX


o/c (HEMANT JAIN)
MEMBER
STATE TAX

SPEED POST

M/s Kalani Infrastructure Pvt. Ltd.,
A-14-A, Road No.1,
Indraprastha Industrial Area,
Kota, Rajasthan.



F. No. AAR/KALANI/2019-20/232-235

Date: 10/11/2020

Copy to: -

1. Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, Central Tax, CGST and Central Excise Udaipur Commissionerate, 142-B, Hiran Magri, Sector-11, Udaipur, Rajasthan 313001.
3. STO, State Tax, Circle-B, Ward-1, Kota, Rajasthan.