



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)
Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/04/2021

Date:03.06.2022

TSAAR Order No.26/2022

[ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE TEALANGANA GOODS AND SERVICES TAX ACT, 2017.]

1. M/s. Healersark Resources Private Limited, 8-2-293/82/A/501P, Above Adidas Showroom, 4th floor, Road No 36, Jubilee Hills, Hyderabad, Telangana-500 033 (Un-registered) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules.
2. At the outset, it is made clear that the provisions of both the CGST Act and the TGST 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 TGST Act. Further, for the purposes of this Advance Ruling, the expression 'GST Act' would be a common reference to both CGST Act and TGST Act.
3. It is observed that the queries raised by the applicant fall within the ambit of Section 97 of the GST ACT. The Applicant enclosed copies of challans as proof of payment of Rs. 5,000/- for SGST and Rs. 5,000/- for CGST towards the fee for Advance Ruling. The Applicant has declared that the questions raised in the application have neither been decided by nor are pending before any authority under any provisions of the GST Act. The application is therefore, admitted.
4. **Brief facts of the case:**

The applicant M/s. Healersark Resources Private Limited are in the business of providing boarding and lodging to the students undergoing training under healthcare related vocational program. They are desirous of ascertaining whether the service provided by them falls under serial no. 14 of Notification No. 12/2017 dt:28.06.2017 as they are charging only Rs.300/- per day. Hence the application.
5. **Questions raised:**
 1. What is the applicable GST SAC and GST rate for the supply of service described in this application?
 2. Is it a composite supply or a mixed supply?
 3. Whether the service is exempted vide Notification No. 12/2017 – CT(Rate) dated: 28.06.2017?
6. **Personal Hearing:**

The Authorized representatives of the unit namely Sri.G. Sai Sitaram, Manager and Sri. A. Vijay Kumar, AGM attended the personal hearing held on 24.03.2022. The authorized representatives reiterated their averments in the application submitted and requested to dispose their application based on merits at the earliest.

7. Discussion & Findings:

The applicant states that he is providing lodging and boarding to students undergoing training under healthcare related vocational program under Deendayal Upadhyay Grameen Kaushalya Yojana (DDU-GKY) by charging Rs.9000/- per candidate per month; of which Rs.3500/- is towards rent for accommodation at fixed cost and Rs.5500/- towards food on head count/actual number of candidates.

According to the applicant, the chapter heading '9963' at serial no. 14 of Notification No. 12/2017 dt: 28.06.2017 describes such services for residential or lodging purposes and exempts the same if the value of supply of a unit of accommodation is below Rs.1000/- per day. The applicant states that he is charging only Rs.9000/- per month which amounts to Rs.300/- per day for both accommodation and food as a composite supply. Further that the supply of food is ancillary to accommodation and accommodation being the principle supply, hence he claims that their service is exempt from tax in view of this entry.

Composite supply is defined in the CGST Act in Section 2(30) as follows:

"Composite supply" means a supply made by a taxable person to a recipient 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.

As seen from the above definitions a composite supply is essentially a naturally bundled supply where two or more different supplies invariably exist along with each other.

A naturally bundled supply should possess the following attributes (as mentioned in Education Guide on Taxation of Services published by CBE & C on 20.06.2012 at Para 9.2.4):

- a. There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.
- b. The elements are normally advertised as a package.
- c. The different elements are not available separately
- d. The different elements are integral to one overall supply - if one or more is removed, the nature of supply would be affected.

Further the illustration in the definition clarifies the context of composite supply. As seen from the illustration the supply of service i.e., insurance and goods go alongside each other.

The Hon'ble Supreme court of India in a catena of case law has ruled that illustrations in a statute are part of the statute and help to elucidate the principle of the Section (Dr. Mahesh Chandra Sharma Vs Smt. Raj Kumari Sharma – AIR 1996 SC 869). Therefore a composite supply should be similar to a supply mentioned in the illustration to the definition in Section 2(30), where two or more taxable goods or services are supplied along with each other to constitute a composite supply.

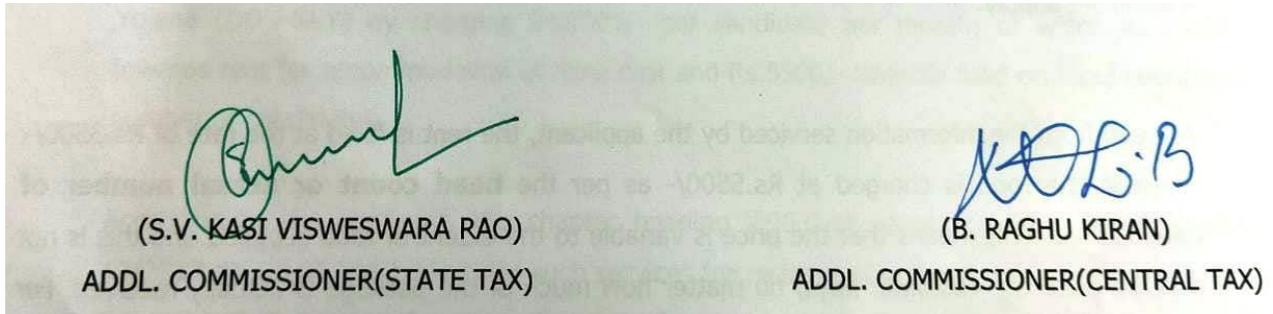
As seen from the information serviced by the applicant, the rent is fixed at the rate of Rs.3500/- whereas the food is charged at Rs.5500/- as per the **head count or actual number of candidates**. This means that the price is variable to the extent of food supplied and this is not a single price the customer pays, no matter how much of the package is actually received. For the above reason, the two supplies are not integral to one another.

The Hon'ble High Court of Kerala in the case of Abott Health Care Pvt. Ltd., (2020) 74 GSTR 37 (Kerala) held that a composite supply must take into account supplies as affected at a given point in time on "as is where is" basis. In the present case this condition is not fulfilled. Therefore there are two distinct supplies one for accommodation and the other for food.

8. The ruling is given as below:

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. What is the applicable GST SAC and GST rate for the supply of service described in this application?	a. There are two distinct supplies in this contract one for accommodation and the other for food. b. The SAC for supply of accommodation is '99631' and as enumerated at serial no. 14 of Notification No. 12/2017 dt: 28.06.2017 this is exempt in the present case as per day rent is below Rs.1000/-. c. The SAC for supply of food is '99633' and taxable at the rate is: i. 6% CGST & SGST each with ITC upto 14.11.2017. ii. 2.5% CGST & SGST each without ITC thereafter from 15.11.2017 onwards.
2. Is it a composite supply or a mixed supply?	There are two distinct supplies in this contract one for accommodation and the other for food.
3. Whether the service is exempted vide Notification No. 12/2017 – CT(Rate) dated: 28.06.2017?	No



(S.V. KASI VISWESWARA RAO)
ADDL. COMMISSIONER(STATE TAX)

(B. RAGHU KIRAN)
ADDL. COMMISSIONER(CENTRAL TAX)

[Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order]

To
M/s. Healersark Resources Private Limited,
8-2-293/82/A/501P, Above Adidas Showroom,
4th floor, Road No 36, Jubilee Hills, Hyderabad,
Telangana-500 033 .

Copy submitted to :

1. The Commissioner (State Tax) for information.
2. The Commissioner (Central Tax), Hyderabad Commissionerate, Room No. 813, GST Bhavan, L.B. Stadium Road, Basheerbagh, Hyderabad 500 004.

Copy to:

1. The Assistant Commissioner (ST) Jubilee Hills-II - Circle,
//t.c.f.b.o//

Superintendent (Grade-I)