



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/11/2021

Date:29.12.2021

TSAAR Order No.32/2021

[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. Golkonda Hotels And Resorts Limited, 10-1-124, Golkonda Hotel, Masab Tank, Jubilee Hills, Hyderabad, Telangana, 500028 (36AACCS8570J1ZX) 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:**

M/s. Golconda Hospitality Services and Resorts Limited, are in the business of providing accommodation and services and in the course of the business they have supplied the services of boarding and lodging facility for the officials of Greater Hyderabad Municipal Corporation for conducting 2018 General Election for Telangana State Legislative Assembly. According to the applicant these services are exempt from GST under Sl.No.3 of Notification No.12/2017, dt: 28.06.2017, which however needs to be clarified. Hence this application.

5. **Questions raised:**

Whether the services provided by the applicant to GHMC are exempt under Sl.No.3 of Notification No.12/2017.

6. **Personal Hearing:**

The Authorised representative of the applicant namely Sree Harsha, CA attended the personal hearing held on 25-11-2021. The authorized representative reiterated their averments in the application submitted and contended as follows:

1. That, they are providing accommodation services to GHMC during 2018 State Elections.
2. That in their opinion tax is not payable on supply of services to GHMC as same is covered under Article 243w of Constitution of India and therefore covered under Sl.No.3 of Notification 12 of 2017.

7. Discussion & Findings:

Under the Article 243W of Constitution of India, municipalities may be entrusted with the responsibilities for:

- i. Preparation of plans for economic development and social justice.
- ii. Performance of functions and implementation of schemes in relation to matters listed in 12th schedule.

Under the schedule 12 to Constitution of India, the functions and schemes are as follows:

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and up gradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle ponds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

Now under serial no. 3 of Notification No. 12/2017 pure services provided "in relation to any function" entrusted to a municipality under Article 243W of the Constitution of India is eligible for exemption from GST. Clearly the exemption should be directly related to the functions enumerated under Article 243W of the Constitution of India i.e., those functions listed under 12th schedule .

The Hon'ble Supreme Court of India in the case of Doypack Systems Pvt. Ltd. vs. Union of India (UOI) and Ors. (12.02.1988 - SC) AIR 1988 SC 782 clarified the meaning of the expression "in relation to" as follows:

"In this connection reference may be made to 76 Corpus Juris Secundum at pages 620 and 521 where it is stated that the term 'relate' is also defined as meaning to ring into association or connection with. It has been clearly mentioned that "relating to" has been held to be equivalent to or synonymous with as to "concerning with" and "pertaining to".

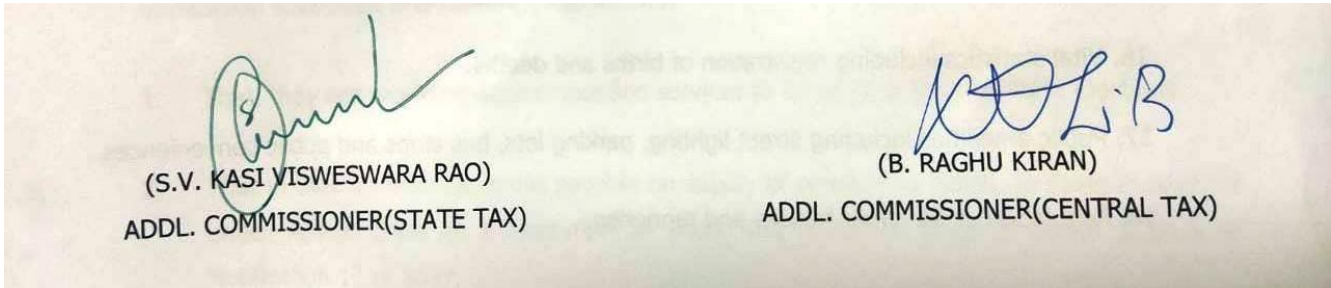
Similarly the Hon'ble Supreme Court of India in the case of Madhav Rao Jivaji Rao Scindia Vs Union of India AIR 1971 SC 530 observed that the expression "relating to" means to bring into relation or establish a relation. It was further clarified that there should be a direct and immediate link with a covenant and that there cannot be any independent existence outside such covenant.

By his own admission in the application, the applicant provided accommodation services to GHMC in relation to conduction General Elections to the Legislative Assembly of Telangana State. Thus there is no direct relation between the services provided by the applicant and the functions discharged by the GHMC under Article 243W read with schedule 12 to the Constitution of India. Therefore these services do not qualify for exemption under Notification No. 12/2017.

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
Whether the services provided by the applicant to GHMC are exempt under Sl.No.3 of Notification No.12/2017.	No.



[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. Golkonda Hotels And Resorts Limited,
10-1-124, Golkonda Hotel, Masab Tank,
Jubilee Hills, Hyderabad, Telangana, 500028.

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 Deputy Commissioner (ST) Punjagutta STU-II Circle .