

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH
4, Vibhuti Khand, Gomti Nagar, Lucknow-**

ADVANCE RULING NO. UP ADRG- 26/2023
PRESENT:

DATED 08-5-2023

- 1. Shri Rajendra Kumar**
Additional Commissioner, Central Goods and Service Tax
Audit Commissionerate, LucknowMember (Central Tax)
- 2. Shri Harilal Prajapati**
Joint Commissioner, State Goods and Service TaxMember (State Tax)

1.	Name of the Applicant	M/S V S Institute & Hostel Private Limited, 30/21,22, Knowledge Park-3, Gautam Buddha Nagar, Greater Noida, 201308
2.	GSTIN or User ID	09AACCV6409R1ZL
3.	Date of filing of Form GST ARA-01	24.01.2023
4.	Represented by	Mr. Vivek Sarin, Advocate & Mr. Akash Gupta
5.	Jurisdictional Authority-Centre	Range -Range15, Division III, Gautam Buddha Nagar
6.	Jurisdictional Authority-State	Sector-Sector 3 Gautambudha Nagar, Range- Gautambudha Nagar(B), Zone- Gautambudha Nagar
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes ICIC23010900550481

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. M/s V S Institute & Hostel Private Limited is registered under GSTIN 09AACCV6409R1ZL under trade name of M/s V S Institute & Hostel Private Limited having principal address at 30/21,22, Knowledge Park-3, Gautam Buddha Nagar, Greater Noida, 201308 (hereinafter referred as "the applicant"). The applicant is a private limited company and provides hostel services to the students of educational institutions for a fixed term on annual basis.

2. The applicant has submitted application for Advance Ruling dated 24.01.2023 enclosing dully filled Form ARA-01 (the application form for Advance Ruling) along with annexure and attachments. The applicant in his application has sought advance ruling on following question/clarification-

1. *Whether hostel accommodation provided by the Applicant to the students for residential purposes charging less than Rs.1,000/- per day during the period*

from 01.08.2021 to 12.07.2022 is exempted from GST liability under the S.No. 12 and / or 14 of the Exemption Notification No. 12/2017-CT(Rate) dated 28.06.2017?

2. *Whether hostel accommodation provided by the Applicant to the students for residential purposes charging less than Rs.1,000/- per day during the period from 13.07.2022 till today and also similar transaction to be undertaken in future is exempted from GST liability under the S.No. 12 of the Exemption Notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended vide Notification No. 04/2022-CT (Rate) dated 13.07.2022?*

3. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

4. The applicant has submitted that-

1. V S Institute & Hostel Private Limited ('Applicant') is a private limited company incorporated on 19.03.2007, is registered under CGST Act, 2017 having GSTIN 09AACCV6409R1ZL for its principal place of business at 30/21,22, Knowledge Park-3, Greater Noida, Gautam Buddha Nagar, Uttar Pradesh- 201308.
2. By way of present application, the Applicant is seeking advance ruling on the transaction of renting of the hostel rooms for residential or lodging purposes to the students of nearby educational institutions, undertaken from 01.08.2021 till today and the same transaction of rendering of service by way of renting of hostel rooms to the students for the residential purposes in coming future.
3. The applicant w.e.f. 01.08.2021 is engaged in providing hostel services to the students of educational institutions like Sharda University, GL Bajaj, Daron Acharya, GNIT, Amity University and several others. The present application is for the transaction undertaken for the period from 01.08.2021 till now and intent to undertake similar transaction for the future period. The present application is not seeking any advance ruling for the transactions undertaken prior to 01.08.2021 and which got concluded. The true copy of the GST registration certificate dated 21.11.2022 is annexed herewith as **Annexure – A**.
4. For the purpose of completeness of the information though it has no bearing on the present application and the reliefs claimed therein, it is mentioned that the Applicant has rented out the building to Sharda University situated at Knowledge Park-III, Greater Noida, U.P. during the period from November, 2018 to July, 2021, vide agreement dated 16.07.2018. During this relevant period the entire consideration was charged to GST and due liability was discharged. All the GST compliances have been made and there is no default

at all on the part of the Applicant. The true copy of the Form GSTR-9 for the period of FY 2020-21 is annexed herewith as **Annexure – B**.

5. The Applicant started providing hostel service from 01.08.2021, to the students of educational institutions like GL Bajaj, Daron Acharya, GNIT, Sharda University, Amity University and several others. Students are residing for a fixed term on annual basis. The hostel provides residential facilities including food, electricity, Wi-Fi, water etc. as inclusive services. The same is covered under the definition of the 'Residential Dwelling'.
6. The Applicant is providing the service of residential dwelling directly to the students, for which the Applicant is charging the rent as mentioned below:

Table -A

Type	Room	Period	Hostel Fee	Per day rate
Medical Students	Non-AC	1 Year	1,50,000	411
Medical students	AC	1 Year	1,75,000	480
Other students	Non-AC	10 Months	1,18,000	323
Other Students	AC	10 Months	1,78,000	488

The applicant receives rent below Rs. 1000/- per day per person. The true copy of the annual rent receipt is annexed herewith as **Annexure – C**.

5. The applicant have submitted their interpretation of law as under-

1. The Applicant submits that the transaction undertaken by it during the period from 01.08.2021 till today and similar transactions to be undertaken in future is of rendition of service by way of renting of hostel rooms to the students who are charged less than Rs.1,000/- per day as mentioned in Table A of the statement of facts and such transaction is covered by Entry 12 and 14 of the Notification No. 12/2017-CT (Rate), dated 28.06.2017 ('*exemption notification*'). The said exemption Notification exempts the transaction of renting of hostel rooms for residential purposes to the students who are charged less than Rs. 1000/- per day per person through out the period. The relevant part of the Exemption Notification is reproduced below:

Entry No.	Heading	Services	Rate	Condition
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12	9963 / 9972	Services by way of renting of residential dwelling for use as residence.	Nil	Nil
14	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

The true copy of the Notification No. 12/2017-CT dated 26.06.2017 is annexed herewith as **Annexure – A.**

2. The CBIC in circular No. 32/06/2018-GST dated 12.02.2018, further clarified and reasserted the exemption of the renting of hostel for residential purposes for less than Rs.1,000/- per day. The relevant part of the Circular A Circular No. 32/06/2018-GST dated 12.02.2018 is reproduced below:

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. [S. No. 14 of Notification No. 12/2017-CT(Rate) refers]

The true copy of the Circular No. 32/06/2018 is annexed herewith as **Annexure – B.**

3. The principal notification No. 12 / 2017 was further amended by CBIC to the limited extent of removing Column 3 of Entry 14 and at the same time widening the scope of Column 3 (the scope of exemption) of Entry 12. Thereby, the exemption continued to exist even after the amendment carried out by way of Notification dated 13.07.2022.

4. That after the amendment dated 13.07.2022 to Notification No. 04/2022-CT (Rate) the exemption is available only in case the hostel is rented to an unregistered person and the monetary condition of Rs.1,000/- per day has been removed. The relevant portion of the Notification No. 04/2022-CT (Rate), dated 13.07.2022 are given below:

"against serial number 12, in column (3), after the words "as residence", the words "except where the residential dwelling is rented to a registered person" was substituted and serial number 14 and the entries relating thereto were omitted."

The true copy of the Notification No. 04/2022-CT is annexed herewith as **Annexure – C.**

5. In view of the amendment vide Notification No. 4/2022-CT (Rate) dated 13.07.2022, the transaction undertaken by the Applicant from 01.08.2021 till today and similar transactions in future would be exempted because all the students are unregistered persons and they occupy the hostel rooms only for the purpose of resident or dwelling during their curriculum in the educational institutions.
6. The issue raised in the advance ruling, whether renting of the hostel to student for accommodating or dwelling amounts to use as residence, came to be decided by the Hon'ble High Court of Karnataka in W.P. No. 14891 of 2020 (T-RES), decided on 07.02.2022, wherein in Hon'ble court of Karnataka concluded in favour of the Applicant and held *"leasing out residential premises as hostel to students and working professionals is covered under Entry 13 of Notification No. 9/2017, dated 28-9-2017 namely 'Services by way of renting of residential dwelling for use as residence' issued under the Act. The petitioner is held entitled to benefit of exemption notification."* Thus, in view of above legal position the transaction undertaken and to be undertaken in future are exempted from GST liability and the questions raised by the Applicant ought to be decided in favour of the Applicant.

6. The application for advance ruling was forwarded to Assistant Commissioner, Central Tax & Central Excise, Division-III, Gautam Buddha Nagar to offer his comments/views/verification report on the matter. No views/comments has been offered from the concerned officer

7. The applicant was granted personal hearings on 11.04.2023 and 27.04.2023 which was attended by Mr. Vivek Sarin, Advocate & Shri Akash Gupta Authorized Representatives during which they reiterated the submissions made in the application of advance ruling.

8. The applicant has submitted additional submission dated 26.04.2023 as under:

- a. V S Institute & Hostel Private Limited ('Applicant' or 'Vardhman Hostel') is a private limited company incorporated on 19.03.2007, registered under CGST Act,

2017 having GSTIN 09AACCV6409R1ZL for its principal place of business at 30/21,22, Knowledge Park-3, Greater Noida, Gautam Buddha Nagar, Uttar Pradesh-201308. The true copy of board of the hostel is annexed herewith as **Annexure-A**.

- b. That the hostel building situated at 30/21, 22, Knowledge Park – 3, Gautam Buddha Nagar, Greater Noida, Uttar Pradesh – 201308 has been using for the purpose for residing of students. The map has been sanctioned by the Greater Noida Industrial Development Authority of Uttar Pradesh established in January 1991 under the UP Industrial Area Development Act 1976 for the residential as well as for commercial use. The true copy of the map of the hostel building is annexed herewith as **Annexure-B**.
- c. That the Applicant has rented out the building to Sharda University situated at Knowledge Park-III, Greater Noida, U.P. during the period from November, 2018 to July, 2021, vide agreement dated 16.07.2018. During this period, the entire consideration was charged to GST and due liability was duly discharged. All the GST compliances have been made and there is no default on the part of the Applicant. Such building was to be used as **student hostel for the residential purpose** for the students of Sharda University till July 2021.
- d. That the Applicant started providing hostel service from 01.08.2021, to the students of educational institutions like GL Bajaj, Daron Acharya, GNIT, Sharda University, Amity University and several others. Students are residing for a fixed term on annual basis. The hostel provides residential facilities including food, electricity, Wi-Fi, water etc. as inclusive services. The true copy of rooms of hostel and sample ID card of student residing in the hostel are collectively annexed herewith as **Annexure-C**.
- e. That the expression 'hostel' has been defined in Advance Law Lexicon – Vol. II Ramnath Aiyar, 6th Edition, as 'Hostel' means a building which provided for persons generally or for a class or class of persons, residential accommodation other than in separate and self-contained sets of premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both. Therefore, the hostel is a residential accommodation. The true copy of the Advance Law Lexicon – Vol. II Ramnath Aiyar, 6th Edition and Judicial Officer Law Lexicon – Vol. II Justice C. K. Thakker is annexed herewith as **Annexure-D**.
- f. That the Applicant is fulfilling the twin conditions to cover under Entry No. 12 of the Notification No. 12/2017-CT (Rate), dated 28.06.2017 ('Exemption Notification') namely 'Services by way of renting of residential dwelling for use as a residence' issued under the CGST Act, 2017: (a) The building of hostel is residential dwelling, and (b) the hostel is being used for residence of the students.
- g. That it is pertinent to note that under the erstwhile regime, the expression 'residential dwelling' was defined in Paragraph 4.13.1 of Taxation of Services: An Education Guide Dated 20.06.2012 issued by CBEC as "The phrase 'residential dwelling' has not been defined in the Act. It has therefore to be interpreted in terms of the normal trade parlance as per which it is **any residential accommodation, but does not**

include hotel, motel, inn, guest house, camp-site, lodge, house boat, or like places meant for temporary stay". The true copy of Taxation of Services: An Education Guide Dated 20.06.2012 issued by CBEC is annexed herewith as **Annexure-E**.

- h. That the Hotels or lodging are places meant for a temporary stay but "Student hostel" is to be used for sleeping, eating, studying, etc. for a longer period than hotels and lodging. The period of temporary stay has not been given in the GST regime. In the erstwhile service tax law, section 65(105) of the Finance Act, 1994, provides the definition of taxable service for services provided by hotels, inns, etc, which generally involves staying for a shorter period as compared to the permanent or considerable time of stay, provides that the said service is providing accommodation for a continuous period of less than 3 months. The true copy of the relevant provision is annexed herewith as **Annexure-F**.
- i. That observation in Collins v. Uratemp Ventures Ltd. [(2012) 24 taxmann.com 134 (ECJ)], compelled the conclusion that 'dwelling' means a place where one lives regarding and treating as a home. It is a place where one lives and returns to sleep. Further, in Sharad Kumar Pandey vs Mamta Pandey, Crl. M.C. No. 4044 of 2009 of Hon'ble Delhi High Court, it was observed that the normal place for a dwelling is made with an intention to live there for a considerable time or to settle there. Therefore, "residential dwelling" is a residential accommodation that is not used for a temporary stay. It is to be noted that in a hostel there can be students staying for the long term and also for the short term. It depends on the arrangement or agreement between the students and the applicant. In the present case, Applicant provides hostel service to students of various universities for the period of minimum 1-year session. Therefore, the transaction in question fulfilling the condition – (a) to claim the exemption under the exemption. The usage of premises to provide hostel services is residential dwelling.
9. That the word 'residence' is generally understood as referring to a person in connection with the place where he lives or one who dwells in a place for a considerable period of time. There are two classifications of the meaning of the word 'residence'. The first is in the form of permanent and temporary residence and the second classification is based on de facto and de jure residence. The de facto concept of residence can also be understood clearly by the meaning of the word 'residence' as given in the Black Law Dictionary, 8th Edition. It is given that the word residence means bodily presence as an inhabitant in a given place. In Bandu Ravji Nikam v. Achayatna Deshbhushan Shkshan Prasark Mandal, Kolhapur [(2002) SCC OnLine Bom 896] it was observed that Student Hostel was to be used for sleeping, eating, studies, etc. It cannot be described as 'Non-residential' use. The hostel is used by the students for the purposes of residence. The students use the hostel for sleeping, eating, and for the purpose of studying for a period of more than a year. In the hostels, the duration of stay is more as compared to hotels in guest houses, clubs, etc.

DISCUSSION AND FINDING

10. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST 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 UPGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

11. We have gone through the submissions made by the applicant and have examined the interpretation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) (a) of the CGST Act 2017 being a matter related to applicability of a notification issued under the provisions of the Act. We therefore, admit the application for consideration on merits.

12. The applicant M/s V S Institute & Hostel Private Limited is a private limited company and provides hostel services to the students of educational institutional institution for a fixed term on annual basis. Hostel services includes food, electricity, wi-fi, water etc. The annual hostel rent is below 1000/-per day.

The applicant in his application has sought advance ruling on following question/clarification-

1. *Whether hostel accommodation provided by the Applicant to the students for residential purposes charging less than Rs.1,000/- per day during the period from 01.08.2021 to 12.07.2022 is exempted from GST liability under the Sl.No. 12 and / or 14 of the Exemption Notification No. 12/2017-CT(Rate) dated 28.06.2017?*

2. *Whether hostel accommodation provided by the Applicant to the students for residential purposes charging less than Rs.1,000/- per day during the period from 13.07.2022 till today and also similar transaction to be undertaken in future is exempted from GST liability under the S.No. 12 of the Exemption Notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended vide Notification No. 04/2022-CT (Rate) dated 13.07.2022?*

13. Applicant started providing hostel service from 01.08.2021, to the students of educational institutions like GL Bajaj, Daron Acharya, GNIT, Sharda University, Amity University and several others. Students are residing for a fixed term on annual basis. The hostel provides residential facilities including food, electricity, Wi-Fi, water etc. as inclusive services.

The map has been sanctioned by the Greater Noida Industrial Development Authority of Uttar Pradesh established in January 1991 under the UP Industrial Area Development Act 1976 for the residential as well as for commercial use.

From 01.08.2021, Applicant has started to provide the hostel service directly to the students of educational institutions like GL Bajaj, Daron Acharya, GNIT, Sharda University, Amity University and several others without charging Tax Liability of GST. Students are residing for a fixed term on annual basis. It can be inferred that nature of service has not changed from 01.08.2021 only the provider of services has changed.

14. The relevant portion of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, reads as under-

In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
....
12	Heading 9963 or Heading 9972	Services by way of renting of residential dwelling for use as residence.	Nil	Nil
....
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

The Sl. No. of 12 and 14 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 has been amended by the vide Notification No. 04/2022-CT (Rate) dated 13.07.2022 and is reproduced as under-

Table

Sl. No.	Chapter, Section, Heading, Group or Service Code	Description of Services	Rate (per cent.)	Condition
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(Tariff)				
(1)	(2)	(3)	(4)	(5)
....
12	Heading 9963 or Heading 9972	Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person .	Nil	Nil
....
14		---omitted---		

From the reading of above Sl.No. 12 and 14 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, it is clear that the word Hostel is not mentioned anywhere. If the Government had intended to exclude Hostel services, then it would have been mentioned in the above list as the word Hostel is neither a new word or uncommon word. Also, the Room or unit accommodation services provided by Hostels is clearly mentioned under HSN code 996322.

15. Now a question arises whether hostels are provided for residential dwelling or commercial purpose in order to decide applicability of GST on Hostel charges. The following are the arguments in favour of levying GST on hostel charges: \

1. Hostels are mainly maintained for commercial benefit (i.e for earning income / profit). So it is at par with Hotels and hence GST is applicable on Hostel charges.

2. In most of the cases the hostel operator is not necessarily the owner of the residential property. They use to take the property on hire from one of more landlords and then give it on rent to students / working professional. So combining the above two aspects it is clear that hostels are maintained for commercial purpose.

3. In order to run hostel the license from Shop and establishment Act is required. Shops and establishment license are required for commercial establishment. Hence hostels falls under commercial establishment and hence GST should be applicable on hostel charges.

In Education guide issued by CBIC which provides that in normal trade parlance residential dwelling means any residential accommodation and is different from hotel, motel, inn, guest house etc. which is meant for temporary stay. Since

hostel is very much like hotel, guest house etc and is meant for temporary stay, so GST will be applicable on hostel charges.

16. From the documents provided by the applicant, it is clear that from 01-07-2017 to 15-07-2018 applicant provided commercial rental services & discharged all GST liabilities. From 16-07-2018 applicant entered into an agreement with Sharda University for letting out property and till 15-07-2021 discharged all liabilities. From 01-08-2021 applicant started providing hostel services to the students of Sharda University and some other institutions. This means from 01-08-2021 applicant is not letting out property and hence will not fall under "any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce either wholly or partially."

From the submitted record, it is clear that the applicant directly provides hostel services to students and receipt is generated in the name of V S Institute & Hostel Private Limited.

17. Now we have to visit the classification of service of 'hostel accommodation'. We find that it is classifiable under HSN 996322 as provided under Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The relevant portion of the said annexure 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 the Hostels, Camps, Paying Guest and the like
79		996329	Other room or unit accommodation services nowhere else classified

Further, the relevant portion of the exemption Notification No. 12/2017- CT (R) Dated 28.06.2017 is as below:

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

Sl. No.	Chapter. Section, Heading, or Group Service Code (Tariff)	Description of Services	Rate (percent.)	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

18. Moreover, the relevant portion of CBIC's Circular No. 32/06/2018-GST dated 12 February, 2018 is as below-

Sl. No.	Issue	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and	Hostel accommodation services do not fall within the ambit of charitable activities as define in para 2(r) of notification No. 12/2017-CT (R). 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

thus, exempt under Sl. No. 1 of Notification No. 12/2017-CT (Rate).	having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of Notification No. 12/2017-CT (Rate) refers]
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19. On going through the above exemption Entry No. 14 of Notification No. 12/2017-CT (R) dated 28.06.2017 as well as above discussed CBIC's Circular No. 32/06/2018-GST dated 12th February 2018, we find that the description of service is user based, meaning that, if the accommodation is used for residential or lodging purpose than it is immaterial who the user is. The said entry mentions "Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes". The word 'hostel' not being specifically mentioned implies that the same would be covered under the term 'whatever name called'. The services provided by such hostel, for residential or lodging purposes would be covered by the scope of notification entry where the declared tariff of a unit of accommodation below one thousand rupees per day till 17.07.2022.

20. Principal Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 was amended by Notification No. 04/2022 Central Tax (Rate) dated 13.07.2022 w.e.f. 18.07.2022 in which entry No.14 has been omitted. Similarly through Notification No. 03/2022 Central Tax (Rate) dated 13.07.2022 w.e.f. 18.07.2022 Principal Notification No. 11/2017 Central Tax (Rate) entry at serial no.7, the word 'above One Thousand Rupees but' has been omitted. Hence from 18.07.2022 onward services provided by applicant will be covered by the relevant entry of Notification No.11/2017 Central Tax (Rate) as amended and will be taxable @ 12% if unit accommodation per day is less than Rs 1000/-.

21. As far as Judgement of Hon'ble High Court of Karnataka in W.P. No. 14891 of 2020(T-RES) decided on 07.02.2022 is concerned it is observed that said Judgement is "leasing out **residential premises** as hostel to students and working professionals is covered under Entry 13 of Notification No. 9/2017, dated 28-9-2017 namely Services by way of renting of residential dwelling for use as residence' issued under the Act."

22. The present application for Advance ruling is not identical. However, Special Leave Petition (Civil) Diary No(s). 2317/2023 has been filed before Hon'ble Supreme Court of India by the Revenue Department which has been admitted and matter is pending.

The arguments, International Case Law No. 134(ECJ) dated 11.10.2001 issued by European Court of Justice in Collins(AP) v. Uratemp Ventures Limited, cited by the Applicant has no force and is not applicable in the instant case as Finance Act 1994 is not in existence after Introduction of GST Act. The tax laws are governed by GST Act and other allied laws only.

RULING


Question1: Whether hostel accommodation provided by the Applicant to the students for residential purposes charging less than Rs.1,000/- per day during the period from 01.08.2021 to 12.07.2022 is exempted from GST liability under the Sl.No. 12 and / or 14 of the Exemption Notification No. 12/2017-CT(Rate) dated 28.06.2017?


Answer: Replied in Affirmative.

Question2: Whether hostel accommodation provided by the Applicant to the students for residential purposes charging less than Rs.1,000/- per day during the period from 13.07.2022 till today and also similar transaction to be undertaken in future is exempted from GST liability under the Sl.No. 12 of the Exemption Notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended vide Notification No. 04/2022-CT (Rate) dated 13.07.2022?

Answer: Replied in Negative.

23. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Harilal Prajapati)
Member of Authority for
Advance Ruling


(Rajendra Kumar)
Member of Authority for Advance
Ruling

To,
M/s V S Institute & Hostel Private Limited,
30/21,22, Knowledge Park-3, Gautam
Buddha Nagar, Greater Noida,201308.

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.

3. The Commissioner, CGST & C. Ex, , G. B. Nagar 3rd floor, Wegmans Business Park, K.P.-III, Greater Noida-201306 (U.P.).
4. The Deputy/Assistant Commissioner, CGST & Central Excise Division- G. B. Nagar III, G. B. Nagar 3rd floor, Wegmans Business Park, K.P.-III, Greater Noida-201306 (U.P.).
5. Through the Additional Commissioner, Gr-I, Commercial Tax, ~~Gautambuddha Nagar~~ ^{Gautambuddha Nagar - Zone, Gautambuddha Nagar}, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.