

GIB/KR/KERALA FOREST/01.03.2019/AAR-252

Advance Ruling Category : Taxability

State : Kerala

Order No.: GIB/KR/KERALA FOREST/01.03.2019/AAR-252

Name of Entry :

Kerala Forest Development Corporation Ltd.

Date : 01-03-2019

Breif Issue :

Facts & Issue of the case

The applicant “M/s. Kerala Forest Development Corporation Ltd.” is conducting eco-tourism activities in the reserve forest at Munnar, Gavi, Nelliampathy and Arippa. The objective of Eco-Tourism programs is to provide the guests the experience of the wild life in natural habitat and to create awareness for conservation as well as protection of forest wild life. The applicant offers tour packages at Munnar, Gavi, Nelliarnpathy and Arippa. The charges for tour package depend upon the type of accommodation chosen by the customers. Now the applicant intends to change the modus operandi by issuing separate invoices to customers/guests for the services availed by them, instead of giving as packages.

It is pointed out that these services are individually available to the guests, as such the guests have right to choose any one of the services. If the guests choose all the services, they will provide separate invoice. Accordingly, the applicant requested advance ruling on the following: Tax liability under GST for the tour packages, which are provided to guests by way of separate services like accommodation, serving food and beverages, service of authorized guides, trekking accessories etc. against separate invoices.

It is stated by the applicant that charges for accommodation per guest is below threshold minimum to levy tax. The food and beverages are prepared in each of the destinations, and are served to the guests. Since the accommodations are in faraway places) the guests are provided with a fixed menu with choices and accordingly the rates are also fixed. For this they will charge 5% GST vide Serial No.7 of Notification No.11/2017- Central Tax 11 (Rate) dated 28.06.2017 as amended by Notification No.13/2018- Central Tax (Rate) dated 26.07.2018. For providing service of authorized guide, the applicant proposes to collect 18% GST.

Decision of Advance Ruling Authority :

Decision

In view of the observations stated above, the following ruling is issued: In case where a supply

involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately. As per Circular No.47/21/2018-GST dtd.08-05-2018 1 it has been clarified that the taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.

The criteria for arriving threshold limit in the case of service of accommodation is not based on the charges realized from guests on per head. As per S.R.O.No.370/2017 dtd.30-06-2017, accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of a unit of accommodation of one thousand rupees and above but less than two thousand five hundred rupees per unit per day or equivalent is taxable at 12% GST. If the declared tariff of unit accommodation is Rs.2500/- and above, but less than Rs.7500/- per unit per day or equivalent is taxable at 18% GST and the same above Rs.7500/- attract 28% GST.

As per Notification No. 13/2018-Central Tax (Rate), dtd.26-07-2018, supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, 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 located in the premises of hotels, inns, guest houses, dubs, 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 is taxable 5% GST without input tax credit. The applicant is providing service of authorized guide which attract 18% CST.