

GIB/KN/Sri. Taghar Vasudeva/23.03.2020/AAR-259

Advance Ruling Category : Exemption

State : Karnataka

Order No.: GIB/KN/Sri. Taghar Vasudeva/23.03.2020/AAR-259

Name of Entry :

Sri. Taghar Vasudeva Ambrish

Date : 23-03-2020

Breif Issue :

Facts & Issue of the Ruling

The applicant “Sri. Taghar Vasudeva Ambrish” is a proprietary concern registered under the Provisions of GST Act, 2017. The applicant is engaged in the business of providing affordable residential accommodation to students on a long term basis (starting from 3-11 months). The applicant with 4 others collectively has let out a Residential complex to M/s. D Twelve Spaces Pvt. Ltd. The D Twelve spaces are having business of providing affordable residential to the students on a long term agreement for about (3 to 11 Months).

The applicant has sought advance ruling to know whether exemption prescribed under entry number 13 of notification no. 9/2017- integrated tax (rate) dated. 28th June, 2017 can be sought and the lessors (here Ambrish Vasudeva and 4 others) need not charge GST while issuing the invoice for the lease service to m/s. Dtwelve Spaces Pvt. ltd. and also, whether the lease service falls under the Exemption prescribed and can be described as “Services by way of renting of residential dwelling for use as residence”? as listed in the aforesaid Notification.

The applicant contends that “renting of immovable property” is covered under Schedule II of CGST Act 2017 which defines it as the supply of services on which the applicable GST rate is 18%. The applicant further states that Schedule II enlists activities to be treated as supply of goods or as supply of services. Entry 2(b) reads as any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services. The applicant further refers to the Notification No. 9/2017-Integrated Tax (Rate) dated 28th June, 2017 in which certain exemptions have been prescribed for specified activities. Entry 13 of such Notification provides that: “Services by way of renting of residential dwelling for use as residence” are exempt from GST.

Decision of Advance Ruling Authority :

Decision

The exemption prescribed under entry no. 13 of Notification No.9/2017 -Integrated tax (Rate)

dated 28th June 2017 cannot be sought and the lessors (as an entity) have to charge GST while issuing the invoice for the lease services to M/s DTwelve Spaces Pvt. Ltd, provided they are registered under the GST Act.

The lease services does not fall under the exemption “Services by way of renting of residential dwelling for use as residence” as listed in entry 13 of Notification No.9/2017 – Integrated tax (Rate) dated 28th June 2017.

The contract of the applicant group with the Company was verified and it was found that what is given is an immovable property consisting of only rooms with attached toilets as per the Layout of the leased premises annexed to the Lease agreement and does not fit into the meaning of a dwelling which means a house. They are like hotel rooms and the entire leased premises have 42 rooms, which can by no imagination be termed as a residential dwelling. Even if the same is given for residential purposes, the services provided are not for use as residence by the lessee. Services by a hotel, inn, guest house, club site or campsite, by whatever name called, or other commercial places for residential or lodging purposes are covered by different entries in the schedule of notification no. 9/2017- integrated tax (rate) dated. 28thJune, 2017 or under different notifications and this shows that rooms though given on rent for residential purposes would not amount to residential dwelling and hence the entry is not applicable for the transaction of the lessor with the lessee.