

GIB/GUJ/SAPTHAGIRI/30.07.2018/AAR-292

Advance Ruling Category : Taxability

State : Gujarat

Order No.: GIB/GUJ/SAPTHAGIRI/30.07.2018/AAR-292

Name of Entry :

Sapthagiri Hospitality Private Limited

Date : 30-07-2018

Breif Issue :

Facts And Issues Of The Cases :

1. The hotel being located in non-processing zone of Dahez Special Economic Zone whether liable to pay GST on all the services provided by it to the clients located in SEZ which inter-alia included supply of services by way of providing accommodation services, supplying food and beverages and supplying services ancillary to providing accommodation services?
2. Under extreme circumstances, if the hotel is required to provide accommodation services to a visitor other than a visitor located in SEZ, whether GST is required to be paid?

The term “customs territory” cannot be equated to the territory of India. Further, the interpretation advanced by the appellant would lead to a situation where a Special Economic Zone would not be subject to any laws of India whatsoever. The sub-section (1) of Section 53 of the SEZ Act, 2005 provides a deeming fiction whereby the Special Economic Zone shall be deemed to be a territory outside the customs territory of India and that too for the specific purposes of undertaking the authorized operations.

As per Section 8 of the IGST Act, supply of goods or services to or by SEZ developer or unit would not be considered as intrastate supply. In accordance with the Section 7 & 8 of IGST Act all the supply of goods or services made by or to SEZ Co-developer would be considered as interstate supply and the levy of IGST is attracted at the applicable rate. Meaning of Zero Rated supply is (a) export of goods or services or both ; or (b) supply of goods or services or both to a SEZ developer or SEZ Unit. Any SEZ unit/developer making interstate supply to DTA would be liable to pay IGST under IGST Act. Therefore, supply of services by the SEZ unit or Developer from SEZ to DTA would be covered under the normal course of supply.

Decision of Advance Ruling Authority :

Decision:

The supplies made by M/s. Sapthagiri Hospitality Private Limited a SEZ Co-developer, from their hotel located in non-processing zone of Dahez Special Economic Zone to the clients located in Special

Economic Zone for authorized operations will be treated as zero rated supplies under the provisions of Section 16(1) of Integrated Goods and Service Tax Act, 2017 read with Section 2(m) of SEZ Act, 2005.

The applicant is liable to pay GST on the services from their hotel located in non- processing zone of Dahez Special Economic Zone to the clients located outside the territory of Special Economic Zone under the provisions of Section 5(1) of Integrated Goods and Service Tax Act, 2017.