

GIB/KA/MIDCON POLYMERS/16.09.2020/AAR-465

Advance Ruling Category : VALUATION OF RENTAL INCOME

State : Karnataka

Order No.: GIB/KA/MIDCON POLYMERS/16.09.2020/AAR-465

Name of Entry :

M/S. MIDCON POLYMERS PVT. LTD.

Date : 16-09-2020

Breif Issue :

FACTS OF THE CASE:

In this case the applicant have proposed/ planned for engaging in the business of renting of commercial property on monthly rents and allied business. They intend to enter in to a contractual agreement of renting of immovable property with an Educational Institution in Bangalore. The Contract is on the basis of the reserved monthly rent of ? 1.50 lakhs or Annual Rent of ? 18.00 Lakhs and also refundable caution deposit of ? 500 Lakhs, which shall be returned without interest on the termination of the tenancy. Further, since the applicant is required as per law to refund the advance caution deposit, the same does not in anyway determines the quantum of rent.

The Applicant discharge the statutory taxes levied by the BBMP (Bruhut Bengaluru Mahanagar Palike) and also deposits, which is as per the contract. These taxes being paid on the property and such deduction are legal in respect of valuing the actual receipt of rent under the contract.

The applicant do not have any taxable activity other than the activity of leasing out Immovable Property commercial spaces and hence they are at present claiming exemption since their turnover is less than ? 20 Lakhs.

Decision of Advance Ruling Authority :

ISSUE OF THE CASE AND DECISION:

Whether the property tax & other statutory levies paid/ payable by the applicant be deducted from the rental income for the purpose of arriving at the value of rental income?

ANS:- It could easily be inferred from Section 15(2) that any taxes, duties, cesses, fees and

charges, levied under any law for the time being in force, shall include in the value of taxable supply. In the instant case the property tax is levied, under the Karnataka Municipalities Act 1964, by the BBMP in Bangalore. Further the only exclusions from the value of the taxable supply are the taxes, duties, cesses, fees and charges levied under the CGST Act 2017, SGST (KGST) Act 2017, UTGST Act 2017 & GST (Compensation to States) Act, subject to the condition that they are charged separately by the supplier - It is observed that in the instant case, the supplier (applicant) and the recipient are not related; price is the sole consideration of the supply and monthly rent is the price payable. Thus the monthly rent is the transaction value and the same would be the value of supply of the impugned service of RIS - the property tax is not deductible from the value of taxable supply of "Renting of Immovable Property" service.

Whether notional interest on the security deposit should be taken into consideration for the purposes of arriving at total income from rental?

ANS:- The security deposit is collected normally equivalent to 6 months or 12 months rent. Also it is a known fact that the higher the security deposit lower the monthly rent amount. In the instant case, an amount of ₹ 5 Crore is proposed to be collected as security deposit and a monthly rent of ₹ 1.5 Lacs. However the applicant has not furnished adequate date / information so as to decide whether actually the notional interest influences the monthly rental amount or not - the notional interest has to be considered as part of value of supply of service, if and only if the said notional interest influences the value of supply i.e. value of RIS service / monthly rent and is leviable to GST along with monthly rent at the rate applicable to monthly rent.

Whether the applicant is entitled for exemption of tax under the general exemption of ₹ 20 lakhs?

ANS:- The interest free security deposit does not come under the purview of supply as per Section 7 of CGST Act, 2017 since it is not a consideration. However, the notional interest on security deposit becomes part of consideration along with monthly rent, if it influences the value of the supply - in view of the submission made by the applicant that they have no other business besides what they have submitted to this Authority, it is found that they are entitled for the general exemption for registration purpose, subject to the condition that their annual total turnover which includes monthly rent and notional interest, if it influences the value of supply, does not exceed the threshold limit.