

**GIB/HR/JEWEL CLASSIC/25.06.2020/AAR-444**

**Advance Ruling Category :** Classification of Services

**State :** Haryana

**Order No.:** GIB/HR/JEWEL CLASSIC/25.06.2020/AAR-444

**Name of Entry :**

M/S. JEWEL CLASSIC HOTELS PVT. LTD.

**Date :** 25-06-2020

**Breif Issue :**

**FACTS OF THE CASE:**

In the above case M/S. Jewel Classic Hotels Pvt. Ltd. ("the Applicant") is running three separate units at three separate locations, having separate management, i.e. all operations, sales, accounting are being done separately by each separate team. The Applicant has two separate existing Hotel units (Hotel Jewels and Hotel Noor Mahal) and recently started a new unit namely Hazuri Bagh, a party lawn to organize marriage functions, exhibitions or other events. Hazauri Bagh, will take outdoor catering services from Hotel Jewels which is a separate unit, in which no 'hotel accommodation' is more than INR 7500/- per unit per day.

The Applicant conducts various parties, marriages and other events in all three units. In these marriages/events in addition of renting of premises & supplying food/beverages the customers can demand some additional arrangements from the Applicant such as flower decoration, orchestra, music DJ, dance floor; special cutlery for serving food; electronic & electric items, such as television for podcasting, projectors, heaters in winter etc.; arrangement of food or beverages from specific vendors etc.

The Applicant regarding tax on supplies, wanted to determine the applicability of the Notification No. 20/2019 Central Tax (Rate), dated September 30, 2019 ("NN. 20/2019") issued, amending Services Rate Notification in which the rate of tax for outdoor catering has been reduced to GST @ 5%.

**ISSUE OF THE CASE:**

1. Whether catering of food, banquet facilities and combination of both (as per requirement of the customers) in self-owned marriage and party halls by the Applicant (having all rooms below INR 7,500/-) is covered in Outdoor Catering taxable @5%?
2. Whether the Applicant is eligible to charge 5% tax for providing outdoor catering at Hazuri Bagh?

3. Whether the additional arrangements (in addition to foods, beverages & renting of premises), provided as 'pure agent' will be excluded from value of supply as given in Rule 33 of the CGST Rules
4. Whether there is any tax on the supplies arranged from these unregistered people to be paid by the Applicant under the Reverse Charge Mechanism ("RCM") or any other provisions of the CGST Act?
5. Whether the extra bed forms part of the room tariff and is liable to be charged as per various rates prescribed as per slabs given under various notifications?

**Decision of Advance Ruling Authority :****DECISION:**

The hotel Jewels is the principal place of business and Noor Mahal is the additional place of business and both are owned by the same owner i.e. M/s Hotel Jewel Classic Pvt. Ltd. under the same registration number - There is a condition in column 3 of (i)(a)(iv) in the Notification No. 20/2019 Central Tax (Rate) dated 30.09.2019 amending the serial No. 7 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017, that the supply of outdoor catering should not be provided by such suppliers who are providing 'hotel accommodation' at 'specified premises'. In the present case, the applicant is providing hotel accommodation at Noor Mahal which is a specified premise. Thus, the applicant does not fulfill the condition - thus, outdoor catering activity carried by M/s Jewels Classic Hotels Pvt. Ltd, at its own Marriage Hall and Party Hall including outdoor lawns on the same registered premises of principal place or additional declared place does not fall in the ambit of GST (5%).

Further, as Hazuri Bagh is situated in precincts of Hotel Noor Mahal, so it is clear that the Applicant is not satisfying the condition that the supply of outdoor catering should be at such premises which should not be specified premises. Therefore, the Applicant is not entitled GST @ 5% from the business premises of Hotel Noor Mahal/Hazuri Bagh.

As per valuation rule provision of GST Act, 2017, the taxpayer does not satisfy the condition of the pure agent which is to recover from recipient only such amount as has been paid by him to the third party. Facilitation charges collected shall disqualify taxpayer from being pure agent.

The provisions of Section 9 (4) of the CGST Act are not applicable to all registered persons, goods and services. It is applicable only to selected categories of registered persons & goods and services which have to be notified by the government - the N/N. 07/2019-Central Tax (Rate) dated 29.03.2019 and N/N. 24/2019-Central Tax (Rate) dated 30.09.2019, it is clear that presently reverse charge mechanism under section 9(4) is not applicable on the applicant.

The charges of extra bedding if exceeds the room tariff as per the N/N. 20/2019-Central Tax (Rate) dated 30th September 2019 amending Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017, the same shall be treated as gross value of supply and the tax shall be charged as per the amount including the extra bedding charges as it is a part of room tariff.

So the facilities for food catering, banquet etc. provided in self-owned marriage and party halls by separate entities under common ownership is not covered under 'outdoor catering' as per Notification No. 11/2017 Central Tax (Rate), dated June 28, 2017 ("Services Rate Notification") (as amended), which is taxable at the rate of 5%.