

GIB/KA/BOWRING INSTITUTE/22.04.2021/AAR-455

Advance Ruling Category : LEVY OF GST

State : Karnataka

Order No.: GIB/KA/BOWRING INSTITUTE/22.04.2021/AAR-455

Name of Entry :
M/S BOWRING INSTITUTE

Date : 22-04-2021

Breif Issue :

FACTS OF THE CASE:

In this case the M/s. Bow-ring Institute is a club is and a non-profit organization. It is a members-club as opposed to a proprietary club. The members contribute by way of subscription fees and infrastructure development fund which is used for the purposes of provision of services and goods and a reading room, library, chambers for accommodating family and guests, a bar and sports facilities. In addition to the subscription fees at the time of admission of the member to the Applicant, an admission fee as an infrastructure development fund is collected.

In addition, the applicant outsources catering services who supply foods and beverages and run a super market within the premise of the applicant. These facilities are only available for use by the members. These outsourced agencies charge GST on their supplies of food, beverages and sale of goods to members. The applicant bears the cost of such goods and services from the subscription fees paid by the members.

ISSUE OF THE CASE:

Whether amount collected as membership subscription fees paid by the members of the applicant towards facilities provided by the applicant are liable as supply of service under GST?

Whether amount collected as infrastructure development fund for the development and maintenance of the facilities provided by the applicant are liable as supply of service under GST?

Decision of Advance Ruling Authority :

DECISION:

It is observed that Finance Act, 2021 has overruled what the Courts have held till now and has countered the Principle of Mutuality by way of Explanation which states that the members or constituents of the club and the club are two separate entities and persons for the purpose of Section 7 of CGST Act, 2017 which defines Supply.

The Authority noted that by virtue of Section 1 of Finance Act, 2021, the amendment brought in Section 7 of CGST Act, 2017 by way of Section 108 of Finance Act, 2021, will only come into effect on the date when Central Govt notifies the same and then the same will be notified with the corresponding amendments passed by the respective States and Union territories in respective SGST/ UTGST Act.

The AAR held that unless the amended Section 7 of CGST Act, 2017 is notified, the applicant is not liable to pay GST on subscription fees and Infrastructure development fund collected from the members as per the Supreme Court judgment in the case of M/s. Calcutta Club Ltd.

Therefore, the applicant is not liable to pay GST on subscription fees and Infrastructure development funds collected from the members and this ruling is subject to the amendment to the CGST Act by section 1 of the Finance Act 2021, as and when it is notified.