

ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s Srisai Luxurious Stay LLP, No.160, 5th Main, 4th Cross, NGEF Layout, Sanjaynagar, Bengaluru 560094, an unregistered person having PAN



AEAFS6168R, has filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of the KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a Limited Liability Partnership concern not registered under the provisions of the Goods and Services Act, 2017. The applicant states that engaged in the business of developing, running, maintaining, operating, setting up, owning, dealing in, buying, selling, renting, subletting, and managing paying guest accommodations, service apartments, flats aimed to suit all type of customers by whatever name called.

3. The applicant has sought advance ruling in respect of the following questions:

1. *Whether the daily accommodation services ranging from Rs.300 to Rs.500 per bed are eligible for exemption under Notification No.12/2017-Central Tax?*
2. *Whether the monthly accommodation services ranging from Rs.6,900 to Rs.12,500 per bed is eligible for the exemption under Notification No.12/2017- Central Tax?*
3. *Whether the said notification would be applicable if LLP decides to charge additional charges for the extra-facilities opted by the inhabitants in addition to the facilities that are currently included in the tariff received by the inhabitants but the overall price would be less than the present exemption limit of Rs.1000 per day per Unit?*

4. The applicant furnishes some facts relevant to the stated activity.

- a. The applicant states that they were set up as a Limited Liability Partnership under the provisions of the Limited Liability Partnership Act, 2008 in the state of Karnataka under the jurisdiction of the Registrar of Companies, Bangalore and has been allotted LLPIN AQ-6204 on 20.09.2019.
- b. The applicant was incorporated with two designated partners and established with the main objective to carry on, within India, the business of developing, running, maintaining, operating, setting up, owning, dealing in,

buying, selling, renting, subletting, and managing paying guest accommodations, service apartments, flats aimed to suit all type of customers by whatever name called.

c. The LLP has been specifically focused on provision of Boarding and Lodging facilities both on monthly and daily tariffs for inhabitants and also ancillary services to the above only to the inhabitants as states below

- a) Meals which includes breakfast, lunch and dinner
- b) Fully furnished rooms
- c) Round the clock security guards at the premises
- d) Housekeeping facilities
- e) Washing Machine facilities
- f) Television in each room
- g) Internet facilities (WIFI available)
- h) Vehicle parking facilities

d. All the above mentioned facilities are included in the tariffs that they charge from the inhabitants and the tariff rates are as below:

Type of tariff (per unit) 1 unit = 1 bed	Range From to (in Rs.)
Monthly Tariff	6,900 to 12,500
Daily Tariff	300 to 500
Maximum no. of beds in a room	Three beds to one bed

The tariff range mentioned above are based on the following factors:-

1. Size of the room taken by the inhabitant
2. No. of people sharing the room
3. Invoices per bed are raised on daily or monthly basis depending on the occupation of the inhabitants.

e. The LLP is yet to commence the business. Post clarification on the exemption of GST to their nature of business, compliance under GST Act would be accordingly carried out.

5. Regarding the interpretation of law, the applicant states that hostel accommodation is treated at par with accommodation of hotels, inns, guest houses,

etc., and accordingly chargeable at different GST rates based on the daily tariff per unit. However, it is exempted vide Exemption Notification No.12/2017 – Central Tax (Rate) vide entry 14 where services by a hotel, inn, guest-house, club or camp-site by whatever name called, for residential or lodging purposes, having a declared tariff of a unit of accommodation below one thousand rupees per day or equivalent. SAC Code 996311. The applicant states that he needs clarification on the applicability of this entry for his nature of business.

PERSONAL HEARING: / PROCEEDINGS HELD ON 20.02.2020

6. Sri Ramanath Rai, Chartered Accountant and duly authorised representative of the above concern appeared for personal hearing proceedings on 20.02.2020 before this authority and reiterated the facts.

FINDINGS & DISCUSSION

7. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri. Ramanath Rai, Chartered Accountant and duly authorised representative of the above concern appeared for the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

7.1 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

7.2 There is no dispute on the side of revenue or on the side of the applicant that what is going to be supplied by the applicant to his customers is a supply of service for a consideration in the course or furtherance of business. The applicant has only sought an advance ruling whether the supply of services provided by him is liable to tax or not under the CGST Act, 2017.

7.3 Regarding the nature of the supply proposed to be made by the applicant, it is very clear that the same are covered under the services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging

purposes. The service of the applicant is definitely not renting of residential dwelling. It is very clear that the applicant is providing accommodation services on daily basis and monthly basis and hence is covered under the Service Accounting code 996311 with a description “Room or unit accommodation services provided by Hotels, Inn, Guest House, Club and the like” or Service Accounting Code 996322 with a description “Room or unit accommodation services provided by Hostels, Camps, Paying Guest and the like.”

7.4 Regarding the taxability of the said service proposed to be provided by the applicant, the entries that are to be verified are

(a) Entry No. 7 of the Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017 as amended, which reads as under:

(i) Supply of ‘hotel accommodation’ having value of supply of a unit of accommodation above one thousand rupees but less than or equal to seven thousand five hundred rupees per unit per day or equivalent.	6	-
(vi) Accommodation, food and beverage services other than (i) to (v) above Explanation: (a) For the removal of doubt, it is hereby clarified that, supplies covered by items (ii), (iii), (iv) and (v) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5), which is a mandatory rate and shall not be levied at the rate as specified under this entry. (c) This entry covers supply of ‘hotel accommodation’ having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.	9	-

(only relevant portions extracted)

The term “hotel accommodation” is defined in clause (xxxiv) of paragraph 2 of the Notification as

(xxxiv) ‘Hotel accommodation’ means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation

(b) Entry No. 14 of the Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 which reads as under:

“Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent”.

7.5 On comparison of the entries it is clear that from the above that the supply of services by a hotel, inns, guest houses, clubs or campsite or any other commercial place, by whatever name called, for residential purposes would be exempted if the declared tariff of a unit of accommodation is below Rs.1,000 per day or equivalent, as per entry no.14 of the Notification No.12/2017 -Central Tax (Rate) dated 28.06.2017. If it exceeds Rs.1,000-00 per day or equivalent then the services become taxable as per entry no.7 of the Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017.

7.6 The issue to be seen is what is the proposed tariff of the applicant. The details provided by the applicant shows that he is providing in addition to accommodation services, other facilities and charging a consolidated amount, including for all the mentioned facilities. The monthly rent charged is Rs.12,500-00 at maximum and the daily tariff would amount to Rs.416-00, which is less than Rs.1000-00 per day. Further, even when given on daily basis, it is seen that the maximum amount charged is Rs.500-00 per day which is below Rs.1000-00 per day. Hence the tariff amount per unit of accommodation is less than Rs.1000-00 per day. Hence the service provided is where the tariff is below Rs.1,000-00 per day or equivalent.

7.7 Further, the entry no.14 of Notification No.12/2017 -Central Tax (Rate) is analysed and it says all services of SAC 9963 provided by such a supplier having a declared tariff of less than Rs.1000-00 per day or equivalent would be exempt. Further since in this supply, all the supplies are made as a package with the accommodation service being the principal service, the entire supply would be treated as a composite supply of accommodation service as per section 8 of the CGST Act, 2017. Hence, the proposed supply of services in question by the applicant would not be liable to tax as per entry no.14 of the Notification No.12/2017 -Central Tax (Rate) dated 28.06.2017 as amended from time to time.

8. Regarding the third question, it is seen that the applicant intends to provide

other services in addition to the facilities that are in addition to the compulsory services provided and charge the clients for the same. Hence, it would amount to providing of services under a separate contract and as per the facilities provided, as these services are independent of the accommodation services provided. The applicant states that the overall charges collected including the additional services is less than Rs.1000-00 per day per unit of accommodation. The entry no.14 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 is verified and the description states that "*Services by a hotel, inn, guest house, club, or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent*" and these services should belong to Group 9963. The Group 9963 of the Service Accounting Codes as annexed to Notification No.11/2027- Central Tax (Rate) relates those services which are coming under Food, Edible preparations, alcoholic and non-alcoholic beverages serving services, and if the additional services provided by the applicant belong to the Group 9963, then the turnover of these services will also be exempt as they are covered under the entry 14 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017. But those services which are supplied independently to the clients which do not belong to the Group 9963 are liable to tax at appropriate rates, provided that the applicant is liable for registration.

8. In view of the foregoing, we rule as follows

RULING

1. The daily accommodation services ranging from Rs.300 to 500 per bed are eligible for exemption under Notification No.12/2017- Central Tax (Rate) dated 28.06.2017
2. The monthly accommodation service ranging from Rs.6,900 to Rs.12,500 per bed is eligible for exemption under Notification No.12/2017- Central Tax (Rate) dated 28.06.2017.
3. If the applicant charges additional charges for extra facilities opted by the inhabitants in addition to the facilities that are currently included in the tariff received by the inhabitants but the overall price would be less than the present exemption limit of Rs.1,000-00 per day per unit, then the same is

liable to tax at the rates applicable to them as they are independent supplies, if they do not belong to the Group 9963. If they belong to the Group 9963, then the same are exempt as per entry no.14 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017.