M/s Sarj Educational Centre, Siliguri (Appellant)

Appellate Authority for Advance Ruling — West Bengal

Appeal Case No. 05/WBAAAR/APPEAL/2019 dated 29.03.2019; Date of O… Dated **25.06.2019**

Q Questions Before the Authority

- (i) Whether the services provided by the Appellant to students, consisting of lodging and supply of food, are a composite supply within the meaning of Section 2(30) of the GST Act.
- (ii) Whether supply of such services is eligible for exemption under Sl. No. 14 of Notification No. 12/2017-CT (Rate) dated 28.06.2017.
- (iii) The rate of tax applicable to the combination of services provided, if it is not a composite supply.

F Facts

The Appellant owns a private boarding house and provides lodging and food to students of St. Michael's School, a secondary school run by the Sunshine Educational Society. Under a Memorandum of Understanding dated 01.04.2006, the Appellant bills students directly and also imparts remedial classes at the parents' instruction. Boarders are charged a consolidated fee for boarding or lodging, and day boarders do not receive food.

H Ruling

(i) Composite supply of lodging and food	**Not a composite supply; mixed supply under Section 2(74)**	Food, laundry, housekeeping and lodging are independent and not naturally bundled, and no principal supply was identified. Day boarders do not avail laundry services, and lodging is provided without food.
(ii) Exemption under Sl. No. 14 of Notification 12/2017-CT (Rate)	**Exemption not available**	The order does not discuss Sl. No. 14. It addresses the Appellant's educational-institution argument under clause 2(y) and serial 66, and holds that serial 66 does not apply because the Appellant is not an educational institution.
(iii) Rate of tax on the combination of services	**Not stated in this order**	The WBAAR ruling, as recited, taxes the entire combination at the applicable rate as a mixed supply under Section 8(b). The Appellate order affirms that ruling but does not specify a rate.

The Appellate Authority dismissed the appeal and upheld the West Bengal Authority for Advance Ruling. It held that the Appellant is not an educational institution under clause 2(y) of the Exemption Notification, so serial 66 is not applicable. It also held that the bundled services are not a composite supply, because the components are not naturally bundled and none is a principal supply. The services are therefore mixed supplies taxable under the GST Act, and the order does not restate the rate.

R Reasoning

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

The Authority held that the Appellant is not affiliated to any board or university and provides no approved or recognised education under clause 2(y). It relied on the MoU, under which the Appellant bills students directly and gives remedial classes that are separate from the school's activities, so it has an independent identity. On composite supply, it applied the Section 2(30) test of natural bundling and principal supply, and found that food, laundry and housekeeping are independent of lodging and can be supplied separately. That finding places the bundle within the Section 2(74) definition of mixed supply. It distinguished the Chhattisgarh Ramnath Bhimsen Charitable Trust ruling and did not discuss the Kerala hospital circular cited by the Appellant.

P Provisions Relied On

- Section 97 of the WBGST/CGST Act, 2017 (advance ruling application)
- Section 100(1) of the WBGST/CGST Act, 2017 (appeal)
- Section 2(30) of the GST Act (composite supply)
- Section 2(74) of the GST Act (mixed supply)
- Section 8(b) of the GST Act (as recited in the WBAAR ruling)
- Clause 2(y) of Notification No. 12/2017-CT (Rate) (educational institution definition)
- Serial No. 66 of Notification No. 12/2017-CT (Rate) (as discussed in the order)
- Sl. No. 14 of Notification No. 12/2017-CT (Rate) (question framed in the application)

! For the Practitioner

The order is useful for boarding houses and hostels that bundle lodging with food, laundry or housekeeping for a single fee. It shows that the Authority will treat such components as independent mixed supplies where none is naturally bundled or principal, and that a boarding operator tied to a school by an MoU is not an educational institution under clause 2(y). It does not settle the applicable rate, and it does not resolve the conflict with the Ernakulam and Chhattisgarh rulings or the Circular 32/06/2018-GST that the Appellant relied on. Read the full order before relying on the Sl. No. 14 versus serial 66 discussion, because the question as framed and the reasoning in the order refer to different entries.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> wbaaar_appeal_no._05-2019_dated_29.03.2019.pdf

Prepared 04-11-2026.

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