The Bengal Rowing Club (Appellant)

Appellate Authority for Advance Ruling — West Bengal

Appeal Case No. 07/WBAAAR/Appeal/2019 dated 29.04.2019; Date of Or… Dated **08.07.2019**

Q Questions Before the Authority

- What is the classification and rate of tax on the various services provided by the Appellant, namely (1) supply of food from the restaurant, (2) other services in the restaurant such as booking of a personal dining area, (3) supply of food at events organised in the club premises such as get-togethers and parties hosted by members, (4) other services forming part of organising such get-togethers and parties such as valet parking, decoration and music charges, and (5) other services provided by the club?
- What is the admissible proportion of input tax credit for services other than the supply of food?

F Facts

The Bengal Rowing Club, described as a non-profit members' club at Rabindra Sarobar, Kolkata, provides members with a restaurant, swimming, gymnasium, indoor games and other amenities. Members are charged item-wise from a price list for restaurant food, and per plate for group meals. Members also hold get-togethers and parties on the club premises, for which the club raises separate bills for food and beverages, and no space rental is charged.

H Ruling

Rate of tax on food supplied at events organised by the Appellant in club premises (e.g., member get-togethers and parties)	**Taxable under Serial No. 7(v) of Notification No. 11/2017-C.T (Rate) and Notification No. 1135-FT, at 18%**	Modifies the WBAAR ruling, which had placed such food under Serial No. 7(vii) or 7(vii)-type treatment at 5% or 18% depending on criteria. Under 7(vii) rental would be a condition; the Authority found no rental is charged, so 7(v) applies. The Order does not answer the other listed items (restaurant food, other services, ITC proportion) in a separate question-and-answer form; it only states that no other infirmity was found in the WBAAR order.

The Appellate Authority modified the advance ruling. It held that supply of food at events organised by the Appellant in the club premises is taxable under Serial No. 7(v) of the Rate Notification at **18%** . It found no other infirmity in the WBAAR order. The mutuality question was expressly not taken up because the ruling was confined to the rate on food at social gatherings.

R Reasoning

The Authority read Serial No. 7(v) as covering any supply of food or beverage at events or functions that are event-based and occasional in nature, whether held indoors or outdoors and without any restrictive clause on rental of premises. It treated social get-togethers and parties as special, occasional social functions, not regular restaurant services. It contrasted this with Serial No. 7(vii), which requires the supply to be made together with

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renting of the premises, and found that the Appellant charged no rental or ancillary charges for the space. The Authority noted the Appellant's contradictory submissions on decoration charges but did not base its decision on them.

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)
- Notification No. 11/2017-C.T (Rate) dated 28-06-2017, Serial No. 7(v) (SAC 9963)
- Notification No. 11/2017-C.T (Rate) dated 28-06-2017, Serial No. 7(vii) (SAC 9963)
- Notification No. 1135-FT dated 28-06-2017 (West Bengal corresponding rate notification)
- SAC 9963 and SAC 9995, as referred to in the WBAAR ruling
- Serial No. 33 of the Rate Notification, as referred to in the WBAAR ruling (not discussed on appeal)
- Section 17(2) and 17(16) of the GST Act and Rules 42 and 43 of the GST Rules, as referred to in the WBAAR ruling (not disc…
- Calcutta High Court order dated 14.09.2017 in WP No. 534 of 2006 on mutuality, cited by the Appellant (not decided by the A…

! For the Practitioner

A practitioner advising a members' club on food served at member get-togethers and parties can rely on this order for the proposition that such food, with no space rental charged, falls under Serial No. 7(v) at **18%** , not under the 5% restaurant entry. The order is useful on the rental distinction between Serial No. 7(v) and 7(vii). It does not decide whether a members' club is subject to GST at all on the principle of mutuality, and it leaves the ITC proportion and the classification of other club services open on the material before it.

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._07-2019_dated_29.04.2019.pdf

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