BANDAI NAMCO INDIA PRIVATE LIMITED

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-109/2018-19/B-37, Mumbai, dt. 08/04/2019 (the date is partl… Dated **08.04.2019**

Q Questions Before the Authority

- Applicable GST rate on operating a gaming zone in one of the leading malls in Mumbai?

F Facts

The applicant runs a family entertainment centre at Oberoi Mall, Goregaon East, Mumbai, with coin-operated and card-operated gaming equipment for children, teenagers and adults, including kiddie rides, arcade games, redemption games and a play area. It had paid service tax and entertainment tax under the erstwhile regime and was charging GST at 28% after 1 July 2017. It sought a ruling that its services fall within 'amusement park' and so attract the reduced 18% rate under the amendment made by Notification 1/2018.

H Ruling

Applicable GST rate on operating a gaming zone in a Mumbai mall	**28% (CGST 14% and SGST 14%) w.e.f. 25.1.2018**	Not the 18% rate for amusement parks. The services fall under amusement facilities, not amusement parks.

The Authority held that the applicant's gaming-zone services are amusement facilities, not an amusement park, so the reduced rate is not available. The applicable rate is **28% (CGST 14% and SGST 14%) with effect from 25.1.2018** .

R Reasoning

The GST law does not define 'amusement park', so the Authority borrowed the definition in section 2(a-1) of the Bombay Entertainment Duty Act, 1923, and the Wikipedia description of an amusement park. Dictionary meanings of 'park' (a large area of land used for a specific purpose) and 'facility' (a place, building or equipment for a particular purpose) were compared. The Authority concluded that a park requires a large open area, whereas a facility needs only equipment in a defined place, such as gaming machines within a mall. The applicant's own description of its business as an amusement facility and its advertising supported that conclusion. The Authority did not treat payment of entertainment tax or the fitment committee's comments as decisive.

P Provisions Relied On

Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Sl. No. 34(iii) (Heading 9996)

Notification No. 1/2018-Central Tax (Rate) dated 25.01.2018, splitting entry 34(iii) into the amusement park entry at 9% CGS…

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

Section 2(a-1), Bombay Entertainment Duty Act, 1923 (definition of 'amusement park')

Sections 97 and 98, CGST Act, 2017 and MGST Act, 2017 (advance ruling)

! For the Practitioner

This ruling helps practitioners advising indoor gaming zones, arcades and family entertainment centres in malls that want to claim the amusement-park rate. It holds that such operations are amusement facilities and attract 28%. It does not decide whether a large, open-area amusement park at a different site qualifies, and it binds only the applicant. The order is appealable to the Maharashtra Appellate Authority for Advance Ruling, as the order notes.

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 -> maharashtra_aar_109_2018-19_bnipl_04.04_1.pdf

Prepared 01-11-2026.

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