Borbheta Estate Pvt Ltd

Authority for Advance Ruling — West Bengal

13/WBAAR/2019-20 dated 27/06/2019 (the case header reads Case Numb… Dated **27.06.2019**

Q Questions Before the Authority

- Whether the applicant, which rents out dwelling units, is liable to pay GST on such supply even where the recipient uses the dwelling unit for residential purpose.

F Facts

The applicant owns four dwelling units in Kolkata and has leased or rented them under agreements that require residential use. Three flats are let to individuals, and one flat in South City, Tower III, is let to M/s Larsen & Toubro Ltd, whose employee occupies it. The Revenue argued that the exemption should not apply where the tenant is a commercial entity.

H Ruling

Liability to GST on renting of dwelling units where the recipient uses them for residential purpose	**Exempt. No GST payable on the renting or leasing of the dwelling units for residential purpose**	Exemption is under Sl No. 12 of Notification No. 12/2017-CT (Rate) dated 28/06/2017 (State Notification No. 1136-FT dated 28/06/2017), as amended. Applies to the three flats let to individuals and to the flat let to M/s Larsen & Toubro Ltd, because the Authority found that flat is residential and occupied as a residence by an employee.

The Authority held that the applicant's service of renting or leasing out the dwelling units for residential purpose is **exempt under Sl No. 12 of Notification No. 12/2017-CT (Rate)** . The applicant is therefore **not liable to pay tax** on such supply. The exemption turns on the residential use of the unit, not on the identity of the tenant.

R Reasoning

The Authority admitted the application under Section 97(2)(d) of the GST Act, finding that the question was not already decided or pending before any authority. It classified the service as rental or leasing of own residential property under SAC 997211. It held that the applicability of Sl No. 12 of the exemption notification depends on whether the unit is used as a residence, not on whether the tenant is an individual or a company. On the material before it, including a certificate from the apartment owners' association, all four units were found to be used for residence. The ruling is subject to Section 103(2) and may be declared void under Section 104(1).

P Provisions Relied On

Section 97(2)(d) of the CGST/WBGST Act, 2017 (admissibility of advance ruling application)

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

Section 103(2) of the GST Act (binding effect of advance ruling)

Section 104(1) of the GST Act (ruling may be declared void)

Sl No. 12 of Notification No. 12/2017-CT (Rate) dated 28/06/2017 (exemption for renting of residential dwelling for residence)

State Notification No. 1136-FT dated 28/06/2017 (corresponding State exemption)

SAC 997211 (classification of rental or leasing of own or leased residential property)

! For the Practitioner

This ruling helps owners who let residential flats, including to corporate tenants, where the premises are used as a residence and the exemption under Sl No. 12 is claimed. It settles that the tenant's identity does not by itself take a residential letting outside the exemption. It does not decide cases where the premises are used for commercial or mixed purposes, and it does not address the position of letting to a company where the flat is not actually occupied as a residence. Its binding effect is limited to the applicant under Section 103.

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 -> 13_wbaar_2019-20-borbheta_estate_pl.pdf

Prepared 05-11-2026.

About Patron Accounting LLP

Patron Accounting LLP is a CA and CS-led accounting and compliance firm working with businesses across India since 2019 — bookkeeping, GST, income tax, payroll, company and LLP compliance, audit and the certificates banks and regulators ask for.

Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com