M/s. Carnation Hotels Pvt. Ltd. (styled in the order body as M/s Carnation Hotels Private Limited), No.600, Anand Building, 4th Floor, JP Nagar VI phase, Bangalore 560078

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 37/2019, Date: 16-09-2019 Dated **16.09.2019**

Q Questions Before the Authority

- Whether accommodation service proposed to be rendered by the applicant to SEZ units are liable to CGST and SGST or IGST?
- If the accommodation service to SEZ units is covered under the IGST Act, can these be treated as zero rated supplies and the invoice raised without charging tax after executing LUT under section 16?

F Facts

The applicant, an unregistered dealer in Karnataka, proposed to operate hotels and rent rooms to employees of SEZ units, with the services consumed entirely on the hotel premises. The applicant argued that under section 12(3) of the IGST Act the place of supply is the location of the immovable property, so the supply is intra-State and attracts CGST and SGST. It also argued that under section 7(5)(b) and the proviso to section 8(2), supplies to an SEZ are inter-State supplies liable to IGST.

H Ruling

Liability of accommodation services to SEZ units: CGST and SGST or IGST	**IGST, as an inter-State supply**	Treated as inter-State under section 7(5)(b) of the IGST Act, which the Authority held prevails over the place-of-supply rule in section 12(3)(c).
Whether SEZ accommodation supplies can be zero rated and invoiced without tax after LUT under section 16	**Yes, zero rated; invoice without tax after LUT under section 16**	Subject to section 17(5) of the CGST Act. Benefit available only where the specified officer of the Zone endorses that the services were received for authorised operations.

The Authority held that accommodation services provided by the applicant to SEZ units are **inter-State supplies** covered under the IGST Act, notwithstanding that the hotel and the SEZ are in the same State. It further held that such supplies can be treated as **zero rated supplies** , so the invoice may be raised without charging tax on execution of an LUT, subject to section 17(5) of the CGST Act.

R Reasoning

The Authority applied the principle that a specific provision prevails over a general one, treating section 7(5)(b) of the IGST Act, which deems supplies to an SEZ developer or unit to be inter-State, as controlling over the general place-of-supply rule for accommodation in section 12(3)(c). It relied on Circular No. 48/22/2018-GST dated 14

June 2018, Issues 1 and 2, which clarify both points. On zero rating, it read section 16(1)(b) of the IGST Act with rule 46 of the CGST Rules, and section 16(3) with the second proviso to rule 89(1), which requires endorsement by the specified officer of the Zone that the services were received for authorised operations. The Authority also noted that section 17(5) of the CGST Act applies.

P Provisions Relied On

- Section 7(5)(b) of the IGST Act, 2017
- Section 8(2) proviso of the IGST Act, 2017 (as cited by applicant)
- Section 12(3)(c) of the IGST Act, 2017
- Section 5(1) of the IGST Act, 2017 (as cited by applicant)
- Section 16(1) and 16(1)(b) of the IGST Act, 2017
- Section 16(3) of the IGST Act, 2017
- Section 9(1) of the CGST/SGST Act, 2017 (as cited by applicant)
- Section 17(5) of the CGST Act, 2017
- Rule 46 of the CGST Rules, 2017
- Second proviso to rule 89(1) of the CGST Rules, 2017
- Rule 104 of the CGST and KGST Rules, 2017
- Sections 97 and 98(4) of the CGST Act and KGST Act, 2017
- Circular No. 48/22/2018-GST dated 14.06.2018, Issues 1 and 2

! For the Practitioner

This ruling helps hotels in Karnataka that supply accommodation to SEZ units or developers. It settles that such supplies are IGST inter-State supplies despite the same-State location, and that they may be zero rated under LUT. It does not decide the valuation of the services, whether the specified officer's endorsement has been or will be obtained, or how section 17(5) restrictions apply to particular inputs. The ruling is an advance ruling on the applicant's proposed transaction and should be checked against the full order and any later amendments before reliance.

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 -> kar_aar_37_2019_carnationhotelpltd.pdf

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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

Patron Accounting LLP