E-SQUARE LEISURE PVT LTD

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-76/2018-19/B-172, Mumbai, dated 29.12.2018 (Maharashtra… Dated **29.12.2018**

Q Questions Before the Authority

- Whether GST would be applicable on interest free security deposit and notional interest, if any?
- In case GST is applicable, what would be the value of notional interest for levy of GST?

F Facts

The applicant leases commercial immovable property to business entities and pays GST on the rent. It also takes an interest free security deposit from lessees, to cover damage to furniture, fittings and the premises, which is refundable at the end of the lease. The deposit in this case was about Rs 57 crore for an 18-year tenure. The applicant's submissions also quote a lease clause requiring the lessor to pay 16% interest on the deposit, which sits uneasily with the 'interest free' description.

H Ruling

Whether GST applies to interest free security deposit and notional interest, if any	****GST not applicable** on the interest free security deposit**	Deposit is refundable at lease end and so is not consideration. Any amount withheld at lease end for damages would be taxable. The order does not separately address notional interest.
Value of notional interest for levy of GST, if GST applies	**Not answered**	Left unanswered because the answer to the first question was that GST does not apply.

The Authority held that **GST is not applicable on the interest free security deposit** , because it is not consideration for the supply of renting services when it is refundable at the end of the lease. Because the first question was answered in the negative, the second question on the value of notional interest was not answered. The Authority added that any part of the deposit withheld at lease end as a charge for damages would become liable to GST.

R Reasoning

The Authority read the definition of consideration in section 2(31) of the CGST and MGST Acts, including its proviso that a deposit is not payment for a supply unless the supplier applies it as consideration. It treated the deposit as security for performance and for damage to the premises and its fittings, and found it was refundable on completion of the tenure. Since the applicant would not apply the deposit against the supply, the proviso was not triggered and the deposit was not taxable. The Authority relied on the applicant's facts and the lease terms as stated, and on the stamp duty order, which it read as fixing market rent with no additional consideration for the deposit.

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

P Provisions Relied On

Section 2(31) of the CGST Act and corresponding section of the MGST Act, definition of consideration, including the proviso…

Sections 97 and 98 of the CGST and MGST Acts, as cited for the application and the order

Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, Rule 6 Explanation 2, cited by the applica…

! For the Practitioner

A practitioner can cite this order for the proposition that a refundable security deposit held against damage is not consideration under section 2(31), so no GST is levied on it while it is held. The ruling is limited to the facts of this applicant and does not decide how notional interest would be valued, since the second question was left unanswered. The order also signals that any part of the deposit retained as damages at lease end will be taxable, so lessors should plan for that treatment. As an advance ruling it binds the applicant only.

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 -> ara_order_76_2018_maharashtra_eslpl.pdf

Prepared 28-10-2026.

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