M/s. Hi Tech Residency

Authority for Advance Ruling — Tamil Nadu

Advance Ruling No.52/AAR /2023 Dated:01.09.2023

Q Questions Before the Authority

- Whether the hostel and residential accommodation extended by the Applicant hostel would be eligible for exemption under Entry 12 of Exemption Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 and under the identical Notification under the TNGST Act, 2017 and also under Entry 13 of Exemption Notification No.9/2017 - Integrated Tax-Rate dated 28.06.2017 as amended?
- Whether the Applicant hostel being eligible for exemption under Sl. No. 12 of Notification-12/2017 (CT-Rate) dated 28.06.2017 as amended would at all be required to take registration under the GST Enactments by virtue of the Exemption Notifications as afore mentioned and also under the provisions of Section 23 of the CGST/TNGST Act, 2017?
- Whether any specific tariff entry is applicable to hostels under the Tariff Notification, in the event of requirement of registration?
- Whether, in the event of the hostel accommodation being an exempt activity, the incidental activity of supply of in-house food to the inmates of the hostel would also be exempt being in the nature of a composite exempt supply?
- Whether the judgement of the Division Bench of the Hon'ble Karnataka High Court in the case of Taghar Vasudeva Ambrish -vs- Appellate Authority for Advanced Ruling, Karnataka reported in Manu/KA/0327/2022 is applicable to the facts of the applicant?

F Facts

The applicant operates a ladies' residential hostel for students and working women, providing boarding and lodging facilities for a monthly charge of Rs. 5500/-. They provide single room, double room sharing, or dormitory style accommodation along with ancillary services like housekeeping and security. The applicant claims these services qualify as renting of residential dwelling for use as residence, thus seeking exemption from GST.

H Ruling

Eligibility for exemption	**Not eligible for exemption**	Under Entry 12 of Notification No. 12/2017-CT (Rate) and corresponding TNGST/IGST notifications
Requirement for registration	**Required to register**	If aggregate turnover in a financial year exceeds twenty lakh rupees
Applicable tariff entry	**Taxable @ 9% CGST + 9% SGST**	Under Tariff heading 9963, specifically Sl. No. 7(vi) of Notification No. 11/2017, Central Tax (Rate), as amended
Exemption for in-house food	**Taxable @ 18% as composite supply**	Hostel accommodation is the principal supply

Applicability of Karnataka HC judgment	**No ruling issued**	Question does not fall under the scope of Section 97(2) of the GST Act

The Authority ruled that hostel accommodation services provided by the applicant do not qualify as renting of residential dwelling for use as residence and are therefore not exempt. Consequently, the applicant is liable to register under the GST Act if their aggregate turnover exceeds the threshold limit. The services are classified as taxable accommodation services, and the supply of food is considered part of a composite supply with the hostel accommodation as the principal supply.

R Reasoning

The Authority reasoned that hostel accommodation is **not equivalent to residential dwelling** for use as residence, as it is a commercial activity providing temporary lodging similar to hotels. They relied on the strict interpretation of exemption notifications, noting that the twin conditions of 'renting of residential dwelling' and 'use as residence' were not met. The premises are treated as commercial establishments under various state regulations, further disqualifying them from the residential exemption. The services are classified as a composite supply under Section 8 of the CGST Act, with accommodation as the principal supply.

P Provisions Relied On

Section 98(4) of CGST Act, 2017	Section 98(4) of TNGST Act, 2017
Section 22 of CGST Act, 2017	Section 7(1)(a) of CGST Act, 2017
Section 8 of CGST Act, 2017	Entry 12 of Notification No. 12/2017-Central Tax (Rate)
Notification No. 11/2017-Central Tax (Rate)	

! For the Practitioner

This ruling clarifies that hostels are **taxable commercial services** and not exempt residential dwellings under current GST notifications. It serves as a strong precedent for tax authorities to deny exemptions to hostel operators, though it highlights the ongoing legal conflict with the Karnataka High Court's contrary view. Practitioners should advise hostel clients to prepare for GST registration and tax liability at 18%.

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 -> 52_hitech_residency.pdf

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Patron Accounting LLP

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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