M/s Hotel Leela Venture Limited

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 08 / 2019, Dated: 09-05-2019 Dated **09.05.2019**

Q Questions Before the Authority

- Whether the sale of the Karnataka Hotel as a going concern on slump sale basis can be construed as a 'supply' under Section 7(1) of the CGST Act, 2017, and, if so, whether it is a supply of goods or a supply of services.
- Whether the said transaction can be construed as a 'service by way of transfer of going concern as whole or an independent part thereof' under Sl. No. 2 of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017, or No. 9/2017-Integrated Tax (Rate) dated 28-06-2017, or Notification (12/2017) No. FD 48 CSL 2017 dated 29-06-2017.

F Facts

The applicant owns and manages the Leela Palaces hotels and resorts and offers rooms, banquet, dining, spa and other services. It intends to sell its Bengaluru hotel (the 'Karnataka Hotel') together with its business assets, including property, fixed assets, contracts, goodwill, current assets, licences and liabilities. The sale is proposed on a slump sale basis, and the applicant sought a ruling on its GST treatment. The applicant later asked to withdraw the application, saying the company had decided not to pursue it.

H Ruling

The authority disposed of the application as withdrawn. It did not decide either question on the merits, so the order gives no ruling on whether the slump sale is a supply or on the applicability of the Sl. No. 2 services notifications. The applicant's fee of Rs. 10,000 (CGST Rs. 5,000 and KGST Rs. 5,000) is recorded as paid.

R Reasoning

The applicant wrote on 13-04-2019, received on 06-05-2019, asking to withdraw the application because the company had decided not to pursue it. The authority accepted the request and passed a ruling disposing of the application as withdrawn. The order is therefore procedural, and it does not engage with the supply characterisation under Section 7(1) or the entries in the notifications the applicant cited. The order is framed under Section 98(4) of the CGST and KGST Acts, read with Section 97 and Rule 104 of the CGST and KGST Rules, 2017.

P Provisions Relied On

Section 97 of the CGST Act, 2017 and KGST Act, 2017 (advance ruling application)

Section 98(4) of the CGST Act, 2017 and KGST Act, 2017 (order of the Authority)

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

Rule 104 of the CGST Rules, 2017 and KGST Rules, 2017

! For the Practitioner

This order is useful only as a record of the applicant's withdrawal. It does not help a practitioner advising on a hotel or business slump sale, because **no ruling was given on whether the transfer is a supply under Section 7(1)** . It also does not decide **whether the transfer qualifies under Sl. No. 2 of the 12/2017-CT (Rate) or 9/2017-IGST (Rate) notifications** . Anyone relying on the questions raised here needs to look for a different ruling or for the statutory position directly.

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 -> krntk_08-2019_hotel_leela_venture_ltd.pdf

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