M/s Complete Solutions Service Apartment Pvt. Ltd., Ground Floor, C-1518, Sushant Lok-1, Gurugram (East)

Authority for Advance Ruling — Haryana

ADVANCE RULING NO. HAR/HAAR/R/2018-19/ 18 (In Application No. 18/… Dated **17.10.2018**

Q Questions Before the Authority

- Whether the residential dwelling unit taken on lease from various individuals/owners for sub-leasing the same to corporates as well as individuals for residential purposes, along with various amenities such as furniture, appliance, cleaning, security, pest control, AC service etc., is an exempt supply under Entry No. 12 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017.

F Facts

The applicant takes residential dwelling units on lease from owners, generally for about 22 months at a fixed monthly amount, with a right to sub-let for residential use only. It then sub-leases those units to individuals and corporates for residential occupation, providing amenities such as housekeeping, DTH, gas, broadband, drinking water, pest control, AC and RO service, and round-the-clock security. The applicant charges GST only on the amenity charges and not on the sub-lease rent, and it executes a separate maintenance-services agreement with each sub-lessee.

H Ruling

Exemption under entry 12 for the residential dwelling unit taken on lease from owners and sub-leased to corporates and individuals for residential use, with amenities	**Split answer. First lease (owner to applicant): not covered by entry 12, property management service under SAC 997221. Second lease (applicant to residential occupant): covered by entry 12, SAC 997211, exempt (Nil rate).**	The order does not state a rate for the first lease. The exemption attaches only to the sub-lease, which must be for residential use. The third agreement, for maintenance services, is treated as taxable by the applicant's own understanding and is outside entry 12.

The first lease between the owner and the applicant, at the most, is a property management service under SAC 997221 and is **not covered** by entry 12 of Notification No. 12/2017-CT(R). The second lease, between the applicant and the actual residential occupant, **qualifies under SAC 997211** and falls within entry 12, so that part is exempt.

R Reasoning

The authority read entry 12 (Heading 9963 or 9972, services by way of renting of residential dwelling for use as

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

residence, Nil rate) against the Group 9972 real estate services framework. It analysed each of the three agreements separately. It held that the owner-to-applicant lease confers only a right to sub-let, so it is at most a property management service under SAC 997221. It held that the applicant-to-occupant sub-lease is a rental or leasing service involving leased residential property under SAC 997211 and so falls within entry 12. The maintenance-services agreement was accepted as taxable.

P Provisions Relied On

- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Entry No. 12 (Heading 9963 or Heading 9972, Nil rate)
- Section 97(2)(b) of the CGST/HGST Act, 2017 (admissibility of the question)
- Section 98 of the CGST/HGST Act, 2017 (advance ruling)
- SAC 997211 (rental or leasing services involving own or leased residential property)
- SAC 997221 (property management services)
- Group 9972 (Real Estate Services) and Heading 9963 as referred to in entry 12

! For the Practitioner

A practitioner advising residential sub-lessors or lessees can rely on this ruling to show that the sub-lease to a residential occupant may be exempt under entry 12 as SAC 997211, while the owner-to-lessee head lease is not. It does not decide the GST treatment of the amenities as such beyond the maintenance agreement, and it does not state a rate for the head lease. The ruling binds only the applicant and is not a general precedent.

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 -> har_aar_18_2018-19_17.10.2018_cssapl.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