M/s. RISHABH CHOPDA

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-86/2019-20/B-29, Mumbai Dated **11.03.2020**

Q Questions Before the Authority

- When four joint owners of a property are liable for GST on leave and license rent, must the co-operative society issue four separate invoices showing each owner's ownership share ratio and GSTIN so that each co-owner can take input tax credit on the common area maintenance charges?
- Is there any provision under the CGST Act, 2017 by which lump sum CGST charged to only one co-owner can be transferred as credit to the other co-owners?

F Facts

The applicant, his parents, and Rishabh Infrastructure Pvt. Ltd. (40%) co-own two commercial properties in CNERGY IT Park Co-operative Premises Society Ltd., Mumbai, with shares of 40%, 20%, 20% and 20% respectively, and have leased them out. Until May 2019 the society raised a separate tax invoice on each co-owner for maintenance charges, but from June 2019 it has issued one consolidated invoice in the name of Rishabh Infrastructure Pvt. Ltd. The applicant asks whether the other three co-owners can claim input tax credit on that basis.

H Ruling

The Authority rejected the application as not maintainable under sub-section (2) of Section 98 of the CGST Act. The first question concerns the invoicing procedure to be followed by the society, which is the supplier of the maintenance services, and not a supply undertaken by the applicant. The second question does not fall within any of the matters listed in Section 97(2). The Authority did not discuss the merits.

R Reasoning

The Authority read Section 95 as confining advance rulings to supplies of goods or services undertaken or proposed to be undertaken by the applicant. It found that the maintenance charges were collected by the society for services rendered to all four co-owners, so the supply was made by the society and the applicant was only the recipient. The invoicing question therefore concerns the society's procedure and falls outside Section 97(2). The second question was likewise held to fall outside Section 97(2), so the application was rejected under **Section 98(2)** without reaching the merits.

P Provisions Relied On

Section 95 of the CGST Act, 2017 (definition of advance ruling)

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

Section 97(2) of the CGST Act, 2017 (matters on which a ruling may be sought)

Section 98(2) of the CGST Act, 2017 (rejection of application)

Section 16 of the CGST Act, 2017 and Rules 36 to 45 of the CGST Rules, 2017 (cited by the applicant only, not decided by th…

! For the Practitioner

This order helps a practitioner see that the Authority will not entertain advance ruling applications that ask how a supplier should invoice co-owners, or whether credit can be shifted between co-owners, where the applicant is only the recipient. A co-owner facing a similar consolidated-invoice problem should expect rejection on maintainability and should look to the society's invoicing practice or a fresh application framed around the applicant's own supply. The order does not decide whether Section 16 or the CGST Rules allow co-owners to claim proportionate credit, nor whether a single invoice in one co-owner's name is valid.

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 -> mah_aar_86_2019-20_b-29_11.03.2020_rc.pdf

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