M/s Prestige South Ridge Apartment Owners' Association, Sy. No. 125, Prestige South Ridge Apartment, BSK 3rd Stage, Hosakerehalli, Bengaluru 560085 (GSTIN 29AACAP8249H1Z4)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 42 / 2019, Date: 17-09-2019 Dated **17.09.2019**

Q Questions Before the Authority

- Whether the activity of procuring goods and services from third parties for upkeep and maintenance of apartments, and collecting monies from members to pay third-party vendors, is an activity liable to GST?
- If liable to GST, whether the exemption under entry 77 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017 applies to maintenance charges collected from members?
- If the exemption is available, whether it is available on a per member basis or a per flat basis, where some members own more than one flat?
- Whether the exemption under entry 77 is a standard exemption that can be claimed irrespective of the amount collected as maintenance, i.e. whether maintenance charges of Rs 10,000 per month attract GST only on Rs 2,500 after deducting Rs 7,500?
- Whether the electricity charges paid to BESCOM for power consumed towards common facilities, and separately recovered from members, are liable to GST?
- Whether the corpus fund or sinking fund collected from members is liable to GST?

F Facts

The applicant is an apartment owners' association registered under the Karnataka Apartment Ownership Act 1972, with 264 member-owners, which maintains common areas such as corridors, gardens, clubhouse, swimming pool and lifts. It procures services and goods from third-party vendors, recovers maintenance charges from members on a super built-up area basis on a quarterly collection cycle, and separately recovers electricity charges for common areas and a corpus or sinking fund for future capital outlay. Some members pay more than Rs 7,500 per month and others less.

H Ruling

Q1: Procuring goods and services from third parties for upkeep and maintenance, and collecting monies from members to pay vendors	**Liable to GST**	The order states this as a taxable supply in the course of business under section 7(1) of the CGST Act; no rate is stated in the ruling.
Q2: Whether entry 77 exemption applies to maintenance charges collected from members	**Exemption applies, up to Rs 7,500 per member per month**	Exemption under entry 77 of Notification 12/2017-CT(Rate), as amended, is available for maintenance charges collected from members.

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

Q3: Per member basis or per flat basis where members own more than one flat	**Per flat basis**	Benefit of up to Rs 7,500 applies separately to each flat owned by a member, relying on Circular 109/28/2019-GST dated 22.07.2019.
Q4: Whether exemption is available irrespective of the amount collected	**Not available above Rs 7,500; entire amount taxable if charges exceed Rs 7,500**	**The exemption is available only if charges do not exceed Rs 7,500 per month per member.** If they exceed it, GST is payable on the entire amount, not the excess alone. The order's example is Rs 9,000 attracting GST at 18% on the full Rs 9,000 (rate quoted from the circular).
Q5: Electricity charges paid to BESCOM for common facilities and recovered from members	**Liable to GST**	The electricity value is part of the consideration for maintenance services to members and is to be added to the maintenance charges before arriving at the taxable value.
Q6: Corpus fund or sinking fund collected from members	**Not liable to GST at the time of collection**	**Amounts are deposits towards future supply under the proviso to section 2(31) and become taxable only when applied as consideration for an actual supply of services.**

The authority held that the association's procurement and maintenance activity, and its collection of charges from members to pay vendors, is a taxable supply of services in the course of business. The Rs 7,500 per member per month exemption under entry 77 is available, but only on a per flat basis, and it is lost entirely if the monthly charge exceeds Rs 7,500, in which case the whole amount is taxable. Electricity charges recovered from members are part of the consideration for maintenance services and are taxable, while corpus or sinking fund collections are not taxable at the time of collection.

R Reasoning

The authority treated the association as a registered body providing maintenance services to its members in the course of business, relying on section 2(17) and section 7(1) of the CGST Act, and did not accept the mutuality argument, although it does not discuss the cases the applicant cited. For the exemption, it applied entry 77 of Notification 12/2017-CT(Rate) as amended by Notification 2/2018-CT(Rate), and read the Rs 7,500 ceiling as a threshold that, once exceeded, removes the exemption for the whole amount, following Circular 109/28/2019-GST. On electricity, it treated the BESCOM charges as part of the consideration for maintenance services, and on the corpus fund it applied the definition of consideration in section 2(31) and its proviso on deposits.

P Provisions Relied On

- Section 2(17) of the CGST Act, 2017 (business)
- Section 2(31) of the CGST Act, 2017 (consideration, including proviso on deposits)
- Section 7(1) of the CGST Act, 2017 (scope of supply)
- Entry 77 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017
- Notification No. 2/2018-Central Tax (Rate) dated 25.01.2018 (amendment increasing the limit to Rs 7,500)

Circular No. 109/28/2019-GST dated 22.07.2019, paras 1 (issues 4 and 5)

Sections 97 and 98(4) of the CGST Act and KGST Act, 2017 and Rule 104 of the CGST and KGST Rules, 2017 (procedural…

! For the Practitioner

A practitioner advising a residential association or RWA can use this order to confirm that maintenance collections from members are taxable, that the Rs 7,500 per member per month exemption is applied per flat, and that exceeding the ceiling exposes the entire amount to GST. It also supports treating electricity recoveries and corpus fund collections as settled positions at the authority level. The order is an advance ruling binding only on the applicant, and it does not resolve the mutuality argument on its merits, the rate applicable to the services, or the treatment of excess corpus funds used later for capital outlay.

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 -> kar_aar_42_2019_psraoa_17.09.19.pdf

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