The Association of Inner Wheel Clubs in India

Authority for Advance Ruling — West Bengal

Order No 23/WBAAR/2018-19 dated 26/11/2018 (Case No 24 of 2018, Wes… Dated **26.11.2018**

Q Questions Before the Authority

- Whether the activities undertaken by the Applicant may be termed 'business' within the meaning of the WBGST/CGST Act, 2017.
- Whether the activities undertaken by the Applicant constitute 'supply of services' under the GST Act.

F Facts

The Applicant is the national administrative body of Inner Wheel Clubs in India, affiliated to the International Inner Wheel. Its member clubs run social welfare and charitable work and fund it through membership subscriptions, sponsorship fees, advertisements and sale of souvenirs. The Applicant says its clubs give members no facilities or benefits and that subscriptions are used entirely for charitable work, so it argues that its activities are not business under Section 2(17).

H Ruling

Membership and subscription fees received from members	**Supply of services classifiable under SAC 99959 (services furnished by other membership organisation)**	Treated as business under Section 2(17)(e), as the clubs provide facilities or benefits to members for a subscription.
Advertising space and raising sponsorship	**Supply of services classifiable under SAC 99836 (advertising services)**	Treated as business under Section 2(17)(b) as incidental or ancillary to the social welfare activities.
Sale of souvenirs	**Supply of goods**	No HSN stated in the order.
Miscellaneous income shown in the Financial Accounts	**Not decided in terms of a specific rate or classification; to be determined by the nature of the supply**	The order leaves classification of each item to be determined case by case.

The Authority held that the Applicant is doing business under Section 2(17)(e), because membership subscriptions buy members facilities and benefits, and that the membership subscriptions are consideration for supplies of services under SAC 99959. It further held that advertising and sponsorship activities are business under Section 2(17)(b) and are supplies of services under SAC 99836, that the sale of souvenirs is a supply of goods, and that the Sai Publication Fund principle does not apply because the main activity is itself treated as business.

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

R Reasoning

The Authority first noted that Section 97 bars rulings on the definition of 'business' but admitted the question because 'supply of services' under Section 97(2)(g) cannot be decided without it. It found that the Applicant's activities fall under no Schedule I or II entry, so Section 7(1)(a) governs. Relying on the bye-laws, membership conditions, annual subscriptions, voting rights and access to programmes, the Authority concluded that the subscriptions buy members facilities and benefits under Section 2(17)(e). It treated the social welfare work as an 'adventure' under Section 2(17)(a), and it distinguished Sai Publication Fund on the ground that the main activity here is business.

P Provisions Relied On

- Section 2(17)(a), (b) and (e) of the GST Act (definition of business)
- Section 7(1)(a), (c) and (d) of the GST Act (scope of supply) and Schedules I and II
- Section 97 and Section 97(2)(g) of the GST Act (scope of advance ruling)
- Section 103(2) and Section 104(1) of the GST Act (binding effect and voidance)
- Notification No 12/2017-CT (Rate) dated 28.06.2017, clause 2(r) (definition of charitable activity)
- Commissioner of Sales Tax v. Sai Publication Fund (2002) 126 STC 288 (SC)

! For the Practitioner

This ruling is useful for membership bodies, clubs and associations that want to know whether subscriptions and ancillary receipts are taxable. It settles that membership fees paid for member benefits are consideration for SAC 99959 services, and that advertising and sponsorship receipts are taxable under SAC 99836. It does not decide the nature of miscellaneous income, which the Authority left to be determined from the facts. Practitioners should also note that the Authority reached a 'business' finding despite the Section 97 bar on that question, so the reasoning should be checked before reliance.

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 -> wbaar-23-2018-19_26.11.18-aiwci.pdf

Prepared 27-10-2026.

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