TVH LUMBINI SQUARE OWNERS ASSOCIATION

Authority for Advance Ruling — Tamil Nadu

ORDER No.25 /ARA/2019 Dated **21.06.2019**

Q Questions Before the Authority

- If the monthly maintenance charges payable by a member of the association exceed Rs.7,500 per month, in the context of the exemption at S.No. 77 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification 2/2018-Central Tax (Rate) dated 25.01.2018, is the applicant liable to pay GST only on the amount in excess of Rs.7,500 or on the entire amount?

F Facts

The applicant is a registered residential welfare association (housing society) with 9 residential blocks and 448 flats, collecting maintenance charges quarterly at Rs.3.50 per sq ft per month plus applicable GST. It procures third-party services such as facility management, pest control, swimming pool maintenance and lift maintenance, and claims that GST is payable only on member contributions above Rs.7,500 per month under S.No. 77 of Notification 12/2017-CT(Rate). The question arises from the example of maintenance charges of Rs.8,000 for an individual flat owner.

H Ruling

GST base where monthly maintenance charge per member exceeds Rs.7,500 (S.No. 77(c), Notification 12/2017-CT(Rate) as amended)	****GST payable on the full amount**, not only on the excess over Rs.7,500. Rate: appropriate CGST and SGST rates (no specific rate stated in the ruling).**	Applies only where the charge exceeds Rs.7,500 per member per month. The Rs.7,500 limit was effective from 25.01.2018 (Rs.5,000 before). The exemption is not partly available; the service either falls within the entry or it does not. The corresponding SGST entry is S.No. 77(c) of Notification II(2)/CTR/532(d-15)/2017 (G.O. (Ms) No.73 dated 29.06.2017).

The Authority ruled that where a housing society's service to its members, by way of reimbursement of charges or share of contribution for sourcing goods or services from a third person, exceeds Rs.7,500 per member per month, the service is not eligible for S.No. 77(c) of the CGST notification or the corresponding SGST entry. **CGST and SGST at appropriate rates are payable on the full amount** , not merely on the excess over Rs.7,500.

R Reasoning

The Authority read S.No. 77(c) as an entry describing a specific supply: services by an unincorporated body or non-profit entity to its own members, by way of reimbursement or share of contribution, up to Rs.7,500 per month per member for sourcing goods or services from a third person for common use. Because the exemption is a description-based entry under the exemption power in Section 11(1) of the CGST Act, the Authority held that the service either matches the description or it does not, with no option to split the supply. It held that the applicant's reading, which would tax only the excess, is an incorrect reading of the notification. The Authority also relied on

the Jurisdictional Commissioner's and State officer's views and found that the TRU FAQ or clarification relied on for an excess-only approach does not state that position. The ruling therefore applies the full-amount rule where the threshold is crossed.

P Provisions Relied On

- Section 11(1) of the CGST Act, 2017 (exemption power)
- Section 9(1) of the CGST Act, 2017 (levy)
- Section 2(17)(e) of the CGST Act, 2017 (club or association provision deemed business)
- Section 2(84)(i) of the CGST Act, 2017 (definition of person)
- Notification 12/2017-Central Tax (Rate) dated 28.06.2017, S.No. 77, Heading 9995, as amended
- Notification 2/2018-Central Tax (Rate) dated 25.01.2018 (amending the limit to Rs.7,500)
- Notification II(2)/CTR/532(d-15)/2017 read with G.O. (Ms) No.73 dated 29.06.2017 (SGST equivalent, S.No. 77(c))
- TRU FAQs on levy of GST on services to co-operative societies, F.No.332/04/2017-TRU, and related CBIC E-flier (relied on b…
- Section 100(1) of the CGST/TNGST Act (appeal period of 30 days, as stated in the order's note)

! For the Practitioner

This ruling is the Tamil Nadu AAR's clear position that the Rs.7,500 threshold for housing society common-service exemption works as a cliff-edge, so a society or its members should not assume that GST is limited to the excess over Rs.7,500 once the per-member charge crosses that figure. It is useful for RWAs and their advisers in setting maintenance billing and GST treatment. The order is an advance ruling binding only on the applicant, and it does not address how the threshold applies to mixed charges such as sinking funds or corpus contributions, or to services that are not procured from a third person. The order is open to appeal before the Tamil Nadu State Appellate Authority for Advance Ruling within 30 days, so the full order should be read for its reasoning and for any appeal status 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 -> tn-25-aar-2019-tvh_lumbini.pdf

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