M/s Vaishnavi Splendour Home Owners Welfare Association, No. 12, 3rd Cross, Poojari Layout, Geddalahalli, RMV 2nd Stage, Bengaluru - 560094 (GSTIN 29AABAV2780J1Z2)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 47/2019, dated 17th September 2019 (as… Dated **17.09.2019**

Q Questions Before the Authority

- Whether the applicant is liable to pay CGST and SGST on the contributions received from its members.
- If the answer to the first question is yes, whether the applicant can avail the benefit of entry 77 of Notification No. 12/2017-CT(Rate) dated 28.06.2017, as amended by Notification No. 02/2018-CT(Rate) dated 25.01.2018, which exempts supply up to Rs. 7,500 per month per member.
- If the answer to the second question is yes, whether the applicant is required to restrict its claim of input tax credit.
- Whether the applicant is liable to pay CGST/SGST on amounts collected from members for setting up a corpus fund.

F Facts

The applicant is a homeowners' association of 88 members formed under the Karnataka Apartment Ownership Act, 1972. It maintains common areas, corridors, gardens, clubhouse, swimming pool and lifts, provides common-area lighting, and carries out periodic upkeep of equipment. It collects annual contributions from members based on the super built-up area they own, and separately collects contributions towards a corpus fund for future contingencies. The applicant argued that these activities are statutory obligations rather than contractual supplies, and that the contributions are mere reimbursement of expenses and corpus deposits.

H Ruling

Liability to CGST and SGST on member contributions for maintenance	**Liable. Contributions are consideration for a taxable supply of services.**	The ruling does not state a rate. The order's own reasoning treats the activity as a supply of services under Heading 9995.
Benefit of entry 77 exemption (Notification 12/2017-CT(Rate), as amended by 02/2018) up to Rs. 7,500 per member per month	**Available only where maintenance charges do not exceed Rs. 7,500 per month per member.**	If charges exceed Rs. 7,500 per member per month, the entire amount is taxable, not only the excess over Rs. 7,500.

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

Restriction of input tax credit where exemption is claimed	**Input tax credit is available, subject to the restriction in section 17(2) read with Rule 42 of the CGST Rules.**	Other restrictions applicable under the Act and Rules also continue to apply.
Liability to CGST/SGST on corpus fund collections from members	**Not liable at the time of collection.**	The amounts become taxable when utilised for the actual supply of services, with time of supply determined under section 13.

The authority held that the association's maintenance activities are a taxable supply of services to its members, so the contributions attract CGST and SGST. The exemption in entry 77 is available only where the maintenance charges per member do not exceed Rs. 7,500 per month; above that threshold the entire amount is taxable, not just the excess. Input tax credit is available subject to the restriction in section 17(2) read with Rule 42. Corpus fund collections are not taxable at the time of collection but become taxable when applied to the supply of services.

R Reasoning

The authority held that a statutory obligation does not take an activity outside the definition of supply, because section 7(1) covers all supplies made for consideration in the course or furtherance of business. Business under section 2(17) includes provision of facilities by an association to its members, and Schedule II para 7 treats such services by an unincorporated body to its members as a supply, so the contributions are consideration under section 2(31). On the exemption, the authority relied on the Circular No. 109/28/2019-GST dated 22.07.2019 (para 1, issue 5), which confirms that the exemption is lost entirely when charges exceed the threshold. On input tax credit, it found that the applicant makes partly taxable and partly exempt supplies, so section 17(2) applies. For corpus contributions, it applied the proviso to section 2(31), which treats a deposit as consideration only when the supplier applies it to the supply.

P Provisions Relied On

- CGST Act, 2017, section 7(1) (scope of supply)
- CGST Act, 2017, section 2(17) (business)
- CGST Act, 2017, section 2(31) (consideration, including proviso on deposits)
- CGST Act, 2017, section 2(84) (person)
- CGST Act, 2017, section 2(47) (exempt supply), as quoted in the applicant's submissions
- CGST Act, 2017, section 13 (time of supply)
- CGST Act, 2017, section 16 (eligibility for input tax credit)
- CGST Act, 2017, section 17(2) (restriction of input tax credit for mixed supplies)
- CGST Act, 2017, Schedule II para 7 (supply by unincorporated association to member)
- CGST Rules, 2017, Rule 42 (common credit reversal)
- Notification No. 11/2017-CT(Rate) dated 28.06.2017 (Heading 9995 service codes)

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

Notification No. 12/2017-CT(Rate) dated 28.06.2017, entry 77, as amended by Notification No. 02/2018-CT(Rate) dated 25.0…

Circular No. 109/28/2019-GST dated 22.07.2019, para 1, issue 5

Article 366(29A)(e) of the Constitution (referred to in the order)

! For the Practitioner

This ruling is useful for any residents' welfare association or homeowners' association in Karnataka that collects maintenance contributions. It settles that such contributions are taxable, that the Rs. 7,500 per member per month exemption is an all-or-nothing threshold, and that corpus collections are taxed only when applied to services. It does not decide whether the association can claim the full Rs. 7,500 exemption as an ad hoc deduction from a higher bill, which the applicant argued and the authority rejected. The order also does not address the Karnataka Apartment Ownership Act arguments on reimbursement and statutory duty in any detail, and the Authority's answer on those points is implicit. The printed citation differs slightly from the listing reference, so the listing should be checked before citing.

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_47_2019_vshowa_17.09.19.pdf

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