

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 2 / 2018
Dated: 21st March, 2018**

Present:

1. Sri. Harish Dharnia,
Joint Commissioner of Central Tax,
Bangalore West Commissionerate,
Bangaluru. Member (Central Tax)
2. Dr.RaviPrasad.M.P.
Joint Commissioner of
Commercial Taxes (Vigilance)
Bangaluru Member (State Tax)

1.	Name and address of the applicant	M/s GOGTE INFRASTRUCTURE DEVELOPMENT CORPORATION LIMITED, 146, Budhwarapeth, Tilakwadi, Belgaum - 590006.
2.	GSTIN or User ID	29AAACG9426F1Z1
3.	Date of filing of Form GST ARA-01	30-11-2017
4.	Represented by	Sri RajendraBarve, Chartered Accountants & Authorised Representative
5.	Jurisdictional Authority - Centre	Bangalore North Commissionerate, North Division-2, Range - BND2 29/2, Basaveshwara Building, Crescent Road, Bengaluru - 560001
6.	Jurisdictional Authority - State	LGSTO - 390, Belagavi
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged Rs.5,000-00 CGST : Rs.NIL and KGST: Rs.5,000-00 CIN: UTIB17112900307729 dated 24-11-2017

ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017

M/s Gogte Infrasturcture Development Corporation Limited, 2nd Floor, NASCO ISHANNYA, 27/1, Khanapur Road, Tilakwadi, Belgaum - 560 006, having GSTIN number 29AAACG9426F1ZI, have filed an application, on 25.11.2017, for advance ruling under Section 97 of CGST Act,2017, KGST Act, 2017 & IGST Act, 2017 read with rule 104 of CGST Rules 2017 & KGST

Rules 2017, in form GST ARA-01. They also enclosed copy of challan for Rs.5,000/- bearing CIN number UTIB17112900307729 dated 24.11.2017.

2. The Applicant is engaged in hotel business, having hotel "Fairfield Marriott" and provides hotel accommodation & restaurant services. They are providing services to the employees & guests of some of the units in SEZ, Belgavi, in addition to the regular customers. They are charging SGST & CGST at the applicable rates. The SEZ units contended that the services are being supplied / rendered to SEZ units only and hence rate of GST is NIL as per provisions of Section 16(1)(b) of IGST Act'2017. Therefore the applicant filed this instant application seeking advance ruling on the following issue :

"Whether the Hotel Accommodation & Restaurant services provided by them, within the premises of the Hotel, to the employees & guests of SEZ units, be treated as supply of goods & services to SEZ units in Karnataka or not ?"

PERSONAL HEARING: / PROCEEDINGS HELD ON 09.02.2018.

3. The Applicant submitted Specific authorization, issued by Sri. Prabhakar S Apte, Director, M/s Gogte Infrastructure Development Corporation Ltd., authorizing Sri. R.L. Barve, Chartered Accountant to represent the applicant in and to produce accounts and documents connected with the proceedings before the authorities in respect of the instant application for Advance Ruling under CGST / SGST Act'2017.

4. The authorized representative Sri. R.L. Barve, Chartered Accountant during the personal hearing proceedings stated / pleaded that the applicant is a public limited company; that they are into the hotel business providing hotel accommodation & restaurant services in Belgaum; that the hotel is situated outside the SEZ and also independent of SEZ; that the billing is done on SEZ company for employees of SEZ; that they have not entered into any contract with either SEZ or any unit in the SEZ; that they are not giving any concessional rate to the billings of SEZ at present; that SEZ units contended for concession; that SEZ units gave letter to the hotel to provide billing in their name whenever any of their guest / employee uses the services/ facilities and hence they filed the instant application.

FINDINGS & DISCUSSION:

5. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri R.L. Barve, Chartered Accountant during the personal hearing. We also considered the issue/transaction(s) involved on which advance ruling is sought by the applicant, relevant facts of the transaction(s) involved, the applicant's understanding of rate of tax in respect of the transaction(s).

6. The Applicant, filed this application dated 25.11.2017 for advance ruling, seeking clarification as to ***“Whether the Hotel Accommodation & Restaurant services provided by them, within the premises of the Hotel, to the employees & guests of SEZ units, be treated as supply of goods & services to SEZ units in Karnataka or not ?”***
7. Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit are treated as ‘Zero Rated Supply’ in terms of Section 16(1)(b) of IGST Act’ 2017. Further Rule 46 of CGST Rules 2017 stipulates that the invoice shall carry an endorsement “Supply meant for export / Supply to SEZ unit or SEZ Developer for authorised operations on payment of Integrated Tax” or “Supply meant for Export / Supply to SEZ unit or SEZ Developer for authorised operations under Bond or Letter of Undertaking without payment of Integrated Tax” as the case may be.
8. Therefore on reading Section 16(1)(b) of IGST Act’ 2017 & Rule 46 of CGST Rules 2017 together it is clearly evident that the supplies of goods or services or both towards the authorised operations only shall be treated as Supplies to SEZ Developer / SEZ Unit.
9. The place of supply of the services by way of lodging accommodation by a hotel, shall be the location at which the immovable property (hotel) is located or intended to be located, as per Section 12 (3)(b) of the Integrated Goods and Services Tax Act, 2017. Also the place of supply of restaurant and catering services shall be the location where the services are actually performed, as per Section 12 (4) of the Integrated Goods and Services Tax Act, 2017. In the instant case, admittedly, the applicant is located outside the SEZ. Therefore the services rendered by the applicant are neither the part of authorised operations nor consumed inside the SEZ.
10. Since place of provision of services in case of Hotel has been prescribed under the Act 'location of the Hotel' the rendition of services of restaurant, short term accommodation and Banqueting/conferencing cannot be said to have been 'imported or procured' into SEZ Unit/Developer. Hence, by no stretch of imagination and therefore, in the instant case, the supply is intra state supply.

11. In view of the foregoing, we pass the following

R U L I N G

The Hotel Accommodation & Restaurant services being provided by the Applicant, within the premises of the Hotel, to the employees & guests of SEZ units, can not be treated as supply of goods & services to SEZ units in Karnataka & hence the intra state supply and are taxable accordingly.


21.03.2018
(Harish Dharnia)
Member


(Dr. Ravi Prasad.M.P.)
Member

Place : Bengaluru,
Date : 21.03.2018