

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

Advance Ruling No. KAR ADRG 10 / 2021

Date : 26-02-2021

Present:

1. Dr. M.P.Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State Tax)
2. Sri. Mashhood Ur Rehman Farooqui,
Joint Commissioner of Central Tax, Member (Central Tax)

1.	Name and address of the applicant	M/s. HOTEL SANDESH PRIVATE LIMITED, Flat No.3, Nethra Nivas, Nazarbad Main Road, Nazarbad, Mysore-570010.
2.	GSTIN or User ID	29AABCH4586J3Z2
3.	Date of filing of Form GST ARA-01	19-10-2020
4.	Represented by	Sri Ravindra A, Manager & Authorised Representative
5.	Jurisdictional Authority - Centre	The Commissioner of Indirect Taxes, Mysore Commissionerate, Mysore (NAZARABAD RANGE)
6.	Jurisdictional Authority - State	LGSTO-205, Mysuru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through Debit from Cash Ledger vide Reference Number DC2909200283061 dated 25/09/2020

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s Hotel Sandesh Private Limited, (called as the 'Applicant' hereinafter) Flat No.3, Nethra Nivas, Nazarbad Main Road, Nazarbad, Mysore-570010, having GSTIN 29AABCH4586J3Z2, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.



2. The applicant is a registered private limited company engaged in providing accommodation, food and beverages service, under SAC 9963, at the business premises situated at No.3, Nazarbad Main Road, Mysore-570010. The applicant proposes to open a stand-alone Restaurant at Sri Chamarajendra Zoological Gardens, a unit of Zoo Authority of Karnataka, Mysore which is a government body. The Zoo authorities insisted the applicant to charge 5% GST, on the supplies made from the Zoo premises, on treating the said service as deemed canteen service and hence has sought advance ruling in respect of the following question:

What is the applicable Rate of GST (SGST and CGST) for the supply of food inside the restaurant (branch) situated in zoological garden.

3. **Admissibility of the application:** The applicant filed the instant application in relation to “determination of the liability to pay tax on the proposed “Restaurant services” and sought advance ruling in respect of the questions on the issues covered under Section 97(2)(e) of the CGST Act 2017. Thus the application is admitted.

4. **BRIEF FACTS OF THE CASE:** The applicant furnished the following relevant facts having a bearing on the questions raised.

4.1 The Applicant is providing accommodation, food and beverages service, under SAC 9963 at the business premises situated at No.3, Nazarbad Main Road, Mysuru-570010. The Room tariff for air conditioned accommodation ranges from Rs.3,000/- to Rs.10,000/-.

4.2 The applicant has entered into a contract with Sri Chamarajendra Zoological Gardens, a unit of Zoo Authority of Karnataka, Mysore which is a government body for opening a stand-alone Restaurant (branch). The applicant will set up a stand-alone restaurant (Branch) in the premises of Zoological garden for the supply of food to the visitors / tourists to Mysore Zoo. The Restaurant will be an independent branch which is away from the Head Office (present business premises) by more than 2 kilometers by road. There is no Air-condition facility in any part of the proposed restaurant. Food will be prepared inside the restaurant situated in the premises of Zoological garden. The applicant serves the food to customers directly inside the Restaurant situated at Zoo premises and collects the food bill proceeds.

4.3 The applicant pays monthly rent for the restaurant premises taken on lease from Sri Chamarajendra Zoological Gardens as per the Lease agreement entered with Zoo Authority of Karnataka. The applicant does not



utilize the existing premises (present registered premises) where accommodation and restaurant services are provided.

5. **APPLICANT'S INTERPRETATION OF LAW:** The applicant is of the opinion that the applicable GST rate is 5%, without availing input tax credit, for the supply of food inside the restaurant (branch) situated at Zoological Garden, Mysuru.

PERSONAL HEARING: / PROCEEDINGS HELD ON 16-12-2020

6. Sri. Ravindra.A, Manager and Authorised Representative of the applicant appeared for personal hearing proceedings held on 16.12.2020 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

7. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

8. The applicant sought advance ruling with regard to the applicable rate of on the supply of food from the premises situated at Zoological garden. The applicant, as admitted, is already registered under GST, providing accommodation, food & beverage services, falling under SAC 9963 and is discharging GST @ 18% on the said services, in terms of entry number 7(vi) of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, as amended.

9. The authorised representative during the personal hearing expressed that they intend to obtain separate registration for the impugned services at the Zoo premises, as the said service is a different vertical of business, in which case the impugned services are covered under 'Restaurant Service other than at specified premises', under SAC 9963 and is exigible to GST @ 2.5%, in terms of entry number 7(ii) of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, as amended; subject to condition that credit of input tax charged on goods and services used in supplying the service has not been taken tax and also subject to explanation (iv) which is as under:

Hotel Sandesh



Explanation :

(iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-

(a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and

(b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.

10. Alternately, if the applicant intends to amend the existing registration to include the premises at Zoological garden, Mysuru, then two options are available to the applicant, which are as under:

- (i) The applicant need to maintain separate accounts for the individual premises or
- (ii) The applicant need to reverse the input tax credit in terms of Rule 42 & 43 of CGST Rules 2017, in case they maintain common account for both the premises and avail the input tax credit.

Even in both the above cases, the applicant has to pay GST @ 5%, on the supplies made at the impugned premises at Zoological garden, Mysuru, as explained at para 9 supra.

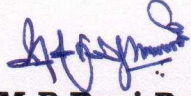
11. In view of the foregoing, we pass the following

RULING

The applicable Rate of GST (SGST and CGST) for the supply of food inside the restaurant (branch) situated in zoological garden, Mysuru is 5% (CGST-2.5% & KGST-2.5%), in terms of entry number 7(ii) of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, as amended, if separate registration is obtained for the premises or separate account is maintained in respect of the premises.



Alternately, if the applicant maintains common account in respect of both the premises, they need to discharge GST @ 5% (CGST-2.5% & KGST-2.5%) in respect of the supply made at the premises situated at Zoological garden, Mysuru and invariably need to reverse the input tax credit in terms of Section 17 of the CGST Act 2017 read with Rule 42 & 43 of CGST Rules 2017.



(Dr.M.P.Ravi Prasad)

Member

MEMBER

Place: Bengaluru,
Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date : 26-02-2021

To,

The applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Indirect Taxes, Mysuru Commissionerate, Mysuru.
4. The Asst. Commissioner, LGSTO-205, Mysuru.
5. Office Folder.



(Mashhood Ur Rehman Farooqui)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

