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# TAX LIABILITY ON COMPOSITE AND MIXED SUPPLY

## Brief of the Case:

As per Sub Section 1,2 and 3 of Section 100 of “The West Bengal Goods and Services Tax Act, 2017”(Act 28 of 2017) and “The Central GST Act,2017 (Act 12 of 2017),”(hereinafter collectively referred to as “the GST Act”), M/s Sarj Educational Centre (hereinafter referred to as “the Appellant”) has filed an Appeal to West Bengal Appellate Authority For Advance Ruling (WBAAAR) on 29.03.2019 against Advance Ruling Order No. 42/WBAAR/2018-19 dated 26.02.2019 given by the West Bengal Authority for Advance Ruling.

The Appellant is the owner of a private boarding house and is providing the services of lodging and food to the students of St. Michael’s School, a secondary school run by a Charitable Society known as the Sunshine Educational Society. M/s Sarj Educational Centre has filed an Advance Ruling under Section 97 of the West Bengal Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017 (hereinafter collectively referred to as “the GST Act”) on the following queries:

- (1) Whether the services provided by the Appellant to the students of lodging and supply of food is a composite supply or not within the meaning of Section 2(30) of the GST Act.
- (2) If the aforesaid services mentioned in (1) do not fall under the concept of “Composite Supply,” confirm the applicable rate of GST
- (3) Whether the supply of such service is eligible for exemption under Sl. No. 14 of Notification No. 12/2017-CentralTax (Rate) dated 28/06/2017 (hereinafter referred to as the ‘Exemption Notification’).

Advance Ruling Order No. 42/WBAAR/2018-19 dated 26.02.2019 has been passed by The West Bengal Authority for Advance Ruling (hereinafter referred to as the ‘WBAAR’), stating that the services of lodging and supply of food both are not naturally bundled of services and hence, the said services are not treated as a composite supply under Section 2(30) of the GST Act but are mixed supplies within

the meaning of Section 2(74) of the GST Act and the Rate of GST will be applicable under Section 8(b) of the GST Act, 2017.

### Remarks raised by the Appellant before the WBAAR:

The Appellant has filed an Appeal to the WBAAR against Advance Ruling Order No.42/WBAAR/2018-19 dated 26.02.2019 with a prayer to set aside the Order passed by the WBAAR on the following grounds:

- (1) The Appellant is an educational institution within the meaning of clause 2(y) of the Exemption Notification as it is providing primary and secondary education through remedial classes to the boarding students **(the WBAAR has not agreed to accept the remark).**
- (2) The Appellant has demanded that they have all the infrastructure of an educational institution, and hence, the aforesaid services fall under the "Heading 9992" against sl. No. 66 of the Exemption Notification.

**(The WBAAR has not agreed to accept the remark).**

- (3) "Boarding Fees" and "Lodging Fees- the natures of these two different services are unique in character and so cannot be treated at par. Hence, the same is treated as Composite Supply by the Appellant. **(the WBAAR has not agreed to accept the remark).**

**Note-The WBAAR has stated that "Boarding denotes" food along with other amenities such as accommodation, and on the other hand, Lodging denotes only accommodation.**

- (4) The principal activity of the Appellant is to provide Boarding Service and also Lodging Service, and in each case, the charge is less than Rs.1000/- per day. As the charge is less than Rs.1000/- per day, it is eligible for exemption under Sl. No.14 of Notification No. 12/2017-CentralTax **(Rate)** dated 28/06/2017.

The Appellant has also stated the Order of the Authority For Advance Rulings, Chhattisgarh, in the case of Ramnath Bhimsen Charitable Trust, wherein it has been found that the applicant is running a girl's hostel and provides accommodation against a charge of Rs.6,000/Rs.7,000 per month per head with other facilities such as parking facility, hot water facility etc. The same is selected to fall under Heading No. 9963, and the same is exempted from

payment of GST.

- (5) The Authority for Advance Ruling, Kerala, in the case of M/s. Ernakulam Medical Centre Pvt. Ltd vide Advance Ruling No.KER/16/2018, dated 19.09.2018, stated that the supply of medicines and allied items like food supplied to the in-patients, as advised by the doctor, is a part of the composite supply and not separately taxable.

Note-The Appellant has submitted an appeal before the WBAAR on two aspects and such matters are stated as below –

- (a) the Appellant is an educational institution, and the same falls within the meaning of clause 2(y) of the Exemption Notification and the same is exempted from GST.
- (b) the services provided by the Appellant is demanded as "Composite Supply" under Section 2(30) of the GST Act.

### Remarks raised by the WBAAR(Appeal Case No. O5/WBAAAR/APPEAL/2019 dated 29.03.2019):

- (1) The Appellant **(M/s Sarj Educational Centre)** is not affiliated to any board/university and does not provide any kind of such activities in terms of the meaning of clause 2(y) of the exemption Notification.
- (2) Regarding 2nd issue, the **WBAAR** has stated its views, and the supporting details are also presented

### Composite Supply-

The concept of "Composite Supply" under GST is similar to bundled services under Service Tax Regime. Composite Supply means a supply comprising two or more goods/services.

This supply is also known as the bundled supply of goods/services because in which one is a principal supply, and the supply of goods/services cannot be supplied separately.

### Conditions for Composite Supply-

The following conditions are to be satisfied for being a Composite Supply-

- (1) There should be a supply of 2 or more goods/services together and
- (2) It is a natural bundle, i.e., goods or services cannot

be supplied separately

**Example-** Mr. A is booking a Rajdhani train ticket which fare includes a meal. So, it is a bundle of services, and it cannot be booked or supplied separately. Here, Mr.A cannot buy only a train ticket or meal separately. So, here, the transportation of passengers is the principal supply of services.

**Rate of Tax-** Under GST, the rate of Tax on the composite supply of goods/services is imposed based on the principal supply of goods/services. For the above example, the rate of GST will be charged based on the transportation of passengers (principal supply of services), not based on the meal.

**Mixed Supply-** The concept of “Mixed Supply” is another concept. Here, there will be a supply of 2 or more goods/ services together, but that is not a natural bundle of supply. That means items can be supplied separately.

### Conditions for Mixed Supply-

- (1) There should be a supply of 2 or more goods/ services together and
- (2) It is not a natural bundle, i.e., the supply of goods/ services can be made separately.

**Example-** There is a Diwali gift packet consisting of sweets, chocolates, cake, dry fruits and candles. It satisfies both conditions, and hence, it is a mixed supply.

Rate of tax Under GST, the rate of Tax on Mixed Supply is on the basis of good/service having the highest rate of tax. Say, in a gift packet, there are three items, i.e., A(GST@5%), B(GST@12%) and C(GST@18%). So, for the mixed supply, the tax rate for all the items, i.e., A, B and C, will be @18%.

Note- Section 8(b) of “The West Bengal Goods and Services Tax Act, 2017”(Act 28 of 2017) and “The Central GST Act,2017 (Act 12 of 2017)” (hereinafter collectively referred to as “the GST Act”) is applicable for the imposition of GST Rate in the case of M/s Sarj Educational Centre.

### Conclusion:

For any question or query stated as per Section 97(2) of the GST Act, 2017, the GST registered person can file an application to the Authority for Advance Ruling under Section 97 of the GST Act,2017 and, being aggrieved, the Appellant can file an appeal to the Appellate Authority For Advance Ruling under Section 100(1), 100(2) and 100(3) of the GST Act,2017.

Section 2(30) and 2(74) of the GST Act,2017 are to be followed in order to segregate the supply as “Composite Supply” or “Mixed Supply” and Section 8(a) and 8(b) of the GST Act,2017 are to be followed to ascertain the tax liability in respect of the Composite Supply and Mixed Supply respectively.

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