

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 8th floor, H-Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	271800000791 ARL/URD
Legal Name of Applicant	STUDENTS' WELFARE ASSOCIATION
Registered Address/Address provided while obtaining user id	1182/1/4 Fergusson College Road, Shivaji Nagar, Pune-411005, Behind HDFC Bank
Details of application	GST-ARA, Application No. 55 Dated 18.07.2018
Concerned officer	Asstt. Commr. CGST, Division (Shivaji Nagar), Pune-II Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Other
B Description (in brief)	Nature of Activities: Cheap board, lodging and other personality development activities irrespective of caste or creed to poor and deserving college students
Issue/s on which advance ruling required	(i) classification of goods and/or services or both
Question(s) on which advance ruling is required	As reproduced in para 02 of the Proceedings below.

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by STUDENTS' WELFARE ASSOCIATION, the applicant, seeking an advance ruling in respect of the following questions:

1. Whether hostel accommodation provided by Trusts to students is covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No.12/2017-CT (Rate).
2. Whether the donations received to meet the expenses for running the hostel is chargeable to GST?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST 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 provision under the MGST Act. Further to the earlier, henceforth for the

purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

02. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

FACTS RELATING TO TRANSACTION MADE BY TRUST

1. How old the trust is?

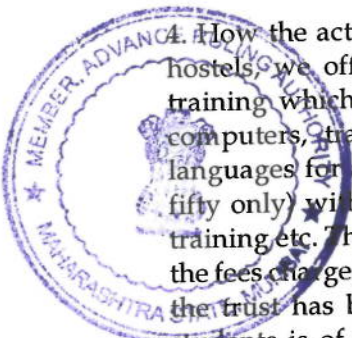
STUDENTS WELFARE ASSOCIATION is 63 years old registered charitable Trust having Section 12AA & 80 G certificate of exemption under Income Tax 1961 since 1973. Trust activity, is exclusively connected with students and education.

2. Whose children are admitted in the Hostel?

We work solely for the benefit of students from poor families from economical backward class from rural areas who come to Pune for college education. They are so poor that they cannot afford the fees of college hostels or private commercial hostels. The students include both-boys and girls - as also those who are physically handicapped (Blind, Deaf, Polio affected), orphan, single parent and children of farm labours, poor farmers, drought affected area, bricks workers, sugar cane workers, students from tribal community, etc.

3. Capacity of the Hostels:

SWA provides support to 750 students through 4 hostels, including 300 girls coming from rural area; irrespective of their caste, creed or religion. SWA have 4 hostels in Pune - 2 for girls and 2 for boys, with a total capacity of 750.



4. How the activities carried out are to be termed as a Composite supply under GST act in these hostels, we offer lodging and boarding facilities besides compulsory personality development training which includes computer awareness activities besides developing skills to operate the computers, training for development of communication skills in English and other foreign languages for a consolidated fee of Rs.22,250/- (Rupees twenty two thousand two hundred and fifty only) with no option to choose the activities such as only lodging or only boarding or only training etc. The fees charged to the students for a year for various services are one of the lowest of the fees charged by any college hostels or commercial hostels herein Pune. (See table below) Though the trust has been providing various services listed in annexure 2, the principal supply to the students is of providing hostel accommodation and as the students stay in the hostel, they get boarding facility as well which is independently carried out by staff of the trust. No outside contractor is appointed. Those who stay in the hostel also avail the facility of getting its personality development skills sharpened by listening to the lectures of stalwart personalities in the country arranged by Trust also on Entrepreneurship development program. Learning in the library, getting training in computer application, Daily morning Yogasanas and Sports activities are subsidiary benefits the hostilities are getting. **Nothing herein is optional. Thus it is a composite supply** under the CGST and MSGST Act. In addition, interested Hostel Students also can work under 'Earn and Learn Scheme through which they may earn for the payment of yearly fees to the trust and indirectly help their parents in reducing financial burden to a certain extent. Under self-dependence, students clean their rooms, toilet blocks and maintain their hostels and surroundings, distribution of food, hostel day to day management, office work etc. The hostel activities are solely managed by students and there is very limited staff of trust. Apart from the heavily subsidized lodging and boarding facility, we also offer the following by way of education and personality development of the students **free of cost** as fees charged are inclusive of these services as well.

- Daily morning Yogasanas and Sports activities
 - Training in conversational English and foreign languages
 - Training in Computer courses
 - Arrange lectures on personality development and Entrepreneurship development.
- Following is the number and categories of other students staying in hostel 2018-19

S. No.	Category	Boys	Girls	Total
1	Blind	3	2	5
2	Handicapped	1	0	1
3	Single Parent (No father)	35	20	55
4	Orphan	4	2	6
5	Drought prone area (Marathawada & Vidarbha)	187	49	236
6	BPL	15	8	23
7	from Labourer family	20	15	35
	Total			361

Comparative table to show the sacrificing service offered by the trust College / private Hostel Annual Fee in Pune

S. No.	Name of the College	Hostel Fee (incl Mess) in Rs.
1	Modern College, Pune	93000.00
2	Marathawada Mitra Mandal's Engg. College	81000.00
3	Garware College, Pune	81000.00
4	Fergusson College, Pune	79550.00
5	Private hostels near by	60000.00
6	Govt. Polytechnic, Pune	30000.00
7	Students' Welfare Association, Pune	22250.00

Legal view and our contention:

We invite your attention on circular no 354/17/ 2018-TRU dated 12th Feb 2018 in which clarification on hostel accommodation is issued. It is treated at par with accommodation of hotel inns, guest house, etc. and accordingly chargeable @ 18%. However, in our opinion it is exempt, vide Exemption Notification No.12/2017-Central Tax (Rate) - vide no. Entry/clause 14 where services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent. SAC Code. 996311. May this be clarified?

As our service for providing unit of accommodation with ancillary services tagged to the hostel are below worth rupees one thousand per day, and as it is a composite supply related to the accommodation, thus is not chargeable to GST,

5. How deficit is met?

The deficit between the actual expenses and the fees charged to students is met only from donations collected from the public, no financial support from government. Some students are so poor that they can't even bear these expenses.

6. Exclusive charitable activity

The activities are managed by volunteers who work on honorary basis and a skeleton staff. SWA helps these students for their complete development as a responsible citizen of our country.

7. Conclusion

STUDENT WELFARE ASSOCIATION is not a commercial hostel or commercial organization. The trust, meets its expenses by charging aforesaid nominal fee to the students and from donations collected from the public. We hope donations received will not be chargeable to GST. May this also be clarified?

Additional submissions given by the Applicant ---

We have attended the Preliminary Hearing at GST - Office Mazgaon on 21 August 2018. As per our discussion we have been asked to submit our say regarding the continuation of the application. In this regard we have to inform you that the management is in favour of continuing the same application as controversy persists in the matter in Pune as different consultants are opining differently and hence your opinion would be of immense benefit to the Trust. In this connection we have to state as under:

We offer lodging and boarding facilities besides compulsory personality development training which includes computer awareness activities besides developing skills to operate the computers, training for development of communication skills in English and other foreign languages for a consolidated fee of Rs. 22,250/- (Rupees twenty two thousand two hundred and fifty only) with no option to choose the activities such as only lodging or only boarding or only training etc.

The principal supply to the students is of providing hostel accommodation and as the students stay in the hostel, they get boarding facility as well which is independently carried out by staff of the trust. No outside contractor is appointed. Those who stay in the hostel also avail the facility of getting its personality development skills sharpened by listening to the lectures of stalwart personalities in the country arranged by Trust also on Entrepreneurship development program. Learning in the library, getting training in computer application, Daily morning Yogasanas and Sports activities are subsidiary benefits the hostilities are getting. Nothing herein is optional. Thus 'composite supply' under the CGST and MSGST Act.

Firstly, we invite your attention on circular no 354/17/2018-TRU dated 12th Feb 2018 in which clarification on hostel accommodation is issued. It is treated at par with accommodation of hotel inns, guest house, etc. and accordingly will be charged. The issue involved is whether hostel accommodation provided by Trusts to students is covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No.12/2017-CT (Rate).

In our opinion, Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, as per mega exemption, services by a hotel, inn, house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day has been explained to be exempt. [Sl. No. 14 of notification No. 12/2017-CT (Rate) refers]. The trust has a concern that since the matter has been clarified by circular no. 354/17/2018-TRU dated 12th Feb 2018 which is incorporating an item not specified in the notification no. 12/2017 and hence the matter has been referred to you for ruling on the ground that a circular cannot override notification and hence the query.

Secondly, during vacation period the hostel is offered to others for accommodation purpose. Though the accommodation is occupied for residential purpose, sometimes it is hired for labourers of a commercial organization. The tariff charged is much less than rupees one thousand per day. We would like to know whether different treatment would be required for use of hostel rooms given by us for residential purposes but ultimately been used by the hirer for commercial use. The words used in notification are that if the accommodation is used for 'residential or lodging purposes which words do not cover for commercial purposes, and hence we would like

to have your ruling on whether the said notification would be applicable if the accommodation is decided to be given for commercial purposes in future whether the activity still would be able to enjoy exemption under said notification..

Thirdly, the activity carried by the trust is bound to result into incurring financial losses. The recoupment of these sums of expenditure which causes financial loss to the trust is made good out through donations. Whether the large donations given by the donors would be treated as 'service and taxed accordingly. In our opinion, donation is a supply of money and hence would be beyond the scope of the taxability. May this be ruled emphatically as only sponsored donations are believed to be covered under said mega exemption notification? May this be ruled? We therefore are interested in pursuing our application.

03. CONTENTION - AS PER THE CONCERNED OFFICER--

The application has been examined and the submission/comments are as under:

1) Brief facts as submitted by the applicant:

- 1) The applicant M/S Students Welfare Association, is a Registered Charitable Trust under Bombay Public Trust Act, 1950 and having 12AA & 80G Certification of Income Tax since 1973 and is engaged in the activity of Hostel Accommodation for poor and deserving college students coming from rural area with an annual fee of Rs. 22250/- collected from the students.
- 2) Students Welfare Association is not a commercial hostel or commercial organization. The trust meets its expenses by charging aforesaid nominal fee to the students and from donations collected from public.
- 3) They work solely for the benefit of the students from poor families from economically backward class from rural areas who come to Pune for college education. They are so poor that they cannot afford the fees of college hostel or private commercial hostels. The students include both boys and girls as also those who are physically handicapped, orphans, single parent and children of farm labours poor farmers drought affected areas, brick workers, sugar cane workers, students from tribal community etc.
- 4) in the hostel they offer lodging and boarding facilities besides compulsory personality development training which include computer awareness, training for development of communication skills in English for a consolidated fees of Rs.22,250/- with no option to choose the activities such as only lodging or only boarding or only training etc. In addition, interested Hostel Students also can work under 'Earn and learn' scheme through which they may earn for the payment of yearly fees to the trust. Under self-dependence, students clean their rooms, toilet blocks and maintain their hostel and surroundings, distribution of foods, hostel day to day management, office work etc. The hostel activities are solely managed by the students and there is very limited staff of trust.

II) Clarification asked for by Students Welfare Association:

- 1) Circular No.354/17/2018-TRU dated 12.02.2018 in which clarification on hostel accommodation is issued. It is treated at par with accommodation of hotel inns, guest house, etc., and accordingly chargeable @ 18%. However, it is exempt vide Exemption Notification No.12/2017-CT(Rate-vide Entry No.14 where services by a hotel, inn, guest house, club, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.

Ans- Vide Circular No: 32/06/2018 (F.No.354/17/2018-TRU), dated 12.02.2018, on the issue of hostel accommodation provided by Trusts to students covered within the definition of

Charitable Activities and thus exempt under S.No.1 of Notification No.12/2017-CT.(Rate), it has been clarified that Hostel accommodation services do not fall within the ambit of charitable activities as defined in Para 2(r) of Notification N0.12/2017-CT(Rate). However services by a hotel, inn, guest house, club or campsite by whatever name called, for residential or lodging purpose, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are-exempt. Thus accommodation service in hostels including by trusts having declared tariff below one thousand rupees per day can be exempt (S.No.14. of Notification No.12/2017 CT (Rate).

By the facts provided, the applicant's case is a bundled service, hostel accommodation with mess. In terms of Section 66F (3) (a) of the Finance Act, 1994, it seems to be a naturally bundled services. The said provision reads as - *if various elements of such services are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character, since the essential character of the service is accommodation for residential purpose, the exemption under S.No.18 of Mega Exemption of Notification No25/2012 ST appears to be attracted provided the rent charged per day is below Rs.1000/- including the mess fee.*

- 2) Whether the donations received to meet the expenses for running the hostel is chargeable to GST?

Ans - GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST .Hence, any supply made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business as defined under the Act. GST is essentially a tax only on commercial transactions.

The donation (payment) is not a consideration because there is no supply of goods or services by the Association to the donor in return .if grants are given freely, in which the grantor does not receive any benefit in return then they are not consideration for any supply and are therefore outside the scope of GST.

Sponsorship payment which involves the sponsor receiving clearly identifiable benefits in return either in terms of advertising or publicity is a consideration for any supply. On the other hand if the sponsorship does not involve any identifiable benefit in return then the sponsorship payment is not a consideration for the supply. So Donation is not a part of furtherance of business, hence GST may not be applied.

04. HEARING-

The Preliminary hearing in the matter was held on 21.08.2018, Sh. Dilip V. Sarbhai, C.A. along with Sh. Tukaram Gaikwad, Managing Trustee and Ms. Kalpana Dabhade, C.A. appeared and made oral and written submissions for admission of application. Jurisdictional Officer Ms. Sumangla Sharma, Asstt. Commr. Of CGST, Division-I (Shivaji Nagar) Pune II Commissionerate, appeared and made written and oral submissions and brought to notice of this authority the circular No. 32/06/2018 - GST dated 12th February, 2018 wherein there is specific clarification

that accommodation service in hostels including by trusts having declared tariff below one thousand rupees per day is exempt from payment of GST. She was also of view the services by the applicant would be exempt from GST as the tariff per day is much lesser than Rs.1000/- per day as clarified in circular.

The applicant was requested to re-examine his application in view of the circular referred above and intimate this authority within a week in writing, if they want to continue with their application or intend to withdraw the same in view of above circular.

The applicant has submitted his contentions in writing and final hearing in the matter was held on 12.12.2018 Sh. Dilip V. Sarbhai, C.A. along with Sh. Prabhakar Patil CEO and Ms. Kalpana Dabhade, C.A. appeared and made oral submissions. Jurisdictional Officer Sh. Pawan Gaikwad Suptt., Division - I (Shivaji Nagar) Pune II Commissionerate appeared and stated that written submissions have already been made.

05. OBSERVATIONS

We have perused the records on file and gone through the facts of the case and the submissions made by the applicant and the department. It is thus observed that as below:

1) STUDENTS WELFARE ASSOCIATION (SWA) is 63 years old registered charitable Trust having Section 12AA & 80 G certificate of exemption under Income Tax 1961 since 1973. Trust activity, is exclusively connected with students and education. Under the GST ACT, applicant is not a registered person.

2) We find that SWA is offering a bouquet of services that consists of lodging and boarding facilities besides compulsory personality development training which includes computer awareness activities such as, developing skills to operate the computers, training for development of communication skills in English and other foreign languages for a consolidated fee of Rs. 22,250/- (Rupees twenty two thousand two hundred and fifty only) with no option to choose the activities such as only lodging or only boarding or only training etc., to the sole benefit of students from poor families, from economical backward class, from rural areas who come to Pune for college education. The principal supply to the students is of providing hostel accommodation and as the students stay in the hostel, they also get boarding facility as well which is independently carried out by staff of the trust.

The main Aims and Objects of the Trust are as below: -

The object of the trust are, providing education and its activities are as under:-

a. To render aid in the form of cheap board, lodging and other amenities, irrespective of caste or creed, to poor and deserving students in colleges and other institutions of higher learning in Pune and at any other place in India.

b. To help students develop their personality and character and to inculcate in them a sense of discipline and dignity of labour at Pune and any other place in India and to undertake such activities that may be conducive to the total development of students with focal point as students.

c. To do all such things as in the trustees' opinion would be conducive to the furtherance of their object.

Based on the above activities it is the submission of applicant that activities are covered by the expression 'Charitable activities' as defined in the notification under the GST law.

It is therefore necessary for us to examine the relevant entry at Sr.no. 1 of notification No. 12/2017 CT (Rate) dt 28.6.2017 for the purpose of applicability of the notification to the activities undertaken by the applicant as "charitable activities" and same is reproduced as below,
Notification No. 12/2017 - Central Tax (Rate).

Sl.no.	Chapter, Section, Heading, Group of Service code (Tariff)	Description of Services	Rate (per cent.)	Condition
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil

The definition of charitable activities is as below:

2. (1) "Charitable activities" means activities relating to -
- (i) public health by way of,-
 - (A) care of counseling of
 - (I) terminally ill persons or persons with severe physical or mental disability;
 - (II) persons afflicted with HIV or AIDS;
 - (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (B) public awareness of preventive health, family planning or prevention of HIV infection;
 - (ii) advancement of religion, spirituality or yoga;
 - (iii) advancement of educational programs or skill development relating to,-
 - (A) abandoned, orphaned or homeless children;
 - (B) physically or mentally abused and traumatized persons;
 - (C) prisoners; or
 - (D) persons over the age of 65 years residing in a rural area;
 - (iv) preservation of environment including watershed, forests and wildlife;

On this factual matrix we shall now deal with each question as per ARA as below:

Question -1. whether hostel accommodation provided by Trusts to students is covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No.12/2017-CT (Rate).

From the Notification Entry no. 1 and the meaning assigned to the expression 'charitable activities' aforesaid we find that activities of the Trust in providing hostel accommodation

facilities to the students who come to Pune for education do not fall within the ambit of charitable activities.

This conclusion of ours is in conformity with the clarification issued by the Tax Research Unit vide Circular No. 32/06/2018-GST dated 12th February 2018.

The relevant portion is reproduced as below:-

Sr. No.	Issue Clarification	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT (Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers]

In view of this clarification we hold that hostel accommodation provided by Trusts to students is not covered by exemption Notification Entry No.1 of Notification No. 12/2017-CT (Rate).

Question -2. Whether different treatment would be required for use of hostel rooms given by us for residential purposes but ultimately been used by the hirer for commercial use.

As per the clarification issued vide Circular No. 32/06/2018-GST dated 12th February 2018, we find that the distinction between services by a hotel, inn guest house club or composite, by whatever name called, for residential or lodging purposes and Hostel accommodation services is done away. In the present case applicant submits that during the vacation period hostel is offered for residential purpose and hired for labourers of a commercial organization.

We may now refer to entry Sr. No. 14 of the Notification no. 12/2017 to ascertain whether different treatment would be required for use of hostel rooms given for residential purposes and commercial purposes.

Sr. No. 14

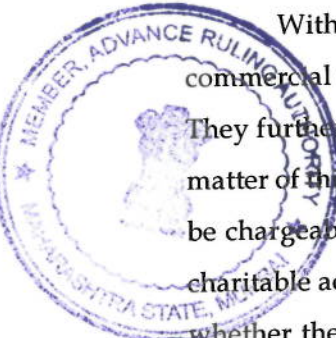
Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff) Description	Description of	Rate (per cent.)	Services Condition
(1)	(2)	(3)	(4)	(5)
14	Heading 9963	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent.	Nil	Nil

From the scrutiny of above exemption entry we find that the description of service is use based, meaning that if the accommodation is used for residential or lodging purpose then it is immaterial who the user is. The services provided by such hostel, for residential and lodging purposes would be covered by the scope of notification entry where the declared tariff of a unit of an accommodation is below one thousand rupees per day. Therefore the scope of the entry is restricted to use of the accommodation unit for residential and lodging purpose.

Question -3. Whether the said notification would be applicable if the accommodation if decided to be given for commercial purposes in future whether the activity still would be able to enjoy exemption under said notification.

As discussed herein above in Que. 2, we reiterate the scope of exemption entry 14 of the Notification 12/2017 which is applicable to accommodation unit when used only for residential or lodging purpose.

Question -4. Whether the large donations given by the donors would be treated as 'service and taxed accordingly and whether only sponsored donations are believed to be covered under said mega exemption notification.



With respect to this question applicant submits that SWA is not a commercial hostel or commercial organization and thus meets its expenses by charging nominal fees to the students. They further meet the expenses form donations collected from public. It is this donation subject matter of this question. As per the contention of applicant donations received by them would not be chargeable to GST. We find from the notifications cited above that income from only those charitable activities listed in the notification are exempt from levy of GST. The issue before us is whether the consideration received by applicant in the form of public donation is towards any supply and chargeable to GST. The term 'consideration' has been defined under the GST Act, as below:

2(31) -

(31) "Consideration" in relation to the supply of goods or services or both includes--

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

The concept of income by a charitable Trusts from donations collected from the public has been explained by the Board vide GST Flyers dated 01/01/2018 at Sr. 39, we reproduce the relevant as below:

"Income from a religious ceremony organized by a charitable trust exempt as per the above notification. So the income from Navratri Functions, other religious functions, and religious poojas conducted on special occasion like religious festivals by persons so authorized for this purpose by the charitable or religious trust are exempt from GST. But a careful perusal of this exemption shows that all income from such a religious ceremony is not exempt (services other than by way of conduct of religious ceremony are not exempt). Therefore the nature of income is an essential factor by ascertaining whether it will be taxable or exempt, the nature of income is loses its religious nature, it is definitely chargeable.

For example, if with regard to Ganeshotsav or other religious functions, charitable trusts rent out their space to agencies for advertisement hoardings, income from such advertisement is chargeable to GST, as this will be considered as income from the advertisement services. Further, if donation for religious ceremony is received with specific to GST. But is donation for religious ceremony is received without such instructions, it may not be subjects to GST."

Even though the concept is explained in the context of the Charitable Religious Trust, we find that the principle that emerges from it is equally applicable to the case at hand and that if the income is in nature of donation received without any instructions, then it would not be subject to GST.

In view of the above guideline, we find that the donations received without any instruction would not be taxable however where the donor is clearly receiving identifiable benefits in return either in terms of advertising or publicity, the said donation amount received is to be treated as a consideration for supply of goods or services or both and liable to GST.

In this case applicant has not submitted in detail the terms of the donations and hence this authority is unable to answer this question.

06. In view of the deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 55/2018-19/B-

170

Mumbai, dt. 29/12/2018

For reasons as discussed in the body of the order, the questions are answered thus –

Question -1(a). Whether hostel accommodation provided by Trusts to students is covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No.12/2017-CT (Rate)?

Question -1(b). Whether the supply of residential or lodging services @ Rs. 22,250/- per annum is covered by Sr. No. 14 of Notification No. 12/2017 - CT (Rate)?

Answer- 1(a) Answered in the negative.

1(b) Answered in the affirmative.

Question -2. Whether different treatment would be required for use of hostel rooms given by us for residential purposes but ultimately been used by the hirer for commercial use.

Answer-- Answered is in negative

Question -3. Whether the said notification would be applicable if the accommodation if decided to be given for commercial purposes in future whether the activity still would be able to enjoy exemption under said notification.

Answer – Not answered in view of answers to Que. (1) and (2) above.

Question -4. Whether the large donations given by the donors would be treated as 'service and taxed accordingly and whether only sponsored donations are believed to be covered under said mega exemption notification.

Answer Not answered for incomplete details submitted by the applicant.



sd
B. TIMOTHY
(MEMBER)

sd
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State tax, Mahavikas for Website.

sd
MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai - 400021.