

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

Advance Ruling No. KAR ADRG 19/2021

Dated : 06-04-2021

Present:

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

1.	Name and address of the Applicant	Sri Puttahalagaiah G.H., No.461/A, 10th Cross, 2nd Phase, Girinagar, Bangalore-560085
2.	GSTIN or User ID	292000000520AR9
3.	Date of filing of Form GST ARA-01	01-10-2020
4.	Represented by	Sri VishwanathBhat, Cost Accountant and Duly Authorised Representative
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Tax, Bangalore West GST Commissionerate, Bangaluru.
6.	Jurisdictional Authority - State	LGSTO-60, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide CIN. SBIN21022900135453 dated 16-02-2021

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

1. Sri Puttahalagaiah G.H., No.461/A, 10th Cross, 2nd Phase, Girinagar, Bangalore-560085 is an Unregistered person having User-ID292000000520AR9 filed an application for Advance Ruling under Section 97 of CGST Act, 2017, read with Rule 104 of the CGST Rules and Section 97 of the 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.



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2. The applicant has applied for advance ruling as unregistered dealer under the provisions of the GST Act, 2017. The applicant is letting out his building to the Department of Backward Classes Welfare, Government of Karnataka to run post-metric Girl's Hostel.

3. The applicant has sought advance ruling in respect of the following question:

i. *Whether Rent received from Backward Classes Welfare Department, is taxable or not?*

4. **Admissibility of the application:** The question is about "applicability of a notification issued under the provisions of the Act" and hence is admissible under Section 97(2)(b) of the CGST Act 2017.

5. The applicant furnishes some facts relevant to the issue:

5.1 The applicant is an individual and owner of the premises situated at No.406, I.T.I Layout, Opp. Gopalan Arcade, Mysore Road, Bengaluru-560039 and has entered into an agreement with the Extension Officer, Backward Classes Welfare Department, Government of Karnataka to rent out his property to run post metric Girl's Hostel and constitute rent/letting out of 10,441 sq.ft building consisting of seven rooms, two halls, 11 toilets, 10 bathrooms and bore well, for a rent of Rs.1,84,560/- per month.

5.2 The applicant has furnished a magazine published by the Government of Karnataka which pertains to action plan of backward classes Welfare Department 2019-20, where in it is reported that backward Classes Welfare Department has been established for the welfare of backward classes to implement programmes of overall development of backward classes which are notified by the Government of Karnataka.

5.3 The Backward Classes Welfare Department is providing hostel facility to the students of backward classes studying in Government/ Government aided institutions after matriculation.

5.4 The applicant is of the opinion that since he is letting out his property to Backward Classes Welfare Department who in turn is using it for welfare of weaker section of the society of the backward classes students where the annual income of the family is less than threshold for the creamy layer, therefore the service provided by him to Backward Classes Welfare Department to run post metric Girl's Hostel is exempted service as it is covered under Article 243G of the Constitution.



PERSONAL HEARING: / PROCEEDINGS HELD ON 15-10-2020

6. Sri Vishwanath Bhat, Cost Accountant and Duly Authorized Representative along with the applicant, appeared for personal hearing proceedings held on 15th October 2020 and reiterated the facts made in the application.

FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *pari-materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by applicant and his authorized representatives during the hearing. We also considered the issue involved on which advance ruling is sought by the applicant, relevant facts and the applicant's interpretation of law.

9. The applicant has stated that he has let out his property to the Backward Classes Welfare Department, Government of Karnataka who in turn is using the same for providing hostel facilities to the post metric girls of backward classes. It is observed that the applicant is not into the supply of any works contract service or other composite supplies involving supply of any goods. The applicant is only providing the services of renting an immovable property. Hence, the services provided by the applicant constitutes pure service as per entry no 3 of the Notification No.12/2017-Central Tax (Rate) dated 29-06-2017. For ease of reference, relevant portion is re-produced as under:

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate(per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
3	Chapter 99	Pure Services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central	Nil	Nil



		Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	
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10. The service provided by the applicant is to the Backward Classes Welfare Department is a Department of State Government. The applicant is providing service as per entry number 27 of the Eleventh Schedule (Article 243G) of the Constitution as under.

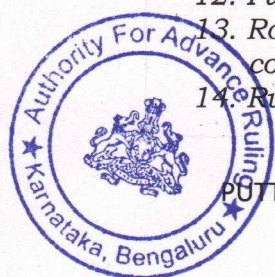
“Article 243G of the constitution deals with Powers, authority and responsibilities of Panchayats Subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

Eleventh schedule

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, landconsolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, water ways and other means of communication.
14. Rural electrification, including distribution of electricity.



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15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. **Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.**
28. Public distribution system.
29. Maintenance of community assets.

11. The applicant has rented his property to the Backward Classes Welfare Department, Government of Karnataka, who in turn is using the same for providing hostel facilities to the post metric girls of backward classes. This is in relation to the function entrusted to a panchayat under article 243G of the constitution which is covered by 27th entry of 11th schedule which says **Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.**

12. Since the applicant is providing to the State Government pure services by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution, the same is covered under the entry number 3 of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 and hence is exempted under the CGST Act, 2017. For the same reasons, the activity is also exempted under the KGST Act, 2017.

13. In view of the foregoing, we rule as follows:

RULING

The said transaction carried out by the applicant providing pure service in terms of renting of building to Backward Classes Welfare Department, Government of Karnataka for the purpose of an activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution and consequently is exempted from payment of taxes as per entry number 3 of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017.

(Dr. M. P. Ravi Prasad)

MEMBER

Karnataka Advance Ruling Authority

Place: Bengaluru - 560 009

Date: 06-04-2021

(Mashhood Ur Rehman Farooqui)

Member

MEMBER

Karnataka Advance Ruling Authority

Bengaluru - 560 009

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 Principal Commissioner of Central Tax, Bangalore West Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-60, Bengaluru.
5. Office Folder.



RULING

The said transaction carried out by the applicant providing pure service in terms of renting of building to Backward Class Welfare Department, Government of Karnataka for the purpose of an activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution and consequently is exempted from payment of taxes as per entry number 3 of Notification No. 12/2017-Central Tax (Rate) dated 28-05-2017.

(Member)
MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

(Dr. M. R. Narayana)
MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009
Date: 08-04-2021



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