

WEST BENGAL AUTHORITY FOR ADVANCE RULING GOODS
AND SERVICES TAX

14 Beliaghata Road, Kolkata–700015

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

Members present:

Dr Tanisha Dutta, Joint Commissioner,
CGST & CX

Jaydip Kumar Chakrabarti, Senior Joint
Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called “the GST Act”), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	OM PRAKASH MAHAWAR
Address	BL-6 15B, Veronica Tower, 54/10 DC Dey Road, Tangra, Kolkata, West Bengal- 700015
GSTIN/User-id	Unregistered
Case Number	WBAAR 09 of 2024
ARN	AD1904240109716
Date of application	May 09, 2024
Order number and date	03/WBAAR/2025-26 dated 08.05.2025
Applicant's representative heard	Mr. Sunil Kr. Jain, Authorized Representative

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant submits that it intends to get a land from West Bengal Housing Infrastructure Development Corporation Ltd., a Government of West Bengal Company on 99 years lease for setting up of Hotel-cum Shopping and Multiplex under the principal use- Assembly - Mercantile Retail, which includes the permission to construct certain area as residential flats.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

Q1. Whether the applicant is liable for any kind of GST on its construction work for the prospective clients:

- a) When lump sum payment is charged;
- b) When periodic payment is charged for agreed term;

Q2. If GST is liable, what shall be the HSN and GST rate and whether GST shall be on entire amount received or on amount after deduction as attributable to land portion i.e 1/3 of consideration by virtue of para 2 in rate Notification No. 11/2017 dated 28-6-2017, as amended?

Q3. If it is accommodation service, whether applicant is eligible for exemption in clause 12 of Not. No.12/2017 dated 28-6-2017 as amended?

Q4. Whether GST is payable for monthly/annual maintenance charges? If yes, HSN and GST rate?

1.4 An applicant desirous of obtaining an advance ruling is required to file an application on the common portal in FORM GST ARA-01 in respect of subject matter as specified in sub-section (2) of section 97 of the GST Act. The questions on which the advance ruling is sought for is found to be covered under clause (a), (b), (c) and (e) of sub-section (2) of section 97 of the GST Act.

1.5 The applicant states that the questions raised in the application neither have been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The application is, therefore, admitted.

2. Submission of the Applicant

2.1 The applicant submits that the applicant, Mr. Om Prakash Mahawar either in his name or in name of some entity (e.g. company, LLP, partnership firm, AOP, wherein he shall be shareholder/partner/member) intends to get a land from West Bengal Housing Infrastructure Development Corporation Ltd., a Government of West Bengal Company (herein after referred as WBHIDCO) on 99 years lease for the purpose of setting up of Hotel-cum Shopping and Multiplex under the principal use- Assembly- Mercantile Retail. The applicant has produced the Draft Lease Deed wherein it includes permission to construct certain area as residential flats (as per notification no.1042-UD/O/M/HID/41-3/2011 Dated, 22 March, 2012), issued by Government of West Bengal and sell such units to prospective customers.

2.2. According to the Draft Lease Deed as per tender, lessee is not permitted to sub-lease land or part thereof. However, the applicant, being the lessee, will be permitted to sub-lease/ assign right on constructed area. Moreover, clause no. (xi) of the draft says lessee shall not sub-divide or sub-lease the demised land/ or any part thereof. However, the building constructed thereon or the structure constructed thereon / or any part thereof may be allowed for sub-leasing/ sub-letting/ assignment by the lessor i.e. WBHIDCO on result of specific proposal keeping the principal use unchanged and on payment of prescribed fees, if any. There is an option for lessee for renewal of lease for the like term on expiry of original lease.

2.3 Clause (xiii) of the said lease deed says that when lessee does not continue till expiry of lease period, then lessor (WBHIDCO) shall take over the land at original premium taken plus cost of construction done thereon at depreciated value. This clause clearly shows that if lease is not renewed, then constructed area thereon at depreciated value lies with lessee or then owner of constructed area. The applicant lessee shall assign similar clause of right to prospective customer and thus prospective customer only shall be eligible for such amount towards constructed area, if lease is not renewed for any reason after expiry of initial lease. Thus, assigning such rights to prospective clients means transferring ownership rights to them.

2.4 Further, applicant states that though the lessee is not permitted to sub-lease demise land or any part thereof, but it can sub-lease/sub-let /assign constructed building or part thereof. Thus. it is obvious that ownership of land remains with WBHIDCO whereas all rights, title, obligation with respect to construction is with lessee. Now the deed permits such constructed property could be sub-leased, let or assigned, meaning thereby the lessee (applicant) can either let the constructed property or absolutely assign rights thereon.

2.5 The applicant may sub-lease/assign rights of constructed area in following two models:

- a. one-time lump sum payment (may be payable in installments till completion and granting possession and registry in favour of prospective clients) for constructed units,
- b. against periodic payments for use constructed area, during the term of agreement, without any registry with Registrar and on expiry constructed area shall be repossessed by lessee i.e. the applicant.

2.6 Besides above arrangement, prospective customers may also be required to pay monthly/annual maintenance charges either directly to the applicant or to some society made for the same.

Applicant's Belief

Sl.no	Transaction Nature	Classification	GST Rate
1	Providing constructed residential units to its prospective clients at lump sum amount payable on or before possession and registry and with clients having future rights.	covered under clause HSN 9954, Construction services, Sr No. 3(ia) of rate no.11/2017 dated 28-6-2017 as amended	7.5%
2	Providing constructed Commercial units to its prospective clients at lump sum amount payable on or before possession and registry and with clients having future rights	covered under clause HSN 9954, Construction services, Sr No. 3(if) of rate no.11/2017 dated 28-6-2017 as amended	18%
3	Providing constructed residential units to its prospective clients at periodic payment for agreed period with no right to client at the end of term	covered under clause HSN 996329, Accommodation services, Sr No. 7(iv) of rate no.11/2017 dated 28-6-2017 as amended, however subject to exemption in clause 12 of No. 12/2017	0%
4	Providing constructed commercial units to its prospective clients at periodic payment for agreed period with no right to client at the end of term	covered under clause HSN 996329, Accommodation services, Sr No. 7(iv) of rate no.11/2017 dated 28-6-2017 as amended	18%

5	Providing maintenance services for monthly or periodic payment to residential unit holders whether falling under 1 or 3	covered under clause HSN 9995, Services of membership organisations, Sr No. 33 of rate no.11/2017 dated 28-6- 2017 as amended, eligible for exemption as per Sr No. 77(c) of rate no.12/2017 dated 28-6-2017 as amended	18%
6	Providing maintenance services for monthly or periodic payment to commercial unit holders whether falling under 1 or 3	covered under clause HSN 9995, Services of membership organisations, Sr No. 33 of rate no.11/2017 dated 28-6- 2017 as amended	18%

2.7 Further some judicial references are also being submitted as under :

There is one more ruling by Maharashtra AAAR in GST regime. In the said ruling, the decision was against the applicant, however, the principle inferred from it is that any transfer of land, whether termed as lease or not for a period more than 30 years shall be considered as sale. Ratio of decision may be used in our favour that land cost is included in price charged for the units sold. That is if GST is payable, he should be eligible for abatement of land as well.

[2020] 117 taxmann.com 392 (AAAR-MAHARASHTRA) Nagpur Integrated Township (P.) Ltd.,

“Appellant developer had entered into an agreement with Maharashtra Airport Development Authority (MADC) whereby appellant was granted right to design, finance and develop a township project comprising of residential apartments, commercial complexes, etc. on land owned by MADC - As per agreement, appellant was permitted to grant long term lease of residential apartments and commercial buildings and same could not be sold outright in favour of buyers. It was observed that though appellant had drafted agreement in such a way to project it as a lease transaction, said transaction could not be a lease transaction but was an agreement for construction of residential flats as agreement had taken place during construction of project and lease payments were made slab wise before completion of project which never happens in lease of a flat or a unit - Further, fact that almost 95 per cent of amount comprising lease consideration was paid before possession of apartment, it was evident that it was nothing but a sale transaction projected as a lease transaction and thus will not come within purview of renting of residential dwelling for use as residence”

Other references:

As early as 1928 in the decision in the case of Archaka Sundara Raju Dikshatulu v. Archaka

Seshadri Dikshatulu reported in (1928) 54 MLJ 76, the Court held that the lease for 99 years or for a long term in consideration of a premium paid down is as much an alienation as a sale or mortgage. This Court pointed out that the mere use of the word 'lease' or the fact that a long term is fixed would not by itself make the document in lease. In this connection, this Court followed the decision in the case of Rama Varma Tambaran v. Raman Nayar reported in (1882) ILR 5 M 89, holding that there was no real distinction between mischief of such a transfer in perpetuity and a transfer for the long period of 96 years. Thus, this Court took a view that a permanent lease is as much an alienation as a sale.

3. Observations & Findings of the Authority

3.1 We have gone through the records of the issue as well as submissions made by the authorized representative of the applicant during the course of personal hearing. We have considered the questions raised in the application on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the authorized representative during the time of personal hearing.

3.2 The first question raised by the applicant whether any kind of GST is applicable on its construction work for the prospective clients in two cases i) when lump sum payment is charged and ii) when periodic payment is charged for agreed term. In applicant's submission, we found that applicant intends to get the land from WBHIDCO on 99 years lease for the purpose of setting up of Hotel-cum Shopping and Multiplex under the principal use- Assembly- Mercantile Retail and construct certain area as residential flats. The term Assembly – Mercantile Retail defines as –

- (i) Assembly building: Any building or part thereof where groups of people congregate or gather for amusement or recreation or for social, patriotic, civil, travel, sports and similar other purposes as the principal use excluding and except club, religious and political purpose. Such building shall include theatres, motion picture houses, drive- in-theatres, city halls, town halls, auditoria, exhibition halls, museums, skating rinks, gymnasiums, restaurants, eating houses, bars, hotels, boarding houses, dance halls, gymkhanas, passenger station and terminals of air, surface and other public transportation services, recreation piers and stadiums.
- (ii) Mercantile building (retail): Any building or part thereof used principally as shops, stores or markets for display or retail sale of merchandise or for office and storage of service facilities incidental hereto.

It is hereby concluded from the above discussion that the service of construction will be the supply and also applicant intends to develop a greater number of commercial flats compared to residential flats. This development falls under the purview of the Real Estate Project (REP) as defined by the Real Estate (Regulation and Development) Act, 2016 (RERA).

Section 2 of RERA ACT, 2016

zn) Real Estate Project means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto.

It is pertinent to mention that the project can be classified as a Residential Real Estate Project (RREP) only if the carpet area of the commercial apartments is not more than 15 per cent of the total carpet area of all the apartments in the REP stated vide Notification No. 11/2017 and 03/2019 C.T.(R) dated 28.06.2017 and 29.03.2019 respectively.

Further, from the submission made by the applicant, it appears that the applicant is not permitted to sub-lease the demise land or any part thereof, but it can sub-lease/ sub-let/ assign constructed building or part thereof. Thus, it is obvious that all rights, title, obligation with respect to constructed part is with the applicant and the applicant can assign such rights to their prospective clients means transferring ownership rights.

Ongoing through the Notification no. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by 03/2019 Central Tax (Rate) dated 29.03.2019, subject to conditions mentioned in the said notification, we have found that :

Sl.No.	Chapter Heading/ Sub Heading	Description of Goods	Rate of Tax (CGST)
3	Heading 9954	ia) Construction of residential apartments other than affordable residential apartments by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or	3.75%

		(if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer , wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service) [emphasis added]	
		(ib) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter in an RREP which commences on or after 1 st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer , wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service) [emphasis added]	3.75%
		(id) Construction of residential apartments other than affordable residential apartments by a promoter in a REP other than a RREP which commences on or after 1 st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer , wholly or partly, except where the entire consideration has been received after issuance of completion certificate,	3.75%

		where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service) [emphasis added]	
		(if) Construction of a complex, building, civil structure or a part thereof, including,- (i) commercial apartments (shops, offices, godowns etc.) by a promoter in a REP other than RREP, (ii) residential apartments in an ongoing project, other than affordable residential apartments, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item in the manner prescribed herein, but excluding supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) above intended for sale to a buyer , wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. [emphasis added]	9%

3.3 We have found that, according to the entries vide Sl. no. 3(ia), 3(ib), 3(id) and 3(if) of notification no. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by 03/2019 Central Tax (Rate) dated 29.03.2019, the pivotal point of qualification for payment of taxes at a lower rate is that the respective properties should be **intended for sale to a buyer**.

3.4 According to the provisions of clause (a) of sub-section (1) of section 7 of the GST Act, 'Sale' has been included in the broader arena of 'supply' but the term 'sale' itself is not defined in the GST Act.

As a result, we have explored the definition of sale from the angles of other Acts and relevant sources and have found that:

Chapter III of The Transfer of Property Act, 1882 relates to "Of Sales of Immoveable Property" where section 54 thereof defines "sales" as "**a transfer of ownership** in exchange for a price paid or promised or part-paid and part-promised." **[emphasis added]**

Again, as per Black's Law Dictionary, Revised Fourth Edition (1968), "Sale" is explained as a contract between two parties, called, respectively, the "seller" (or vendor) and the "buyer," (or purchaser,) by which the former, in consideration of the payment or promise of payment of a certain price in money, **transfers to the latter the title and the possession of property.** *[emphasis added]*

3.5 Thus, the crux of 'sale' lies in the occasion of 'transfer of title or transfer of ownership by one person to another'.

3.6 In this case, the applicant has already submitted that he intends to get the land from WBHIDCO **on 99 years lease** for the purpose of setting up of Hotel-cum Shopping and Multiplex under the principal use- Assembly- Mercantile Retail. *[emphasis added]*.

3.7 Moreover, as per the Draft Lease Deed as per tender relating to this case, the lessee is not permitted to sub-lease land or part thereof. However, the applicant will be permitted to **sublease/ assign right on constructed area**. Moreover, Clause no. (xi) of the draft says **lessee shall not sub-divide or sub-lease the demised land/ or any part thereof**. However, the **building constructed thereon or the structure constructed thereon / or any part thereof may be allowed for sub-leasing / sub-letting/assignment** by the lessor i.e. WBHIDCO on result of specific proposal keeping the principal use unchanged and on payment of prescribed fees, if any. *[emphasis added]*

3.8 Thus from the very contract itself, it is clear that there can be no occasion of any transfer of title or transfer of ownership of the land on which the constructed property will stand and that the said constructed property also can only undergo a sub-leasing or sub-letting or assignment of right. It is beyond any debate that sub-leasing or sub-letting or assignment of right does not involve any transfer of title or transfer of ownership and hence cannot be connected to the term 'sale'.

3.9 Hence, the condition of "**intended for sale to a buyer**" according to the entries vide Sl. no. 3(ia), 3(ib), 3(id) and 3(if) of notification no. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by 03/2019 Central Tax (Rate) dated 29.03.2019, shall not be applicable in this case and the applicant shall not qualify for paying tax at a lower rate.

The instant supply shall thus be guided by the entry vide Sl. no. 3(xii) of notification no. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended by 03/2019 Central Tax (Rate) dated 29.03.2019.

3.10 Thus, regarding the question raised by the applicant as to whether the applicant is liable for any kind of GST on its construction work for the prospective clients: a) When lump sum payment is charged; b) When periodic payment is charged for agreed term and, the applicable HSN and GST rate applicable in the instant case, it is found that GST on

construction work for prospective clients, regardless of whether one charges a lump sum or periodic payments is liable to be paid and the applicable SAC (and not HSN Code) on this supply is 9954 (Construction Services) and the applicable tax rate on the supply under consideration shall be 18%.

Now regarding the second question as to whether GST shall be on entire amount received or on amount after deduction as attributable to land portion i.e. 1/3 of consideration by virtue of para 2 in rate notification no.11/2017 dated 28-6-2017 as amended, we see that as per Para 2 of Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017, GST shall be calculated on the value of supply, excluding the value of land which shall be calculated as one third of the total amount charged for such supply. Further, the term 'total amount' has been explained as the **amount charged for transfer of land or undivided share of land**, as the case may be **including by way of lease or sublease**. *[emphasis added]*

The relevant Para 2 stated above is represented below:

2. In case of supply of service specified in column (3), in item (i); sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), 10(i), (ia), (ib), (ic), (id), (ie) and (if) against serial number 3 of the Table above, involving transfer of land or undivided share of land, as the case may be, the value of such supply shall be equivalent to the total amount charged for such supply less the value of transfer of land or undivided share of land, as the case may be, and the value of such transfer of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation. – For the purposes of this paragraph and paragraph 2A below, "total amount." means the sum total of,–

- (a) consideration charged for aforesaid service; and
- (b) amount charged for transfer of land or undivided share of land, as the case may be including by way of lease or sublease.

Thus, the applicant is eligible for a deduction as attributable to land portion i.e. 1/3 of consideration on the total value of supply for the purpose of payment of applicable tax.

3.11 Regarding the third question raised by the applicant relating to exemption in terms of Accommodation Service, we have observed that upon a conjoint reading of the Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017 and Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, "Accommodation Service" is defined under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017: Accommodation Service under SAC Chapter heading 9963 includes the following:

Heading 9963		Accommodation, food and beverage services
Group 99631		Accommodation services
	996311	Room or unit accommodation services provided by Hotels, Inn, Guest House, Club and the like
	996312	Camp site services
	996313	Recreational and vacation camp services
Group 99632		Other accommodation services
	996321	Room or unit accommodation services for students in student residences
	996322	Room or unit accommodation services provided by Hostels, Camps, Paying Guest and the like
	996329	Other room or unit accommodation services nowhere else classified

As per entry in sl. no. 12 of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, Services by way of renting of residential dwelling was covered under both 'Accommodation Services' (SAC: 9963) as well as Real Estate Services (SAC: 9972) till 14.07.2024. With effect from 15.07.2024 such is treated as a supply only under Real Estate Services, where it states that - Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person is exempted. However, for the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, – (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and (ii) such renting is on his own account and not that of the proprietorship concern.

Moreover, this entry does not apply to (i) accommodation services for students in student residences; and (ii) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.

To provide for exemption on accommodation services for students in student residences; and accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like, a new entry vide sl. no. 12A has been inserted in the of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, with effect from 15.07.2024 whereby "Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of 90 days" under 'Accommodation Services' (SAC: 9963) is exempted.

Thus, considering the above facts, it appears that leasing out of constructed property on leased land does not fall under the category of "Accommodation Service" and hence the question of exemption under entry in sl. No. 12 of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017 as asked for by the applicant does not arise.

3.12 Regarding the fourth question as to whether GST is payable for monthly/annual maintenance charges and if payable, the HSN and GST rate, we have observed that GST is payable on monthly/annual maintenance charges as per entry in sl. no. 33 of Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017. The SAC Code (and not HSN code) in this case would be 9995 and the applicable GST rate is 18%.

In view of the above discussions, we rule as under:

RULING

Q1. Whether the applicant is liable for any kind of GST on its construction work for the prospective clients:

- a) When lump sum payment is charged
- b) When periodic payment is charged for agreed term

Ans. GST on construction work for prospective clients, regardless of whether one charges a lump sum or periodic payments is liable to be paid.

Q2. If GST is liable, what shall be HSN and GST rate and whether GST shall be on entire amount received or on amount after deduction as attributable to land portion i.e 1/3 of consideration by virtue of para 2 in rate notification no. 11/2017 dated 28-6-2017 as amended?

Ans. The applicable SAC (and not HSN Code) on this supply is 9954 (Construction Services) and the applicable tax rate on the supply under consideration shall be 18%.The applicant is eligible for a deduction as attributable to land portion i.e. 1/3 of consideration on the total value of supply for the purpose of payment of applicable tax.

Q3. If it is accommodation service, whether applicant is eligible for exemption in clause 12 of Not.No.12/2017 dated 28-6-2017 as amended?

Ans. It will not fall under Accommodation Service (SAC: 9963) and hence the question of exemption under entry in sl. No. 12 of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017 as asked for by the applicant does not arise.

Q4. Whether GST is payable for monthly/annual maintenance charges? If yes, HSN and GST rate?

Ans. GST is payable on monthly/annual maintenance charges as per entry in sl. no. 33 of

Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017. The SAC Code (and not HSN code) in this case would be 9995 and the applicable GST rate is 18%.

(Dr. TANISHA DUTTA)

Member

West Bengal Authority for Advance Ruling

(JAYDIP KUMAR CHAKRABARTI)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 08.05.2025

To,

SHRI OM PRAKASH MAHAWAR

BL-6 15B, Veronica Tower, 54/10 DC Dey Road, Tangra,
Kolkata, West Bengal- 700015

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Copy to:

(1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B. Connector,
Kolkata-700107

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