

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:

Shafeeq S, 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	ORSINO HOTELS & RESORTS LLP
Address	Pine Tree Spa Resort, Bhanu Bhakta Road, Ward No. 30, Darjeeling, Pincode-734101
GSTIN	19AAIFO0151C1ZN
Case Number	WBAAR 05 of 2025-26
ARN	AD190425007759P
Date of application	April 22, 2025
Jurisdictional Authority (State)	Darjeeling Charge
Jurisdictional Authority (Central)	Darjeeling Division , Siliguri Commissionerate
Order number and date	08/WBAAR/2025-26 dated 22.08.2025
Applicant's representative heard	Mr. Gaurav Sharma, 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 is engaged in the hotel business through its property named Orsino Spa Resort (formerly known as Hotel Pine Tree Spa Resort) located in Darjeeling. The resort comprises 45 rooms and offers various amenities such as a spa, banquet facilities, a bar, a multi-cuisine restaurant, and a cafe. The applicant has entered into a contractual agreement with the Reserve Bank of India (RBI) on 19th March 2025 to provide continuous accommodation services for RBI officers and their families. As per the agreement, the applicant is obligated to provide a minimum of two double-bedded "Premium Rooms" per day at a pre-agreed rate. The agreement is valid from 1st April 2025 to 31st March 2026, with a provision for extension. The agreement shall be executed as per the terms and conditions agreed to between the parties.

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:

(i) Whether the accommodation services provided by the applicant to RBI having room tariff of less than Rs.7500 per day per unit, as part of the agreement for providing accommodation (rooms) services to RBI staff, are taxable under GST at the rate of 12%?

(ii) If not, under which HSN code and tax rate will the services be taxed?

1.4 The questions on which the advance ruling is sought for is found to be covered under clause (a) 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 are pending before any authority under any provision of the GST Act.

1.6 The application is, therefore, admitted.

Submission of the Applicant

2.1 "The applicant is running a hotel business under the name "Orsino Hotels & Resorts LLP," having a property named ORSINO SPA RESORT, having erstwhile name as HOTEL PINE TREE SPA RESORT, in Darjeeling, which has a capacity of 45 rooms along with additional amenities like a spa, banquet facilities, a bar, a multi-cuisine restaurant and a café. The

applicant provides various services, including accommodation, food and beverage services, spa services, and event hosting.

2.2 The applicant has entered into a contractual agreement with the Reserve Bank of India (RBI), dated 19th March 2025 wherein the applicant, Orsino Hotels & Resorts shall provide accommodation services (i.e., rooms) on a continuous basis for the officers of RBI. These services are provided as part of the arrangement, wherein the hotel is obligated to provide rooms for RBI's staff whenever required.

2.3 The agreement includes providing for 150 "Premium Rooms" for the Officers of RBI & their families with the condition of minimum 2 double-bedded rooms per day at an agreed rate. The agreement is initially executed for a period of one year with an option to extend the same by a further period. The agreement shall be effective from 1st April 2025 to 31st March 2026.

2.4 The applicant shall be required provide a room of such category as agreed in the agreement along with other amenities. In case, the room is uninhabitable they shall provide room of similar category having similar facilities.

2.5 The interior of the rooms in the said hotel would be tastefully done, fully furnished with all modern amenities including attached bath, Color T.V. , intercom in each room, tea / coffee maker with sufficient number of tea, sugar & milk sachets in each room of the said hotel to be used by the RBI officers and their families. Check in time- 12 noon, check out time-11:00am.

2.6 In consideration for the above services provided, the RBI shall pay the room tariff per day at an agreed rate. Rs. 4,32,975 is paid as advance while signing the agreement.

The tariff for Premium Room shall be as:

Period	Offer Rate	Net Rate
01/04/2025 to 31/03/2026	Rs. 10500/- plus taxes	Rs. 5773/- including taxes*

*GST @ 12% (CGST 6% and SGST 6%) inclusive

2.7 The RBI shall be deducting TDS under Section 194I of the Income Tax Act, 1961, in respect of the payments made by RBI for the accommodation services under the said contract.

2.8 In case of unutilized room nights, if any, during the current agreement period, the same will be carried over automatically to the next agreement period, regardless of the status of the renewal of agreement for the next FY 2026-27.

2.9 The agreement shall be executed as per terms and conditions agreed to between the parties.

2.10 The applicant is a hotel owner and provides hotel accommodation services to the clients through its various properties.

2.11 The definition of “Hotel Accommodation” has been provided in Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 as:

‘Hotel accommodation’ means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

2.12 Accommodation services have been quoted in Chapter 99, section 6 and heading 9963 as per Notification No. 11/2017 Central Tax (rate) as amended.

GST Rate applicable w.e.f. 18.07.2022 on Accommodation services provided are as follows:

Room Tariff	GST Rate
Value of supply less than Rs.7500 per day per unit 12%	12%
Value of supply more than Rs.7500 per day per unit	18%

2.13 Since, the room tariff per unit per day for these accommodation services provided to RBI as per the agreement does not exceed Rs.7500, therefore, as per our understanding the GST rate applicable on us shall be 12% (6% CGST & 6% SGST).

2.14 Again, as per section 12 of the IGST Act '2017, the place of supply of services for Services by way of lodging accommodation by a hotel, inn, guest house, home stay or campsite, by whatever name called, and including a house boat or any other vessel; shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located. Hence, as per our understanding provider of accommodation service can only charge CGST and SGST and such services are not subject to levy of IGST.

2.15 Demarcation of Property in the Context of Renting

It is respectfully submitted that a critical aspect of “renting of immovable property” involves the clear demarcation of the specific portion of the property being let out. The concept of renting inherently requires that the lessee be given exclusive possession and control over a defined portion of the property for a certain duration.

Demarcation of property means “clearly marking or establishing the boundaries and limits for a piece of land or property. This process involves physically indicating the edges or lines that separate one property from another, often utilizing fences, boundary markers, or surveying methods. The primary purpose of property demarcation is to define ownership rights, mitigate disputes, and facilitate accurate property assessments and transactions.”

Hence, demarcation of property being let out in renting services is extremely important. However, there is no such requirement in the case of Hotel Accommodation services provided, since, in this there is no such need to define “ownership rights”.

In the present case, as per the terms of the contract submitted, there is no specific allotment or demarcation of any particular room or rooms out of the total 45 rooms. Instead, the agreement merely states that “any of the rooms available out of the 45 rooms shall be given for accommodation purpose only.”

This language clearly indicates that:

- The other party does not have exclusive rights to any specific part of the property.
- The rooms are provided on an availability basis, and are not fixed or identified in the agreement.
- The nature of supply is transient, service-based, and lacks the hallmark characteristics of a lease or tenancy.

This operational model is more akin to the provision of accommodation services, similar to that offered by hotels or lodging establishments, rather than traditional renting or leasing of immovable property.

2.16 Differentiation between Renting services and Services of Hotel Accommodation

Definition of Renting of Immovable Property (as per GST Law)

As per Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Entry No. 2, and the CGST Act:

“Renting of immovable property” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control.

However, in general legal parlance and under common law also, “renting” implies:

- Exclusive possession for a specified duration,
- Identified premises,
- Typically, longer-term arrangements, and
- Use of the property without active services or interference from the lessor.

Definition of Hotel Accommodation Services

Hotel accommodation services refer to the provision of temporary lodging by a hotel, inn, guest house, club, campsite, or other commercial establishment, and the same has been defined in Notification No.11/2017- Central Tax (Rate) as:

‘Hotel accommodation’ means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

Therefore, there lies key Differences between Renting services and Hotel Accommodation in the very nature of both the services.

Hence, as per our understanding, given the absence of demarcation, lack of exclusive possession, and the transient, service-based nature of the arrangement, it is submitted that the arrangement described in the contract does not constitute “renting of immovable property” under GST law. Instead, it clearly aligns with hotel accommodation services, which are classified differently under the GST rate schedule and may attract different tax treatment.”

3.Submission of the Revenue

3.1 The concerned officer from the revenue has not expressed any view on the merit of the issue raised by the applicant.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representative of the applicant during personal hearing.

4.2 As per the statement furnished, the applicant is running a hotel business under the name "Orsino Hotels & Resorts LLP," having a property named ORSINO SPA RESORT, having erstwhile name as HOTEL PINE TREE SPA RESORT in Darjeeling. It has a capacity of 45 rooms along with additional amenities like a spa, banquet facilities, a bar, a multi-cuisine restaurant and a café. The applicant provides various services including accommodation, food and beverage services, spa services, and event hosting.

The applicant has entered into a contractual agreement with the Reserve Bank of India (RBI), dated 19th March 2025 in terms of which the applicant has agreed to provide accommodation services (i.e., rooms) on a continuous basis for the officers of RBI. The agreement includes providing for 150 “ Premium Rooms” for the Officers of RBI & their families, with the condition of minimum 2 double-bedded rooms per day at an agreed rate for 75 days. The agreement is effective from 01st April 2025.

As per terms of the agreement the interior of the rooms in the hotel would be tastefully done, fully furnished with all modern amenities including attached bath, Color T.V. , intercom in each room,

tea / coffee maker with sufficient number of tea, sugar & milk sachets in each room of the said hotel to be used by the RBI officers and their families. In consideration for the above services provided, the RBI shall pay the room tariff per day at an agreed rate. The RBI has already paid Rs. 4, 32, 975.00 as advance while signing the agreement.

The tariff for 'Premium Room' shall be as under:

Period	Offer Rate	Net Rate
01/04/2025 to 31/03/2026	Rs.10500/- plus taxes	Rs.5773/- including taxes*

*GST @ 12% (CGST 6% and SGST 6%) inclusive.

Now the applicant has raised the following questions;

1. Whether the accommodation services provided by the applicant to RBI having room tariff of less than Rs.7500 per day per unit, as part of the contract for providing accommodation (rooms) services to RBI staff, are taxable under GST at the rate of 12%?
2. If not, under which HSN code and tax rate will the services be taxed?

4.3 The applicant believes that as the room tariff per unit per day for these accommodation services provided to RBI as per the agreement does not exceed Rs.7500, therefore, as per the applicant's understanding the GST rate applicable shall be 12% (6% CGST & 6% SGST).

Again, as per section 12 of the IGST Act '2017, the place of supply of services for Services by way of lodging accommodation by a hotel, inn, guest house, home stay or campsite, by whatever name called, and including a house boat or any other vessel; shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located. Hence, as per the applicant's understanding the provider of accommodation service can only charge CGST and SGST and such services are not subject to levy of IGST.

4.4 Before going into the details of the discussion we must clarify certain issues and concepts related to the matters of this application for Advance Ruling.

Hotel: This term has not been defined in the GST Act. Usually a hotel is an establishment that provides paid lodging accommodation on a short-term basis. It is a place that has rooms in which people can stay especially when they are traveling and it may provide food, and other varied services for paying guests. The only reference to hotel in the GST Act is to be found in the provisions of 'Place of supply of services where location of supplier and recipients is in India' under Section 12 of the IGST Act, 2017. There the concept of hotel is associated with the service of lodging accommodation.

Accommodation Service: Again this concept is not defined in the GST Act itself. However, as per Section 12 of the IGST Act, 2017 accommodation service has been associated among other

places with hotel also.

A definition, however, is forthcoming in paragraph 4 relating to Explanation in the Notification No. 11/2017-CT(Rate) dated 28.06.2017, as amended from time to time. In the said Notification, clause (xxxiv) was inserted vide Notification No. 20/2019-CT(Rate) dated 30.09.2019, wherein it is mentioned that:

“Hotel accommodation” means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

Here accommodation service refers to providing residential or lodging services for a short period where the tariff for a unit of accommodation is usually declared per unit per day. Accommodation service may include certain other facilities depending on the policy of the hotel. For example, in the case of the applicant, they have submitted that for the rooms under EP (European Plan) accommodation service refers to facility for staying in the room only. Again for the rooms under AP (American Plan) accommodation service refers to facility for staying in the room and all meals. For the rooms under CP (Continental Plan) accommodation service means facility for staying in the room and breakfast.

Room Tariff: It refers to the price charged by the hotel to the occupant for a particular room on per day basis. Usually, it indicates the price for staying in the room only. However, depending on the policy of the hotel this may include charges for certain other services as well. For example, in AP the room tariff includes the charge for staying at the room and the charge for breakfast and two meals.

Value of Supply (for hotel): Value of Supply has been defined under Section 15 of the GST Act. The act defines value of supply as the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Applying this definition to a hotel, the value of supply is the room tariff actually charged by the hotelier. This value shall not include the discounts as per the provisions of Section 15(3) of the GST Act.

4.5 Recent changes in the GST Act in respect of accommodation service given by the hotels:

Notification No. 05/2025 Central Tax (Rate) Dated 16.01.2025 has brought certain significant changes with effect from 01.04.2025 by amending Notification No. 11/2017 Central Tax (Rate) Dated 28.06.2017 in respect of hotel accommodation service.

Here we are reproducing the amendment.

In the said notification [Notification No. 11/2017 Central Tax (Rate) Dated 28.06.2017], -

(i) *in paragraph 4 relating to Explanation, with effect from the 1st day of April, 2025,-*

(a) clause (xxxv) shall be omitted;

*(b) for clause (xxxvi), the following clause shall be substituted,
namely:- “ (xxxvi) “Specified premises”, for a financial year,
means,-*

(a) a premises from where the supplier has provided in the preceding financial year, ‘hotel accommodation’ service having the value of supply of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent; or

(b) a premises for which a registered person supplying ‘hotel accommodation’ service has filed a declaration, on or after the 1st of January and not later than 31st of March of the preceding financial year, declaring the said premises to be a specified premises; or

(c) a premises for which a person applying for registration has filed a declaration, within fifteen days of obtaining acknowledgement for the registration application, declaring the said premises to be a specified premises;”;

This amendment has brought the following changes in respect of accommodation services provided by hotels.

1. The concept of declared Tariff has been done away with from 01.04.2025 onwards.
2. As the concept of declared tariff has been abolished, the value of supply in respect of a hotel will follow the concept of value of supply as provided under Section 15 of the GST Act from 01.04.2025 onwards. It will be the actual value of supply charged by the hotelier. This means that from 01.04.2025 onwards the tax rate of accommodation service provided by a hotel will be determined by the actual value supply of the said service.
3. The definition of specified premises has been changed. For the period prior to 01.04.2025, “specified premises” meant premises providing ‘hotel accommodation’ services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.

From 01.04.2025, the definition of “specified premises” for a financial year includes any one of the following:

- A. **Price-based criteria:** Any premises where hotel accommodation services were provided in the previous financial year, with price exceeding seven thousand five hundred rupees per unit per day for any unit of accommodation.
- B. **Voluntary declaration by the existing suppliers:** Any premises for which a registered hotel service provider declares his premises as “specified premises” between 1st January and 31st March of the preceding financial year.
- C. **Declaration by new applicants:** Any premises which has been declared as “specified premises” by a person applying for registration within 15 days of receiving the acknowledgement for his application of registration.

In short, a premises automatically qualifies as “specified premises” for the current financial year if it meets the price criteria for the preceding financial year. Additionally, both existing and new hotel service providers have the option to voluntarily declare their premises as “specified premises” for a financial year. For the existing suppliers, the declaration has to be furnished by the specified date during the current financial year for being considered as “specified premises” in the next financial year.

4.6 It is in the above backdrop that we have to discuss the issues under this application for Advance Ruling. To determine the rate of tax on accommodation services provided by any hotel we should keep in mind the definitions of room rent and value of supply as discussed in Paragraph 4.4. It is also learnt from the Authorised Representative that the applicant offers American Plan (AP) and Continental Plan (CP) in addition to the room rent only plan, commonly known as European Plan (EP). In tune with the norms of the industry, the applicant provides breakfast, lunch and dinner along with accommodation in AP and continental breakfast along with accommodation in CP.

The American Plan (AP) refers to a pricing model in the hotel industry where the room rate of a hotel inter alia includes all three meals: breakfast, lunch, and dinner. It is essentially an all-inclusive package that covers accommodation and meals for the duration of stay of the guests.

The Continental Plan (CP) in a hotel means that the room rate includes a continental breakfast. This typically includes items like pastries, bread, fruit, coffee, and juice. The breakfast is usually served in the hotel's restaurant or at a designated breakfast area, either buffet-styled or plated. It is similar to a ‘bed and breakfast’ arrangement, but the breakfast is usually a lighter, continental-style meal.

Generally, the guests do not receive any deduction from the room rate if they skip any of the meals in an AP (American Plan) or breakfast in a CP (Continental Plan) package. AP or CP typically includes the room rate plus three meals (breakfast, lunch, and dinner) or breakfast respectively as a bundled package. The price is usually set to cover the cost of both the room and the meals. So not utilizing the meals does not usually result in a reduced rate. Hotels often structure their pricing

with the AP or CP as a package deal. The cost of the meals is factored into the overall price, even if guests do not consume them. Hotels have fixed costs associated with providing meals, such as staff, ingredients, and overhead for kitchen and serving. These costs are spread across all guests, regardless of whether they choose to eat all or some of the meals or not. In course of personal hearing the Authorised Representative has accepted that the room rate charged by the applicant is plan-specific i.e. when a room is booked under AP the charge will always be for both accommodation and meals regardless of the situation where the guests skip any or all the meals. In most cases, hotels do not show separately in the bill the charges for the room and the meals when a room is booked on an AP or a CP. The applicant, however, mentions the charges separately according to the specimen bill furnished before us.

The entire amount, even if separately charged for food, will be considered as hotel accommodation service (SAC code being 99631) for the reasons noted as above. The entire amount as supply of hotel accommodation service is to be taxed either under serial no. 7(i) or under serial no. 7(vi) of the Notification No. 11/ 2017- Central Tax (Rate) Dated 28.06.2017 depending on the value of supply of a unit of accommodation. If the value is less than or equal to Rupees Seven thousand five hundred, the supply is to be taxed under serial no. 7(i) i.e. 6% CGST+ 6% SGST. On the other hand, if the value of supply is more than Rupees Seven thousand five hundred, the supply is to be taxed under serial no. 7(vi) i.e. 9% CGST+ 9% SGST. Since the agreement as produced before us stipulates Rupees Five thousand seven hundred seventy three as the highest room rent and no other related charge has been mentioned, the amount is to be taxed under serial no. 7(i) as above.

4.7 In his interpretation of law and/ or facts the applicant has rightly pointed out that the provider of accommodation service can charge CGST and SGST and such services are not subject to levy of IGST so far as the applicant's case is concerned. Here we must refer to the relevant provisions of Section 12 of the IGST Act. The relevant portions are reproduced hereinunder:

12. (1) *The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.*
- (2) *The place of supply of services, except the services specified in sub-sections (3) to (14),—*
 - (a) *made to a registered person shall be the location of such person;*
 - (b) *made to any person other than a registered person shall be,—*
 - (i) *the location of the recipient where the address on record exists; and*
 - (ii) *the location of the supplier of services in other cases*
- (3) *The place of supply of services,—*
 - (a) *directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related*

experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

(b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

(c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

(d) any services ancillary to the services referred to in clauses (a), (b) and (c), shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

By interpreting the legal provisions as above it is evident that as in the present case both the supplier and recipient of services are located in India and the services under question is covered by clause (b) of sub-section (3), the place of supply is West Bengal. Accordingly, CGST and SGST will be charged at the appropriate rate on the said supply of services.

4.8 During the course of personal hearing the Authorised Representative of the applicant raised another issue and accordingly has submitted an additional submission. The matter relates to whether providing hotel accommodation to RBI as per agreement can be considered as renting of immovable property. From the submission of the Authorised Representative it appears that the issue arises out of the confusion created by the fact that the RBI is deducting TDS under section 194I(b) of the Income Tax Act. This section refers to deduction of TDS in respect of payment made for rent of immovable property.

For the purpose of section 194I of the Income Tax Act,

"Rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any, -

(a) land; or

(b) building (including factory building); or

(c) land appurtenant to a building (including factory building); or

(d) machinery; or

(e) plant; or

(f) equipment; or

- (g) furniture; or
(h) fittings,

whether or not any or all of the above are owned by the payee.

As per the produced documents, the RBI has made a Lease Agreement with the applicant for use of rooms in the hotel building. As such, payment of rent as defined above will attract TDS under section 194I(b). There seems to be nothing unusual that the RBI will deduct TDS under this section while making payment to the applicant.

The applicant has tried to distinguish between the service of renting of immovable property and hotel accommodation service. He has put forward the argument that for the purpose of renting demarcation of property is vital. The clearly demarcated portion of a property is rented. But as per agreement there is no demarcated room to be provided to the RBI. Any two 'Premium Room' are to be provided to the RBI whenever there is such requirement. In other words, the lessor (here RBI) has no exclusive right to any specific part of the applicant's property.

On the other hand, Notification No. 11/2017 Central Tax (Rate) Dated 28.06.2017 has defined 'Hotel accommodation' as supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation. For the purpose of GST the two services i.e. hotel accommodation service and renting service are covered by two different entries. The SAC of Hotel accommodation service is 9963 and is covered by serial no. 7 (i) or (vi) of the Notification No. 11/2017 Central Tax (Rate) Dated 28.06.2017. On the other hand, the SAC of Renting service is 9972 and it is covered by serial no. 15 (7) of the said notification.

The referred two acts (Income Tax Act and Goods and Services Tax Act) are different. So far as the concept of hotel accommodation service in the GST is concerned there is no reference to the Income Tax Act. It has nothing to do with the Income Tax Act. So for the purpose of the GST Act, hotel accommodation service will come under serial no. 7 (i) or (vi) of the Notification No. 11/2017 Central Tax (Rate) Dated 28.06.2017 and the corresponding State Tax notification as amended.

In view of the foregoing discussion, we rule as under:

RULING

1. Whether the accommodation services provided by the applicant to RBI having room tariff of less than Rs.7500 per day per unit, as part of the contract for providing accommodation

(rooms) services to RBI staff, are taxable under GST at the rate of 12%?

Answer: The value of supply as discussed in Paragraph 4.7 has not exceeded Rupees Seven thousand five hundred for any room as per the agreement with RBI as submitted by the applicant's representative. So the answer is in positive.

2. If answer to question 1 is negative, under which HSN code and tax rate will the services be taxed?

Answer: The question does not arise in view of the answer to question 1 as above.

Sd/-

Sd/-

(SHAFEEQ S)

(JAYDIP KUMAR CHAKRABARTI)

Member

Member

West Bengal Authority for Advance Ruling

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 22nd August, 2025

To,

ORSINO HOTELS & RESORTS LLP

Pine Tree Spa Resort, Bhanu Bhakta Road, Ward No. 30,

Darjeeling, Pincode-734101

Copy to,

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

(2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015

(3) The Charge Officer, Darjeeling Charge, Ajit Mansion, Chowrasta, Mal, Darjeeling-734101

(4) The Commissioner, Siliguri Commissionerate, C.R. Building, Haren Mukherjee Road,
Hakimpara, Siliguri, Pincode-734001

(5) Office Copy