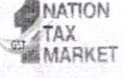


GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2023/18
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/64)

Date: - 26.04.2023

Name and address of the applicant	:	Nandini Ashram Trust 207, Sakar 5, B/h Natraj Cinema, Ashram Road,Ahmedabad, Gujarat 380 009.
GSTIN of the applicant	:	24AAATN8773B2ZL
Date of application	:	17.12.2022
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a), (b), (f)
Date of Personal Hearing	:	23.3.2023
Present for the applicant	:	Moin Mansuri.

Brief facts:

Nandini Ashram Trust, 207, Sakar 5, B/h Natraj Cinema, Ashram Road, Ahmedabad, Gujarat 380 009 [for short –‘applicant’] is registered under GST and their GSTIN is 24AAATN8773B2ZL.

2. The applicant is engaged in providing a wide range of professional consulting services viz architecture, engineering (MEPF), planning, urban design, landscape, sustainability, research and art, building design, interior design, surveying, environmental sciences, project management and project economics.

3. The applicant is a registered trust under the Bombay Charitable Trust Act. They also hold 12AA certificate issued by the Income Tax Authorities. In terms of the trust deed the applicant provides accommodation to pilgrims who visit the Ambaji Temple. The applicant further states that their room rent is Rs. 1000/- per day.

4. It is the applicant’s averment that in terms of notification No. 9/2017-Integrated Tax (Rate), dated 28.6.2017, a registered trust holding 12AA certificate is exempt from GST. The applicant has further relied upon the GST Council meeting no. 47 held on 18.7.2022 to submit that GST tax is applicable to hotel, guest house and Sarai whether the rent of room is Rs. 1,000/- (sic). Thereafter on



4.8.2022, the applicant states that on twitter it was informed that Sarais run by religious or charitable trust are exempt from GST irrespective of rent.

5. In view of the foregoing, the applicant has filed this application seeking advance ruling on the below mentioned questions viz

1. Whether they are liable for GST registration?
2. Whether they are liable to pay tax under GST registration.

6. During the course of personal hearing held on 23.3.2023, Shri Moin Mansuri, the authorized representative of the applicant, reiterated the submission.

Discussion and findings

7. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 provisions under the GGST Act.

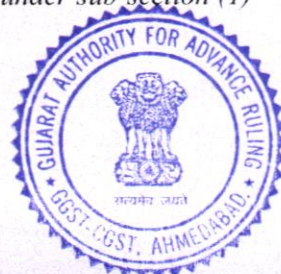
8. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

9. At the outset, we find that the submission made by the applicant is incomprehensible, lacking in facts, and at best cryptic. We are therefore constrained to pass the ruling in terms of what is mentioned in the application filed before us.

10. Before advertng to the submissions made by the applicant, we would like to reproduce the relevant provisions for ease of reference:

[Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017]
Exemption from CGST on specified intra-State services

In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1)



of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

TABLE

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
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
13	Heading 9963 or - Heading 9972 or Heading 9995 or any other Heading of Section 9	<p>Services by a person by way of-</p> <p>(a) conduct of any religious ceremony;</p> <p>(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act :</p> <p>Provided that nothing contained in entry (b) of this exemption shall apply to,-</p> <p>(i) renting of rooms where charges are one thousand rupees or more per day;</p> <p>(ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day;</p> <p>(iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.</p>	Nil	Nil

- (r) "charitable activities" means activities relating to -
- (i) public health by way of,-
- (A) care or 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 programmes 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;

Note Sr. No. 1 and 14 of the notification No. 9/2017-IT(Rate) is pari materia to Sr. No. 1 and 13 supra.



11. In terms of Sr. No. 1 of the notification No. 12/2017-CT(Rate), *supra*, services by an entity registered under section 12AA of the Income Tax Act, 1961, by way of charitable activities is exempted. The applicant claims that he falls within the ambit of a similar serial number 1 and 14 of notification No. 9/2017-IT (Rate) which as is mentioned is *pari materia* to the serial number mentioned above. However, we find that the notification defines 'charitable activities' to include (i) public health, (ii) advancement of religion spirituality, yoga (iii) advancement of educational programmes or skill development and (iv) preservation of environment including watershed, forests and wildlife. The applicant, is a registered trust under the Bombay Charitable Trust Act. They hold 12AA certificate issued by the Income Tax Authorities and in terms of the trust deed, as per applicant, they provide accommodation to the pilgrims who visit the Ambaji Temple for which they charge room rent @ Rs. 1000/- per day. However, there is nothing on record to substantiate the claim that all the accommodation granted are to the pilgrims visiting the Ambaji Temple.

12. Our above findings are substantiated by chapter 39 of the GST flyer, relating to *GST on Charitable and Religious Trusts*, wherein it is mentioned as follows:

This notification makes the exemption to charitable trusts available for charitable activities more specific. While the income from only those activities listed above is exempt from GST, income from the activities other than those mentioned above is taxable. Thus, there could be many services provided by charitable and religious trust which are not considered as charitable activities and hence, such services come under the GST net. The indicative list of such services could be renting of premises by such entities, grant of sponsorship and advertising rights during conduct of events/functions etc.

13. We would now like to examine it in terms of serial number 13(b) of the notification, as mentioned *supra*. We find that the exemption is for the activity of **renting of precincts of a religious place** meant for general public, which is

- *owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or*
- *a trust or an institution registered under sub-clause (v) of clause (23C) of section 10 of the Income-tax Act or*
- *a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act*



Further, as per the proviso, the exemption is not applicable in respect of three situations, wherein one of the situations is renting of rooms where charges are one thousand rupees or more per day.

14. Under chapter 39 of the GST flyer, relating to GST on Charitable and Religious Trusts, the clarification given in respect of the said activity is as under;

Thus, the law gives a limited exemption to renting of only religious precincts or a religious place meant for general public by the entity registered under Section 12AA of the Income Tax Act. As per clause (zc) of the said notification, the term "general public" means "the body of people at large sufficiently defined by some common quality of public or impersonal nature".

The term "religious place" as per the clause (zy) of the said notification means "a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality". Dictionary meaning of "precincts" is an area within the walls or perceived boundaries of a particular building or place, an enclosed or clearly defined area of ground around a cathedral, church, temple, college, etc.

This implies that if immovable properties owned by charitable trusts like marriage hall, convention hall, rest house for pilgrims, shops situated within the premises of a religious place are rented out, income from letting out of such property is exempt from GST. However, this exemption will not be available if charges for renting of rooms exceed 1000 per day or charges for renting of premises/kalyanamandapam etc exceed 10,000 per day or renting of shops/premises for business purposes exceed 10,000 per month. So also, if such properties are not situated in the precincts of a religious place meaning thereby not within walls or boundary walls of the religious place, income from such letting out will lose this exemption and income from it will be liable to GST.

15. The authorized representative of the applicant during the course of personal hearing held on 23.3.2023, was specifically asked as to whether the Nandini Ashram, was owned by the trust managing the Ambaji Temple, to which he answered in negative. On being further asked whether the rooms of Nandini Ashram which they were renting to pilgrims is located in the precincts of the Ambaji Temple, he informed that it was not within the boundary of the temple. Going by the definition of precinct as mentioned above, it is emphatically clear that the applicant is not eligible for the benefit of Sr. No. 13 of the notification *supra*.

16. Moving on to the second question as to whether they are liable to pay tax. We find that in terms of Sr. No. 14 of the notification No. 12/2017-CT (Rate), services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff below one thousand rupees per day or equivalent was exempted. However, in terms of notification No. 4/2022-CT (Rate) effective from 18.7.2022, serial number 14 and the entries



relating thereto were omitted. Thereafter, vide notification No. 20/2019-Central Tax (Rate) dated 30.9.2019, effective from 1.10.2019, the rate of CGST was fixed as under:

CGST rates for intra-State supply of specified services — Amendment to Notification No. 11/2017-C.T. (Rate)

In exercise of the powers conferred by sub-sections (1), (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 11/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 690(E), dated the 28th June, 2017, namely :-

In the said notification, -

(i) in the Table, -

(a) against serial number 7, for the entries relating thereto in column (3), (4) and (5), the following items and entries shall be substituted, namely, -

(3)	(4)	(5)
“(i) Supply of ‘hotel accommodation’ having value of supply of a unit of accommodation above one thousand rupees but less than or equal to seven thousand five hundred rupees per unit per day or equivalent.	6	-

This was further amended vide notification No. 3/2022-CT (Rate) dated 13.7.2022, as follows, viz

In the said notification, -

(A) in the Table, -

(II) against serial number 7, in column (3), in item (i), the words “above one thousand rupees but” shall be omitted;

In view of the foregoing, we hold that the applicant is leviable to GST at the rate of 12% i.e. [CGST @ rate of 6% and SGST @ 6%].

17. In light of the fact that we have already held the applicant to be liable to pay GST, we now take up the first question posed for ruling as to whether the applicant is liable for GST registration. In terms of section 22 of the CGST Act, 2017, every supplier shall be liable to be registered from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees.

18. The applicant has also relied upon various tweets to put forth the averment that SGPC (Shiromani Gurudwara Prabhandak Committee) run sarais,




collecting rents upto Rs 1000/- is exempt and on the same analogy, their supply is also exempt. The applicant himself further quotes a tweet stating that the precincts of a religious place has to be given broader meaning to include a sarai even if it is located outside the boundary wall of a complex of a religious place in surrounding area and managed by the same trust/management. Having already stated during the course of personal hearing that Nandini Ashram, is not owned by the Ambaji Temple Trust *ie* Shri Arasuri Ambaji Mata Devasthan Trust, the applicant's reliance on the tweets to substantiate his averment that they are eligible for exemption, is not relevant to the facts of the case.

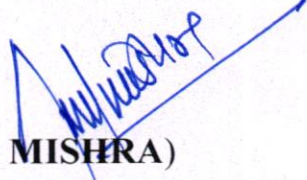
19. In the light of the above, we rule as under:

RULING

The applicant is liable for GST registration in terms of section 22 of the CGST Act, 2017, subject however to the threshold limit of his aggregate turnover exceeding rupees twenty lac rupees.

The applicant is liable to pay GST in terms of notification No. 20/2019-Central Tax (Rate) dated 30.9.2019 as amended vide notification No. 3/2022-CT (Rate) dated 13.7.2022, effective from 18.7.2022.


(MILIND KAVATKAR)
MEMBER (SGST)


(AMIT KUMAR MISHRA)
MEMBER (CGST)

Place: Ahmedabad
Date: 26 /04/2023

