

## **GST-ADVANCE RULINGS**

**CA. C. B. Thakar, CA. Jinal Maru**

### **Case: M/s MEGHA AGROTECH PVT LTD [2020-4-TMI-691] (KARNATAKA AAR)**

The applicant is in the business of manufacturing and supplying of LLDPE pipes and micro irrigation system and its accessories. They received subsidy amount from the Horticulture / Agriculture / Sericulture Department of Government of Karnataka under PMKSY scheme on behalf of the farmers, for supplying of micro irrigation system to farmers. They intend to know whether subsidy received shall be excluded from the value of their supply to the farmers.

The AAR held that the receipt of any amount received by the farmer from the Government Department has no bearing on the price or value of the supply of goods and/or services by the applicant. The Government Department makes payment to the applicant only on behalf of the farmer. The price is independent of the assistance amount and hence would not be covered under clause (e) of sub-section (2) of section 15 of the CGST Act.

### **Case: SRI TAGHAR VASUDEVA AMBRISH [2020-TIOL- 84] (KARNATAKA AAR)**

Applicant along with 4 others collectively have let out a residential complex to M/s D Twelve Spaces Pvt. Ltd. which is engaged in the business of providing affordable residential accommodation to students on a long term basis (from 3 to 11 months). M/s D Twelve Spaces P Ltd. is engaged in providing a host of other services such as maintenance, food, WiFi etc. generally called as a Paying Guest accommodation. It is the contention of the applicant that 'services by way of renting of residential dwelling for use as residence' are exempt from GST.

The AAR held that each of the lessor owns a part of the property and they have pooled up their properties and then leased it to the company contract of the applicant group with the company indicates that what is given is an immovable property consisting of only rooms with attached toilets as per the layout of the leased premises annexed to the lease agreement and does not fit into the meaning of a dwelling which means a house. They are like hotel rooms and the entire leased premises of 42 rooms, which can by no imagination be termed as residential dwelling. Therefore, exemption prescribed under Entry no. 13 of 9/2017-ITR cannot be extended and the lessors (as an entity) have to charge GST while issuing the invoice for the lease services to M/s D Twelve Spaces P Ltd

**Case: GURUKRUPA HOSPITALITY SERVICES [2020- 4- TMI- 595] (GUJARAT AAR)**

The applicant have entered into an agreement with one of their client for running of canteen and its total affairs including supply of snacks, tea, lunch and dinner to its employee and workers. The applicant seeks to know the rate of tax for his transaction.

The AAR held the taxability till and post 25th July,2018 considering the amendments in notification 11/2017-CTR under entry 7. It is held that till 25th july,2018, the nature of service provided by the applicant is that of “outdoor catering service” as the applicant was engaged for running of the canteen where the rates of food and menu was pre decided by the client/ recipient. Thus, taxable under entry 7(v) of said notification attracting GST@ 18%.

However, w.e.f. 26th july,2018 explanation 1 was inserted in Sr.7(i) & the entry relating to composite supply of food and drinks in restaurant, mess, canteen eating joints and such supplies to institutions (Educational, office, factory, hospital) on contractual basis is rationalize at GST rate of 5% and made it clear that the scope of outdoor catering under 7(v) is restricted to supplies in case of outdoor/indoor functions that are event based and occasional in nature. Therefore, the applicant services shall fall under entry 7(i) and attract GST @ 5%.