


GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADMISSION ORDER NO. GUJ/GAAR/ADM/2020/121
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/31)

Date: 30.12.2020

Name and address of the applicant	:	M/s. The Maharaja Pratapsinh Coronation Gymkhana (Trade Name : Polo Club), Jawaharlal Nehru Road, Vadodara, Gujarat -390001,
GSTIN of the applicant	:	24AAAAT4891KIZ5
Date of application	:	23.07.2020
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(e) determination of the liability to pay tax on any goods or services both (g) whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term.
Date of Personal Hearing	:	23.12.2020 (Through online hearing)
Present for the applicant	:	Not appeared

BRIEF FACTS

The applicant M/s.The maharaja Pratapsinh Coronation Gymkhana (Trade Name : Polo Club), Jawaharlal Nehru Road, Vadodara has submitted that they are known as Polo Club, is otherwise a registered Association of Persons. The applicant is otherwise not a profit association and registered under Section 12AA of the Income Tax Act, 1961 for this purpose. Also the Applicant is registered under GST laws and bearing GSTIN No. 24AAAAT4891KIZ5.

2. The applicant submitted that they are members club and organizing various events for members and their guests during the year; that for the purpose of hosting such events, the Applicant inter-alia, collects contribution from members.

3. The Applicant grants membership to individual and collects Admission fees for this purpose. Apart from this, every year, agreed Annual membership fees are also collected from all members. As stated above, by paying admission fees, one merely retains such membership. No specific additional goods or services are supplied to such member by the Applicant in lieu thereof as such.

4. The applicant submitted that the membership/subscription fees are collected from members only to mainly cover day to day maintenance, up-keepment, meeting expenses, banquet expenses, catering expenses, printing

and stationery expenses etc. It is submitted that they being non-profit entity, the admission fees/annual Membership subscription fees is only to cover up the revenue and capital expenses of Applicant.

5. The applicant further submitted that they recovered charges from members towards facility (Tennis/Badminton court usage), since the same are between members club and its members, no GST is leviable thereon.

6. On account of principles of mutuality and as held by Hon'ble Apex court in the case of State v/s. Calcutta Club Ltd. 2019(29) GSTL 545 (SC), no transaction between incorporated members club and members can be taxed

7. The applicant submitted that they are charitable entity, however, not all activities carried out by Charitable organization are per se exempt from payment of GST. In fact, in terms of Not. No. 12/2017-CT (Rate) dated 28.06.2017, service provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of charitable activities are exempted from whole of GST vide Entry No. 1 of the Notification. Further submitted that they do not undertake charitable activities as mentioned in the Notification and the consideration received by them will be liable to levy of GST. However, in case if they receive mere 'donation/contribution' without any corresponding obligation to supply any goods or services in return of such donation/contribution, in the Applicant's considered view, such donation/contribution will not constitute "supply" and hence, not liable to the levy of GST.

8. The applicant submitted that donation/contribution received from members, where no additional facility/ benefit is to be given to the members in lieu thereof by the Applicant, no GST at all should be charged thereon.

9. Accordingly, the applicant has asked the following question seeking Advance Ruling on the same:

- 1) The amount collected as membership subscription and admission fees from members is liable to GST as supply of service?
- 2) Is any GST at all payable on all the transactions between the Applicant and its members, on account of Principles of mutuality?
- 3) If the above activity is taxable, which SAC code and services description is attracted in the facts and circumstances of the case?
- 4) If the above receipts are liable to GST, can the Applicant claim Input Tax credit of the above tax paid on Catering services for holding members meetings and various events?
- 5) If the above receipts are not liable to GST, is the Applicant eligible for exemption?

10. Personal hearing was accorded to the applicant through Virtual Platform (Video conferencing) on 23.12.2020. However neither Applicant nor Authorised Representative of the applicant appeared in the Personal hearing.

DISCUSSION & FINDINGS:

11. We have considered the submissions made by the applicant in their application for advance ruling as well as the arguments/discussions made by applicant at the time of personal hearing. We have also considered the issues involved on which Advance Ruling is sought by the applicant.

12. At the outset, we would like to state that the provisions of both the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 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 similar provisions of the GGST Act.

13. On going through the application filed by the applicant, we find that although the said application has been filed in the prescribed format of FORM GST-ARA-01 required as per the provisions of Section 97(1) of the CGST Act, 2017, the fee paid along with their aforementioned application is only Rs.5,000/-. In this regard, we find it imperative to refer to Section 97(1) of the CGST Act, 2017 as well as Rule 104 of the CGST Rules, 2017 which read as under:

Section 97. (1) *An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

Rule 104. Form and manner of application to the Authority for Advance Ruling. (1) *An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in **FORM GST ARA-01** and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.*

(2) *The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26.*

14. On going through the provisions of Section 97 of the CGST Act, 2017 and Rule 104 of the CGST Rules, 2017, we find that the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 (which is the prescribed format for the said application) and shall be accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the CGST Act, 2017. Similarly, as per Section 97 of the GGST Act, 2017 and Rule 104 of the GGST Rules, 2017, the application for obtaining an Advance Ruling under sub-section(1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be accompanied by a fee of Five thousand rupees which is to be deposited in the manner specified in Section 49 of the GGST Act, 2017. On a combined reading

of the provisions of the aforementioned Section 97 and Rule 104 of both the aforementioned Acts and Rules, we find that the application for obtaining an Advance Ruling under sub-section (1) of Section 97 is to be submitted in FORM-GST ARA-01 and shall be accompanied by a fee of Ten thousand rupees (Five thousand rupees as per Rule 104 of the CGST Rules, 2017 + Five thousand rupees as per Rule 104 of the GGST Rules, 2017).

15. We, therefore, find that although the applicant has filed the application in the prescribed format of GST-ARA-01, they have not paid the required fees of Rs.10,000/- as required under the provisions of aforementioned Sections and Rules. Therefore, the instant application is liable for rejection under Section 98(2) of the CGST Act, 2017 for not paying the total fees of Rs.10,000/- i.e. Rs.5,000/- under each head CGST & GGST as required under the provisions of CGST Act and Rules and respective GGST Act & Rules.

16. In view of the facts mentioned above, we do not find it necessary to delve into the details or facts of the issue in hand since the applicant has failed to comply even with the statutory requirements of the provisions of the relevant sections and rules of the CGST Act, 2017/GGST Act, 2017 as well as the CGST Rules, 2017/GGST Rules, 2017 with regard to filing the application of Advance Ruling before the Advance Ruling Authority, thus rendering it an invalid application for Advance Ruling under Section 97(1) of the CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017.

17. In the light of the aforesaid circumstances, we rule as under:

R U L I N G

Instant application filed by M/s.The maharaja Pratapsinh Coronation Gymkhana (Trade Name : Polo Club), Vadodara is hereby rejected under Section 98(2) of the CGST/GGST Act, 2017 being non-maintainable in view of the above discussion.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 30.12.2020.