

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 Act, 2017)

BENCH

Shri Sydney D'Silva, Joint Commissioner, CGST & CX
Shri Parthasarathi Dey, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services 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 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	Borbheta Estate Pvt Ltd
Address	25B Ballygunge Circular Road, Kolkata - 700019
GSTIN	19AABCB1010H1ZB
Case Number	21 of 2019
Date of application	May 13, 2019
ARN	AD1905190006242
Order No. & date	13/WBAAR/2019-20 dated 27/06/2019
Applicant's representative heard	Sri Bhupal Sinha Chowdhury, Advocate

1. Admissibility of the Application

1.1 The Applicant is inter alia renting dwelling units. He seeks a ruling on whether the supplier is liable to pay GST on such supply even if the recipient is using the dwelling unit for residential purpose.

1.2 Advance Ruling is admissible under Section 97(2)(d) of the GST Act. The Applicant states that the question raised in the Application has neither been decided by nor is pending before any authority under any provision of the GST Act. The officer concerned from the Revenue has raised no objection to the admission of the Application.

1.3 The Application is, therefore, admitted.

2. Submissions of the Applicant

2.1. The Applicant, according to the Written Submission made at the time of hearing, has executed agreements for leasing/renting of four dwelling units it owns at different locations in Kolkata. According to the agreements, all of these units are to be used for residential purpose. Three flats

have been rented to individuals and one flat (Flat No. 4H, Tower III, South City, Prince Anwar Shah Road, Kolkata – 700068) has been let out to M/s Larsen & Toubro Ltd. The Applicant argues that he is not liable to pay tax on leasing or renting of these dwelling units, as they are all let out for residential purpose, and services by way of renting of dwelling units for residence is exempted under SI No. 12 of Notification No. 12/2017–CT (Rate) dated 28/06/2017 (corresponding State Notification No. 1136 – FT dated 28/06/2017), as amended from time to time (hereinafter the Exemption Notification).

3. Submissions of the Revenue

3.1 The concerned officer from the Revenue states that provisions under SI No. 12 of the Exemption Notification apply to renting of dwelling units for residential purpose. It should not be available when the dwelling unit is rented to a commercial entity like M/s Larsen & Toubro Ltd.

4. Observation & Findings of the Authority

4.1. It appears that the dwelling units rented to individuals, as described in the relevant contracts, are meant for residential accommodation. The dwelling unit rented to M/s Larsen & Toubro Ltd is a flat in the housing complex named South City. The South City Apartment Owners' Association certifies that the Applicant owns the flat and it is a residential flat and cannot be used for any other purpose. The said association further confirms that an employee of M/s Larsen & Toubro Ltd is staying at the flat.

4.2. The Applicant's service is classifiable as rental or leasing service involving own/leased residential property (SAC 997211). Applicability of SI No. 12 of the Exemption Notification depends upon whether the dwelling unit is used as residence. It appears from the documents produced that all the above dwelling units are being used for residence, irrespective of whether they are let out to individuals or a commercial entity. The Applicant's service of renting/leasing out the dwelling units for residential purpose is, therefore, exempt under SI No. 12 of the Exemption Notification.

In view of the foregoing, we rule as under.

RULING

The Applicant's service of renting/leasing out the dwelling units for residential purpose, as described in para no. 4.1, is exempt under SI No. 12 of Notification No. 12/2017–CT (Rate) dated 28/06/2017 (corresponding State Notification No. 1136 – FT dated 28/06/2017), as amended from time to time. The Applicant is, therefore, not liable to pay tax on supply of such service.

This Ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the GST Act.


(SYDNEY D'SILVA)
Member

West Bengal Authority for Advance Ruling


(PARTHASARATHI DEY)
Member

West Bengal Authority for Advance Ruling