

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, 8th floor, H-Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAGCB3353E1ZX
Legal Name of Applicant	BANDAI NAMCO INDIA PRIVATE LIMITED
Registered Address/ Address provided while obtaining user id	T-01, 3rd Floor, Oberoi Mall, Goregaon (East), Mumbai - 400063
Details of application	GST-ARA, Application No. 109 Dated 11.01.2019
Concerned officer	Commissioner of CGST & CX, Mumbai East.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	Operating a gaming zone in a Mall
Issue/s on which advance ruling required	(ii) applicability of a notification issued under the provisions of the Act
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act”] by M/s. BANDAI NAMCO INDIA PRIVATE LIMITED, seeking an advance ruling in respect of the following question.

Applicable GST Rate on operating gaming zone in one of leading malls in Mumbai.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression ‘GST Act’ would mean CGST Act and MGST Act.

2 FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

1. FACTS OF THE CASE

The facts giving rise to this ruling are, in a short compass, as follows:

- 1.1 Bandai Namco Entertainment Inc. ('BNEI') is a **Japanese video game** development company and publisher. BNEI also releases videos, music, and other entertainment products related to its intellectual properties (IP). It has the operation in all major countries around the globe including India.
- 1.2 The Indian arm is **operated by means of a private** company set-up under the Companies Act, 1956 bearing the name of Bandai Namco India Private Limited ('BNIPL' or 'the Company' or 'We')
- 1.3 We have registered office at T-01, 3rd Floor, Oberoi Mall, Goregaon East, Mumbai 400063 and are engaged in providing amusement facility services and running family entertainment center in Oberoi Mall, Mumbai since October 2016.
- 1.4 We have stationed various gaming equipment and machines for different age groups, consisting of kids, teenagers and adults. The equipment and machines are either coin operated or card operated in its faculty.
- 1.5 The various gaming equipment are classified based on the nature of games involving physical as well as mental skills which are coin operated and card operated such as:
 - Kiddie Rides (i.e. Carousel)
 - Arcade Games (i.e. Car Drive Game)
 - Redemption Games (i.e. Ball Drop Game)
 - Play area with entry and exit inside our premises
- 1.6 A copy of the brochure containing the brief of our gaming zone is enclosed as **Exhibit 2**.
- 1.7 We are registered under the provisions of Goods and Services Tax (GST) law in the state of Maharashtra vide GSTIN- 27AAGCB3353E1ZX (enclosed herewith as Exhibit 3).
- 1.8 Prior to the inception of GST in India, we were registered under the provisions of Service Tax Law vide Chapter V of the Finance Act 1994 and discharged Service Tax at 15%. A copy of our service tax registration certificate and copy of latest service tax return for the period April to June 2017 is enclosed herewith as Exhibit 4 and Exhibit 5 respectively.
- 1.9 Further, we were also registered under the provisions of Bombay Entertainment Duty Act, 1923 ('Bombay Entertainment Act') and paid applicable entertainment tax on the activities undertaking in the gaming **zone**.
- 1.10 With the inception of GST in India, both the erstwhile indirect taxes i.e. service tax and entertainment tax are subsumed and the Company is liable to pay GST on its activities as it qualifies as supply of service as per Notification 11/2017-Central Tax (Rate) dated 28 June 2017 (effective 1 July 2017).



- 1.11 The applicable rate of GST on the services of the Company was 28% i.e., 14% as Central GST (CGST) and 14% as Maharashtra State GST (MGST). A sample copy of our GST return in prescribed form GSTR 3B and GSTR 1 for the initial month of July 2017 is enclosed herewith as Exhibit 7.
- 1.12 A copy of sample invoice generated for this purpose reflecting the amount of GST at 28% is also enclosed as Exhibit 8.
- 1.13 With the advent of Notification No. 01/2018-Central Tax (Rate) dated 25 January 2018 ('GST Notification 1/2018'), the entry in respect of amusement parks/facilities have been spilt in to 2 different entries, reproduced below:

Description of Services	CGST Rate	Condition
(iii) Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	9%	-
(iii a) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, casinos, race club, any sporting event such as Indian Premier League and the like.	14%	-

2. **ASPECT ON WHICH ADVANCE RULING IS SOUGHT**

- 2.1 With the advent of GST Notification 01/2018, which reduced the GST rate on services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet, we seek an Advance Ruling as to the applicable rate of GST on the services/ activities of the Company.

OUR SUBMISSIONS:

- 3.1 The Company submits that the GST Notification 1/2018 reduced the rate on services by way of admission to amusement parks from 28% to 18% with effect from 25 January 2018.

3.2 **Company falls under the ambit of 'amusement park'**

- 3.2.1 The Company submits that the expression 'amusement park' is not defined in the GST law or Rules made thereunder. In this regard, the Company further contends that it is well established principle that the meaning of words has to be understood as understood in common parlance. Indication of the activities included in the entry is available from the inclusive part of description of the entry.

- 3.2.2 The Company wishes to rely on the definition of amusement park under Section 2(a-1) of the erstwhile Bombay Entertainment Act extracted below:

"(a-1) "amusement park" means a place wherein various types of amusements including games or rides or both (but excluding exhibition by cinematograph and video exhibition) are provided fairly on permanent basis, on payment for admission."



3.2.3 It is the contention of the Company that it is evident from the above that, amusement park includes the games and rides provided in premises. Further, the term 'game' has been defined in the Explanation to Bombay Entertainment Act which includes games operated mechanically as well as electronically. The said explanation has been reproduced below:

"(ii) the expression 'game' includes video games which are played with the aid of machine which is operated electronically or mechanically or electromechanically for the purpose of entertainment or otherwise"

3.2.4 In view of the above, the Company submits that they are fairly covered under the ambit of 'amusement park' to qualify for the reduced GST rate. Further, the fact that the entertainment tax was paid by the Company also strengthens and substantiates the fact that it is covered within the purview of '**amusement park**'

3.2.5 The Company submits that the interpretation of the words has to be given in the context of its use and in taxing statute similar activities should have single rate of taxation. The indication of the activities covered under clause (iii) is available from the inclusive part of the definition. All the activities listed in the inclusive part requires performance of physical activities by the person obtaining admission to these facilities. The definition of amusement park under Bombay Entertainment Act supports the contention of the Company

3.2.6 Notwithstanding the above, the Company also refers to the VAT rates applied in the Members State of the European Union vide reference no.Taxud.C.1 (2018)-EN. On perusal of the applicable rate of taxes therein, it appears that all services pertaining to amusement are categorized together. Accordingly, applying the same principle in the present case, the Company seeks to classify its services under the ambit of 'amusement park.'

3.3 Comments of Fitment Committee

3.3.1 The Company submits that the above view is also supported by the comments of Fitment Committee formed under GST which reads as follows:

"We may consider revising the rate of GST on admission to the amusement park to 18%. However, this proposal runs the risk of states raising the tax on entertainment and amusement levied by virtue of Entry 62 of List II in the Seventh Schedule to the Constitution.

GST Council may consider reducing GST, provided the States agree to not increase the entertainment/amusement tax on the same. This will ensure that the rate cut of GST is passed on to children for whom it is ostensibly being done."


3.4 The Company submits that the reduction in rate of GST was primarily on account of representation made by the Indian Association of Amusement Parks and Industries (IAAPI) as such amusement facilities attracts large amount of public especially children and which promotes social wellness **or recreation**

3.5 The Company submits that it is apparent that the attempt made by Government is to bifurcate the activities or services which provides fun or recreation or learning for children etc. in clause (iii) which involves/requires maximum amount of physical participation

3.6 Games in gaming zone requires physical participation

3.6.1 The Company submits that it is evident from the inclusive part of the clause, the theme park, Water Park, go-karting or merry-go round, all such activities requires physical participation of the participant **whereas in case** of cinematic films, race clubs, sporting event etc., the person pays the cost of entry and enjoys the event as a spectator. The activities in clause (iiia) does not require a person to physically participate in cinematic films, race clubs, sporting event, it only enjoys the event as a spectator.

3.6.2 The Company also wishes to rely on the view expressed in the press release dated 22 January 2018 pursuant to the 25 GST Council meeting based on the recommendation of which the GST Notification 1/2018 was issued. The relevant extract of the press release is as under:



"In the meeting held on 18th January, 2018, the GST Council has recommended reduction of GST rate on services by way of admission to amusement parks including theme parks, water parks, joy rides, merry go-rounds, go-carting and ballet from 28% to 18%. These services hitherto attracted GST @ 28%. Requests were received from several quarters that amusement parks promote social wellness and beget fun and learning for children and their families in a real active entertainment and therefore, the rate may be reduced to 18%.

It is expected and hoped that States do not raise the tax on entertainment and amusement levied by the local authorities (Panchayats/ Municipalities/ District Councils) so as to increase the tax burden on the amusement parks. This will ensure that the rate cut in GST is passed on to children."

3.7 The Company further submits that the amusement park promotes social wellness, beget fun and learning for children and their families in real active entertainment. Further, the rates were reduced to pass on the benefit of GST to children. Thus, in view of the clarification, it is amply clear that the rates were reduced on the activities which promotes social wellness, beget fun and learning for children.

4. PRAYER

- 4.1 Basis the technical submissions above, it is our submission that we are covered under the ambit of amusement park as provided in clause (iii) of entry no.34 of the Notification 1/2018 and be liable to pay GST at 18% under HSN 9996 with effect from 25 January 2018.
- 4.2 In light of the above, the Company prays that a suitable Ruling clarifying the applicable rate of GST on the outward supply of services in relation to admission or access to the gaming zone operated by the Company at 18% be issued by your good self.

Additional submissions on 15.03.2019

Representation by Indian Association of Amusement Parks and Industry (IAAPI) ¹ High tax on amusement parks to hit industry: IAAPI

Amusement park operators today asked the government to revise GST rate on the sector saying it was unfair to put entertainment industry for children at par with casinos, betting and race courses. Seeking a downward revision of tax rate to a maximum of 18 percent from the proposed 28 percent under the GST regime, Indian Association of Amusement Parks and Industries (IAAPI) said high taxation will be detrimental to the existence of the industry.

“The government’s policy with regard to amusement parks under the GST is not favorable and worldwide also the maximum tax levied on amusement park industry is 10 percent,” IAAPI Director Ajay Sarin told reporters here. The total average tax incidence at present comes to around 18 per cent pan-India, he added.

The GST Council has fixed 28 percent for visits to theme parks and sporting events like IPL under the new indirect tax regime slated to be implemented from July 1.

Sarin, who is also the Chairman of Hindustan Amusement Machines, said the new taxation puts outdoor entertainment industry for children at par with casinos, betting and race courses. He further said earlier amusement parks were exempted from tax and it was only last year that a service tax of 15 per cent was levied, which was still way less than the current 28 percent.

Proposing a tiered structure of taxation based on ticket prices, he said tickets for children must be kept at the lowest 5 percent bracket, while the most expensive ones must not be taxed at more than 18 percent. The association has already made representation to the Finance Ministry and the PMO, Sarin said.

IAAPI said amusement parks in India have contributed in creating 1.25 lakh jobs. At present, there are around 150-200 amusement parks across the country operation at an annual revenue of Rs. 4000 crore. The association said the amusement parks industry must be treated similarly with hospitality and restaurants which fall in the GST slab of 12-18 per cent.

03. CONTENTION - AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus-
The parawise comments of the case is given below:

1. The assessee was earlier registered under Service Tax having Registration No. AAGRCB3353ESD001 and was paying Service Tax under the head "Promotion, Marketing, Organizing or assisting in operating games of chance including lottery etc., at the Specific rate applicable as per Rule. 6 of ST Rules at the rate of 14% and 0.5% Krishi Kalyan Cess:

2. The assessee is providing services of amusement facilities by deploying Gaming machines in one of the leading Mall in Mumbai. It is seen from GSTR 3B filed by the assessee during the month of June 2018, the Taxable value is Rs. 59, 85,953/- and assessee has paid CGST Rs. 8, 38,033/- and SGST Rs. 8, 38,033/- (Rate 28%). Now the assessee has filed the Advance Ruling Authority Application regarding applicability of earlier Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 amended vide Notification No. 01/2018 - Central Tax (Rate), dated 25.01.2019 issued by Government of India, Ministry of Finance, Department of Revenue, New Delhi.

2.1 "The Service by way of admission to entertainment events or access to amusement facilities including exhibition of Cinematograph films, theme parks, water parks, joy-rides, merry-go-rounds, go-carting, casinos, race-course, ballet, any sporting event such as Indian Premier League and the like" are chargeable at the prescribed GST rate of 28% (CGST 14% and SGST 14%) in term of S. NO. 34(iii) of the Notification No. 11/2017 - Central Tax (Rate) New Delhi dated 28th June 2017.

1.1 However, the **above said entries** of S. NO. 34(iii) of the Notification No. 11/2017 - Central Tax (Rate), New Delhi dated 28th June 2017, *were bifurcated* vide amendment Notification No 01/2018 - Central Tax (Rate), New Delhi dated 25th January, 2018, whereby services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet at S. No. 34(iii) of Original Notification No. 11/2017 - Central Tax (Rate), New Delhi dated 28th June 2017, were made chargeable at GST rate of 18% (CGST 9% and SGST 9%).

1.2 However, the services of admission to amusement facility including the one provided by the Applicant in forms of offering gaming machine, were kept under a new S. No, namely 34(iii) which still **remained chargeable at the rate of 28% (CGST 14% and SGST 14%)**.

3. There is a fundamental difference between amusement facilities at new S. NO. 34(iii) a and the amended S. NO. 34 (iii) of Notification No. 11/2017 - Central Tax (Rate) because the amusement facilities and amusement parks are fundamentally different.



As per Wikipedia:

"An amusement park is a park that features various attractions, such as rides and games, as well as other events for entertainment purposes. A theme park is a type of amusement park that bases its structures and attractions around a central theme, often featuring multiple areas with different themes. Unlike temporary and mobile funfairs and carnivals, amusement parks are stationary and built for long lasting operation. They are more elaborate than city parks and playgrounds, usually providing attractions that cater to a variety of age groups. While amusement parks often contain themed areas, theme park's place a heavier focus with more intricately-designed themes that revolve around a particular subject or group of subjects."

4. In view of the above it is seen that there are fundamental difference between 'amusement facility with deploying gaming machines' and 'amusement parks'.

(a) Whereas an amusement park offers multitude of attractions such as rides, games and other events, the amusement facility by deploying gaming machines offers a singular attraction which is limited to offering entertainment by way of gaming machines.

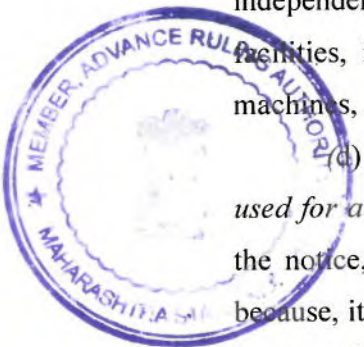
(b) The other difference is that, whereas the amusement park is spread over a big area which sometimes may be over hundred to thousand acres, the amusement facility; offering gaming machine is spread over a limited/closed area of a mall that may be in the range of some thousand **square feet**.

(c) Whereas amusement park may contain other auxiliary facilities like food courts, independent food areas, lodging facilities etc., there is no scope of offering any such auxiliary facilities, in case of subject amusement facilities of the notice by way of offering gaming machines,

(d) The Farlax Dictionary meaning of park includes, *"a large area of land that is used for a specific purpose"*. However in case of the subject amusement facilities provided by the notice, there is no scope that their gaming facility can be construed as a park, inter alia because, it is not spread over a large area of land. Therefore the amusement facility of the notice by way of deploying gaming machines can neither be construed as a park nor as an amusement park, so that the benefit of lower rate of GST vide amended S. No: 34(iii) of Notification No. 11/2017 - Central Tax (Rate) may be available to them.

(e) An amusement park is generally a big open area, containing various amusement facilities which themselves may be under a covered premises, however the subject amusement facility of the assessee by deploying gaming machine is relatively a very small covered/closed premises.

(f) In view of the above, the subject amusement facility of the notice by deploying gaming machine cannot qualify as an amusement park.



5. The Hon'ble Supreme Court in a recent judgment in case of COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI V/5. M/s. DILIP KUMAR AND COMPANY & ORS. , Civil Appeal No. 3327 of 2007 at para 52 held that;

“(1) Exemption notification should be interpreted strictly, the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.”

PRAYER

Considering the facts discussed in forgoing paras, it is humbly prayed that the application considered and cannot be classified as services by way of admission to amusement parks including theme parks, **water parks**, joyriders, merry-go-rounds, go carting and ballet but as Services by way of admission to **entertainment events or access to amusement facilities** including exhibition of Cinematograph films, casinos, race-club, any sporting event such as Indian Premier League and the like.

04. HEARING

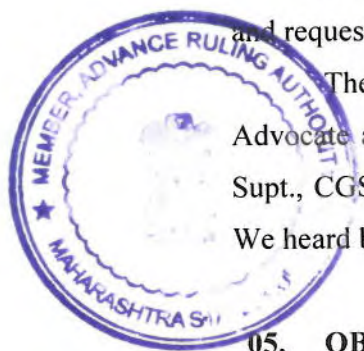
Preliminary hearing in the matter was held on 20.02.2019. Sh. Vyas, Advocate appeared and requested for admission of their application. Jurisdictional Officer was not present.

The application was admitted and called for final hearing on 13.03.2019. Sh. Vyas, Advocate appeared, made oral and written submissions. Jurisdictional Officer Sh. N. R. Rao, Supt., CGST & CX, Mumbai East Commissionerate, appeared and made written submissions. We heard both the sides.

05. OBSERVATIONS

We have gone through the facts of the case, written submission made by both parties & documents produced on record. The question put before us is in respect of applicability notification issued under the provisions of GST Act which would be on the lines thus -

The applicant Bandai Namco India Private Limited ('BNIPL' or 'the Company') is a registered person under GST ACT and Bombay Entertainment Duty Act, 1923 and is arm of a **Japanese video game** development company and publisher of Bandai Namco Entertainment Inc. ('BNEI). It also releases videos, music, and other entertainment products related to its intellectual properties (IP). It has its presence in all major countries around the globe including India.



Applicant have stationed various gaming equipment and machines for different age groups, consisting of kids, teenagers and adults. The equipment and machines are either coin operated or card operated in its faculty. The various gaming equipment are classified based on the nature of games involving physical as well as mental skills which are coin operated and card operated such as:

- Kiddie Rides (i.e. Carousel)
- Arcade Games (i.e. Car Drive Game)
- Redemption Games (i.e. Ball Drop Game)
- Play area with entry and exit inside our premises

At present applicant is discharging tax liability @28% as supply of services as per Sr. No. 34 of the Notification no. 11/2017 Central Tax (Rate) dated 28/06/2017.

With the advent of Notification No. 01/2018-Central Tax (Rate) DT. 25 January 2018, the entry in respect of amusement parks/facilities have been spilt into 2 different entries, and the effective rate of tax has been reduced from 28% to 18% on certain services. Therefore applicant is seeking ruling from this authority as to the applicability of GST rate of services on the service activities of the company. Following is the question on which ruling is sought.

Question: Applicable GST Rate on operating gaming zone in one of leading malls in Mumbai?

We find from the submission of the applicant that they are engaged in providing amusement facility services and also running family entertainment facility center in Oberoi Mall, Mumbai. To conduct the business as aforesaid it has stationed various gaming equipment's and machine for different age groups consisting of kids, teenagers and adults. The equipment's and machines are either coin operated or card operated in its faculty. It is the submission of the applicant that they are covered under the ambit of 'amusement park' and as such qualify for the reduced GST rate of 18%, against 28%, as per the amendment notification. For this proposition, applicant has relied on tax paid (Entertainment Tax) under the BET Act, common parlance test and the VAT rates applied in the Members state of the EU, press release dated 22/01/2018 pursuant to 25th GST Council Meeting.

In order to address the issue at hand and to arrive at proper conclusion, we feel it necessary to compare the relevant notification entry and corresponding changes. The relevant entry is as per original Notification 11/2017 Central Tax (Rate) dated 28/06/2017 is as below:



SI No	Chapter, section or Heading	Description of service	Rate (%)	condition
1	2	3	4	5
34	Heading 9996 (Recreational, Cultural and Sporting services)	(i) Services by way of admission or access to circus, Indian classical dance including folk dance, theatrical performance, drama	9	-
		(ii) Services by way of admission exhibition of cinematograph films where price of admission ticket is one hundred rupees or less.	9	-
		(iii) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, theme parks, water parks, joy rides, merry-go rounds, go-carting, casinos, race-course, ballet, any sporting event such as Indian Premier League and the like	14	-
		(iv) Services provided by a race club by way of totalisator or a license to bookmaker in such club.	14	-
		(v) Gambling.	14	-
		(vi) Recreational, cultural and sporting services other than (i), (ii), (iii), (iv) and (v) above.	9	-

The original notification aforesaid has been amended vide Notification No. 1/2018 Central Tax (Rate) dated 25/01/2018 and the entry in respect of amusement park/ facilities have been split into two different entries as below:

Description of Services	CGST Rate	Condition
(iii) Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	9%	-
(iv)(a) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, casino, race club, any sporting event such as Indian Premier League and the like	14%	-

From the close scrutiny of notification entry, we have to decide whether the supply of services provided by the applicant fall within the expression 'Amusement Park' and thus qualify for reduced rate of GST. The term 'Amusement Park' has not been defined under the Act. We therefore refer to the definition as per the Bombay Entertainment Act which is reproduced below:

Section 2 (a-1): of the Bombay Entertainment Act extracted below:

"(a-1) "amusement park" means a place wherein various types of amusements including games or rides or both (but excluding exhibition by cinematograph and video exhibition) are provided fairly on permanent basis, on payment for admission."

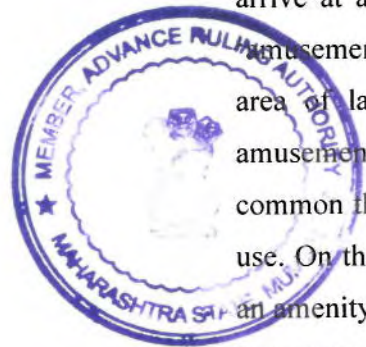
Further we find that the term amusement park has been explained as per Wikipedia as below:

"An amusement park is a park that features various attractions, such as rides and games, as well as other events for entertainment purposes. A theme park is a type of amusement park that bases its structures and attractions around a central theme, often featuring multiple areas with different themes. Unlike temporary and mobile funfairs and carnivals, amusement parks are stationary and built for long lasting operation. They are more elaborate than city parks and playgrounds, usually providing attractions that cater to a variety of age groups. While amusement parks often contain themed areas, theme park's place a heavier focus with more intricately-designed themes that revolve around a particular subject or group of subjects."

From the meaning assigned to 'Amusement Park' as aforesaid we understand and we agree with the contention of the jurisdictional officer that park includes a large area of land that is used for specific purpose in a big open area containing various amusement facilities which themselves may be under covered premises. In the present case we find that applicant have stationed various gaming equipment and machine for different age groups consisting of kids, teenagers and adults. The equipments and machine are either coin operated or card operated. Thus through the various equipment and machine stationed in the mall applicant allows interested person such as kids, teenagers and adults facilities to enjoy various games.

The word 'amusement' being common in the expressions 'amusement park' and 'amusement facility' it is worthwhile to know the difference between a 'park' and a 'facility' to arrive at a conclusion as to whether the Applicant's premises is an 'amusement park' or an 'amusement facility'. The meaning of a 'park' in various dictionaries say that a park is a 'large area of land' used for a particular purpose. Accordingly we have Amusement parks for amusement, wildlife parks for wild animals, industrial parks for setting up industries. The common thread in all these is a 'large area of land' where the purpose changes according to its use. On the other hand the dictionary meaning of a 'facility' is a place, building, equipment or an amenity for a particular purpose'. It can be understood that, to be called a park, it must have a large area of land whereas to be called a 'facility', it is sufficient if it has a place or a building or an equipment used for a particular purpose. Thus we can have a medical facility for treatment, a cooking facility for cooking and an amusement facility having equipments for amusement. In the instant case the applicant has placed equipments in an area within the Oberoi mall. Therefore there is should not be a second thought to call it an 'amusement facility' rather than an 'amusement park'.

Our view is also supported by the applicant's own admission to the effect that they are engaged in providing amusement facility services and running family entertainment center in Oberoi Mall. Applicant is also advertising its activities in the public domain as providing amusement facilities. From the above, we conclude that the subject services/activities supplied



by applicant by deploying gaming machines and equipments would not fall within the expression, as an 'amusement park', but fall under 'amusement facilities'.

05. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 109 /2018-19/B- 37 Mumbai, dt. 08/04/2019

For reasons as discussed in the body of the order, the questions are answered thus –

Question: - Applicable GST Rate on operating gaming zone in one of leading malls in Mumbai?

Answer: - For above discussion the GST rate on operating gaming zone in one of leading malls in Mumbai is @ 28 % w.e.f. 25.1.2018.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY


**MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI**

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.