

**THE MAHARASHTRA APPELLATE AUTHORITY FOR ADVANCE RULING FOR GOODS AND SERVICES TAX**  
(Constituted under Section 99 of the Maharashtra Goods and Services Tax Act, 2017)

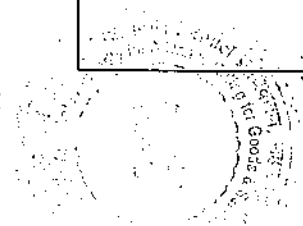
ORDER NO. MAH/AAAR/AM-RM/03/2022-23

Date- 01.04.2022

**BEFORE THE BENCH OF**

- (1) Shri Ashok Kumar Mehta, MEMBER (Central Tax)  
(2) Shri Rajeev Kumar Mital, MEMBER (State Tax)

Name and Address of the Appellant:	M/s. Tukaram Pundalik Borade; Silver Oak House, Vinchur Govli, Madsangavi, Nasik-422001
GSTIN Number:	272000000676ARU (URD)
Clause(s) of Section 97, under which the question(s) raised:	(b) applicability of a notification issued under the provisions of this Act;
Date of Personal Hearing:	04.03.2022
Present for the Appellant:	Shri Pritam Mahure
Details of appeal:	Appeal No. MAH/GST-AAAR/07/2021-22 dated 01.12.2021 against Advance Ruling No. GST-ARA-94/2019-20/B-84 dated 02.11.2021
Jurisdictional Officer:	Deputy/Assistant Commissioner, Division -II, CGST & Central Excise Nashik Commissionerate.



**(Proceedings under Section 101 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

1. 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 such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the MGST Act.
2. The present appeal has been filed under Section 100 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “CGST Act” and “MGST Act”] by M/s. Tukaram Pundalik Borade, Silver Oak House, Vinchur Govli, Madsangavi, Nasik-422001, (“hereinafter referred to as “the Appellant”) against the Advance Ruling No. GST-ARA-94/2019-20/B-84 dated 02.11.2021, pronounced by the Maharashtra Authority for Advance Ruling (hereinafter referred to as “MAAR”).

**BRIEF FACTS OF THE CASE**

- 3.1 The Appellant is unregistered, and is engaged in providing the services of renting out of immovable property, situated at Nashik, and is in the receipt of rental income.
- 3.2 The Appellant is one of the co-owners of the immovable property, which are jointly owned by five individuals. All the five co-owners, including the Appellant, hold proportionate share in the property vide three separate agreements. The property is let out to Social Welfare Department (“Samaj Kalyan Vibhag”), Nashik Division of Maharashtra Government.
- 3.3 The service is being provided from 03.06.2019 for 36 months, and the Appellant is receiving fix rent of Rs. 1,62,073/-. The details of the properties and the co-owners along with their rental income is tabulated hereinunder:

Sl. No.	Particulars	Agreement 1	Agreement 2	Agreement 3
1	Property name and address	Plot no. 4, 5 & 6. S.No. 279/1/10/2/2 Durga Nagar, Panchwati Nashik.	Plot no. 3,4 & 5. S No. 279/1/10/2/2 Durga Nagar, Panchwati Nashik.	Plot no. 2 & 3. S No. 279/1/10/2/2 Durga Nagar, Panchwati Nashik.
2	Number of Co-owners	1	2	2

3	Name of co-owners	1. Shri Tukaram Pundalik Borade	1. Sheetal Borade 2. Gayatri Borade	1. Meerabai Borade 2. Sagar Borade
4	Total share (sq. ft)	-Building 437.25 sqm (4704.81sqft) -Shed area 106.44 sqm (1145.29sqft)	Area considered- 709.95sqm (7639.06sqft)	Area Considered- 778.42sqm (8375.80sqft)
5	Co-owner share (sq. ft)	N/A	50:50	50:50
6	Rent per sq. ft	-Building 31.61 Rs. -Shed area 11.66 Rs.	Rs. 32.45	Rs. 32.28
7	Parking rent (if any)	No	No	No
8	Total rent per Month(in Rs.)	1,62,073.00	2,47,878.00	2,70,370.00
9	Total rent per Annum(in Rs.)	19,44,876.00	29,74,536.00	32,44,440.00
10	Total rent of property(in Rs.)	81,63,852.00		

- 3.4 The total rental received exceeds the threshold provided under section 22(1) of the GST Act, but the share of each of the five co-owners does not cross the said threshold limit.
- 3.5 The Appellant is unregistered under Goods and Services Tax Act, 2017. Though the service is provided to Maharashtra Government Department, that is Sahayak Ayukt. Samaj Kalyan Vibhag, it deducts TDS under section 51 of the CGST Act, 2017. Thus, the Appellant's funds are being blocked and Input tax credit for the same cannot be utilized as the Appellant is unregistered.
- 3.6 In view of the above background, the Appellant had filed an Application for Advance Ruling before the MAAR under Section 97 of the CGST Act and MGST Act. seeking advance ruling on the following questions:
- Whether the services provided to Special Assistance Department, Government of Maharashtra (Social Welfare Department) for residential accommodation of underprivileged girls is exempt from GST?
  - Whether TDS provisions will be applicable in case where the supply of services is exempt?
  - As the Appellant is not registered under the GST and provide services to Special Assistance Department, a Department of State Government, then whether TDS notification issued under section 51 would be applicable for deduction of TDS?

- d) In case TDS is deducted, whether they would be entitled for refund of the same?
4. The MAAR, vide its Advance Ruling Order No. GST-ARA-94/2019-20/B-84 dated 02.11.2021, has held that the services provided by the Appellant to Social Welfare Department is not exempt from GST and TDS provisions will be applicable in this case. In respect of Question no. (d), it has been held by MAAR that question pertained to entitlement of refund which is not covered under the Advance Ruling Provisions contained under section 97 of the CGST Act, 2017, therefore, has refrained from answering this particular question.

#### GROUNDS OF APPEAL

5. Aggrieved by the aforesaid Advance Ruling Order dated 02.11.2021 passed by the MAAR, the Appellant has filed the present appeal, inter alia, on the following grounds:
- 5.1 GST TDS is not applicable when payment is made to an unregistered person as stated under section 51 of the CGST Act, 2017-
- 5.2 The case under consideration is covered under section 51 of CGST Act, 2017, that is, Tax Deducted at Source, by the Government. Section 51(1) of the CGST Act, the expression "TDS" includes—

*Notwithstanding anything to the contrary contained in this Act, the Government may mandate, -*

*(a) a department or establishment of the Central Government or State Government;*  
*or*

*(b) local authority; or*

*(c) Governmental agencies; or*

*(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,*

*(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:*

*Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State, or as the case may be, Union territory of registration of the recipient.*

*Explanation. — For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.*

- 5.3 At present, the Appellant is un-registered under the Central Goods and Services Tax Act, 2017, and receiving rent from Government of Maharashtra. The Appellant cannot be registered under GST Act as his turnover is less than Rupees twenty lakhs.
- 5.4 It may be noted that the FAQ, by the Law Committee, GST Council, has clarified in the Standard Operating Procedure (SOP) issued [dated 28.09.2018] that no TDS is required to be deducted "where the payment is made to an unregistered dealer". Given the aforesaid, the Appellant submitted that, GST TDS is not applicable when payment is made to an unregistered person as stated under section 51 of the CGST Act. hence TDS on the same may not be deducted.
- 5.5 Rent received from the Social Justice and Special Assistance Department is exempt from tax in view of Notfn. No. 12/2017-C.T.(R)
- 5.6 The Appellant has let out his property to Social Justice and Special Assistance Department, Government of Maharashtra, who is using the same property for providing residential accommodation to under-privileged girls belonging to Scheduled Tribes.
- 5.7 In this regard, relevant portion of the said Notification No. 12/2017- Central Tax (Rate) is being reproduced hereinafter:

Sl. No.	Chapter, Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
3.	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	Nil

5.8 It can be observed that there are three conditions to satisfy for the exemption:

- a) Service provided should be a 'pure service';
- b) Service should be provided, inter-alia, to State Government;
- c) Service provided should be by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution;

5.9 In this regard, the services provided are renting of immovable property services, and thus, it's a pure service (as no specific goods are supplied). Further, the services are given to Social Justice and Special Assistance Department, Government of Maharashtra.

5.10 The MAAR in its order has observed as under:

*"the Applicant has submitted that the Samaj kalyan Vibhag of the Government of Maharashtra has taken the immovable property on rent from the applicant to house the girls from the backward class communities which can be considered as a welfare measure undertaken by the Government for the under-privileged section of the society. Other than making this statement, the applicant has not submitted any evidence or submissions to state as to how his activities are covered under Article 243G/243W of the Constitution. There are no submissions made to show that the impugned services are supplied by the applicant by way of any activity in relation to any functions entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution."*

In this regard, the Appellant has submitted that the Agreement with Social Justice and Assistance Department had been submitted with the MAAR.

5.11 Further Article 243G of the Constitution of India provides as under:

**"243G. Powers, authority and responsibilities of Panchayats.**

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to:

- a) the preparation of plans for economic development and social justice;
- b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule."

In this regard, the Eleventh Schedule of the Indian Constitution covers following, which could be relevant for discussion:

**“ELEVENTH SCHEDULE (Article 243G)**

1. ...

...

25. Women and Child development

26. Social welfare, including welfare of handicapped and mentally retarded.

27. Welfare of weaker sections, and of scheduled castes and the scheduled tribes.

28.....”

5.12 Further, Article 243W of the Indian Constitution provides as below:

**“243W. Powers, authority and responsibilities of Municipalities, etc.—**Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

- i. the preparation of plans for economic development and social justice;
- ii. the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.”

In this regard, Twelfth Schedule of Constitution of India provides as under:

**“TWELFTH SCHEDULE (Article 243W)**

“1. ...

3. Planning for economic and social development

...

9. Safeguarding the interest of weaker sections of society, including handicapped and mentally retarded

10....”

5.13 In the instant case, the State Government is taking the property on rent for welfare of under-privileged section of the society and in particular, girls. Thus, as the services are provided to ‘Social Justice and Special Assistance Department’ for “Magasvargiya

Mulinche Shashkiya Vastigruha", the services will be covered under the functions entrusted under Article 243W and / or 243G.

- 5.14 It is observed that the similar view has been taken in the case of *Sri Puttahalagaiah G.H.(AAR Karnataka)* wherein Authority has ruled that, "the applicant has rented his property to Backward Classes Welfare Department, Government of Karnataka, who in turn using the same for providing hostel facilities to the post matric girls of backward classes. This is in relation to the function entrusted to a panchayat under article 243G of the Constitution, which is covered by 27<sup>th</sup> Entry of the 11th schedule, which says, "Welfare of weaker sections, and in particular, of scheduled castes and the scheduled tribes."
- 5.15 In the instant case, the aforesaid three conditions and whether they are fulfilled are stated as below:

SR.	Condition	Remarks
(a)	The service provides should be 'pure service' (excluding works contract service or other composite supplies involving supply of any goods)	Yes [as the services does not involve supply of any goods]
(b)	Service should be provided, <i>inter-alia</i> , to Government Authority	Yes [as the services are provided to Social Justice and Special Assistance Department, Government of Maharashtra]
(c)	Services should be by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	Yes [as the services provided are covered under Twelfth Schedule of Constitution (Article 243W)]

- 5.16 As all the three conditions are satisfied in the instant case, by considering the aforesaid notification, it is exempt under CGST Act, 2017. For the same reason, it is exempt under MGST Act. 2017.
- 5.17 Gross Turnover of each Co-owners does not exceed threshold, and thus, is exempt from registration u/s 22(1) of the CGST Act, 2017.
- 5.18 The Appellant is one of the co-owners of immovable property, jointly owned by five individuals. All five co-owners, including the Appellant, hold a proportionate share in the property. The property is let out to Social Welfare Department, Nashik Division (hereinafter the central authority). Total rental received exceeds the threshold limit



provided under section 22(1) of the GST Act, but the share of each of the five co-owners does not exceed the said threshold limit.

- 5.19 As regards to the above submissions, the MAAR took the contention that the Appellant has not made any detailed submission stating actual percentage of the owner/co-owners in the said property. However, the Appellant has submitted the Agreements of co-ownership of the said immovable property before the MAAR. Agreement provides the details of actual percentage of ownership/co-ownership in the said property.
- 5.20 The Appellant also submits that each of the co-owners receives the rental income proportionate to their share in the immovable property and the income tax authority assesses him separately on the income so received. Merely because several persons jointly own an immovable property, they cannot be treated as 'an association of persons' or 'a body of individuals'. It is observed that the similar view is taken in the case of M/s. SRI RABI SANKAR TAH [2019-TIOL-418-AAR-GST] Case No. 34 of 2019 wherein it has been held that "The Applicant and the other two co-owners cannot be treated as an association of persons and, therefore, as a person defined under section 2(84) of the GST Act, where their income from renting is separately ascertainable and assessed for income tax individually at the hand of each co-owner. Whether the Applicant is required to be registered under section 22(1) of the GST Act will, therefore, depend on his gross turnover, ascertained separately from the other co-owners, exceeding the threshold as provided under the Act."
- 5.21 Also, as per the decision in the case of M/s. ELAMBRANCHERI KHALDOON [2018TIOL-187-AAR-GST] ADVANCE RULING No. KER/12/2018 wherein it has been held that "Small business exemption provided u/s 22 of the GST Act is eligible to the co-owners separately in the case of jointly owned property, where the rent is collected together, but divided equally and transferred to the respective co-owners".
- 5.22 Given the aforesaid, as gross turnover of the Appellant does not exceed the threshold limit, hence, the Appellant is of the view that there is no requirement to take registration under sec.22(1) of the GST Act, 2017.

#### THE JURISDICTIONAL OFFICER'S SUBMISSIONS

6. The jurisdictional officer in the matter has submitted that since it is not clear whether the activities of the Social Welfare Department of Maharashtra Government will be covered under Article 243G or 243W of the Constitution, the provisions of the exemption Notification No. 12/2017-C.T. (Rate) dated 28.06.2017 will not be applicable in the present case. It is further submitted that since the value of supply made

by the Appellant to the Social Welfare Department, as per the Agreement, exceeds Rupees Two Lakh and Fifty Thousand, therefore, the recipient, i.e., the Social Welfare Department of the Maharashtra Govt., is eligible to deduct TDS in accordance with provisions of Section 51 of the CGST Act, 2017.

#### PERSONAL HEARING

- 7.1 Personal hearing in the matter was held on 04.03.2022 in the virtual mode, which was attended by Shri Pritam Mahure, C.A., on behalf of the Appellant. Shri Mahure reiterated the earlier submissions made while filing the Appeal under consideration.
- 7.2 Shri Mahure, in the aforesaid hearing, contended that the Appellants jointly own certain plots located at Panchwati, Nashik, which are being rented out to the Social Welfare Department for the accommodation of the girls belonging to the backward classes/Scheduled Tribes against which they are receiving certain amount of money as per the Agreement entered with the Social Welfare Department of Maharashtra Government.
- 7.3 It was further contended by the Appellant before the Maharashtra AAR that the aforesaid activities of renting out of immovable property to the Social Welfare Department, for accommodation of the girls belonging to the backward classes/Scheduled Tribes, will be covered by the entry at Sl. No. 3 of the Exemption Notification No. 12/2017-C.T. (Rate) dated 28.06.2017 as the Appellants are providing the subject services to the Maharashtra State Government and the same are in relation to the functions entrusted upon the panchayats under Article 243G of the Constitution, or upon the municipalities under Article 243W of the Constitution. It was further argued that since Eleventh Schedule mentioned under Article 243G of the Constitution and Twelfth Schedule mentioned under Article 243W of the Constitution inter alia enumerate the functions related to the "welfare of weaker sections, and of scheduled castes and the scheduled tribes", their activities of renting out of immovable property would definitely be covered under the entry at Sl. No. 3 of the Exemption Notification 12/2017-C.T. (Rate) dated 28.06.2017, and thereby, were eligible for exemption from GST. Accordingly, TDS provisions of Section 51 of the CGST Act, 2017, will not be applicable to the subject transactions undertaken by them.
- 7.4 Shri Mahure further vowed to submit the additional submissions made to the MAAR along with the RTI reply received from Adivasi Vikas Vibhag, Government of Maharashtra wherein it has been clarified that hostel accommodation to the girls from

the Scheduled Tribes is provided by the Adivasi Vikas Vibhag, Government of Maharashtra.

### DISCUSSIONS AND FINDINGS

8. We have carefully gone through the appeal memorandum encapsulating the facts of the case and the grounds of the appeal along with all the additional submissions made by the Appellant during the course of the personal hearing proceedings. We have also examined the impugned Advance Ruling passed by the MAAR, wherein it has been held that the services provided by the Appellant to Social Welfare Department is not exempt from GST and TDS provisions under Section 51 of the CGST Act, 2017, will be applicable in this case.
9. On perusal of the facts and the Order passed by the MAAR, the moot issue before us is as to whether the subject activity of renting out of immovable properties to the Social Welfare Department of Maharashtra Govt. for residential accommodation of girls from the backward class/Scheduled Tribes would amount to be in relation to any function entrusted upon the panchayat under Article 243G of the Constitution or any function entrusted upon the municipality under Article 243W of the Constitution. To determine this moot issue, first we would like to examine the Article 243G of the Constitution, which is being reproduced hereinunder:

**“243G. Powers, authority and responsibilities of Panchayats.**

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to:

- (a) the preparation of plans for economic development and social justice;
- (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.”

In this regard, relevant entry of the Eleventh Schedule of the Indian Constitution are enumerated as under:

**ELEVENTH SCHEDULE (Article 243G of the Indian Constitution)**

1. ...

...

25. Women and Child development

26. Social welfare, including welfare of handicapped and mentally retarded.
27. Welfare of weaker sections, and of scheduled castes and the scheduled tribes.
- 28.....”

Further, Article 243W of the Constitution of India provides as below:

“243W. Powers, authority and responsibilities of Municipalities, etc.—Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.”

In this regard, Twelfth Schedule of Constitution of India provides as under:

“TWELFTH SCHEDULE (Article 243W of the Indian Constitution)

“1. ...

3. Planning for economic and social development

...

9. Safeguarding the interest of weaker sections of society, including handicapped and mentally retarded;

10. Thus, on perusal of the Article 243G and 243W of the Indian Constitution along with the eleventh and twelfth Schedule to the Constitution, it is seen that panchayats and municipalities have been entrusted with the responsibilities of planning and implementation of the various schemes for ensuring social justice and development of the weaker section of the society, which clearly includes the girls and women from the backward class/Scheduled Tribes. Thus, any welfare measure undertaken by the panchayats and municipalities for the social development of the girls belonging to the backward classes/Scheduled Tribes, including the residential accommodation of the girls or women, will definitely come under the ambit of the responsibilities/functions entrusted to panchayats and municipalities. Having observed this, now we would like

to dissect the relevant entry at Sl. No. 3 of the Exemption Notification No. 12/2017-C.T. (Rate) dated 28.06.2017, which reads as under:

Sl. No.	Chapter, ... Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
3.	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	Nil

11. On perusal of the aforesaid entry, it is seen that the legislature has used the expression "any" before the term "activity", and the term "function", which has got a very wide connotation. Further, the expansion expression "in relation to" present in the entry before the expression "any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution" imparts very wide coverage to the expression "function". Thus, it can be safely interpreted that the aforesaid entry has a very wide connotation and coverage. Since, it has been established hereinabove that the activities related to residential accommodation of the girls or women, belonging to the Backward Class/Scheduled Tribes, will definitely come under the ambit of the responsibilities/functions entrusted to panchayats and municipalities, therefore, it can be safely concluded that in the instant case, pure services, i.e., renting out of immovable

properties, provided by the Appellant to the State Government, will definitely be construed as an activity in relation to the function entrusted to a Panchayat under article 243G of the Constitution, or in relation to the function entrusted to a Municipality under article 243W of the Constitution, and thereby, are rightly eligible for exemption from GST in terms of the aforesaid exemption entry at Sl. No. 3 of the Notification No. 12/2017-C.T. (Rate) dated 28.06.2017.

12. A similar view has also been expressed by AAR Karnataka in the case of Sri Puttahalagaiah G.H. [Advance Ruling No. KAR/ADRG/19/2021 dated 06.04.2021] wherein the Authority has ruled that, "the applicant has rented his property to Backward Classes Welfare Department, Government of Karnataka, who in turn using the same for providing hostel facilities to the post metric girls of backward classes. This is in relation to the function entrusted to a panchayat under article 243G of the Constitution which is covered by 27th Entry of 11th schedule which says "Welfare of weaker sections, and in particular, of scheduled castes and the scheduled tribes."
13. Further, we do not find any deficiency in the submissions made by the Appellant, as ruled by the MAAR, because the Appellant has submitted a copy of the Agreement entered with the Assistant Commissioner of Social Welfare Department, Maharashtra Government, which manifests the nature of services provided by the Appellant as well as nature of the recipient of services, which, in the present case, is State Government.
14. Once, it has been concluded that the impugned activity undertaken by the Appellant is eligible for exemption from GST, there is no point discussing the aggregate turnover of the Appellant which include the rental income received from Social Welfare Department, Govt. of Maharashtra as the issue before us was to determine whether the services provided to the Social Welfare Department, Government of Maharashtra for residential accommodation of underprivileged girls is exempt from GST and not the liability of the Appellant to take GST registration attributing to his annual aggregate turnover.
15. Further, once the subject transaction has been held to be exempt from the levy of GST, there is no question of application of the TDS provisions made under Section 51 of the CGST Act, 2017.
16. Thus, in view of the above discussions and findings, we pass the following order:

**ORDER**

17. We, hereby, set aside the Advance Ruling No. GST-ARA-94/2019-20/B-84 dated 02.11.2021, passed by the MAAR, and hold that the impugned services of the renting out of immovable properties provided by the Appellant to the Social Justice Department of the Government of Maharashtra will be exempt from the levy of GST in terms of Sl. No. 3 of the Notification No. 12/2017-C.T. (Rate) dated 28.06.2017, and accordingly, the TDS provisions made under section 51 of the CGST Act, 2017, will not be applicable therein. Thus, the Appeal filed by the Appellant is, hereby, allowed.

  
(RAJEEV KUMAR MITAL)  
MEMBER

  
(ASHOK KUMAR MEHTA)  
MEMBER

**Copy to the:**

1. Appellant;
2. AAR, Maharashtra
3. Pr. Chief Commissioner, CGST and Central Excise, Mumbai Zone.
4. Commissioner of State Tax, Maharashtra.
5. Deputy/Assistant Commissioner, Division -II, CGST & Central Excise, Nashik Commissionerate.
6. Office copy.