

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 04/ 2023

Dated: 23.01.2023

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. Kiran Reddy. T
Additional Commissioner of Customs & Indirect Taxes Member (Central)

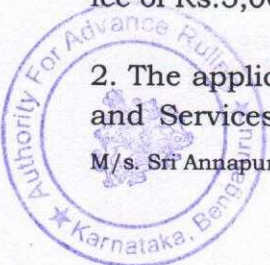
1.	Name and address of the applicant	M/s. Sri Annapurneshwari Enterprises, 180, Nagarabhavi, 2 nd Stage, 2 nd Block, Opp. BDA Shopping Complex, Bengaluru-560 072.
2.	GSTIN or User ID	29ADDFS0552R1ZH
3.	Date of filing of Form GST ARA-01	08.12.2022
4.	Represented by	Sri Pradeep Kumar Shetty, Partner
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Bengaluru West GST Commissionerate, West Division-7, Range-EWD7
6.	Jurisdictional Authority - State	ACCT, LGSTO-070, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger Reference No.DC2912220026497 dated 08.12.2022 and No.DC2911220296113 Dated 23.11.2022.

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Sri Annapurneshwari Enterprises, 180, Nagarabhavi, 2nd Stage, 2nd Block, Opp. BDA Shopping Complex (hereinafter referred to as 'The applicant'), having GSTIN 29ADDFS0552R1ZH have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a Partnership firm registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017

M/s. Sri Annapurneshwari Enterprises



(hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The applicant is engaged in the business of hotel and catering service.

3. The applicant has sought advance ruling in respect of the following question:

- i. Whether providing catering services to Educational Institutions from 1st standard to 2nd PUC is taxable or not according to Notification No.12/2017-Central Tax Rate –under Heading 9992.

4. **Admissibility of the application:** The question is about the “determination of the liability to pay tax on any goods or services or both” and hence is admissible under Section 97(2) (e) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant at the time of hearing has stated that they are carrying on the business of hotel and they are supplying ready to eat breakfast, lunch to the KLE Independent PU College, Bengaluru. They are not collecting any charges from the students. They are billing to college and college is paying the amount.

5.2 Further the applicant has submitted a letter dated 12.12.2022 wherein it is mentioned that they have filed two advance ruling applications online by mistake vide ARN AD2911220094949 dated 23.11.2022 and vide ARN AD291222004810K dated 08.12.2022 and paid fee of Rs.5000/- under SGST and paid fee of Rs.5000/- under CGST respectively for each application. The Applicant has requested to consider the SGST and CGST fee payment made to different applications to one application i.e., ARN AD2911220094949 dated 23.11.2022 and reject the other application.

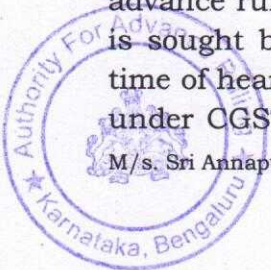
PERSONAL HEARING / PROCEEDINGS HELD ON 12.12.2022

6. Shri Pradeep Kumar Shetty, one of the Partners, appeared for personal hearing proceedings held on 12.12.2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts and submissions made during the time of hearing. We find that the applicant has paid the requisite fee of Rs 5000/- each under CGST Act and KGST Act for advance ruling, however under different ARN No's



and requested to consider the same towards fee for one application i.e., ARN AD2911220094949 dated 23.11.2022 and reject the other application. Since the ruling sought is in respect of only one issue mentioned at para 3(i) supra, the request of taxpayer is considered and the payment made vide the second ARN AD291222004810K dated 08.12.2022 is appropriated towards fee for the ARN AD2911220094949 dated 23.11.2022 and the second application stands rejected.

9. The Applicant is a partnership firm engaged in supply of ready to eat breakfast and lunch to KLE Independent PU College. The Applicant intends to know whether providing catering services to Educational Institutions from 1st standard to 2nd PUC is liable to GST. In this regard we invite reference to entry No.66 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended vide Notification No.02/2018-Central Tax(Rate) dated 25.01.2018 which reads as under:

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
66	Heading 9992	Services provided -(a) by an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee (b) to an educational institution, by way of,- (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; (v) supply of online educational journals or periodicals: Provided that nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent	Nil	Nil



Thus from the above entry we can see that services provided by way of catering to an educational institution, which is providing services by way of pre-school education and education up to higher secondary school is exempted from GST.

9.1 The recipient of service is defined in clause (93) of section 2 of the CGST Act, 2017 and the same reads as under:

"(93) 'recipient' of supply of goods or services or both, means –

- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;*
- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and*
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,*

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied."

From the above, it is seen the applicant is billing to the KLE Independent PU College and the consideration is payable by the said college. Hence the recipient of the service in question is the KLE Independent PU College.

9.2 Further, the "educational institution" is defined in clause (y) of para 2 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as under:

"2. Definitions. – For the purposes of this notification, unless the context otherwise requires, -

(y) "educational institution" means an institution providing services by way of, -

(i) pre-school education and education upto higher secondary school or equivalent

(ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;

(iii) education as a part of an approved vocational education course;"

Since the recipient of service is an institution providing education up to higher secondary school, it is covered under the definition of "educational institution" for the purposes of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017.

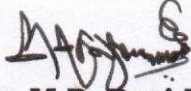
9.3 Since the Applicant is providing ready to eat food by way of catering to a Pre University College, the services provided by the applicant under question before us is also covered under entry No.66 of Notification No.12/2017-Central Tax (Rate) dated: 28.06.2017 as amended further and hence exempted from GST.



10. In view of the foregoing, we pass the following.

R U L I N G

i. Providing catering services to Educational Institution from 1st standard to 2nd PUC is exempted as per entry No.66 of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017 as amended further.

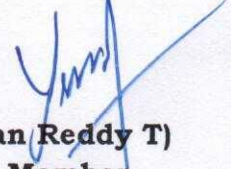


(Dr. M.P. Ravi Prasad)

Member

MEMBER

Place: Bengaluru,
Karnataka Advance Ruling Authority
Bengaluru - 560 009



(Kiran Reddy T)

Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date: 23.01.2023

To,
The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Central Taxes, Bengaluru West GST Commissionerate, West Division-7, Range-EWD7, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-070, Bengaluru.
5. Office Folder.

