

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

Advance Ruling No. KAR ADRG 61/ 2019

Dated: 20th September, 2019

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

1.	Name and address of the applicant	M/s Rashmi Hospitality Services Pvt. Ltd., Plot No. 855, Electronic City, VSR Sastry building, Hosur Road, Chennakeshava Nagar, Bengaluru-560100
2.	GSTIN or User ID	29AACCR5234Q2ZR
3.	Date of filing of Form GST ARA-01	28-08-2018
4.	Represented by	Sri Vishwanath S Navalgund, Chartered Accountant
5.	Jurisdictional Authority - Centre	Commissioner of Central tax, Bangalore-South
6.	Jurisdictional Authority - State	LGSTO 25-Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act vide CIN BKID 180829000 03926 dated 01.08.2018 & Rs.5,000/- under KGST Act vide CIN BKID 18082900 137820 dated 17.08.2018

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s Rashmi Hospitality Services Private Limited, having GSTIN number 29AACCR5234Q2ZR, have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 & KGST Act 2017 read with Rule 104 of the CGST Rules, 2017 and 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 and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:



Rashmi Hospitality

Whether the subsidy received from the state government would form part of consideration under section 2(31) of the CGST Act?

3. The applicant furnishes some facts relevant to the stated activity:
- The applicant states that the firm is engaged in the business of supply of food and beverages. Meanwhile the applicant has entered into a contract with **Government of Karnataka for supplying food (breakfast, lunch and dinner) in the premises under the name and style of "Indira Canteen" in various districts located in the state of Karnataka.**
 - The applicant firm states that the main theme of the Indira canteen launched by the scheme of Government of Karnataka is to provide breakfast, lunch, dinner at low cost subsidized price to the public .The said canteens were run by the Bruhat Bengaluru Mahangara Palike in Bengaluru City where as in the outside districts the canteens were run by local Municipal Corporations who shall provide designated infrastructure designed for such canteens. The applicant has been awarded the contract of supply of food in four districts of Karnataka viz. Tumakuru, Belagavi, Davanagere and Mysore districts.
 - The applicant shall supply meals as per the terms of the contract wherein the number of meals is fixed. Essentially such scheme being only to provide low cost subsidized food to the local people, the applicant receives subsidy from the Government in addition to the contracted price from the beneficiaries towards the supply of meals in the following manner:

Sl.No.	Particulars	Amount from beneficiary incl GST	Subsidy from Government
1	Breakfast	Rs.5-00	Rs.6-95
2	Lunch	Rs. 10-00	Rs.12-40
3	Dinner	Rs. 10-00	Rs.12-40

- The applicant states that he is discharging GST liability on the actual price collected from the beneficiaries towards the supply of such food. The price for the food is fixed and notified by the Government. In this regard, the applicant understands that in terms of Section 2(31) of the CGST Act, the value of supply of goods and/or services does not include subsidy given by the Central or the State Government. In other words, the applicant is of the considered opinion that subsidy given by the State / Central Government is kept outside the meaning of the valuable consideration for the purpose of GST liability. Based on such understanding, the applicant is not including subsidy amount given by the State Government while computing the "consideration" liable to GST.
- Still the applicant, with a principled stand to comply with GST Law in its true spirit and pay the correct tax on the correct consideration, requests this Authority to issue a ruling as to whether the understanding of the applicant is

correct in terms of section 2(31) of the KGST Act, 2017 and the CGST Act, 2017.

PERSONAL HEARING

4. Sri Vishwanath, Chartered Accountant, M/s Rashmi Hospitality Services Private limited appeared on behalf of the applicant before the Authority for Advance Ruling for hearing.

4.1 The DAR argued that the Government of Karnataka has given subsidy on serving of food through Indira Canteen to the end-users who are from the weaker sections of the society through low subsidized value as a part of the government programme.

5. FINDINGS & DISCUSSION:

We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri Vishwanath, Chartered Accountant, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts.

5.1 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 KGST Act.

5.2 The copies of the agreements produced were verified. The applicant has entered into agreements with Deputy Commissioners of the districts to provide hotel/ restaurant services for the Indira Canteen through tender. He is providing the restaurant services by serving the food to beneficiaries and collecting a specified amount, which is notified, from beneficiaries based on daily menu of breakfast, lunch, dinner, for consumption there itself. At the end of the month, the applicant is submitting a consolidated bill by showing the amount collected from beneficiaries and subsidy available from the Government.

5.3 The term consideration is defined in the clause (31) of section 2 of the Central Goods and Services Tax Act and the same reads as under:

“ (31) “consideration” in relation to the supply of goods or services or both includes—

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;



(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;"

It is clear from the above, the amount of subsidy given by the Central Government or a State Government is not a part of the consideration as per the section 2(31) of the CGST Act.

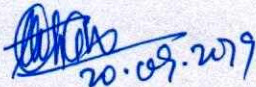
5.4 A "**Subsidy**" or government incentive is a form of financial aid or support extended to an economic sector generally with the aim of promoting economic and social policy.

5.5 As per provisions of the 2(31) of SGST/CGST consideration received in the form of subsidy given by the State Government or Central Government for the supply of service of food and drinks to the end-user is excluded from the definition of consideration and hence would not form the part of the consideration and in consequence does not form the part of the turnover. But the amount collected for the supply from the beneficiaries, which is inclusive of tax, would form the consideration on which the turnover is to be calculated after deducting the proportionate tax as the collected consideration is inclusive of tax.

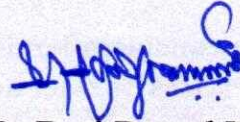
6. In view of the foregoing, we pass the following

R U L I N G

The subsidy amount received from the Government of Karnataka for the supply of service of food to the ultimate beneficiaries (consumers) in Indira Canteens by the applicant is excluded from the definition of consideration and would not form the part of the turnover on which tax is liable. The consideration collected from the beneficiaries is liable to tax after deducting the tax fraction as the price collected is inclusive of tax.


20.09.2019

(Harish Dharnia)
Member



(Dr. Ravi Prasad.M.P.)
Member



Place : Bengaluru,

Date : 20.09.2019

The Applicant
Rashmi Hospitality

Copy to :

- a. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
- b. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
- c. The Commissioner of Central Tax, Bangalore-South, Queens Road, Bengaluru
- d. The Asst. Commissioner, LGSTO 25-Bengaluru
- e. Office Folder