

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Old Building, 1st floor, B-Wing, Room No.107, Mazgaon, Mumbai - 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri. D. P. Gojamgunde, Joint Commissioner of State Tax, (Member)

(2) Ms. Priya Jadhav, Joint Commissioner of Central Tax, (Member)

ARA No.	AD270524022533B
GSTIN Number, if any/ User-id	27CUGPS5735J121
Legal Name of Applicant	M/s. RAVINDRA NAVNATH SATPUTE (DEWOO ENGINEERS)
Registered Address/ Address provided while obtaining user id	L-230, MIDC, Ahmednagar, Maharashtra 414001.
Details of application	GST-ARA, Application No. 15 Dated 22.05.2024
Concerned officer	State - Maharashtra, Zone - Nashik, Division - NASHIK, Charge - AHMEDNAGAR-603
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	Applicant is registered under Goods and Service Tax Act, 2017 and have given property on rent basis to Sant Sakhubai Government Girls Hostel Ahmednagar, a Hostel run by the Department of Social Justice & Special Assistance Department of Maharashtra Government. The said property is being used for the purpose of Hostel facility provided to the backward class girls students for residential purpose.
Issue/s on which advance ruling required	➤ Applicability of a notification issued under the provisions of this Act ➤ Determination of time and value of supply of goods or services or both ➤ Determination of the liability to pay tax on any goods or services or both ➤ Whether applicant is required to be registered
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" respectively] by M/s.



RAVINDRA NAVNATH SATPUTE (DEWOO ENGINEERS), the applicant, seeking an advance ruling in respect of the following questions.

1. Whether such service is taxable or exempt?
2. If the service is taxable, then what will be the time of supply?
3. If the service is taxable, then whether Tax is payable under Reverses charge or under Forward charge mechanism?
4. As both owners are registered under GST, separately, is it appropriate to disclose all receipts on applicants' registration number?
5. Whether separate registration Under GST is required by joint name?

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.

01. FACTS AND CONTENTIONS - AS PER THE APPLICANT

- 1.1. The property is situated at C.S.no.690 5, Plot no.24, Balikashram Road, Ahmednagar-414001. Property jointly owned by applicant and his brother. Mr. Ravindra Navnath Satpute Registered wide GSTIN 27CUGPS5735J1Z1 and Mr. Devndra Navnath Satpute registered wide GSTIN 27BJZ1SO332LLZI.
- 1.2. Property is being provided on rental basis to the Sant Sakhubai Government Girls Hostel Ahmednagar, a hostel run by the Department of Social Justice & Special Assistance Department of Maharashtra Government. Said hostel is registered under GST as TDS Deductor wide GSTIN 27PNES19339F1DZ.
- 1.3. The property is given on rent for 36 months from 31st December 2022 to 31st December 2025.
- 1.4. The monthly rent for the property is agreed at Rs.2,14,283/- Excluding of all Taxes.
- 1.5. The rent is being deposited in joint Account of joint owners of property. The department has deducted income tax TDS and GST TDS against the PAN of Mr. Ravindra N. Satpute only, even though Joint Owner has separate GST Number.



1.6. The said property is being used for the residential purpose as hostel for Backward Class and Scheduled Class girl students.

02. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS

2.1. Entry No.12 of the Exemption Notification No.12/2017-centralTax (Rate)dated 28.06.2017 (similar entry, vide Entry No.13 of Exemption Notification No.9/2017-Integrated Tax Rate dated 28.06.2017) reads as follows:

"Services by way of renting of residential dwelling for use as residence. Explanation- For the purpose of exemption under this entry shall cover services by way of renting of residential dwelling to a registered person where the registration person is Proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence and to such renting is on his own account and not that of the proprietorship concern".

2.2. By referring to the above, the applicant herein would claim that since they are providing the residential accommodation to the girl students, which can be termed as 'residential dwelling' used as residence by the inmates of the hostels and thereby, the rent collected by them from the Government on such accommodation, qualifies for GST exemption and therefore, they are entitled to the exemption from levy of GST tax.

2.3. As per the Hon'ble Supreme Court "An exemption provision should be liberally construed in accordance with the object sought to be achieved if such provision is to grant incentive for promoting economic growth or otherwise has some beneficial reason behind it".

2.4. in order to claim exemption of GST, the nature of the end-use should be 'residential and it cannot be decided by the nature of the property or the nature of the business of the service provider, but by the purpose for which it is used i.e. 'resident dwelling' which is exempted from GST.

Additional Submission

We hereby submit the additional consideration to be covered for the case. We hereby refer Notification No. L212017-Central Tax (Rate) dated 28th June 2017.

We request you to consider the following:

2.5. As per Sr.no3 under Chapter 99 of Notification No.12/2017-Central Tax(Rate) states 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 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 are exempt from GST.

2.6. It can be seen 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.

2.7. In this regard, we observed that the services provided are renting of immovable property services and **thus, it's a pure service** (as no specific goods are supplied).

2.8. Further services are given to the Department of Social Justice and Special Assistance Department of Maharashtra Government.

2.9. Additionally, Article 243G of 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 of 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."

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

"ELEVENTH SCHEDULE (Article 243G)

.1.

...

25. Women and Child development

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

For DEW00 Engineers

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

28, ..."

Further; Article 243W of the Indian 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."

2.11. 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...;"

2.12. In the instance case the State Government is taking the property of rent for welfare of under-privileged section of the society and in particular, girls. Thus, as the services are provided to "Sant Sakhubai Government Girls Hostel Ahmednagar", the services will be covered under the functions entrusted under Article 243W and or 243G.



- 2.13. Given aforesaid as the services are covered under sr. no 3 chapter 99 of the Notification. No 12/2017- CT dated 28.06.2017(as amended from time to time), the said services are exempt from GST.
- 2.14. It may be noted that the Section 51 of CGST Act, 2017 is applicable in case of "... 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**"
- 2.15. In the view of the aforesaid, unless the supply is "taxable", the provisions of Section 51 of CGST Act will not be applicable.
- 2.16 Since given services are exempt under GST there no question of deducting TDS.
- 2.17. Given the aforesaid, we submit and request to clarify that the TDS is not liable to be deducted in the instant case.

Applicant letter dated 14.02.2025

Applicant files letter dated 14.02.205 for withdrawal of questions Sr. No 4, Sr. No. 5 voluntarily and unconditionally and add one question as bellow: -

"If the services are GST taxable or exempt, will GST TDS also be taxable or exempt?"

**03. CONTENTION - AS PER THE CONCERNED OFFICER:
OFFICER SUBMISSION DATED 24.01.2025:**

3.1 The applicant is one of the co-owners of the immovable property situated at Balikashram Road, Ahilyanagar. This property is jointly owned by Shri. Ravindra Navnath Satpute (applicant) & Shri. Devendra Navnath Satpute. This property is let out to social welfare department (Samaj kalyan vibhag) Nashik division of Govt. of Maharashtra. Social welfare department runs Sant sakhubai backward class girl's hostel in this property. The applicant has filed application for advance ruling before The Maharashtra Advance Ruling Authority u/s 97 of CGST/MGST Act 2017 seeking advance ruling on the following questions.

Questions Raised and replies

Question.1) Whether such service is taxable or exempt?

Ans: This service is not liable for exemption according to this office on the following grounds. Samaj kalyan Vibhag of the Government of Maharashtra has taken the immovable property on rent from the applicant for accommodation of the girls from the backward

class communities, but this office find that even though the applicant is supplying Pure Services, it is not possible for this office to find whether the said services are supplied by the applicant 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. Hence, in view of the above, the renting of immovable property services by the applicant is not liable for exemption under the provisions of Entry No. (3) Of Notification No. 12/2017-CT(R) dated 28.06.2017.

Question 02) If the service is taxable, then what will be the time of supply?

Ans- time of supply regarding this service shall be as prescribed in sec.13(2) of CGST/MGST Act 2017. Sec 13(2) is reproduced here for ready reference.

**Section 13. Time of Supply of Services.-*

13 (2) The time of supply of services shall be the earliest of the following dates, namely:-

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed

under section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under section

31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where

the provisions of clause (a) or clause (b) do not: apply

Question 3) If the service is taxable, then whether Tax is payable under Reverse charge or under Forward charge mechanism?

Ans: The tax on the renting services (SAC: 997211) falls under forward charge mechanism.

Question 4) As both owners are registered under GST, separately, is it appropriate to disclose all receipts on applicants' registration number?

Ans: As both the owners are registered under GST separately but immovable property is jointly owned by two persons. It is not appropriate to disclose all receipts on applicant's registration number.

Question 05) Whether separate registration Under GST is required by joint name?



Ans: Yes. As both the owners are registered under GST separately but immovable property is jointly owned by two persons, separate registration is required regarding the supply of renting services to social welfare department of Government of Maharashtra.

04. HEARING

Preliminary e-hearing in the matter held on 14.11.2024. Mr. Sanjay Kuri C.A. appeared and requested for admission of the application. Jurisdictional Officer Mr. Bhise Dattatraya Sukhadev, Assistant Commissioner of SGST has virtually attended the meeting.

The application was admitted and called for final e-hearing on 20.02.2025 Mr. Sanjay Kuri C.A., Authorized Representative, appeared made oral and written submissions. Jurisdictional Officer Mr. Bhise Dattatraya Sukhadev, Assistant Commissioner of SGST appeared. We heard both the sides.

05. OBSERVATIONS AND FINDINGS:

5.1 We have carefully gone through the facts of the case along with all the additional submissions made by the Appellant during the course of the personal hearing proceedings.

5.2 After verification of the facts, it is noticed that the issue before us is whether the services of renting out of immovable property by the Applicant to the Social Justice Department of the Government of Maharashtra would 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 which reads as under:



SI 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 by way of any activity in relation to any function entrusted to	Nil	Nil

		a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.		
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5.3 It can be observed that there are three conditions to be satisfied for the exemption under entry 3 of the of the Notification No. 12/2017-C.T. (Rate) dated 28.06.2017.

- Service provided should be a 'pure service';
- Service should be provided, to the Central Government or State Government or Union territory or local authority;
- 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 243 W of the Constitution;

5.4 In this regard, we observe that the services provided are renting of immovable property services. These supplies of services do not involve any supply of goods and can be regarded as pure services. Further, the services are given to Social Justice and Special Assistance Department of Maharashtra Government. Thus, the services have been provided to the State Government.

5.5 Now the issue left with us is to decide whether the said service is in relation to any functions entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution of India. The functions entrusted to a Panchayat and to a municipality under article 243G and 243W of the Constitution have been listed in the eleventh and twelfth schedule of the Constitution respectively.

5.6 We observe that the Assistant Commissioner, Social Justice Department of Government of Maharashtra, Ahmednagar has written a letter on 09.12.2022 to Sub Registrar (Registration), Ahmednagar to register a rent agreement of Sant Sakhubai Backward class girls Government hostel. In letter, he has mentioned that the building owned by Mr. Ravindra Navnath Satpute and Mr. Devendra Navnath Satpute is to be taken on rent to run a hostel in the name of Sant Sakhubai Backward Class Girls Government Hostel and that they have authorized hostel superintendent, Mr. B.K. Bade on behalf of Social

Justice Department, Maharashtra Government to sign a Leave and License agreement. Accordingly, Leave and License agreement is registered between hostel superintendent, Mr. B.K. Bade on behalf of Government of Maharashtra and Mr. Ravindra Navnath Satpute and Mr. Devendra Navnath Satpute on 29.12.2022. Further, it is seen that Maharashtra Government has issued an order dated 29th February 2024 sanctioning an amount of Rs. 214,283/- per month for payment of rent to Shri. Devendra Navnath Satpute and Shri Ravandra Navanth Satpute for their rented property as per agreement dated 29.12.2022. As per the said order, the property taken on rent is for Sant Sakhubai Girls hostel for Backward classes, and the said rent is to be paid for the period 31.12.2022 to 30.12.2025. Thus, it is seen that the Government has taken said property on rent for accommodation of girls from Backward Classes.

5.7 It needs to be discussed as to whether the activity of renting out of immovable property to the Social Justice and Special Assistance Department of Maharashtra Government for residential accommodation of girls from the Backward Classes 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 issue, first we would like to examine the Article 243G of the Constitution, which is being reproduced herein 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, relevant entries 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 243 W 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 relevant entries of the, Twelfth Schedule of the Constitution of India are enumerated 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;

13. Promotion of cultural, educational and aesthetic aspects.

5.8 We observe that the Articles 243G and 243W of the Indian Constitution along with the eleventh and twelfth Schedule to the Constitution, entrust panchayats and municipalities with the responsibilities of planning and implementation of the various schemes for ensuring social justice and development of the weaker sections of the society, which

clearly includes the girls and women from the Backward classes/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 within the ambit of the functions entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution of India.

5.9 Thus, we observe that renting out of immovable property, 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 243 W of the Constitution, and thereby, are rightly eligible for exemption from GST in terms of the exemption entry at Sl. No. 3 of the Notification No. 12/2017-C.T. (Rate) dated 28.06.2017.

5.10 The Maharashtra Appellate authority has set aside the Advance Ruling No. GST-ARA-95/2019-20/B-85 dated 02.11.2021, passed by the MAAR in the case of Shital Tukaram Borade and held 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 as 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 (Appellate Advance Ruling No. MAH/AAAR/AM-RM/05/2022-23 dated 01.04.2022).

5.11 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 are 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'". Similar view is also taken in the case of Rimita Mukherjee, Order number 15/WBAAR/2024-25 dated 11.12.2024 passed by West Bengal Authority for Advance Ruling.

5.12 Further, we observe that as the activities related to residential accommodation of the girls or women, belonging to the Backward Classes are held to be exempt from the levy of GST,

there is no question of application of the TDS provisions under Section 51 of CGST Act, 2017.

6. Thus, in view of the above discussions and findings, we pass the following order:

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- 15/2024-25/B- 158 Mumbai, dt. 27/03/2025

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

Question No.1: Whether such service(Service of renting of residential building to the Social Justice and Special Assistance Department of Maharashtra Government for running a hostel for the backward class girls) is taxable or exempt??

Answer No.1: Service provided by the applicant to the Social Justice and Special Assistance Department, Government of Maharashtra qualifies to be an exempted supply of pure services vide Sl. no. 3 of the Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017.

Question No.2: If the service is taxable, then what will be the time of supply?

Answer No.2: Not applicable in view of the answer given against question number 1.

Question No.3: If the service is taxable, then whether Tax is payable under Reverse charge or under Forward charge mechanism?

Answer No.3: Not applicable in view of the answer given against question number 1.

Question No.4: As both owners are registered under GST, separately, is it appropriate to disclose all receipts on applicants' registration number?

Answer No.4: Applicant has withdrawn this question via letter dated 14.02.2025.

Question No.5: Whether separate registration Under GST is required by joint name?

Answer No.5: Applicant has withdrawn this question via letter dated 14.02.2025.

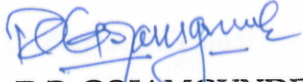


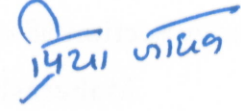
Question No.6. If the services are taxable or exempt, will GST TDS be applicable?

Answer No.6. As the subject transaction has been held to be exempt from the levy of GST,

TDS under Section 51 of the CGST Act, 2017, will not be applicable.




D.P. GOJAMGUNDE
(MEMBER)


PRIYA JADHAV
(MEMBER)

Copy to: -

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The 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. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.