



HIGH COURT RULING Hostel Services Exempt under GST.

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► **Hostel services provided as residential accommodation are exempt under GST** [*Thai Mookambikaa Ladies Hostel v/s Union of India* [WP No. 28486 of 2023]

The petitioner operates private hostels, offering residential accommodation and food to college students and working women every month at reasonable rents. The petitioner applied to the Tamil Nadu State Appellate Authority for Advance Ruling (AAAR) ("Respondent"), seeking clarification on whether the hostel facility provided for the residential dwelling is eligible for exemption under Entry No. 12 of Notification No. 12/2017 - Central Tax (Rate) dated June 28, 2017 ("Notification"). The Appellate Authority for Advance Ruling concluded that it is not eligible for exemption under the above notifications.

Challenging the above order passed by the AAAR, the petitioner filed a writ before the Hon'ble High Court of Madras ("Hon'ble HC"). The petitioner argued that hostel services provided by them would fall under the above Notification and further relied on the judgment passed by the Hon'ble High Court of Karnataka in the case of "Taghar Vasudeva Ambrish Vs. Appellate Authority for Advance Ruling," where it was held that services provided by leasing out residential premises as hostels are exempted under the GST laws.

Furthermore, the respondents submitted that the intention of petitioners in renting out the premises in the name of hostels is nothing but providing hotel accommodation. A hostel is required to obtain a license from the Shops and Establishments Act, which is required for commercial establishments. Accordingly, the services provided by the petitioner do not qualify as residential dwellings for use as a residence.

The Hon'ble HC, after hearing submissions from both petitioner and respondents, held that the provision of hostel services falls under the exemption category of the aforementioned notification, which provides that "services by way of renting of residential dwelling for use as a residence is exempt." The imposition of GST on hostel accommodation should be viewed from the perspective of the service recipient and not from the service provider. The end use of the premises is for residential purposes, and the same duly qualifies for exemption under GST.

Based on the above, the Hon'ble HC allowed the above petition, and the impugned orders passed by the respondents are hereby set aside.

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