

STATE GST

CA. C. B. Thakar, CA. Madhav Kalani

Case: M/s KALANI INFRASTRUCTURE PVT LTD [2021-TIOL-14] (RAJASTHAN AAAR)

The AAR had held that the provision of hostel accommodation along with food facility, Play Room, Gym, Housekeeping, Room Cleaning to the students wherein consolidated amount is charged from the students is Mixed Supply. That the entire charges recovered from the students are not exempted from GST under Sr. No. 14 of the Notification No. 12/2017 dated 28.06.2017. The rate of GST on whole supply will be the rate of supply which attracts highest rate of GST i.e. 18%. Appeal is filed against this order of the AAR by the assessee.

Appellate authority held that Supply of various other services as detailed above with Hostel Accommodation service is not naturally bundled in normal course of business. Each service is an independent service and can be supplied separately. It is obvious that a person can live on the hostel without availing other services like food, TV, gym, etc; but to make ones stay more comfortable, the said ancillary services are availed by him. Placed reliance on the ruling of West Bengal AAR in the case of Sarj Educational Centre = 2019-TIOL-57-AAR-GST involving similar facts and circumstances, wherein the applicant was engaged in supplying food and other services, etc and it was held that they are not naturally bundled with the lodging service. Accordingly appeal was rejected and AR confirmed.

Case: M/s KALYAN JEWELLERS INDIA LTD [2021-TIOL-12] (TAMILNADU AAAR)

Appellant is in the business of manufacturing and trading of Jewellery products and as part of sales promotion, the appellant introduced the facility of "Gift Vouchers/Gift Cards". They had sought to know as to whether issuance of these pre-paid instruments are classifiable as goods and taxable and if so, the time and value of supply of goods and determination of liability to pay tax for their pre-paid instruments.

AAR had held that the gift voucher/gift card is an instrument squarely covered under the definition of 'payment instrument' under the Payment and Settlement Act, 2007; that the customer cannot use it to pay for any other goods, hence it is not an 'actionable claim' as defined in the Transfer of Property Act. Aggrieved by ruling, appellant filed appeal.

Appellate authority held that Voucher per se is neither a goods nor a service. It is a means for payment of consideration. It, therefore, follows that where a voucher identifies the goods or service that can be received on redeeming, the supply of the underlying goods or service takes place at the time of issue of the voucher. Since the gold voucher clearly indicates that the voucher can be redeemed for gold jewellery at a known rate of tax, it is our view that the gold voucher (representing the underlying future supply of gold jewellery) would be taxable at the time of issue of the voucher. As per GST law voucher is recognized as an instrument of consideration (non-monetary form) for future supply. Regarding classification of voucher, since voucher is only an instrument of consideration and not goods or services, the same is not classifiable separately but only the supply associated with the voucher is classifiable according to the nature of the goods or services supplied in exchange of the voucher earlier issued to the customer