



AAR: No GST on subscription/Infrastructure development fees collected by club till amended Section 7 notification

Case Name In the matter of Bowring Institute – April 26th, 2021

Karnataka AAR holds that the applicant (carrying a members-club), a non-profit organisation established by British as a literary and scientific society, is not liable to pay GST on subscription fees and infrastructure development fund (IDF) collected from members “unless the amended section 7 of CGST Act, 2017 is notified”; Clarifies that by virtue of Section 1 of the Finance Act, 2021, amendment brought in Section 7 of CGST Act, 2017 (which defines supply) by way of section 108 of Finance Act, 2021, will come into effect on the date when Central Govt. notifies same along with corresponding amendments passed by respective States and Union Territories in respective SGST/UTGST Acts; Agrees with applicant’s contention that SC judgment in Calcutta Club Ltd. is fully applicable on the applicant; Notes that applicant, claiming to be a members-club as opposed to a proprietary club, sought clarification on GST applicability on two sorts of amounts, (i) collected as membership subscription fees towards availment of applicant’s facilities and (ii), collected as an IDF for development and maintenance of the applicant’s facilities; Applicant contended that provisions of CGST Act, 2017 which seeks to cover member’s club as opposed to proprietary clubs are illegal in light of SC ruling in Calcutta Club; Highlighting Section 108 of the Finance Act, 2021 which brought in a retrospective amendment in section 7 of the CGST Act, 2017, remarks that “Finance Act, 2021 has overruled what the courts have held till now and has countered the principles of mutuality by way of explanation which states that the members or constituents of the club and the club, are two separate entities and persons for the purpose of section 7 which defines supply”: AAR KAR