

**AUTHORITY FOR ADVANCE RULING TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO 32,
5TH FLOOR, ROOM NO 503, ELEPHANT GAATE BRIDGE ROAD,
CHENNAI-600 003.**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS Additional Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai.
2. Thiru Kurinji Selvaan V.S. M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/ Member
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6

ORDER No.18 /AAR/2020 DATED 20 .04.2020

GSTIN Number, if any / User id		33AAACJ0838Q1ZD
Legal Name of Applicant		Johnson Lifts Private Ltd
Registered Address/Address provided while obtaining user id		1, East Main Road, Anna Nagar Western Extension, Chennai-600101
Details of Application		GST ARA- 01 Application SI.No.37/2019 ARA dated 20.09.2019
Concerned Officer		State: The Assistant Commissioner (ST), Koyembedu Assessment Circle, CMDA Administration Building, 2 nd Floor, Chennai 600 107. Centre.: Chennai North Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Works contract
B	Description (in Brief)	
Issue/s on which advance ruling required		Applicability of exemption Notification and determination of the liability to pay tax
Question(s) on which advance ruling is required		Whether SI.No.3(v)(b) of Notification 11/2017-CT (Rate)-6% CGST is available, when a. Such building consists of more than one residential unit and falls under the definition of 'residential complex'? b. One unit is occupied by the customers and the other units are occupied by his father, brother and sister, who are all

	<p>not depending upon the customer, falls under the definition of 'Single residential unit'?</p> <p>c. What are the criteria that determine that a residential unit is a 'Single residential unit' within the meaning of item (v)(b) of serial number 3 in the tables in the notification 11 of 2017-CT(Rate) dated 28.06.2017?</p>
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Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Johnson Lifts Private Limited, No.1, East Main Road, Anna Nagar Western Extn., Chennai 600101, Tamil Nadu is registered under GST with GSTIN 33AAACJ0838Q1ZD (hereinafter called the Applicant). They are engaged in the business of supplying, erecting and commissioning of elevators & escalators in building. The applicant has sought Advance Ruling on:

Whether Sl.No.3(v)(b) of Notification 11/2017-CT (Rate)-6% CGST is available, when

- a. Such building consists of more than one residential unit and falls under the definition of 'residential complex'?
- b. One unit is occupied by the customers and the other units are occupied by his father, brother and sister, who are all not depending upon the customer, falls under the definition of 'Single residential unit'?
- c. What are the criteria that determine that a residential unit is a 'Single residential unit' within the meaning of item (v)(b) of serial number 3 in the tables in the notification 11 of 2017-CT(Rate) dated 28.06.2017?

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challans evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST

2. The applicant has stated that some of their customers are individual customers, who own a plot of land. They are placing an order on the applicant for supply, erection and installation of lifts pertaining to construction of a building, which consists of residential units, not intended for sale but for their own residential purpose; one residential unit will be used by the customer and the other units will be used by father, mother, brothers & sisters. The applicant has stated that the customer claims that it is a single residential unit for the family and insists for the payment of CGST at the rate of 6% and they are not entertaining such requests as they are not sure about the eligibility of such exemption because such supply is not pertaining to a single residential unit and that most of their competitors are paying CGST @6% on such supply in terms of Notification No. 11/2017-CT (Rate)- Sl.No. 3(v)(b).

3.1 The applicant was extended an opportunity to be heard in person and was heard on 06.11.2019. The authorized representatives of the applicant appeared. They stated that they intend to make a supply of works contract of lift to residential building where there is a single building in which there are multiple members who they state to be a family. The applicant sought to know whether they will be eligible for the notification 11/2017. The jurisdictional Central Tax Officer submitted a written submission stating only single residential unit where there are only dependents of a family as per the Notification is eligible for the said entry of the notification No. 11/2017. The applicant requested for another hearing where they will produce copy of work order and the property details to decide the issue.

3.2 The applicant was extended another opportunity and heard on 11.12.2019. The authorized representative appeared. They submitted a covering letter submitting plan approvals stating that these pertain to transaction. However, the applicant did not give any details of supply they intend to make or have made. No quotation, or request for supply of lift from any buyer was provided. The applicant sought time upto 31st December to submit the details of the transactions that they intend to make.

3.3 The applicant did not furnish the details undertook for submission. Therefore the applicant was addressed vide letter No. 37/2019/ARA dated 05.02.20 to furnish the details. The applicant vide their letter dated 21st February 2020 stated that they had requested their customer to provide the copy of Sale Deed,

Construction approval letter and copy of approved construction plan to ensure that they fall under the category of Single Residential unit otherwise than as a part of a residential complex as per the notification issued; The customers are not willing to share these documents on the ground these are not required for installation of lift. As such they had not accepted these type contracts at the stage of offer itself, since it would be difficult to prove to the department the requirement of the notification to avail the benefit of concessional rate of tax. They had further stated that as such they are unable to provide the documents to proceed the hearing and stated the advance ruling could be closed based on the documents already filed at the time of hearings.

4. We have carefully examined the contents raised by the applicant in their application, oral and written submissions during personal hearing and their letter dated 21st February 2020. The issue raised in the application is whether Sl.No.3(v)(b) of Notification 11/2017-CT (Rate)-6% CGST is available, when

- a. Such building consists of more than one residential unit and falls under the definition of 'residential complex'?
- b. One unit is occupied by the customers and the other units are occupied by his father, brother and sister, who are all not depending upon the customer, falls under the definition of 'Single residential unit'?
- c. What are the criteria that determine that a residential unit is a 'Single residential unit' within the meaning of item (v)(b) of serial number 3 in the tables in the notification 11 of 2017-CT(Rate) dated 28.06.2017?

5. The applicant had stated in the application that their individual customers who owns land and propose to build a single residential complex which is not meant for sale but used for residential purpose of self, father, brother, sister, etc claims the applicable tax rate on the works of supply, erection & commissioning of Lift in such building under Sl.No.3 (v)(b) of Notification 11/2017-C.T.(Rate). To examine the applicability, the applicant was asked to furnish the details of supply made or intend to be made for which ruling is being sought by them. The applicant undertook to furnish the details during the hearing held for admission of application on 06.11.2019. When heard next on 11.12.2019, the applicant furnished letter dated 11.12.2019 in which they had stated as follows:

This has reference to our ARA application Sl.No. 36/2019, and further to the hearing held on 06.11.2019, we are submitting herewith some of the documents pertaining for Advance Ruling sought out for determination of tax liability for works contract service provided to single residential unit.

Case No. 1

Mr. S.C.Kapoor, East of Kailash, New Delhi, is constructing residential units which are consisting of Ground plus 3 Floors. He is the absolute owner for the land, approval also obtained by him from the proper authority. Each floor is having 4 units, other floors are typical one. We are enclosing his plan drawing in Annexure 1.

Case No. 2

There Four owners such as H.R. Anand, H.S. Kamakshi, Manikanta Ananda and Santosh Ananda from Bangalore constructing 3 houses in Ground plus 2 Floors. Plan approval was obtained in all the owner name, each floors has only one unit.

Case No. 3

Mr. Vijaya Shankar from Bangalore is the absolute owner for the land and he is construction Ground + 3 Floor residential units, each floor is having 2 houses. The plan drawing is enclosed.

All the above three order was placed by the individual customer and all are constructing residential units. The plan approval was taken by the individuals, they are placing an order for Supply, Erection and Installation of Lift with us, and requesting us to charge GST @ 12% based on the Notification vide Sl.No:3(v)(b) of 11/2017-CT (Rate) dated 28.6.2017 and Notification No. 20/2017 Dated 22.08.2017.

We request you under the above circumstances can we charge GST @ 12% for this service.

On perusal, it was seen that the details furnished did not contain any details of the supply such as quotation or request for supply of lift from any buyer. The applicant therefore was asked to furnish the details of the transaction they intend to make for which the applicant sought time till 31st December 2019. The applicant did not furnish the details of transaction for which advance ruling is being sought and therefore was addressed to furnish the same. Applicant vide letter dated 21st February 2020 replied stating that they had not accepted such type of contracts at the stage of offer itself and they are unable to provide the documents to proceed.

6. Section 95 (a) of the GST Act, defines Advance Ruling as follows:

(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

From the above, it is clear that the ruling could be sought in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. In the case at hand, the applicant in their application and during the

hearings and thereafter, has not furnished the details of supply made or intended to be supplied and have further stated that they have not accepted such type of contract wherein the customer owning a single piece of land consisting of dwelling units for himself and his father, sister, brother and had required supply, erection and commissioning of lifts. Advance ruling can be extended only in respect of supplies made or intend to be made by the applicant based on the facts of such supply. As the details of transaction of supply on which advance ruling is sought is not furnished the application cannot be admitted and accordingly rejected.

7. In view of the foregoing, we rule as under

Ruling

The application is not admitted as the applicant failed to furnish the details of supply made or proposed to be made by him for which ruling was sought.

K Manasa Gangotri

Manasa Gangotri Kata, IRS
Member, CGST



Kurinji Selvaan V.S.

Kurinji Selvaan V.S.,
Member, TNGST

To
M/s. Johnsons Lifts Private Ltd
1, East Main Road, Anna Nagar Western Extn,
Chennai - 600 101.

// BY SPAD //



Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
IInd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & C.Ex., 26/1, Mahatma Gandhi road,
Chennai North Commissionerate, Nungambakkam, Chennai 600006
4. The Assistant Commissioner (ST), Koyambedu Assessment Circle,
CMDA Administration Building, 2nd Floor, Koyambedu, Chennai-107
5. Master File/ Spare - 2.