

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE 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. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Tmt K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No. 01/AAR/2022 DATED: 31.01.2022

GSTIN Number, if any / User id		33AADTR2290L1ZB
Legal Name of Applicant		ROTARY DISTRICT 3231
Registered Address/Address provided while obtaining user id	No. 59, ANANDHAM STREET, AMBALAL SCAN CENTRE, IST FLOOR, GREEN RICH CITY, VELLORE-632004.	
Details of Application		GST ARA- 01 Application Sl.No. 09/2021/ARA dated: 26.02.2021
Concerned Officer		Centre: Chennai Outer Commissionerate State: Vellore Assessment circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in Brief)	The applicant is an association of individuals. The club is affiliated to Rotary International, a worldwide organization with (520+) districts and (1.2 Million +) Members. The objective of Rotary is to encourage and foster the ideal of service.
Issue/s on which advance ruling required		(i) Whether Registration is required? (ii) Whether any particular thing done by the applicant with respect to any goods or services or

	<p>both amounts to or results in a supply of a goods or services</p> <p>(iii) Determination of tax liability</p>
<p>Question(s) on which advance ruling is required</p>	<p>1. The amount collected by rotary is pooled together only for the sole purpose of charity and humanitarian activities for the most needed ones and requisite meeting and administration expenses without any profit motive. As there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded. Whether registration is required?</p> <p>2) If yes then, whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of good and/or services or both. within the meaning of that term and</p> <p>3) what would be the manner to determine the liability to pay tax on any goods or services or both ?</p>

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.

Tvl. ROTARY DISTRICT 3231, No. 59, ANANDHAM STREET, AMBALAL SCAN CENTRE, IST FLOOR, GREEN RICH CITY, VELLORE-632004. (Hereinafter called the Applicant) are registered under GST with GSTIN33AADTR2290L1ZB. The applicant has sought Advance Ruling on the following questions:

1. The amount collected by rotary is pooled together only for the sole purpose of charity and humanitarian activities for the most needed ones and requisite meeting and administration expenses without any profit motive. As there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded., whether registration is required?

2) If yes then, whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of good and/or services or both within the meaning of that term and

3) What would be the manner to determine the liability to pay tax on any goods or services or both ?

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

2.1 The applicant has stated that "Rotary" is an international organization having clubs in 216 countries engaged in humanitarian and charitable services. These services are executed through various districts comprising of many clubs. The amount collected by rotary is pooled together only for sole purpose of charity and humanitarian activities and these amounts are also used for administration and meetings. In some cases the amount so collected is likely to exceed Rs.20 lacs, being the threshold for registration under GST Act,2017.

2.2 On interpretation of law, the applicant has referred to definition of persons is provided u/s 2(84) of the CGST Act 2017, as per the said definition, there is no deeming fiction to treat association and members as different persons. Hence the

key condition to tax a transaction u/s 7(1)(a), that supplier and recipient must be different is not satisfied. Hence the transaction of providing services by an association to its members should not be taxed u/s 7(1)(A). They have stated that earlier in service tax regime, court in several cases held that in absence of deeming fiction, treating club/association and its members as distinct person, service tax shall not be payable. Thereafter to nullify the above decision w. e. f. 01.06.2012 clause (a) to explanation 3 to sec. 65(B) provided that an unincorporated association or body of persons, as the case may be and a member thereof shall be treated as distinct persons. Such deeming fiction is not provided under the current GST regime. The applicant has also referred to the order no. 33/2018-19/B-100 dated 28/08/2018 of Maharashtra Authority for Advance Ruling in the case of Lions club of POONA KOTHRUD.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was fixed on 18.06.2021. The applicant requested for postponement of the same due to personal reasons and requested that hearing may be fixed during last week of June or 1st week of July. Accordingly hearing was fixed on 23.07.21, which was also requested to be postponed by applicant. Another opportunity was extended by fixing a hearing on 22.09.21. Shri. Vishal Kothari, Partner VDP and Associate, Chartered Accountants appeared for the hearing and reiterated the submissions and the reliance based on order of Advance Ruling Authority Maharashtra in favour of Lions Club of Poona, Kothrud. He further submitted that they collect annual membership fees from the members and an entry fee from new members. The Members required clarification on the registration status and allocation of PAN numbers for which the representative stated that they are registered and each district of Rotary has a separate GST number and PAN number. They further submitted that they have built hospitals in Vellore and have done charitable activities with the contributions/donations collected. They further stated that they don't offer any recreational facilities to their members and the members meet for the sole purpose of raising funds. They were asked to furnish a detailed write up on their structure, roles, activities, balance sheet and trail of accounts relating to membership fees and donations received head wise and on specific activities for which ruling is required.

3.2. Applicant did not submit the relevant documents as called for during the Personal hearing held on 22.09.21. Hence they were addressed vide letter dt. 01.11.21 for which they replied stating that they may be granted time till 26th November,21. As no reply was received from them, they were again addressed vide letter dt.02.12.21 requesting them to submit the documents called for within 7 days of receipt of that letter. When no response was received from them, a Personal hearing was fixed on 21.12.21, and they were intimated that in case of failure to attend the same, the application will be decided based on the material available with this authority. The Authorised representative Shri. Sridhar Balaraman, District Governor appeared for the hearing virtually and reiterated the submissions. The Members sought the following clarifications:

Qn i. What is Rotary District '3231'.

The AR replied that this is the identity number issued to the Rotary consisting Vellore, Kancheepuram & Tiruvallur Districts.

Qn ii. When all activities are stated to be rendered for charity why applicant is before this forum. They may also clarify whether the question is about the membership collected or donations received.

The AR replied that the question is about Membership fees viz. Rs.1000 for Member on which this fee is levied. Seminars for members, secretaries, president elect are conducted from the Membership collected.

The Members observed that the documents submitted by the applicant pertain to the activities already completed on which ruling cannot be extended by this authority and that a Ruling can be sought for activities being undertaken or proposed to be undertaken. The applicants submitted a set of documents containing Receipts and Payments account, Profit & Loss account for the year 01.04.2018 to 31.03.2019 along with Balance sheet as on 31.03.2019, a list of seminars and events held by them during 2017-18 and list of service projects done during the year 2018-19.

4. The Centre Jurisdictional authority who has administrative control over the applicant has stated that there are no pending proceedings on the issue raised by the applicant in the Advance Ruling application and has submitted the following comments on the issue raised in the application.

- In respect of Q.No.1, The term "supply" is defined under Section 7 of the CGST Act, 2017 as under: For the purposes of this Act, the expression "supply" includes-"All forms of supply of goods or services or both such as

sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business." This is an inclusive definition, where if the related activities are "made for a consideration by a person in the course or furtherance of business" such activities are treated as supply. The meaning of "business" as provided under section 2(17) of the CGST Act, 2017, the relevant extract in the context of the instant case is as under: -.

"business" includes-

(a) ...

(b) ...

(e) provision by club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

- It is a known fact that Rotary Clubs, apart from charity, are organizing various entertaining events for their members like New Year / Diwali/Pongal celebrations, etc., and also seminars/conferences, which amounts to provision of the facilities or benefits to its members, thus a business activity. Hence, if the membership fees collected by them crosses the applicable threshold limit, they need to get registered and pay applicable GST.
- if the aggregate value of goods/services supplies is more than 40 lacs then the Club is liable for GST registrations. However, if any of the activities of the club comes under the purview of Section 24, the same is liable for GST registration irrespective of the turnover.
- In respect of Q.No.2 & 3 the applicant may refer to the definition of business under GST Act referred above for arriving at activities of taxable nature of the supplies, i.e., of good and/or services or both.

5. The State Jurisdictional authority has stated that there are no pending proceedings in the applicant's case.

6.1 We have carefully examined the submissions of the applicant in their application, that made during the Hearing & thereafter and also the comments of jurisdictional authorities on the application. Applicant is Rotary district 3231, which is an association of individuals. The applicant has stated that they collect membership fees from members which is pooled together only for the sole purpose of charity and humanitarian activities for the most needed ones and requisite meeting and administration expenses without any profit motive. They have submitted that as per

the definition of persons as provided u/s 2(84) of the CGST Act 2017, there is no deeming fiction to treat association and members as different persons and that the key condition to tax a transaction u/s 7(1)(a), that supplier and recipient must be different is not satisfied in their case. Hence the transaction of providing services by an association to its members should not be taxed u/s 7(1)(a). They have sought Advance Ruling on the following questions:

1. The amount collected by rotary is pooled together only for the sole purpose of charity and humanitarian activities for the most needed ones and requisite meeting and administration expenses without any profit motive. As there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded. whether registration is required?
- 2) If yes then, whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of good and/or services or both within the meaning of that term and
- 3) What would be the manner to determine the liability to pay tax on any goods or services or both.

6.2 From the submissions, both oral and written, it is observed that the applicant collects amounts from their members and also raises money for charity. The applicant has sought ruling on the GST liability on such amounts, however the applicant has not furnished details on the amounts collected by them and during the hearing has requested to clarify their liability to GST on the Membership fees collected by them from their Members. Therefore, it is seen that they have sought clarification/ruling in respect of

- (i) Whether they should be registered as the amount collected is pooled together for the sole purpose of charity activities;
- (ii) Whether the membership fee collected is subject to tax and
- (iii) Whether the activities performed by them are taxable and if so what is the manner of determination of tax liability for such activities.

These questions fall within the ambit of Section 97 of the GST Act and they are admitted.

7.1. The issue of whether the applicant is to be registered was discussed during the Personal hearing held on 22.09.21, wherein the authorised representative, stated that each district of Rotary has a distinct GST number and PAN number. Further, they stated that they collect annual membership fee of Rs.1000/- per

member and an admission fee from new members. They requested for a ruling on whether such fees collected is subject to tax in as much as the definition of persons as provided u/s 2(84) of the CGST Act 2017 stipulates that, there is no deeming fiction to treat association and members as different persons and that the key condition to tax a transaction u/s 7(1)(a), that supplier and recipient must be different is not satisfied in their case. As the question (i) and (ii) above, relates to whether they need to be registered as they undertake activities from the pooled membership amounts collected from Members who are not distinct from the applicant, taxability on the consideration received from the Members and whether they need to be registered, are taken up for consideration.

7.2 This issue must be analysed in the light of scope of supply as envisaged under Section 7 which is reproduced below:-

***Section 7. Scope of supply.-**

(1) For the purposes of this Act, the expression - "supply" includes-

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation .-For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;

Sub-section (aa) has been inserted vide Notification no.39/2021-C.T dt.21.12.21 which is brought into force on 01.01.2022 with retrospective effect from 01.07.2017. Hence the activities performed by a person other than an individual to its members for a consideration is a supply as per the scope of this section. In the explanation provided it has been clarified that the members and the person i.e. the association shall be deemed to be two separate person and the supply of activities shall be deemed to take place from one such person or another and hence is a supply liable to be taxed. In the light of the above, the activities rendered by the applicant to its members for which the membership fees collected forms the consideration is a supply and is liable to be taxed. Once it is held that the applicant and it's members are distinct and that the membership fee collected from its

members is found taxable, they provide taxable service and are required to be registered under the CGST Act, 2017 subject to the exceptions available with regard to the monetary limit for such registration.

8.1 Now the question of whether the activities rendered by the applicant, which they term as charitable etc., amount to supply and what is the manner of determination of tax liability is being taken up for discussion. As the applicant had not furnished any documents along with their application, during the Personal hearing held on 22.09.2021, they were asked to submit a detailed write up on the structure of the Rotary district 3231, the roles, activities, Balance sheet and trail of accounts relating to membership fees and donations received head wise and on specific activities for which ruling was required. However the applicant did not submit any details or documents. They were given repeated opportunities to submit substantiating documents and after many reminders, a statement of service projects done during 2018-19 and seminars and events held in the Rotary year 2017-18 were submitted which is appended below:

Details of Seminars and events held in Rotary Year 2017-18

- President Elect Training Seminar PETS Held on 30th April 2017 for Club Presidents and family were Study Materials and Lunch was provided to everyone;
- Secretary Elect Training Seminar SETS Held on 6th May 2017 for Club Secretaries and family were Study Materials and Lunch was provided to everyone;
- District Assembly was held on 28th May 2017 to train Service chairs of each clubs study materials and avenue wise training were given to them;
- AGTS (Assistant Governor Training Seminar) held on 11th March 2017 to train allot clubs and Zones to their respective Assistant governors and training was provided;
- District Official Training Seminar held on 12th March 2017 to train District directors, chairman & Officials;
- District membership Seminar held on 25th July 2017 all clubs were invited and seminar was conducted to increase membership of each clubs;
- TRF Seminar was held on 17th June 2017 all clubs presidents and foundation chair were invited in seminar;
- A Mega Polio rally was conducted on 24th October 2017 all clubs participated in this rally awareness program;

- Inter City Meet was held on 18th November 2017 all clubs participated in this entertainment cum seminar program;
- Pongal Vizha was held on 7th January 2018 this is a Rotary family celebration program all clubs with their members were participated;
- District Conference 2017 18 (Anandam Arambam) held on 9th February 2018 it was a grand event with rotary learning conference entertainment all clubs in the district 3231 with their members participated.
- The applicant submitted ITR for 2019-20, Receipts and Payments Account, Profit and loss account for the period 01.04.2018 to 31.03.2019.

SERVICE PROJECTS DONE DURING 2018-19

- 1) HAPPY VILLAGE PROJECT- Each club had adopted a village and made available basic amenities to schools in the village, desilting water tanks, plantation of trees, conducted free medical camps, started RCC and carried out other needed projects.
- 2) Rtn PDG SVRM Ramanathan through Rotary Club of Madras Central RI District 3232 had at Kuyil Kuppam in Manamadhi Village, Chengalpet District developed a magnificent project of providing free houses to 64 Irular families. The project is done at our District 3231 territory and Rotarians of District 3231 are also participating. The project is of providing not only houses but also needs like furniture, TV, Kitchen equipments, well laid roads, Sewage, overhead tank. The total project cost is Rs. 6.00 crores and was initiated during 2018-19 and is likely to be completed during the year 2020.
- 3) Rotary Club of Gummidipondi Industrial City has initiated during 2018-19 construction of Low Cost houses for 62 blind persons. The project cost is Rs. 1.75 crores and 5 houses were handed over during 2018-19. Balance houses are likely to be completed during 2020.
- 4) Rotary Club of Vellore Mid Town constructed a Low-Cost House at the cost of Rs. 3.5 lakhs and handed it during 2018-19 to a polio affected person.
- 5) Rotary Club of Ambur started the construction of 39 Low-Cost Houses to 39 Narikorava family. The project cost is Rs 1.17 lacs. 5 houses were handed over during 2018-19.
- 6) District 3231 contributed 4.5 lakhs for construction of a house and relief at Flood affected Districts of Kerala.

- 7) Many Rotary Clubs did relief work after Gaja Cyclone in Southern Districts.
- 8) Rtn PDG SVRM Ramanathan involved RC Eagle Town Tirukalikundram and constructed Nallammai Ramanathan Rotary Eagle Town Tirukalikundram Hospital at cost of Rs. 1.5 crore and made available to the Public during 2018-19.
- 9) Tree plantation – more than 100000 tree plantations done by all Clubs during 2018-19.
- 10) Sports equipments provided to 80 Village Schools.
- 11) All Clubs did more than 500 free medical camps benefitting more than 100000 people.
- 12) During 2018-19 above 4300 units of blood collected and given to various hospitals and blood banks.
- 13) 15 new Rotaract Clubs started during 2018-19 .
- 14) Had 4 Inter District meets at Courtrallam, Kodaikanal, Tiruvannamalai and Coimbatore.
- 15) Rotary Club of Chetpet at its Nallammai Ramanathan Vocational Training Centre has trained 100 women in basic computers and 60 women in tailoring.
- 16) RC Vaniyambadi conducted a Guinness Record program in Robotics with School children which was a good Public Image Initiative.
- 17) Job fairs has been done in various places thereby generating employment opportunities to more than 3000 People.
- 18) Seminars on Modern Agricultural Techniques has been conducted to benefit farmers.
- 19) Road Safety Programs has been done in association with Police and Transport Departments.
- 20) New Interact Clubs have been started.
- 21) More than 100 new RCC has been started.
- 22) Vocational Excellence Awards were given to eminent personalities.
- 23) Toilet Blocks has been constructed at various schools by clubs.

On perusal of the above list of seminars and events, activities namely seminars for President Elect for the club presidents and their families; Secretary elect training for Club secretaries and their families; District assemblies to train the service chairs; District official training for the chairman, directors and officials of the respective Rotary districts, an Inter-city meet for all clubs for entertainment cum seminar

program; Pongal celebrations have been rendered for their members by the applicant in the year 2017-18 and with respect to the service projects, it is found that these activities pertain to the year 2018-19. Thus these activities have already been rendered and completed in the years 2017-18 and 2108-19.

8.2 Section 95 of the CGST Act, 2017, defines Advance ruling as below:-

Section 95. Definitions of Advance Ruling.-

In this Chapter, unless the context otherwise requires,-

(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority [or the National 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 [or of section 101C], in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant."

As per the above definition, Advance ruling means a decision provided by the relevant authority on questions in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. Hence the activities have to be either undertaken in the present or should be proposed to be undertaken to seek a ruling. In the present case, the applicant had furnished details for the activities already done in the yester years. During the Personal hearing held on 21.12.21, the applicant was informed that the activities pertained to the years 2017-18 and 2018-19, which have been completed on which ruling cannot be extended by this authority under Section 95 of the GST Act. The authorized representatives accepted the fact. Hence this authority is constrained in considering this question on merits. Therefore no ruling is extended in respect of this question as the same is not related to the activities being undertaken or proposed to be undertaken.


9.1 To sum up, the membership fees collected by the applicant from their Members is subject to tax as per Section 7 (1) (aa) of the GST Act as the activities rendered by the applicant to their Members is a supply to its constituents/members and they have to be registered. With respect to the question of whether specific activities listed by them and performed by the applicant are liable to tax, it has been found that the activities so rendered by the applicant are pertaining to the previous years and they have been rendered complete. Hence the question is found to be beyond the scope of Section 95(a) of the Act and is not answered. Also, the GST


liability on all the amounts collected other than Membership fees is not answered as the details relating to the said amounts was not furnished before us.

10. In view of the foregoing, we rule as under:

RULING

1. The applicant is liable to be registered under the GST Act, as they are providing taxable supplies.
2. The membership fees collected by the applicant is taxable under Section 7(1)(aa) of the CGST/TNGST Act, 2017. No ruling is extended with respect to other amounts collected for want of details.
3. The specific activities on which ruling has been sought are found to be pertaining to years 2017-18 and 2018-19 and have already been completed, therefore, no ruling is extended for the reasons stated in Para 8 above.


Smt. K. LATHA
Member (SGST)


Shri T.G. VENKATESH
(Member CGST)



To

ROTARY DISTRICT 3231, **// BY SPEED POST WITH ACK.DUE //**
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AMBALAL SCAN CENTRE, IST FLOOR,
GREEN RICH CITY, VELLORE-632004

Copy Submitted to:

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2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
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Copy to:

3. The Commissioner of GST & Central Excise,
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4. The Asst. Commissioner (ST), Vellore (North) Assessment Circle.
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5. Master File/ Spare - 2.

