KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING
6TH FLOOR, VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,
GANDHINAGAR, BANGALORE – 560009

(Constituted under section 99 of the Karnataka Goods and Services Tax Act, 2017 vide Government of Karnataka Order No FD 47 CSL 2017, Bangalore, Dated:25-04-2018)

BEFORE THE BENCH OF

SHRI. D.P.NAGENDRA KUMAR, MEMBER

SHRI. M.S.SRIKAR, MEMBER

ORDER NO.KAR/AAAR-10//2019-20 DATE:21-01-2020

Sl. No	Name and address of the appellant	M/s. Vaishnavi Splendour Homeowners Welfare Association, No.12, 3rd Cross, Poojari Layout, Geddalahalli, RMV 2nd Stage,Bengaluru-560094
1	GSTIN or User ID	29AABAV2780J1Z2
2	Advance Ruling Order against which appeal is filed	KAR/ADRG 47/2019 Dated: 17 Sept 2019
3	Date of filing appeal	24-10-2019
4	Represented by	Sri Vishnu Murthy,Chartered Accountant
5	Jurisdictional Authority- Centre	RANGE-AND6
6	Jurisdictional Authority- State	LGSTO-150 Bengaluru
7	Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Payment of Rs.20,000/- made vide CIN NO.SBIN19102900398470 Dated. 23-10-2019

PROCEEDINGS

(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

2. The present appeal has been filed under section 100 of the Central Goods and Service Tax Act 2017 and Karnataka Goods and Service Tax Act 2017 (herein after referred to as CGST Act, 2017 and SGST Act, 2017) by M/s. Vaishnavi Splendour Homeowners Welfare

Association, (herein after referred to as Appellant) against the advance Ruling No. KAR/ADRG 47/2019 Dated: 17 Sept 2019.

Brief Facts of the case:

3. The appellant is an association of apartment owners in the condominium known as "Vaishnavi Splendour". The association has 88 members and each of them contribute towards the maintenance of common areas/ facilities, lightings in the common areas, water,etc. The contributions of each member work out to more than Rs.7500 per month.

4. The appellant filed an application for Advance Ruling under section 98 of the CGST Act, 2017 and KGST Act,2017 on the following question:

(i) Whether the applicant is liable to pay CGST and SGST on the amount of contribution received from its members?

(ii) If yes, whether it can avail the benefit of Notification No 12/2017 CT(R) dt 28.06.2017 (Sl.No 77) read with Notification No 02/2018 dt 25.01.2018 which provide for exempting from tax, the value of supply upto an amount of Rs 7500/- per month per member?

(iii) If the answer to (ii) is 'yes', whether it is required to restrict its claim of input tax credit?

(iv) Whether the applicant is liable to pay CGST/SGST on amounts which it collects from its members for setting up a corpus fund?

5. The Karnataka Advance Ruling Authority vide Ruling No. KAR/ADRG 47/2019dated 17th Sept 2019,(hereinafter referred to as impugned order) gave a ruling on the above questions as follows:

(i) The applicant is liable to pay CGST and SGST on the amount of contribution received from its members as their activities amounts to taxable supply of service.

(ii) The benefit of exemption under entry No 77 of Notification No 12/2017 CT(R) dt 28.06.2017 (as amended by Notification No 02/2018 dt 25.01.2018), is available to the applicant only if maintenance charges (contributions) do not

exceed Rs 7500/- per month per member. In case the charges exceed Rs 7500/- per month per member, the entire amount is Taxable.

(iii) The applicant is eligible to claim input tax credit on the inward supplies of goods and services and this is subject to the restrictions as enumerated in Section 17(2) of the CGST Act read with Rule 42 of the CGST Rules and other restrictions applicable if any.

(iv) The applicant is not liable to pay CGST/SGST on amounts which it collects from its members for setting up a corpus fund.

6. Aggrieved by the ruling of the Authority on the issues at (i) and (ii) above, the appellant has filed an appeal under Section 100 of the CGST Act, 2017 and KGST Act, 2017 on the following grounds.

6.1. Appellant submitted that their transactions with its members are governed by the principle of mutuality propounded by the three member bench of the Honourable Supreme Court of India in the Civil Appeal No. 4184/2009 (State of West Bengal and Others Vs Calcutta Club India) and Civil Appeal No. 7497/2012 (Chief Commissioner of Central Excise and Service Tax and Others Vs. Ranchi Club Ltd. decided on 03/10/2019)wherein it is stated that supplies made to its members by the member associations, both incorporated as well as unincorporated, are governed by the principal of mutuality and therefore they cannot be charged to tax, be it as tax on sale of goods or as a tax on supply of service.

6.2. Appellant further submitted that GST is leviable only in the circumstances where there is existence of privity of contract between the supplier and the recipient. When the members' association effects any supplies to its members, the supplier and the recipient are one and the same and therefore, there is an absence of privity of contract. Accordingly, there cannot be any charge of GST on such transactions.

6.3. Appellant further submitted that the Authority for Advance Ruling is a quasi-judicial authority; that quasi- judicial authorities are bound to decide the matters independent of departmental circulars; that departmental circulars clarifying the departmental stand on the matter cannot be the basis for the decision by the authority. Yet, Authority has given the ruling by merely following the CBIC Circular No. 109/28/2019-GST dated 22-07-2019. They contended that the ruling given by merely quoting the circular is not a speaking ruling.

6.4. They submitted that departmental circular would operate only prospectively by virtue of being in the nature of an oppressive circular. They relied on the Supreme Court judgments in the case of Commissioner of Central Excise vs Mysore Electricals Industries Ltd (Civil Appeal 4488/2005) and Suchitra Components Ltd vs Commissioner of Central Excise, Guntur (Civil Appeal 3596/2005) in this regard.

6.5. In view of the above appellant pleaded to hold that the amount of contributions received by the appellant from its members is not taxable or in the alternative, to hold that such amount of contributions as are in excess of Rs.7500 per month per member alone are taxable.

PERSONAL HEARING

7. The appellant was called for a personal hearing on 03/12/2019 and was represented by the Sri. Vishnu Murthy, Chartered Accountant of M/s. Vaishnavi Splendour Homeowners Welfare Association. During the hearing the appellant reiterated the grounds of appeal and argued that the amount of contributions received by the appellant from its members is not taxable. Further he argued that if such contributions are taxable only such amounts of contributions as are in excess of Rs.7500 per month per member alone are taxable. The authorised representative sought permission to file additional written submissions in this regard.

7.1. The Appellant made additional submission on 18/12/2019 and stated that contributions are collected from the members and used for the maintenance and repairs of common areas and facilities in the condominium. These activities are done by sourcing of goods and services from third parties for the common use of the members by utilizing the money provided by the members. The activities sourced include security services, water, electricity, repair and maintenance. Surplus of member's contributions over expenses, if any, belongs to the members and not to the appellant. The appellant submitted that activities are performed for and on behalf of the members or merely acting as an agent of the members and contributions of the members are mere reimbursement of the amount spent for outsourcing goods and services and not in the nature of consideration.

7.2. They submitted that only in circumstances where the activity is performed for a 'consideration', the activity can amount to supply and there may be levy of tax. In circumstances where there is 'no consideration', the activity will not amount to 'supply' and

the levy will not get attracted. Hence applicant contended that activities performed by the appellant are outside the scope of supply and consequently, outside the scope of the tax net. Therefore, the contributions are not taxable.

7.3. The Appellant has placed reliance on the decision of the Honourable Supreme Court in the case of State of West Bengal vs. Calcutta Club Limited reported in Civil Appeal No. 4184 of 2009 which was decided on 03-10-2019 wherein the Hon'ble Supreme Court observed as under:

> *"3. It was contended before the tribunal that there could be no sale by the respondent club to its own permanent members, for doctrine of mutuality would come into play. To elaborate, the respondent club treated itself as the agent of the permanent members in entirety and advanced the stand that no consideration passed for supplies of food, drink or beverages, etc. and there was only reimbursement of the amount by the members and therefore, no sales tax could be levied".*

Thus, the Honourable Supreme Court made it clear that the Constitution of India doesn't enable the State Legislature or the Parliament to make any law by which members' contributions to their association can be made taxable.

7.4. In the light of the above, the appellant submitted that the activity of managing and maintaining the common areas and facilities by receiving contributions from their members would not amount to "supply of goods or services or both" as described in the GST Law. Therefore, the member's contributions would not be taxable.

7.5. Appellant further submitted that they are an association formed under the provisions of Karnataka Apartment Ownership Act, 1972; that under the said Act, it is mandatory for individual flat owners to come together and form themselves into an association for the purpose of managing and maintaining the common areas and facilities in the condominium and it is incumbent on the association to carry out such functions; that they perform their activities as a duty mandated under a statute and not under any contractual obligation. They submitted that the charge under the Act get attracted only in respect of transactions performed in discharge of contractual obligations. It would not get triggered in circumstances where one performs his activities under a statutory mandate. Referring to the scope of 'supply' under GST Act and the definition of 'consideration' given in the GST Act, they argued that their

activities would not amount to supply of any goods or services or both and the contributions received by them from their members towards maintenance of common areas and facilities will not answer the description of 'consideration' given under the Act and hence it would not be liable to tax.

7.6. They submitted that as per the provisions of Section 10 of the Karnataka Apartment Ownership Act, 1972, "The common profits of the property shall be distributed among and common expenses shall be charged to, the apartment owners according to the percentage of the undivided interest in the common areas and facilities."; that statutorily, the association cannot collect and retain any amounts from its members which is more than what is required to be spent for the purpose of upkeep and maintenance of the common areas, common facilities, etc. The statute further requires the association to return surpluses, if any, arising in circumstances where the expenses incurred are less than the amounts collected from its members. Therefore, the amounts collected by them would be in the nature of mere reimbursements of expenses which are not taxable. They also referred to Rule 33 of the CGST Rules which provides for excluding amounts received as reimbursement of expenses from the value of supply of goods or services or both.

7.7. Regarding the availment of benefit of NotificationNo.12/2017 dated 28-06-2017 as amended vide notification No.2/2018 dated 25-01/2018, the said Notification provides for exemption from tax, the value of supply up to an amount of Rs.7500 per month per member. In this regard, they stated that Homeowners Associations enjoyed exemptions from tax even in the service tax regime. In this regard they referred to the Notification No 08/2007 – Service Tax dated 01.03.2007 where the taxable services provided by a resident welfare association was exempted from the whole of service tax provided the total consideration received from individual members does not exceed Rs 3000 per month. Further, Notification No 25/2012-ST dated 20.06.2012 exempted from service tax contributions upto an amount of Rs 5000 per month per member; an analysis of the above Notification reveals that contributions which was less than Rs 5000 per month per member was fully exempted from tax while contributions which was more than Rs 5000 per month per member were exempted upto Rs 5000 and tax was required to be paid on amounts which was over and above 5000. They contended that under GST, the exemption was continued on the same lines under entry Sl.No 77 of Notification No 12/2017 CT(R) dt 28.06.2017. Had the lawmakers intended to restrict the benefit of exemption only to those homeowners' associations which collect

individual contributions of not more than Rs 7500 per month, they would have phrased the notification in the same manner as Notification No 08/2007 – Service Tax dated 01.03.2007.

7.8. They relied on judicial decisions which held that if the interpretation of a fiscal enactment is open to doubt, the construction most beneficial or favourable to the assessee should be adopted. They further submitted that they source electricity and water, in addition to other facilities to its members. Supply of both these items are exempt from tax under the Act. If the appellant is made to pay tax on the entire amount of contributions received by it, it would amount to making it pay tax on the supply of such exempted items as well. This would amount to the department trying to tax something indirectly which it cannot tax directly.

7.9. They also drew attention to Section 8 of the CGST Act which provides for taxing different kinds of supplies for a single consideration by treating them as composite supplies; that the provisions contained in the said Section applies only when all such supplies are taxable supplies and not when some supplies are taxable and others are not taxable; that supply of electricity and water by homeowners associations cannot be taxed by making them part of a composite supply. Therefore, there is a need to segregate such supplies from rest of the supplies made by such associations. This would call for dividing the total consideration between taxable supplies and non-taxable supplies. They submitted that the amount of Rs 7500 stipulated in the Notification is an ad-hoc amount which should be treated as consideration for supply of exempted goods or services. Since all the homeowners' associations will be involved in such exempted supplies, it is but natural that all such associations are allowed such ad-hoc exemptions. Therefore, the Appellant submits that it is entitled for exemption from tax in respect of individual contributions of Rs 7500 per month.

7.10. The Appellant also contended that the ruling pronounced by the Authority after the mandated period of 90 days is unsustainable in law. They relied on the Supreme Court decision in the case of Danish Aarthi vs M. Abdul Kapoor (CRP (NPD) (MD) No 475/2004 and CRP (NPD) (MD) 476/2004 wherein it is held that if a thing is prescribed to be done within a particular period, it shall be done within that period or shall not be done at all. In view of the above grounds, the Appellant prayed that the ruling passed by the Authority in their case be set aside.

DISCUSSIONS AND FINDINGS

8. We have gone through the records of the case and considered the submissions made by the Appellant in their grounds of appeal, at the time of personal hearing as well as in their additional submissions.

9. There are two issues to be decided by us, viz: Whether the activities of the association of apartment owners are liable to tax under GST as a supply? If so, whether in terms of entry No.77 of the Notification No.12/2017- Central Tax (Rate) Dated 28-06-2017 as amended by the Notification No.02/2018-Central Tax (Rate) dated 25-01-2018, the contribution received by the association from its members are liable to tax only in excess of the amount of Rs.7500 per month per member.

10. Taking the first issue regarding the taxability of the activities of the association of apartment owners, it is common knowledge that in a residential complex, a monthly contribution is collected from the owners of the apartment in the complex and is used by the association for the purpose of making payments to the third parties, in respect of commonly used services or goods. For example: for providing security service for the residential complex, maintenance or upkeep of common area and common facilities like lift, water sump, health and fitness centre, swimming pool, payment of electricity bill for the common area and lift, etc. It is also an undisputed fact that the Association is made up of members who are homeowners in the residential complex and the activities mentioned above are performed by the Association for the maintenance and upkeep of the residential complex.

11. Under the GST regime of taxation, the taxable event which attracts the levy of GST is the 'supply' of goods or services, in terms of Section 9 of the CGST (and SGST) Act or Section 5 of the IGST Act, depending on whether the transaction of 'supply' is intrastate or interstate. In order to construe what is 'supply' one starts with the layman's understanding of the expression as meaning 'to make something available to another or to fulfill the want of another'. Under the GST law, the word 'supply' has not been defined but rather the scope of what constitutes 'supply' is stated in Section 7 of the CGST Act which reads as under:

"(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;

(b) import of services for a consideration whether or not in the course or furtherance of business; and

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;

(1A)where certain activities or transactions, constitute a supply in accordance with the

provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services."

12. Therefore, for an activity to qualify as "supply" in terms of Section 7 of the CGST Act, the following ingredients must be satisfied:

(i) There must be a supply of either 'goods' or 'services' or both;

(ii) The activity should be undertaken for a consideration

(iii)The activity should be in course or furtherance of business

13. Section 2(102) of the CGST Act defines "services" to mean anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. The

word 'anything' used in the said definition does not necessarily imply that everything other than goods, money and securities, is a service. The contextual meaning of the term 'anything' is to be taken. The meaning of service is to be taken from the recipient's point of view and accordingly it can be said that any transaction which gives the recipient a benefit can be considered as a service. In the present context, the activities performed by the Association for ensuring the maintenance and upkeep of the residential apartment complex by procuring the services and goods from third parties, benefits every member of the Association and hence it can be said that there is a service rendered by the Association to its members.

14. To be taxable under GST law, the service must be supplied in the course or furtherance of their business. The term 'business' is defined under Section 2(17) of the CGST Act as follows:

(17) "business" includes—

a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
f) admission, for a consideration, of persons to any premises;
g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
h) services provided by a race club by way of totalisator or a licence to book maker in such club; and
i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

For our discussion, clause (e) of the said definition is relevant and it is clear from the said clause that the activity of providing facilities or benefits by an association to its members for

a subscription is a business under GST law. Hence the transactions between the association and its members is a service. The only question that now remains is whether the said service has been provided for a consideration?

15. Section 2(31) of the CGST Act states that *'Consideration' in relation to the supply of goods or services includes*

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, ***whether or not voluntary,*** *in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:*

PROVIDED that a deposit, given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies the deposit as consideration for the said supply;

In the instant case, the monthly contribution made by the members to the association is in return for receiving the services of the Association in ensuring the maintenance and upkeep of the residential complex. The money collected by the Appellant from its members is used to procure services and goods from a third party and provide the benefits of such procured goods and services to the members of the association. In terms of Section 2(d) of the Indian Contract Act, 1872, consideration needs to necessarily flow from one person to another. Under GST, the term 'person' has been defined in Section 2(84) of the CGST Act, 2017, to include an 'individual' as well as an 'association of persons or a body of individuals, whether incorporated or not, in India or outside India'. Therefore, the individual apartment owners who are members of the Association are the beneficiaries and the contributions made by them is to be considered as consideration for the service received.

16. The Appellant has strongly relied upon the Supreme Court's decision dated 03-10-2019 in the case of State of West Bengal & Ors vs Calcutta Club Ltd (Civil Appeal No 4184/2009) wherein it is stated that supplies made to its members by the member

associations, both incorporated as well as unincorporated, are governed by the principal of mutuality and therefore they cannot be charged to tax, be it as tax on sale of goods or as a tax on supply of service. We have gone through the judgment of the Supreme Court in the above cited Civil Appeal wherein the Hon'ble Supreme Court has decided on two issues relating to taxability of sale of goods and provision of services by member's club to their members. We are concerned only with that portion of the decision which deals with the levy of service tax upon members clubs.

17. We find that the decision of the Supreme Court was rendered in the context of the provisions of the Finance Act, 1994. In the Finance Act, 1994, the taxable event in terms of Section 66B was on services 'provided or agreed to be provided by one person to another'. Under GST, the taxable event is the "supply" of goods or services or both. As already mentioned, 'supply' though not defined has been explained in Section 7 of the CGST Act, 2017 to cover the activities stated therein made in the course or furtherance of business. Under GST law, the term 'business' has been specifically defined in Section 2(17) of the CGST Act to include provision by a club, association, society or any such body (for a subscription or any other consideration) of facilities or benefits to its members. Thus, there is a marked difference in the concept of the levy between the Finance Act and the CGST Act. In terms of the Finance Act, it was sufficient that a service was rendered by one person to another for a consideration in the taxable territory for the levy of service tax to be attracted. However, under GST, the supply of the service should necessarily be in the course of or furtherance of business and 'business' has been defined to include a club, association, society or any such body which provides facilities or benefits to its members for a subscription.

18. The doctrine of mutuality was examined by the Supreme Court in the context of the Sales Tax law and was applied on all fours to service tax. The Supreme Court after going through the various legal provisions of the Finance Act from the introduction of service tax in 1994 till the shift in the system of taxation of services in July 2012, held that, there was no levy of service tax on members clubs in the incorporated form. We are therefore of the view that the ruling laid down by the Supreme Court in the case of Calcutta Club Ltd will not influence the determination of the taxable event of 'supply' under GST in this case.In view of the above, we hold that there is a supply of service by the Appellant to its members and the same is taxable under GST.

19. We now come to the question whether, in terms of entry No.77 of the Notification

No.12/2017- Central Tax (Rate) Dated 28-06-2017 as amended by the Notification No.02/2018-Central Tax (Rate) dated 25-01-2018, the contribution received by the association from its members are liable to tax only in excess of the amount of Rs.7500 per month per member. The relevant entry of the GST Notification is extracted below:

Sl No.	Chapter,Section, Heading, Group or Service Code (Tariff)	Description of services	Rate (per Cent)	Condition
77	Heading 9995	Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution- (a)…….. (b)For the provision of carrying out any activity which exempt from the levy of Goods and services Tax or (c)Up to an amount of seven thousand five hundred per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex	Nil	Nil

20. We have already held that there is a service rendered by the Appellant to its members. The contention of the Appellant is that contributions upto an amount of Rs 7500/- per member per month are exempted from GST by virtue of the above entry and for contributions above Rs 7500/- per member per month, the difference amount alone is liable to tax. This is not a correct interpretation of the Notification. The exemption as per the entry 77 of the Notf No 12/2017 CT (R) is available only when a member's contribution per month is upto an amount of Rs 7500/-. A member who contributes an amount which is more than Rs 7500/-, will not be eligible for the exemption under entry No 77 and the entire contribution amount will be liable to be taxed. Hon'ble Supreme Court of India, Constitution Bench of Five

Judges in the case of **Commissioner of Customs (Import) Mumbai Vs. M/s Dilip Kumar and Company and Ors** (Civil Appeal No. 3327 OF 2007)has held that the benefit of ambiguity in exemption notification cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue/state. Exemption notifications are subject to strict interpretation. We find that the Advance Ruling Authority had correctly interpreted this exemption Notification. The Circular No.109/28/2019-GST dated 22.07.2019 issued by the CBIC only clarifies this position. The Appellant has argued that this Circular will apply only prospectively since it is oppressive in nature. This argument does not hold water since the said Circular does not introduce any new levy by its clarifications. The position regarding the exemption from GST was always applicable only when the individual member's contribution per month was within Rs 7500/-. The Circular dated 22.07.2019 only clarified this position and did not bring in any new levy. Hence the question of applying the Circular prospectively does not arise.

21. The Appellant has also contended that the ruling pronounced by the Authority after the mandated period of 90 days is unsustainable in law. No doubt the ruling given by the Authority has been passed after the time period stipulated under the statute. However, that does not render the ruling null and void or unsustainable. An order which is passed without jurisdiction can be held to be null and void and unsustainable. However, an order suffering from illegality or irregularity of procedure cannot be termed in executable. The remedy of a person aggrieved by such an order is to have it set aside in duly constituted legal proceedings or by a superior court failing which he must obey the order. An order passed by a court of competent jurisdiction cannot be denuded of its efficacy by any collateral attack or in incidental proceedings. The Supreme Court decision relied on by the Appellant to submit that the ruling passed by the Authority is not sustainable is not applicable to this case. In the said decision, the Apex Court was examining the actions to be performed by a tenant under the Rent Control Act before filing a petition before the Rent Controller and in that context the Hon'ble Supreme Court held that "if a thing is prescribed to be done within a particular period, it shall be done within that period or shall not be done at all." In this case, the Authority was well within its jurisdiction to pass a ruling on the subject matter. Not adhering to the time limit in passing an order can be termed as an irregularity in procedure which can be set right in appeal proceedings.

22. We find that the ruling given by the Authority is correct in law and we do not find reason to interfere with the same.

23. In view of the above discussion, we pass the following order

ORDER

We uphold the order NO.KAR ADRG 47/2019 dated 17/09/2019 passed by the Advance Ruling Authority and appeal filed by the appellant M/s. Vaishnavi Splendour Homeowners Welfair Association, stands dismissed on all accounts.

21/1/20

(D.P.NAGENDRAKUMAR)
Member
Karnataka Appellate Authority
For Advance Ruling

21.01.2020

(M.S. SRIKAR)
Member
Karnataka Appellate Authority
For Advance Ruling

To,

The Appellant

Copy to

1. The Member (Central), Advance Ruling Authority, Karnataka.
2. The Member (State), Advance Ruling Authority, Karnataka
3. The Commissioner of Central Tax, North Division
4. The Assistant Commissioner, LGSTO-150, Bengalure
5. Office folder