

SUPREME COURT RULING: GST EXEMPTION UPHELD FOR HOSTELS AND PG ACCOMMODATIONS



CASE NO.: CIVIL APPEAL NO(S). 7846 OF 2023

Date of the judgment: December 04, 2025

1. Overview

This case is a dispute between the and Taghar Vasudeva Ambrish (a property owner). The issue is whether renting out a residential building to a company which then uses it as a hostel for students and working professional is exempted from GST or not.

2. Facts of the Case

- The case revolves around a residential property in Bangalore owned by the respondent (Taghar Vasudeva Ambrish), which consists of 42 rooms, a terrace, and common areas. On June 21, 2019, the respondent leased this property to a company named M/s DTwelve Spaces Private Limited which was then used by them to provide accommodation to students and working professionals to stay ranging from 3 months to 12 months.
- The dispute arose when the Respondent sought clarification on whether the rent received from this transaction was exempt from GST under Entry 13 of Notification No. 9/2017. The Authority for Advance Ruling (AAR) ruled on March 23, 2020, that the exemption did not apply because the Lessee (a company) was not using the premises for residence itself.
- The Appellate Authority for Advance Ruling (AAAR) affirmed this on August 31, 2020, stating the property was a sociable accommodation rather than a residential one.
- The Respondent appealed to the High Court of Karnataka, which ruled that leasing a residential property as a hostel to students and working professionals is exempt from GST. This decision relied on Notification No. 9/2017 (Entry 13), which exempts the renting of a "residential dwelling for use as residence." The court applied the definition of 'residential dwelling' from the previous Service Tax law, which confirms it includes residential accommodation and is not limited to temporary stays like hotels. The court declared this definition obligatory on the revenue department. As a result, the petitioner was permitted to claim the GST exemption.

ANALYSIS OF THE CASE

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3. Submissions on Behalf of Revenue (State of Karnataka)

- The Revenue Department argued that for the exemption under Entry 13 to apply, three conditions must be met simultaneously: the service must be renting, it must be a residential dwelling, and it must be used as a residence. If any one of the three conditions did not meet the exemption doesn't apply.
- They are arguing that the GST exemption should not apply in this case because the tenant, DTwelve Spaces, is explicitly running a business rather than using the property as a home. They point to the lease agreement, which clearly states that the company is renting the property for the commercial purpose of managing operations and sub-leasing it to others for long stays. Since the company itself is not living there but is instead using the premises to conduct its business of renting out accommodations, the Revenue argues that the "residential use" requirement is not met in this specific transaction.
- Furthermore, the Revenue insists that for GST purposes, we must look strictly at the direct deal between the landlord and the company, not what happens afterwards. They argue that you cannot "borrow" the residential status of the students who eventually sleep there to justify a tax break for the landlord. The law focuses on the service being provided by the landlord to the tenant; since the tenant (the company) is not using the property as a residence but as a business asset, the chain of exemption breaks. They emphasize that tax exemptions are strict, and one cannot mix the two separate transactions to claim a benefit.
- Finally, the Revenue challenges the physical nature of the property itself. They argue that a building containing 42 rooms, each with its own attached washroom, does not fit the common definition of a "residential dwelling" or a typical home. Instead, they claim this layout resembles a hotel, lodge, or hostel—commercial establishments that are specifically excluded from residential tax exemptions. Because the structure looks and functions like a commercial lodge rather than a private house, they argue it should not qualify for the residential tax benefit.

4. Submission on Behalf of Respondent 1 (LESSEE)

The Senior Counsel for the Respondent, Mr. Arvind Datar, strongly defended the High Court's decision, arguing that it contained no legal errors and rightly granted the tax exemption. He explained the core business model where the landlords collectively leased the residential property to a company, M/s DTwelve Spaces Pvt. Ltd., which acted purely as an aggregator to help students and working professionals find housing. Instead of using the property for itself, this company sublet the rooms for long-term stays averaging eight months, which distinguishes it from temporary hotel accommodation. Addressing the specific tax dispute for the period from June 2019 to June 2022, he noted the tax liability was approximately Rs. 20.22 lakhs. Significantly, he highlighted that they started paying GST at 18% only after July 18, 2022, when the law (Entry 13) was explicitly amended, implying that the exemption was valid before that date. He vehemently rejected the government's argument that the exemption should be denied simply because the lessee was a company and not the resident itself. He argued that accepting this view would amount to rewriting the law to add a condition—"for use as residence by the lessee"—which does not exist in the statute. He concluded that the transaction met all three essential legal conditions: it was a renting service, the property was a residential dwelling, and it was ultimately used for residence, meaning the government's appeal had no merit.

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5. Supreme Court Analysis

The Supreme Court first addressed the pivotal issue of whether a hostel could be legally classified as a "residential dwelling," a term not explicitly defined under current GST laws. To interpret this, the Court relied on the erstwhile Service Tax Education Guide (2012) and common trade parlance, which define a residential dwelling as an accommodation meant for living, distinctly excluding temporary lodging facilities like hotels, motels, and guest houses. The Court noted that while residential rentals were exempt under the previous Service Tax regime, the GST framework treats renting as a taxable supply unless specifically exempted, such as under Entry 13 of Notification No. 9/2017, which exempts renting for residential use. By examining dictionary definitions and municipal records, the Court concluded that a hostel intended for long-term stay (sleeping, eating, and living) by students qualifies as a "residential dwelling".

1. To support this definition, the Court relied on the following legal precedents:

- *V.L. Kashyap vs R.P. Puri*: Established that a "dwelling house" is synonymous with residential accommodation and is distinct from commercial premises like offices or shops.
- *Uratemp Ventures Limited vs Collins*: Ruled that the term "dwelling house" is broad enough to include even a single room within a house.
- *Bandu Ravji Nikam vs Acharyaratna Deshbushan Mandal*: Held that a student hostel is a residential use because students eat and sleep there, and charging a fee does not convert it into a commercial "non-residential" activity like a hotel.

The Court then addressed the Revenue's argument that the exemption should be denied because the lessee (M/s DTwelve Spaces Pvt. Ltd.) was a company and not the person residing in the building. The Court rejected this, clarifying that the exemption under Entry 13 is conditioned on the nature of the use (for residence), not on the identity of the lessee. The Court observed that the company acted merely as an aggregator or facilitator, while the sub-lessees (students) satisfied the condition of using the property for residence. The Court emphasized that requiring the lessee to personally reside in the premises would amount to adding a condition that does not exist in the law. Finally, the Court applied the doctrine of purposive interpretation to uphold the exemption. It reasoned that the legislative intent was to ensure residential living is tax-free; levying GST on the landlord would simply pass the cost burden to the students, defeating the very purpose of the exemption. The Court held that while exemption notifications must be interpreted strictly regarding eligibility, they must be interpreted liberally once the applicant qualifies, to ensure the intended benefit is delivered.

2. The Court referenced the following cases regarding the interpretation of tax exemptions:

- *Government of Kerala vs Mother Superior Adoration Convent*: Ruled those beneficial exemptions should be interpreted to give full effect to their purpose rather than relying on a rigid, formalistic reading.
- *Union of India vs Wood Papers Limited*: Established that exemption clauses are construed strictly at the threshold of applicability but liberally once the subject falls within the notification.
- *Collector of Central Excise vs Parle Exports (P) Ltd.*: Reinforced the principle that the ambit of an exemption should not be widened during applicability, but once eligible, it must be construed liberally.

6. Purposive Interpretation of Entry 13

The Court applied the principle of "purposive interpretation," emphasizing that the goal of the exemption is to ensure that residential living does not suffer a tax burden. The Court reasoned that if GST were levied on the transaction between the Landlord and the Lessee, the cost would inevitably be passed down to the students and working women in the form of higher rent. The Court acknowledged that Entry 13 was amended on July 18, 2022, to specifically exclude cases where the residential dwelling is rented to a "registered person". However, the Court ruled that the Revenue could not apply this amendment retrospectively to the period in dispute (2019–2022). The Court also noted that a subsequent explanation added in 2023 further clarified that renting to a registered person (proprietor) is still exempt if used for personal residence, reinforcing the intent to exempt true residential use, emphasizing that the purpose of the exemption is to ensure that residential living does not suffer a tax burden of 18%.

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7. Final Judgement

These appeals were heard together by the Supreme Court as they challenge the same judgment of the Karnataka High Court dated February 7, 2022. The High Court had ruled in favour of the Respondent (Landlord), setting aside the previous order of the Appellate Authority for Advance Ruling (AAAR). The AAAR had initially denied the Respondent the benefit of the tax exemption under Entry 13 of Notification No. 9/2017, incorrectly holding that leasing residential premises as a hostel to students and working professionals did not qualify as "renting of residential dwelling for use as residence".

8. Non-Retrospective Amendment

The Court clarified that the subsequent amendment (effective from July 18, 2022) withdrawing the exemption for renting a residential dwelling to a registered person is not retrospective and does not apply to the period under dispute (2019–2022).

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