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Case Comment: Thai Mookambikka Ladies Hostel v Union of India

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INTRODUCTION

The GST Regime in India has been focused on replacing a diverse set of Indirect taxation laws and bringing them under one uniform system. It also reduced the effect of any form of discord between different taxing regulations, which led to a cascading effect.¹ This sought to reduce uncertainty, prevent tax evasion, and increase the tax base in India.² However, there are also certain categories of Goods and Services which were meant to be exempt from GST taxes to reduce the burden on certain groups of citizens who met particular threshold limits.³

The case of *Thai Mookambikka Ladies Hostel v Union of India*⁴ was decided in the Madras High Court of Judicature. In this instance, an Association of Hostels submitted a petition under Article

¹ Annapoorna, 'Goods and Services Tax: What is GST in India? Indirect Tax Law Explained' (*Clear*, 09 January 2025) <<https://cleartax.in/s/gst-law-goods-and-services-tax>> accessed 01 July 2025

² *Ibid*

³ Annapoorna, 'GST on Rent: Applicable GST Rates on Residential and Commercial Property Rentals' (*Clear*) <<https://cleartax.in/s/impact-gst-on-rent>> accessed 01 July 2025

⁴ *Thai Mookambikka Ladies Hostel v Union of India* WP No 28486/2023

226 of the Constitution, seeking exemption from Goods and Services Tax (GST) and establishing the nature of their services as non-commercial and residential, rather than as commercial hotels. This analysis of the case examines the circumstances surrounding it. It elucidates the legal position taken by the judiciary, as well as how the government acted upon this new legal interpretation. It marks a step forward in empowering working and college women by preventing excessive pricing of convenient residential options such as hostels.

FACTS

The Petitioners are running Private Ladies Hostels in Coimbatore by providing residential services with food for college students and working women. These services are provided with altruistic motives by allowing women from remote villages to make use of low-cost residential arrangements, ideally ranging between Rs. 1200/- to Rs. 6,500/- per month, with a variety of services.⁵ Women who opt for these services would not be in a position to secure independent residential accommodation with huge rents and advances in the city.

These hostels were sent notices by the GST Authority asking them to pay GST Amounts along with a threat of regulatory action. The Coimbatore Hostel Owner's Association then sought legal action against the GST Authority and the Authority for Advance Ruling in the High Court. The Authority for Advance Ruling had given the Judgement in favour of the GST Authority, while there were precedents in support of the Petitioners. Thus, a Writ Petition under Article 226 of the Constitution was submitted, which was entertained by the High Court of Madras, though the Petitioners had not yet exhausted the appeal remedy under the GST Act and the TNGST Act.

LEGAL ISSUES

1. Whether the hostel and residential accommodation extended by the Applicant hostel would be eligible for exemption under the relevant exemption notifications and the TNGST Act.
2. Whether the Petition is maintainable in the High Court of Madras, while the appeal remedy has not been exhausted.

⁵ *Ibid* para 2

3. Whether “Residential Dwelling” is construed as having a completely different meaning, or does it take the same meaning as both words taken individually?
4. Whether the terms of an Exemption are to be interpreted broadly or strictly.

LEGAL ANALYSIS

The Central Government, upon recommendations from the GST Council, issued a series of exemption notifications that exempted certain groups from paying taxes in order not to overburden them. In this instance, the court examines Entries 12 and 14 of Exemption Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 and also Entry 13 of Exemption Notification 9/2017- Integrated Tax (Rate), 2017, both issued by the Central Government.

In a nutshell, this exemption notification seeks to exempt any services by way of renting of residential dwellings for use as a residence, but it does not include renting for commercial purposes. Entry 14 of Notification No. 12/2017 further includes that hotels, motels, guest houses and other temporary stays that charge lower than or equal to Rs. 1000/- per day are also exempted, though not as a general category but only in terms of charitable activities such as trusts.

PETITIONERS

The Petitioner has filed this Writ Petition against an order by the Tamil Nadu State Authority for Advance Ruling. Thus, the Petitioner contends that the hostels run by them fall within the purview of Residential Dwelling under the exemption notification and are thus exempt from the levy of GST. As no specific definition has been assigned to the phrase “Residential Dwelling”, it is to be interpreted in ordinary trade parlance, where it is any residential accommodation which is not meant for temporary stay. Further, Section 2(e) of the Tamil Nadu Hostels and Home for Women and Children (Regulation) Act, 2014, defines a hostel as a building where accommodation is provided for women and children.

The Counsel for the Petitioners primarily relies on the case *Taghar Vasudeva Ambrish v Appellate Authority for Advance Rulings, Karnataka*,⁶ which follows a similar fact situation to the current case. It additionally relies on *Bandu Ravji Nikam v Acharyaratna Shikshan Prasark*

⁶ *Taghar Vasudeva Ambrish v Appellate Authority for Advance Ruling* MANU/KA/0327/2022

*Mandal*⁷ and *Uratemp Ventures Ltd. v Collins*⁸ in establishing the legal position of the Petitioners.

RESPONDENTS

The Counsel for the Respondents contends that the petitioners do not fall within the purview of the exemption. The Respondents differentiate the hostel services from the renting of residential dwellings by pointing out that the hostel room consists of a single room with inmates staying for various periods and charged per bed with additional services, whereas a house consists of two or more rooms, with a part of it being used as a kitchen. Further, the Petitioners' hostels are also not subject to any regulations that bind rental dwellings, such as rental agreements, TDS under Section 194(1) of the Income Tax Act,⁹ or any other regulations under the Tamil Nadu Rent Regulation Act.¹⁰

Further, the reasons for which the Authority for Advance Rulings dismissed the suit are also examined by the Hon'ble Court.¹¹ The authority firstly holds that the hostels intend to provide hotel accommodation/ sociable accommodation rather than residential accommodation. The hostels are also classified as accommodation, which provides temporary lodging rather than a residential dwelling, and it is also a commercial establishment, akin to hotels, as it requires a shop and establishment license.¹² The Court noted that the authority's ruling was based merely on the comparison between hotels and hostels and nothing else.

JUDGEMENT

The GST Council recommended the said exemption notification as it was deemed to be necessary in the public interest. The same was issued by the Central Government in order to benefit those who are renting the premises for residential purposes, which are not temporary. Renting of immovable property is also defined in the Subject Notification No. 12/2017 CT(R), Clause (zz),

⁷ *Bandu Ravji Nikam v Acharyaratna Deshbushan Shikshan Prasark Mandal* 2003 (3) BomCR 210

⁸ *Uratemp Ventures Ltd v Collins* (2001) 3 WLR 806

⁹ Income Tax Act 1991, s 194(1)

¹⁰ The Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act 2017

¹¹ *Thai Mookambikka Ladies Hostel v Union of India* WP No 28486/2023, 50

¹² The Tamil Nadu Shops and Establishments Act 1947

as granting access to the premises, wholly or partly, which also includes letting, leasing and other similar arrangements.

Further, though accommodation services of a temporary nature have not been exempted, the finance ministry has clarified that such services which charge a tariff of a unit of accommodation below Rs. 1000/- per day are exempted. Thus, the hostel services, ranging between Rs. 1,200/- to Rs. 6,500/- on a monthly basis, would come within the purview of the exemption.

The court spends a significant amount of time determining how a “Residential Dwelling Unit” is to be interpreted and whether hostel services can be interpreted as such. The Court referred to the UK House of Lords Judgement, *Uratemp Ventures Ltd. v Collins*,¹³ where a “dwelling house” is interpreted to mean even a single room used as a house. Then, the Karnataka High Court Case, *Taghar Vasudeva Ambrish v Appellate Authority for Advance Ruling, Karnataka*,¹⁴ ruled that the terms “residence” and “dwelling” have meanings attached in common parlance, and the phrase “Residential Dwelling Unit” cannot take a meaning different from it in the absence of an explicit definition.

Thus, the court refers to the definition of these terms in the Concise Oxford English Dictionary and the Blacks Law Dictionary. It connotes that residence means a person’s home, or their place of residence, or a place where the person lives and has their home. Further Dwelling means a house/structure where a person lives, their residence and their abode, which includes apartments, buildings, or a group of buildings. Thus, the courts hold the view that the term “Residential Dwelling” includes a hostel used for residential purposes by students of working women.

Next, the Bombay High Court Judgement, *Bandu Ravi Nikam v Acharyaratna Shikshan Prasark Mandal*,¹⁵ also classified a hostel as a house of residence, and it cannot be claimed to be for commercial use merely by reason of receiving pecuniary charges. It further cites precedence to hold that residence connotes that a person eats, drinks and sleeps at the place, while it cannot be assumed that it excludes a temporary residence. Thus, the court concludes that the hostel

¹³ *Uratemp Ventures Ltd v Collins* (2001) 3 WLR 806

¹⁴ *Taghar Vasudeva Ambrish v Appellate Authority for Advance Ruling* MANU/KA/0327/2022

¹⁵ *Bandu Ravji Nikam v Acharyaratna Deshbushan Shikshan Prasark Mandal* 2003 (3) BomCR 210

services provided by the petitioners come within the purview of the relevant exemption notifications.

The Court further rationalises that a hostel is often the only residential accommodation that can be afforded by women working for low income or college students from remote villages. And these cannot be charged with GST while residential. Further, when 4 women rent a dwelling of a studio apartment or a 1 BHK, the GST is exempt. Whereas, when the same women stay in a hostel, the fee they pay may be taken as rent in this instance, and the hostel services shall be considered to be within the purview of residential dwelling.

CONCLUSION

Both parties have compelling arguments regarding where hostel services are placed regarding the GST exemption. The Court has taken a view in the public interest by following the case, *Taghar Vasudeva Ambrish*, even though this precedent is *sub judice* before the Hon'ble Supreme Court. This judgement is meant to promote women's empowerment by allowing them to travel from rural to urban areas in search of working opportunities and education. It will allow them to avail of cheap accommodation, which is sufficient in terms of basic facilities.

Residence is still a huge hurdle for women who wish to travel to cities in search of education and with hopes of growth. Thus, the GST Council, to reiterate the legal position taken by this judgment, issued a government order exempting all hostels from GST.¹⁶ This has further strengthened the need for promoting such hostels in view of public interest and to improve the mobility of women. It also results in a broader definition of the term residential dwelling as any place where a person lives, which can be determined by observing whether the person sleeps, eats and stays at the premises.

While the Court provides a stepping stone for empowering women in this manner, there are certain gaps in the manner in which the judgment is written. The judgment mainly looks at the general definitions of the terms, while GST regulations need further specifications relating to

¹⁶ Lubna Kably, 'GST Council Recommends Exemption for Hostel Services, Subject to Conditions' *The Times of India* (Mumbai, 24 June 2024) <[355](https://timesofindia.indiatimes.com/business/india-business/gst-council-recommends-exemption-for-hostel-services-subject-to-conditions/articleshow/111235021.cms#:~:text=MUMBAI%3A%20The%20GST%20Council%20in.a%20period%20of%2090%20days.> accessed 01 July 2025</p>
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what deems a hostel service worthy of GST Exemption. The ambiguities in the judgment also pose the risk of misinterpretations, whereas it is supposed to inquire into the implications of the ruling on GST exemptions. Ordinarily, exemption notifications are meant to be construed strictly, whereas the court has taken a bold step towards increasing the scope of its application to hostel services. This judgment is still very important in terms of prompting further regulatory action from the GST Council.