



NITYA | Indirect Tax Bulletin

February 2022 | Week 2

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LEGAL PRECEDENTS

PART A: WRIT PETITIONS

Issue 1: Applicability of GST on renting of hostel

Ruling: The High Court observed that in absence of meaning of term 'residential dwelling' in the CGST Act, common parlance meaning needs to be referred. The Court referred to the CBIC Education Guide on Taxation of Services and dictionary meanings which clarified that in common parlance, 'residential dwelling' means a place used for residence or living and not meant for temporary stay like in case of hotels, guesthouses, camp sites etc. The Court also noted that registration of property as commercial establishment is irrelevant to determine its nature. The Court held that as hostels are used by students for residence, they will qualify for GST exemption under entry '*Services by way of renting of residential dwelling for use as residence*'. The Court also noted that there is no condition under GST exemption Notification requiring lessee to itself use property and ultimate use as residence is only relevant.

Taghar Vasudeva Ambrish v. AAAR, 2022-VIL-110-KAR

NITYA Comments: This ruling is correct and is likely to settle the unnecessary dispute caused by series of adverse Advance Rulings on this issue.

RECENT NEWS

1. Coming soon, a structural revamp of GST

<https://www.livemint.com/economy/revamp-of-gst-likely-in-phases-hike-in-textile-rates-on-cards-11644949326500.html>

2. Centre files review plea against Supreme Court order on DRI

<https://economictimes.indiatimes.com/news/india/centre-files-review-plea-against-supreme-court-order-on-dri/articleshow/89600391.cms?from=mdr>

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