DIRECTORATE OF SKILL DEVELOPMENT (DoSD), GOVT. OF MADHYA PRADESH, GLOBAL SKILL DEVELOPMENT PARK ITI BUILDING, RAISEN ROAD GOVINDPURA, BHOPAL 452001 (appellant before the AAAR; unregistered under GST; impugned AAR order 10/2019/A.A.R/R-28/23 dated 18.07.2019)

Appellate Authority for Advance Ruling — Madhya Pradesh

ORDER NO. MP/AAAR/05/2020 dated 14.01.2020 (copy marked No. 05/20… Dated **14.01.2020**

Q Questions Before the Authority

- Whether the services received by the appellant from a provider of service located in a non-taxable territory attract section 5(3) of the IGST Act read with Notification No. 10/2017-IGST (Rate) dated 28.06.2017, that is, whether the appellant is liable to pay tax under reverse charge on the transaction.

F Facts

The Government of Madhya Pradesh, through DoSD, is implementing the Madhya Pradesh Skills Development Project with ADB funding to set up a Global Skills Park in Bhopal for technical and vocational training. DoSD engaged ITE Education Services Pte Ltd, Singapore (ITEES), under a contract dated 28.09.2018 for consultancy on campus design, curriculum, training of trainers and examination, for a lump-sum consideration of US$38,12,740 paid in US dollars directly by ADB. The appellant contended that the park is a governmental function with no commercial motive and that the services fall within the exemption for services to government.

H Ruling

Whether services received from ITEES (Singapore) by DoSD attract reverse charge under s.5(3) IGST read with Notification 10/2017-IGST (Rate)	****Yes. Reverse charge applies** under s.5(3) read with Notification 10/2017-IGST (Rate). Order says the services qualify for reverse charge; appellant's own concession is recorded as accepted.**	The Authority did not decide whether DoSD's activity is 'business'. It proceeded on the alternative plea. The order also holds the appellant exempt under entry 3 of Notification 9/2017-IGST (Rate) and treats the activity as 'no supply' under Notification 11/2017-IGST (Rate) (para 18). The order's text refers to 'notification 10 IGST (Rate)' at para 16, where the exemption discussed is entry 3 of 9/2017.

The Appellate Authority held that the services from ITEES are **pure services** mentioned in Entry XVIII of the Eleventh Schedule to the Constitution and so qualify for reverse charge under section 5(3) of the IGST Act read with Notification 10/2017-IGST (Rate). It further held that the appellant is **exempt from GST under entry 3 of Notification 9/2017-IGST (Rate)** , and that under Notification 11/2017-IGST (Rate) the activity is treated as neither a supply of goods nor a supply of services.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

R Reasoning

The Authority did not accept the appellant's argument on 'business' under section 2(17) CGST, and instead took the alternative plea. It accepted that the reverse charge under section 5(3) IGST applies to the import of services, which it treated as conceded. It then held that ITEES's consultancy is a pure service, that the recipient is a government entity, and that the service relates to technical and vocational education, a function in Entry XVIII of the Eleventh Schedule and so within Article 243G. Reading 'in relation to' broadly, it held that the service falls within entry 3 of Notification 9/2017-IGST (Rate), which exempts pure services to government in relation to Article 243G or 243W functions. It finally relied on Notification 11/2017-IGST (Rate) as amended on 26.07.2018 to hold that such activity is neither supply of goods nor supply of services.

P Provisions Relied On

- Section 5(3) IGST Act, 2017
- Section 2(11) IGST Act, 2017 (import of services)
- Notification No. 10/2017-IGST (Rate) dated 28.06.2017 (reverse charge on import of services)
- Notification No. 9/2017-IGST (Rate) dated 28.06.2017, entry 3 (pure services to government in relation to Article 243G/243W…
- Notification No. 11/2017-IGST (Rate) dated 28.06.2017, as amended on 26.07.2018
- Section 2(17) CGST Act, 2017 (definition of business), as argued by appellant
- Article 243G and Entry XVIII of the Eleventh Schedule to the Constitution of India
- Article 243W of the Constitution of India
- Section 100 and section 101 CGST/MPGST Acts (appeal and proceedings)

! For the Practitioner

A practitioner advising a government department or agency procuring foreign consultancy for a Article 243G or 243W function may find this order useful, because it shows that the entry 3 exemption can be argued through the 'in relation to' wording. The order, however, does not decide whether such activity is business, and its entry 10 analysis is not addressed. It also sits uneasily with the reverse charge holding and does not reconcile the 'no supply' finding with the exemption finding. Read the full order before relying on it.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> mp_aaar_05_2020_directore_of_skill_development_madhya_pradesh.pdf

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