Micro Instruments (Appellant; against AAR Order No. GST-ARA-23/2018-19/B-87 dated 10.08.2018)

Appellate Authority for Advance Ruling — Maharashtra

ORDER NO. MAH/AAAR/SS-RJ/26/2018-19 Dated **22.03.2019**

Q Questions Before the Authority

- Whether the 'commission' received by the applicant in convertible foreign exchange for rendering services as an 'intermediary' between an exporter abroad and an Indian importer of equipment is an 'export of services' under section 2(6) of the IGST Act, outside the purview of section 13(8)(b), attracting zero-rated tax under section 16(1)(a) of the IGST Act.
- If the answer to the first question is negative, whether the impugned supply of services, forming an integral part of the cross-border sale/purchase of goods, is to be treated as an 'intra-state supply' under section 8(1) of the IGST Act read with section 2(65) of the MGST Act, attracting CGST/MGST, and if so, at what rate.

F Facts

The appellant, a sole proprietary firm and accredited distributor of Carl Zeiss Microscopy GmbH, Germany, secures purchase orders from Indian customers for advanced laboratory equipment and negotiates prices above a floor price fixed by the principal. The principal invoices the Indian buyer directly and pays the appellant a commission in euros, and the appellant supplies some free-of-cost 'discount in kind' items to the buyer at its own cost.

H Ruling

The Appellate Authority held that it has no jurisdiction under section 97(2) of the CGST Act to determine the place of supply, which it considered necessary before deciding either question. It therefore declined to answer either question on the merits and quashed the AAR ruling of 10.08.2018 as passed beyond the AAR's jurisdiction. The order contains no item-wise ruling on the questions raised.

R Reasoning

The Authority reviewed section 97(2) of the CGST Act, which lists the matters on which an advance ruling may be sought, and found that the place of supply is not among them. Both questions turn on the place of supply, because 'export of services' under section 2(6) of the IGST Act requires the place of supply to be outside India, and the intra-state question depends on the same determination. Since the Authority cannot rule on place of supply, it held that no ruling could be given and quashed the AAR's ruling for transcending its jurisdiction. The **substantive intermediary and export question was therefore not decided** .

P Provisions Relied On

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

Section 97(2) of the CGST Act, 2017

Section 2(6) of the IGST Act, 2017 (definition of export of services)

Section 8(1) of the IGST Act, 2017

Section 2(65) of the MGST Act, 2017

Section 100 and Section 101 of the CGST Act, 2017 (appellate proceedings, as cited in the order's heading)

! For the Practitioner

This order is useful for its jurisdictional holding: an AAR or AAAR cannot rule on the place of supply under section 97(2), so questions that depend on it may be rejected even where the AAR has already answered them. It does not decide whether commission received in foreign exchange by an Indian intermediary is an export of services or is taxable under section 13(8)(b) of the IGST Act. A practitioner needing that answer must rely on the appellant's arguments, the AAR order, and the authorities cited there, not on this order.

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 -> mh_aaar_ss-rj_26_2018-19_mi_22.03.2019.pdf

Prepared 01-11-2026.

About Patron Accounting LLP

Patron Accounting LLP is a CA and CS-led accounting and compliance firm working with businesses across India since 2019 — bookkeeping, GST, income tax, payroll, company and LLP compliance, audit and the certificates banks and regulators ask for.

Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com