Multiples Alternate Asset Management Private Limited

Appellate Authority for Advance Ruling — Maharashtra

ORDER NO. MAH/AAAR/SS-RJ/07/2019-20, Date- 04.10.2019 Dated **04.10.2019**

Q Questions Before the Authority

- Whether GST is applicable on the Advisory & Management Fees received in Indian currency from Domestic Contributors located in India for the services rendered by the Appellant.
- Whether GST is applicable on the Advisory & Management Fees received in foreign currency from Overseas Contributors located outside India for the services rendered by the Appellant.

F Facts

The Appellant is an investment advisory firm (SAC 997153) that sponsors SEBI-registered Alternate Investment Funds (AIFs), raises money from domestic and overseas investors, pools it into the AIF, and manages the investments for a fee. Under separate Advisory and Management Fee Agreements, the contributors pay the fee, and the agreements state that the AIF has no liability to pay it and the Appellant has no recourse to the AIF. The Authority for Advance Ruling had held that GST is leviable on the fees from both domestic and overseas investors, treating the services as rendered to the AIF.

H Ruling

The Appellate Authority set aside the AAR ruling and declined to answer either question. It held that whether GST applies to fees from overseas investors turns on the place of supply, which is outside the matters on which an advance ruling may be sought under Section 97(2). Because the questions were beyond the AAR's jurisdiction, no ruling was passed on the merits.

R Reasoning

The Authority reproduced Section 97(2) of the CGST Act, which lists the exhaustive matters on which an advance ruling may be sought. It observed that determination of the place of supply is not among those matters. It reasoned that the overseas-investor question necessarily required a place-of-supply determination and so could not be answered by the AAR. Since the AAR had decided a question outside its jurisdiction, the Authority set aside that ruling and passed no fresh ruling.

P Provisions Relied On

Section 97(2) of the CGST Act, 2017 (matters on which advance ruling may be sought)

Section 100 of the CGST Act, 2017 and MGST Act, 2017 (appeal to the Appellate Authority, as cited in the order)

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

Section 101 of the CGST Act, 2017 and MGST Act, 2017 (proceedings before the Appellate Authority, as cited in the order)

! For the Practitioner

This order is useful for showing that an AAR cannot rule on place of supply under Section 97(2), so an applicant who needs a ruling on export or zero-rating of overseas advisory fees may find the route closed at the advance ruling stage. It also shows that the AAR's view on who is the recipient of the service was set aside together with the ruling. It does not decide whether fees from overseas contributors are zero-rated exports, who the recipient of service is on the merits, or whether the AIF is liable to GST, so those points still need to be argued on the full record or in another forum.

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 -> mah aaar 07 2019-20 maampl.pdf

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