

M/s. Shreenath Polyplast Pvt. Ltd.

Appellate Authority for Advance Ruling — Gujarat

GUJ/GAAAR/APPEAL/2018/2 and GUJ/GAAAR/APPEAL/2018/2A

Dated **24.07.2018**

Q Questions Before the Authority

- Whether an amount charged as interest on transaction based short term loan given by the Del Credere Agent (DCA) to buyers of material is exempt from tax in terms of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (Serial Number 27) ?

F Facts

The applicant operates as a Del Credere Agent (DCA) for principal suppliers of goods, taking orders and guaranteeing payment realization from buyers. When buyers are unable to pay the principal on the due date, the applicant extends short-term loan facilities to the buyers by remitting payment directly to the principal on their behalf and charging interest on such extended amounts. The Revenue challenged the AAR order which had held that interest charged by the DCA on such short-term loans is exempt from GST.

H Ruling

Exemption on interest charged by Del Credere Agent (DCA) on short-term loans extended to material buyers

No ruling issued due to split order

Member Ajay Jain held the interest taxable under Section 15(2)(d); Member Dr. P.D. Vaghela held the interest exempt under Sl. No. 27 of Notification No. 12/2017-CT(R).

The Appellate Authority issued a **split verdict** due to divergent opinions between its two members. Member Ajay Jain held that the ruling of the AAR was erroneous and required to be set aside, finding the interest taxable under Section 15(2)(d). Member Dr. P.D. Vaghela held that the appeal required dismissal, upholding the AAR ruling that the interest is exempt from tax under Serial No. 27 of Notification No. 12/2017-Central Tax (Rate).

R Reasoning

Member Ajay Jain held that guaranteeing and making payment to the principal on default by the buyer is an essential characteristic of a DCA transaction, making the temporary funding integral to the supply contract and bringing interest within the value of taxable supply under **Section 15(2)(d)** of the CGST Act, 2017. Conversely, Member Dr. P.D. Vaghela held that since the DCA does not issue invoices or pass title of goods to the buyer, the underlying supply of goods remains strictly between the principal and buyer; therefore, providing short-term loan facilities is an independent service by way of extending loans/advances exempt under **Serial No. 27 of Notification No. 12/2017-Central Tax (Rate)**.

P Provisions Relied On

Section 2(5) of the CGST Act, 2017

Section 2(105) of the CGST Act, 2017

Section 15(2)(d) of the CGST Act, 2017

Section 86 of the CGST Act, 2017

Section 100(1) of the CGST Act, 2017

Schedule I, Para 3 of the CGST Act, 2017

Notification No. 12/2017-Central Tax (Rate) (Serial No. 27)

CBEC Office Memorandum F.No. 349/40/2017-GST dated 05.09.2017

! For the Practitioner

Because the Appellate Authority delivered **divergent orders**, no definitive advance ruling stands issued on this question under Section 101(3) of the CGST Act. The decision highlights competing legal perspectives regarding whether interest charged by a Del Credere Agent for financing customer payments constitutes part of the taxable supply value under Section 15(2)(d) or an independent exempt loan transaction under Notification No. 12/2017-CT(R).

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 -> [guj_gaar_2018-2_24.07.18.pdf](#)

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