M/s Alcon Consulting Engineers (India) Pvt. Ltd.

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 83/2019, Dated: 25th September, 2019 Dated **25.09.2019**

Q Questions Before the Authority

- Whether the expenses incurred by the staff members on behalf of the Company, exceeding Rs.5,000 a day and then reimbursed periodically, are liable to tax.
- Whether RCM (reverse charge mechanism) is applicable on remuneration paid to the Directors.

F Facts

The applicant is a private limited company providing consultancy services such as surface survey and map making, project management consultancy, engineering advisory and technical testing to private, State and Central Government clients. Its employees incur travel, transport, food, vehicle and machinery hire, lodging, consumables, postal and telephone and survey material expenses on the company's behalf, sometimes exceeding Rs.5,000 a day, while working in remote areas with no connectivity. The company reimburses these expenses periodically and also pays remuneration to its Directors.

H Ruling

Q1: Reimbursement to employees of expenses (over Rs.5,000 a day) incurred in the course of employment	**Not liable to tax under the GST Act, 2017**	The order states this on the basis that the supply of services to the employee, paid by the employee, is liable to tax after 30.09.2019, as printed in the ruling.
Q2: RCM on remuneration paid to the Directors of the applicant company	**Yes, liable to tax under reverse charge under sub-section (3) of section 9 CGST, in the hands of the applicant company**	Covered under entry no. 6 of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017. The order does not decide whether the service itself is taxable; it addresses only the RCM question.

The authority ruled that amounts reimbursed to employees for expenses incurred in the course of employment are **not a supply** and not liable to GST, because the employee's services to the employer fall under Schedule III clause 1. It further ruled that the Directors' remuneration is **liable to tax under reverse charge** in the hands of the applicant company under section 9(3) CGST, as the supply is covered by entry 6 of Notification No. 13/2017-Central Tax (Rate).

R Reasoning

On Q1, the authority reasoned that services by an employee to the employer in the course of employment are covered by clause 1 of Schedule III and so are neither a supply of goods nor of services. The expenses are the applicant's own, the consideration is payable by the applicant, and reimbursement is therefore not consideration

under section 2(31). On Q2, the authority held that Directors are not employees, so Schedule III clause 1 does not apply; the Director supplies services to the company, which is the recipient under section 2(93). The company is located in the taxable territory, so entry 6 of Notification 13/2017-CT(Rate) applies and tax is payable under section 9(3). The order states that the same conclusions apply mutatis mutandis to the KGST and IGST Acts.

P Provisions Relied On

- Section 97 of the CGST Act, 2017
- Section 98(4) of the CGST Act, 2017
- Section 98(4) of the KGST Act, 2017
- Section 2(31) of the CGST Act, 2017 (consideration)
- Section 2(93) of the CGST Act, 2017 (recipient of supply)
- Section 9(3) of the CGST Act, 2017
- Clause 1 of Schedule III to the CGST Act, 2017
- Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017, entry 6
- Karnataka GST Act, 2017 and Integrated GST Act, 2017 (applied mutatis mutandis)

! For the Practitioner

The ruling helps companies that reimburse employee business expenses, by confirming that such reimbursements are not a supply, and it confirms that Directors' remuneration attracts RCM under entry 6 of Notification 13/2017-CT(Rate). It does not settle whether the underlying services to the employer are taxable in every case, nor the position on reimbursements made by employers other than through employees. The ruling's reference to a date of 30.09.2019 is not explained in the order text and should be checked in the full order before reliance.

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 -> kar_aar_83_2019_25.09.2019_aceipl.pdf

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