# ALLIED BLENDERS AND DISTILLERS PRIVATE LIMITED

Authority for Advance Ruling — Maharashtra

**NO.GST-ARA-67/2018-19/B-155, Mumbai** Dated **15.12.2018**

## Q Questions Before the Authority

- Whether, in the facts and circumstances of the present case, the Contract Bottling Unit is making a taxable supply to the Applicant (Brand Owner)?
- Whether, in the facts and circumstances of the present case, the Applicant (Brand Owner) is making a taxable supply to the Contract Bottling Unit?
- Whether, in the facts and circumstances of the present case, the Applicant (Brand Owner) is paying consideration to the Contract Bottling Unit by way of bottling charges?
- Whether the Contract Bottling Unit is paying consideration to the Applicant by way of brand owner surplus?

## F Facts

The applicant owns registered brands of Indian Made Foreign Liquor but cannot itself manufacture under State Excise licences. It contracts with licensed Contract Bottling Units (CBUs) on a non-exclusive principal-to-principal basis, paying per-case bottling charges plus certain reimbursements. The applicant supplies or controls the raw materials, packing, pricing, buyers and supervision, and receives the sale proceeds, retaining the balance as brand owner surplus.

## H Ruling

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| **Whether the applicant (brand owner) makes a taxable supply to the Contract Bottling Unit** | **No. Answered in the negative.** | Based on the absence of any consideration for the brand use and on the applicant contracting for manufacture under its own brand, so no service is rendered by the applicant. |
| **Whether the CBU makes a taxable supply to the applicant; whether the applicant pays bottling charges as consideration; whether the CBU pays brand owner surplus as consideration** | **Not answered.** | Held outside the Authority's jurisdiction: the first and fourth concern supplies by the CBU, which the applicant does not undertake (s.95(a)), and the third does not fall within s.97(2). |

The Authority answered the question whether the applicant is making a taxable supply to the CBU in the negative. It held that the applicant is not receiving any consideration for allowing the CBU to use its brand, and that the arrangement is one in which the applicant contracts the CBUs to manufacture IMFL under its own brand. The remaining questions were held to be outside the Authority's jurisdiction and were not answered.

## R Reasoning

The Authority held that only the question whether the applicant makes a taxable supply to the CBU falls within


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

section 97(2) of the CGST Act, since the others concern supplies not undertaken by the applicant. Under section 95(a), an advance ruling must relate to supplies undertaken or proposed to be undertaken by the applicant. On the merits, the Authority relied on the agreement terms: the applicant contracts for manufacture under its own brand and gets the goods made, with the CBU's bottling charges as the only payment flow. Applying the definition of supply in section 7, which requires consideration, it found no consideration for any supply by the applicant, so no service is rendered by it.

## P Provisions Relied On

Section 95(a), CGST Act, 2017 (definition of advance ruling)

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

Section 98, CGST Act, 2017 and MGST Act, 2017 (form of order)

Section 7, CGST Act, 2017 (scope of supply, consideration requirement)

## ! For the Practitioner

The order is useful for brand owners using contract bottling arrangements in the alcoholic beverages sector, as it records a finding that the brand owner makes no taxable supply to the CBU where consideration is absent and the arrangement is contract manufacture under its own brand. It does not decide whether the CBU's bottling charges are taxable, whether brand owner surplus is taxable, or whether the CBU's supplies are taxable, as those questions were held outside the Authority's jurisdiction. The operative answer appears only in the ORDER section, not in a numbered RULING section.

### 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 -> ara_order_67_2018_maharashtra_abdp.pdf

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