Bajaj Finance Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 22/2018-19/B- 85 Mumbai, dt. 06.08.2018 Dated **06.08.2018**

Q Questions Before the Authority

- Whether the Penal Interest is to be treated as interest for the purpose of exemption under Sr. No. 27 of Notification No. 12/2017Central Tax (Rate) dated 28.06.2017, Sr. No. 27 of Maharashtra State Notification No. 12/2017-State Tax (Rate) dated 29.06.2017, and Sr. No. 28 of Notification No. 9/2017Integrated Tax (Rate) dated 28.06.2017?
- If the answer to the above is negative, whether the activity of collecting penal interest by the Applicant would amount to a taxable supply under the GST regime?

F Facts

The Applicant is a non-banking financial company (NBFC) engaged in providing various consumer and business loans repaid through Equated Monthly Installments (EMIs). In cases where borrowers delay their EMI repayments, the applicant collects penal or default interest for the duration of the delay as per the loan agreement terms. The question arose whether such penal charges are exempt interest income or taxable consideration for GST purposes.

H Ruling

Penal interest as exempt interest under exemption notifications	**Answered in the negative**	Penal charges collected for delay in EMI payment do not qualify for interest exemption.
Taxability of penal interest under GST regime	**Answered in the affirmative**	Taxable under clause 5(e) of Schedule II of the CGST Act as tolerating an act.

The Authority held that penal interest collected for delayed payment of loan EMIs is **not exempt as interest** under Notification No. 12/2017-Central Tax (Rate). Instead, collecting penal interest constitutes a consideration for **tolerating an act** of delayed payment, making it a taxable supply of service under GST.

R Reasoning

The Authority observed that the applicant charges a penal rate for delayed EMI payments, which is distinct from the regular interest component factored into the EMI calculation. While extending loans for interest is exempt under Sr. No. 27 of Notification No. 12/2017-Central Tax (Rate), penal interest represents separate consideration for tolerating the loanee's default or delay. This activity falls squarely under clause 5(e) of Schedule II of the CGST Act, 2017, which covers agreeing to tolerate an act or a situation, thereby making the penal interest taxable.

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

P Provisions Relied On

- Section 7 of the CGST Act, 2017
- Section 9 of the CGST Act, 2017
- Clause 5(e) of Schedule II of the CGST Act, 2017
- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (Sr. No. 27)
- Notification No. 12/2017-State Tax (Rate) dated 29.06.2017 (Sr. No. 27)
- Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017 (Sr. No. 28)

! For the Practitioner

This ruling highlights that financial institutions collecting penal or default interest for delayed loan EMI repayments cannot treat such income as exempt loan interest. Practitioners should note that the Authority treated penal charges as taxable consideration for **tolerating an act** under Schedule II, though later departmental circulars (such as Circular No. 102/21/2019-GST) subsequently provided further nuances on distinguishing liquidated damages from additional interest.

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 -> maha-gst-ara-22 dt.06.08.18 bfl.pdf

Prepared 22-10-2026.

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