M/s Banyan Tree Advisors Private Ltd

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 24/2019, Date: 12-09-2019 Dated **12.09.2019**

Q Questions Before the Authority

- Whether they need to charge GST on the Portfolio Management Services provided to Non-resident client, where the client pays fee in foreign currency from their overseas account to the account of the Portfolio manager?

F Facts

The applicant is a SEBI-registered portfolio manager offering discretionary portfolio management services to both resident and non-resident clients. Funds are held in the client's name in a bank account, the demat account sits with a local custodian bank, and the applicant holds a power of attorney to manage the funds. Non-resident clients pay the management fee in convertible foreign exchange from their overseas accounts, and the applicant contends that the place of supply is therefore outside India, making the supply a zero-rated export.

H Ruling

The Authority held that the question concerns the place of supply, which is not a matter listed in Section 97(2) of the CGST Act, 2017 on which an advance ruling may be given. The Authority noted that the applicant itself admitted the question relates to place of supply. The application was therefore **rejected** and the Authority did not examine the merits.

R Reasoning

The Authority first set out the IGST Act definition of export of services in Section 2(6), noting that place of supply outside India is one of its conditions and so is crucial to the export question. It then examined the categories in Section 97(2) of the CGST Act, namely classification, applicability of notification, time and value, input tax credit, liability to pay tax, registration, and whether an activity amounts to supply. It found that a place-of-supply question falls within none of them. On that basis it declined to decide the merits.

P Provisions Relied On

Section 97(2) of the CGST Act, 2017	Section 97 of the CGST Act, 2017
Section 2(6) of the IGST Act, 2017 (definition of export of services)	
Section 8 of the IGST Act, 2017, Explanation 1 (as referenced in Section 2(6)(v))	
Sections 12 and 13 of the IGST Act, 2017 (place of supply; cited in the applicant's submissions)	

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

Section 13(2) of the IGST Act, 2017 (cited in the applicant's submissions)

Rule 104 of the CGST Rules, 2017 and KGST Rules, 2017 (basis of the application)

Notification No. 37/2017 and Circular No. 8/2017 (cited in the applicant's submissions on LUT or bond conditions)

! For the Practitioner

This order is useful mainly as a signal that the Karnataka Authority for Advance Ruling will reject place-of-supply questions at the threshold under Section 97(2). Portfolio managers seeking certainty on whether fees from non-resident clients are exports should not expect a ruling on that point from this forum. The order does not decide whether such services are zero-rated exports, and it does not rule on the applicant's Section 13 arguments or the LUT route. Readers needing a substantive position will need to rely on the statute and other sources.

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_24_2019_btapl_12.09.2019.pdf

Prepared 08-11-2026.

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com