Cummins Technologies India Private Limited

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-133/2018-19/B-67 Mumbai, dt. 07/06/2019 (order number pa… Dated **07.06.2019**

Q Questions Before the Authority

- Whether the liability to pay tax on the subject supplies can be assessed based on taxability as accorded to Zero rated supply?

F Facts

The applicant is a group company of Cummins Inc. that provides support services, including accounts and finance, HR, IT, operations, pricing, purchasing, quality, sales and marketing, and customer support, to group companies in India and overseas. These services are provided on a principal-to-principal basis under written agreements, billed at cost plus a pre-agreed mark-up. For overseas recipients, the applicant sought to treat the services as export of services and so as zero-rated supplies.

H Ruling

Liability to pay tax on support services supplied to overseas group companies, assessed on taxability as zero-rated supply	**Not answered. The question does not fall within Section 97 of the CGST Act.**	The Authority held that the query on assessment of taxability is not within clauses (a) to (g) of Section 97(2).

The Authority declined to answer the question. It held that a query about assessing liability to tax on the basis of taxability does not fall within any of clauses (a) to (g) of Section 97(2) of the CGST Act, so the question is **outside the purview of Section 97** . The Authority therefore did not decide whether the services qualify as export of services or are zero-rated.

R Reasoning

The Authority considered that it can rule only under Sections 95 and 97, which permit rulings on classification, applicability of a notification, time and value of supply, input tax credit, liability to pay tax, registration, and whether a thing done amounts to a supply. Observing that the applicant's question concerned assessment of taxability, it found that this query does not match any of clauses (a) to (g) of Section 97(2). It therefore refrained from answering. The order does not analyse the export-of-services conditions in Section 2(6) of the IGST Act or the intermediary issue that the applicant argued at length. The concerned officer had also submitted that the application was not maintainable, but the order's disposal rests on the Section 97 ground.

P Provisions Relied On

Section 95 of the CGST Act (definition of advance ruling)	Section 97(2)(a) to (g) of the CGST Act and MGST Act

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

Section 98 of the CGST Act and MGST Act (order passed)

! For the Practitioner

This order gives no ruling on whether support services to overseas group companies are zero-rated exports, so a practitioner cannot rely on it for that point. It is useful as an example of the Maharashtra AAR declining a question framed as liability or taxability, and it suggests such questions should be reframed as classification or liability questions that fit Section 97(2). It does not decide the export-of-services conditions under Section 2(6) of the IGST Act or whether the services are intermediary services under Section 13(8)(b).

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 -> maharashtra_aar_133_2018-19_ctipl_07.06.19.pdf

Prepared 04-11-2026.

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