M/s. Directorate of Skill Development, Global Skill Development Park ITI Building, Raisen Road Govindpura, Bhopal 452001

Authority for Advance Ruling — Madhya Pradesh

Order Number 10/2019, dated 18/07/2019 (Case Number 09/2019; file refe… Dated **18.07.2019**

Q Questions Before the Authority

- Whether services received by the applicant from a provider of service located in a non-taxable territory would attract the provision of section 5(3) of the IGST Act read with Notification No. 10/2017-IT(R), i.e., whether the applicant is liable to pay tax under reverse charge on the transaction described (consultancy services from ITE Education Services Pte Ltd, Singapore).

F Facts

The applicant, a Directorate under the Madhya Pradesh Department of Technical Education, Skill Development and Employment, is establishing a Global Skill Park (GSP) in Bhopal, constituted as a society under the Madhya Pradesh Firms and Societies Act, 1973. On 28.09.2018 it entered into an agreement with ITE Education Services Pte Ltd, a Singapore-based consultancy, for consulting services for the project, at a contract price of USD 3,812,740 payable in 11 instalments between November 2018 and May 2023. The applicant contended that the GSP is a non-commercial government function, while the Concerned Officer submitted that the applicant is liable to IGST under reverse charge.

H Ruling

Liability to pay IGST under reverse charge on consultancy services received from a Singapore (non-taxable territory) provider, under section 5(3) IGST Act read with Notification No. 10/2017-IT(R)	****Yes.** The applicant shall be liable to pay IGST on import of services under reverse charge. No rate or HSN is stated in the ruling.**	The exemption in entry (a) of Notification No. 9/2017-IT(R) (Chapter 99, services received by Government from a non-taxable territory) was held unavailable because the services are received for a business purpose. The ruling is valid subject to section 103(2) and until declared void under section 104(1) of the GST Act.

The Authority held that the applicant is liable to pay IGST on the import of services under reverse charge in terms of Notification No. 10/2017-IT(R). It found that the transaction is an import of services, that the exemption for services received by the Government from a non-taxable territory is unavailable because the applicant is engaged in business, and that the reverse charge therefore applies.

R Reasoning

The Authority treated the arrangement as an import of services under section 2(11) of the IGST Act, since the supplier is outside India, the recipient is in India, and the place of supply under section 13 is Madhya Pradesh, with no sub-section (3) to (13) applying. It then examined the Chapter 99 exemption in Notification No.

9/2017-IT(R), which covers services received by Government from a non-taxable territory only where the purpose is **other than commerce, industry or any other business or profession** . Relying on the society's objectives (industry linkages, placement, innovation and productivity), its international training model and the Government's answer to Q14 of the GST Sectoral Series, the Authority held that the applicant is engaged in business under section 2(17) of the CGST Act. The exemption therefore did not apply and reverse charge under Notification No. 10/2017-IT(R) was held to be attracted.

P Provisions Relied On

- Section 97(2)(e) CGST Act, 2017 (question admitted)
- Section 98(4) CGST Act, 2017 (ruling)
- Section 103(2) and Section 104(1) CGST Act, 2017 (binding effect and voidness)
- Section 7 CGST Act, 2017 (meaning of supply)
- Section 2(17) CGST Act, 2017 (meaning of business)
- Section 2(11) IGST Act, 2017 (meaning of import of services)
- Section 13 IGST Act, 2017 (place of supply of services where supplier or recipient is outside India)
- Section 5(3) IGST Act, 2017 (reverse charge on notified services)
- Notification No. 10/2017-Integrated Tax (Rate) (reverse charge entry for services from a non-taxable territory)
- Notification No. 9/2017-Integrated Tax (Rate), entry 10, Chapter 99 (exemption for services received by Government from a n…
- Notifications No. 8/2017-IT(R), 11/2017-CT(R) and 12/2017-CT(R) (referred to in the discussion)
- GST Sectoral Series on Government Services, Q. 14 (referred to in the discussion)

! For the Practitioner

This ruling is useful for government departments and state-funded bodies that buy foreign consultancy or training services. It shows that the Government exemption for services from a non-taxable territory is tested by the purpose of the procurement, and that a society-run project with industry linkages and commercial-type objectives may be held to be in business. It does not decide valuation, the treatment of the instalments or any other transaction, and it binds only the applicant and the officers under section 103(2). The order also cites notification dates as 2019 in places where 2017 appears intended, so the notifications should be checked against the originals 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 -> mp_aar_10_2019_18.07.19_dsd.pdf

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