M/s Fulcrum Info Services LLP, Bengaluru (the body of the order refers to M/s Fulcrum Global Info Services LLP)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 55/2019, dated 19 September 2019 (the l… Dated **19.09.2019**

Q Questions Before the Authority

- Whether the back-end support services provided by the applicant to Juniper Inc under the agreement would be classified as 'Support Services' under Tariff Heading 9985 of Notification 11/2017-Central Tax (Rate) dated 28.06.2017.
- Whether the services in question would be treated as Intermediary services or not.

F Facts

The applicant provides back-end support services under a Trade Compliance Services Agreement with Juniper Networks Inc, a US company. The work includes export and import compliance screening, manual preparation of shipping and customs documents, audit and record keeping of import entries, helpdesk responses, and ad hoc administrative tasks, performed on Juniper's TradeSphere and Oracle applications. The applicant invoices Juniper monthly on a principal-to-principal basis and receives its consideration in convertible foreign exchange.

H Ruling

Classification of back-end support services provided to Juniper Inc under the agreement	**Classifiable as 'Support Services' under Tariff Heading 9985, more specifically under Service Code 998599 (Other support services nowhere else classified)**	The authority rejected Service Code 998594 (Combined Office Administrative Services) and Service Code 998595 (Specialised Office Support Services), which the applicant had also relied upon
Whether the services are Intermediary services	**No. The services are not Intermediary services**	Reasons given: the applicant performs the work itself, there is no third party involved, and the applicant does not arrange or facilitate any supply between Juniper and its customers

The authority held that the back-end support services are classifiable as 'Support Services' under Heading 9985, and more specifically under Service Code 998599 (Other support services nowhere else classified). It further held that the services are not intermediary services, because the applicant performs the services itself and does not arrange or facilitate a supply between two or more persons.

R Reasoning

The authority examined the Trade Compliance Services Agreement and the statement of work and found that the

applicant performs back-office work for Juniper in the nature of support services, with no third party in the chain. On the intermediary question it relied on the definition in Section 2(13) of the IGST Act and on dictionary meanings of 'facilitate', holding that the applicant neither arranges nor facilitates a supply between two persons. On classification it compared the CBIC explanatory notes for Service Codes 998594, 998595 and 998599. It held that 998594 does not apply because the work is not office administration done for others on a contract basis, and that 998595 does not apply because screening of restricted parties, orders and shipments and transaction processing go beyond document preparation. The residual code 998599 was therefore applied.

P Provisions Relied On

- Section 97 of the CGST Act, 2017 and the corresponding KGST Act provision (application for advance ruling)
- Section 98(4) of the CGST Act, 2017 and Section 98(4) of the KGST Act, 2017 (order of the Authority)
- Rule 104 of the CGST Rules, 2017 and KGST Rules, 2017 (form and fee for application)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, Heading 9985 and Service Codes 998594, 998595 and 998599
- Section 2(13) of the IGST Act, 2017 (definition of intermediary)
- CBIC explanatory notes to the scheme of classification of services for Service Codes 998594, 998595 and 998599
- Cited by the applicant and considered by the authority: Section 2(30) of the CGST Act (composite supply), which the authority…

! For the Practitioner

A practitioner providing back-office or compliance support to a foreign principal on a principal-to-principal basis can cite this order for classification under Heading 9985, Service Code 998599, and for the position that such services are not intermediary services. The order is an AAR ruling binding only on the applicant, and it does not decide classification where the service includes a substantial element of arranging or facilitating supplies between third parties. Whether the services are composite or principal supplies, which the applicant argued in part, was not decided.

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_55_2019_19.09.2019_fis_llp.pdf

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