M/s. Haworth India Private Limited

Authority for Advance Ruling — Tamil Nadu

ORDER No.38/ARA/2019 Dated 21.08.2019 (signed 27.08.2019; the listing… Dated **27.08.2019**

Q Questions Before the Authority

- Whether, on the facts and circumstances, the services supplied by the Applicant under the Service Agreement dated 1 September 2018 qualify as an export of service under section 2(6) of the IGST Act, 2017?
- If those services do not qualify as an export of service under section 2(6) of the IGST Act, 2017, whether the Applicant is an 'intermediary' as defined under section 2(13) of the IGST Act, 2017?

F Facts

Haworth India Private Limited, a wholly owned subsidiary of Haworth Inc., USA, manufactures office furniture in Tamil Nadu. On 1 September 2018 it entered into a Service Agreement with Haworth Europe SE to provide data analysis, commercial back-office, marketing material and customer relations support. Under the agreement, the Applicant acts as an independent contractor, recovers direct and indirect costs plus a 15% mark-up for FY 2018-19, and is paid in US dollars.

H Ruling

The Authority did not decide either question on the merits. The Applicant withdrew the application voluntarily and unconditionally by letter dated 26 August 2019, stating that CBIC Circular No.107/26/2019-GST dated 18.07.2019 had resolved the ambiguity. The Authority disposed of the application as **withdrawn** .

R Reasoning

The Applicant stated that the CBIC circular had clarified the point on which it sought a ruling, and it withdrew the application on that basis. The Authority accepted the withdrawal and recorded no finding on the export-of-service or intermediary questions. The order therefore rests on procedure and does not analyse the statutory tests. The only provisions it refers to are the application framework, the appeal provision, and the circular cited by the Applicant.

P Provisions Relied On

Section 98 of the CGST Act, 2017 (advance ruling; the order is passed under it)

Section 2(6) of the IGST Act, 2017 (definition of export of services, as posed in the questions)

Section 2(13) of the IGST Act, 2017 (definition of intermediary, as posed in the questions)

Sub-section (1) of Section 100 of the CGST Act/TNGST Act, 2017 (appeal to the State Appellate Authority within 30 days)

Sub-rule (1) of Rule 104 of the CGST Rules, 2017 and SGST Rules, 2017 (application fee)

CBIC Circular No.107/26/2019-GST dated 18.07.2019 (cited by the Applicant as providing clarity; the Authority did not analys…

! For the Practitioner

This order is useful mainly as a record that the Applicant withdrew after CBIC Circular No.107/26/2019-GST dated 18.07.2019 was issued, so it does not settle the export or intermediary question. A practitioner advising on a similar cost-plus support arrangement should read the circular itself and any later rulings rather than this order. The Authority gave no reasoning on the merits, so the order cannot be cited as authority for either the export or the intermediary position.

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 -> tn_aar_38_2019_27.08.19_hipl.pdf

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