

M/s. Hitachi Power Europe GmbH

Authority for Advance Ruling — Maharashtra

GST-ARA-38/2019-20/B-27, Mumbai, dated 11.03.2020

Q Questions Before the Authority

- Whether the Goods and Services tax (herein referred as 'GST') is applicable on the accounting entry made for the purpose of Indian accounting requirements in the books of accounts of Project Office for salary cost of Expat employees

F Facts

The applicant is a foreign company that has established a Project Office in India to execute specific power projects. Expat employees of the Head Office work in the Project Office, and while their salary is paid by the Head Office abroad, the Project Office makes an accounting entry for these salary costs in its Indian books to comply with the Companies Act, 2013. The applicant sought a ruling on whether this accounting entry for salary costs is subject to GST under the Reverse Charge Mechanism.

H Ruling

Applicability of GST on accounting entry for salary cost of Expat employees

Answered in the negative

The transaction is not considered a supply as it involves services by an employee to the employer in the course of employment

The Authority ruled that the accounting entry for the salary cost of expat employees is not subject to GST. It concluded that the Project Office is an extension of the Head Office, and the expat employees are employees of the Head Office, meaning there is an employer-employee relationship. Consequently, the transaction falls under Schedule III of the CGST Act and is not considered a supply.

R Reasoning

The Authority determined that the Project Office is not a separate legal entity but an extension of the foreign Head Office. It relied on the provisions of Schedule III of the CGST Act, 2017, which excludes services provided by an employee to an employer in the course of employment from the scope of supply. Since an employer-employee relationship exists between the Head Office and the expat employees, the accounting entry for salary costs does not constitute a taxable supply of services. The ruling also referenced the definition of a Project Office under the FEMA Regulations.

P Provisions Relied On

Section 97 of the Central Goods and Services Tax Act, 2017

Section 98 of the Central Goods and Services Tax Act, 2017

Schedule III of the CGST Act, 2017

Section 203 of the Income Tax Act, 1961

Section 6(6) of the Foreign Exchange Management Act, 1999

FEMA (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regula...

! For the Practitioner

This ruling provides **favorable clarity** for foreign companies operating through Project Offices in India, confirming that accounting entries for expat salary costs do not attract GST. It reinforces the principle that such arrangements are **not a supply** due to the employer-employee relationship. Practitioners should note that this decision is specific to the facts where the Project Office is treated as an extension of the foreign entity.

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 -> mah aar 38 2019-20 b-27 11.03.2020 hpeg.pdf

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Pune (HQ)

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

Delhi

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

Ahmedabad

Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp...

Mumbai

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

Gurugram

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

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