M/s. EQUITRON MEDICA PRIVATE LIMITED

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-30/2019-20/B-07, Mumbai, dated 17.01.2020 (the date reads… Dated **17.01.2020**

Q Questions Before the Authority

- Whether the applicant can sell its product to its dealer/distributor by charging GST at 5.00% as per Notification No. 45/2017 and 47/2017.
- Whether a certificate issued by the end user (scientific research organization) naming the manufacturer (the applicant) and the seller (the distributor) can be held valid to enable the applicant to invoice its product to its dealer at the concessional GST rate of 5.00%.

F Facts

The applicant manufactures laboratory medical equipment such as autoclaves, incubators and rotary vacuum evaporators, and sells through a distributor network. It invoices its distributors at the normal 18% GST rate, and the distributors, who are not engaged in scientific research, sell some goods to notified research institutions at 5%. The applicant wants to invoice its distributors at 5% because the end use is exclusively scientific research, supported by an end-user certificate.

H Ruling

Whether the applicant can sell its product to its dealer/distributor charging GST at 5% under Notification 45/2017 and 47/2017	**Answered in the negative**	The applicant supplies only to distributors, not to research institutions, and the Sr. No. 2 conditions require a head-of-institution certificate to be produced to the supplier, which here is the distributor, not the applicant.
Whether an end-user certificate naming the manufacturer and distributor can be held valid to allow invoicing the dealer at 5%	**Not answered**	Held not maintainable: validity of end-user certificates is not a matter under Section 97(2) of the CGST Act, so the Authority had no jurisdiction to rule on it.

The Authority held that the applicant cannot charge GST at 5% on its supplies to distributors under Notification No. 45/2017-C.T.(Rate) and No. 47/2017-I.T.(Rate), both dated 14.11.2017, because it does not supply to research end users and does not meet the conditions, including that the certificate is issued to the supplier. The second question was held not maintainable because the validity of end-user certificates does not fall within the matters on which an advance ruling may be sought under Section 97(2), so it was not answered.

R Reasoning

The Authority examined Notification No. 45/2017-C.T.(Rate) dated 14.11.2017, treating Notification No. 47/2017-I.T.(Rate) as similar. Entry 2 of the table covers research institutions other than hospitals registered with the DSIR, and it requires the institution to produce a certificate from its head, addressed to the supplier, that the goods are essential for research and will not be sold for five years. The applicant does not supply to such

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institutions and the certificate is to be issued to the supplier, so the applicant fails the conditions. On the second question, the Authority reasoned that Section 97(2) lists the permitted subjects of an advance ruling (classification, applicability of notification, time and value of supply, input tax credit, liability, registration, and whether an activity is a supply), and certificate validity is not among them.

P Provisions Relied On

- Section 97(2)(b) of the CGST Act, 2017 (applicability of a notification issued under the Act)
- Section 97(2) of the CGST Act, 2017 (matters on which an advance ruling may be sought)
- Section 98 of the CGST Act, 2017 and the corresponding MGST Act provision (order of the Authority)
- Section 9 of the CGST Act, 2017 (central tax levy)
- Section 5 of the IGST Act, 2017 (integrated tax levy)
- Section 11(1) of the CGST Act, 2017 (power to exempt or reduce rate)
- Notification No. 45/2017-Central Tax (Rate) dated 14.11.2017, Sr. No. 2 (research institution other than a hospital)
- Notification No. 47/2017-Integrated Tax (Rate) dated 14.11.2017

! For the Practitioner

A manufacturer that sells through distributors cannot apply the 5% research-institution concession to its own invoices to those distributors, because the conditions attach to the research institution and to a certificate given to the supplier. The order is useful for showing that the concession does not follow the end use as such. It does not decide whether a distributor may charge 5% on onward sales to notified institutions, and it gives no view on the evidentiary value of end-user certificates. The ruling is appealable to the Maharashtra Appellate Authority for Advance Ruling.

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_30_2019-20_b-07_17.01.2020_empl.pdf

Prepared 17-11-2026.

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