M/s ION Trading India Private limited, Building No. 2, Infospace, 4-6th Floor, Block-B, Plot-2, Sector-62, Noida, Uttar Pradesh (GSTIN 09AAECA4325R1Z9)

Authority for Advance Ruling — Uttar Pradesh

Order No. 41, dated 25.09.2019 (Authority for Advance Ruling, Uttar Prad… Dated **25.09.2019**

Q Questions Before the Authority

- Whether the amount recovered from employees towards parental insurance premium payable to the insurance company would be deemed a supply of service by the applicant to its employees?
- If the first question is answered in the affirmative, whether the value of that supply would be NIL, being provided in the capacity of a pure agent, and if not NIL, what would be the value of such supply?
- If GST is payable on the amount recovered from employees, whether the proportionate GST paid by the applicant to the insurance company towards parental insurance would be admissible as input tax credit against supply of insurance services for employees' parents?

F Facts

The applicant is a wholly owned subsidiary of ION Trading UK Limited and is engaged in software development, which it exports to the overseas parent. It provides group mediclaim cover to employees, spouses and three children at its own cost, and lets employees opt for cover for their parents on payment of Rs. 5,000 for both parents, with the applicant bearing any excess over that amount. The applicant remits the amount recovered to the insurer.

H Ruling

Whether amount recovered from employees towards parental insurance premium is a supply of service by the applicant to its employees	****Answered in negative****	Recovery and onward payment to the insurer is not a supply in the course or furtherance of business under s. 7(1); the applicant is not in the insurance business.
Whether the value of such supply would be NIL as a pure agent, or what would be its value	**Not answered; question does not arise**	Answer to question 1 is negative, so this question was not decided.
Whether proportionate GST paid to the insurer on parental cover is admissible as input tax credit against supply of insurance services for employees' parents	****Answered in negative****	The authority answered on the premise that GST is payable on the amount recovered, though its conclusion under question 1 is that no such supply arises.

The authority held that the amount recovered from employees towards parental insurance premium is not a supply of service by the applicant to its employees, because the recovery and deposit with the insurer is not a

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supply made in the course or furtherance of business. Question 2 was therefore not answered, as it arises only if question 1 is answered in the affirmative. On question 3, the authority held that input tax credit is not admissible on the proportionate GST paid to the insurer for parental cover.

R Reasoning

The authority reproduced the definitions of supply in s. 7(1) and service in s. 2(102), and emphasised the words in the course or furtherance of business. It then read the definition of business in s. 2(17) and agreed with the applicant that providing insurance for employees' parents is neither incidental nor ancillary to software development. It relied on the Maharashtra AAR ruling in Posco India Pune Processing Centre Pvt. Ltd. (order dated 07.09.2018), which held that similar recoveries of parental mediclaim premium are not a supply of service under GST law. It also noted the jurisdictional officer's report that the applicant renders no insurance service. Section 97(2)(e) was relied on for admitting the application.

P Provisions Relied On

- Section 97(2)(e) of the CGST Act, 2017 (admission of application)
- Section 7(1) of the CGST Act, 2017 (meaning of supply)
- Section 2(102) of the CGST Act, 2017 (meaning of service)
- Section 2(17) of the CGST Act, 2017 (meaning of business)
- Section 130(2) of the CGST Act, 2017 (validity of ruling)
- Section 104(1) of the CGST Act, 2017 (ruling declared void)
- Maharashtra AAR order in M/s Posco India Pune Processing Centre Pvt. Ltd., GST-ARA-36/2018-19/B-110, dated 07.09.201…

! For the Practitioner

This ruling helps employers that recover part of parental mediclaim premium from employees and pass it to an insurer, since it holds that such a recovery is not a taxable supply by the employer where the employer's business is unrelated to insurance. The ruling binds only the applicant, and its reasoning rests on the employer not being in the insurance business. It does not decide the GST treatment of premium the employer pays for employees and their families, which the applicant raised but the authority did not rule on. Because question 2 was not answered, valuation under a pure agent theory remains undecided.

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 -> up_aar_41_25.09.2019_itipl.pdf

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