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Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 63/2019-20/B- 14, Mumbai Dated **22.01.2020**

Q Questions Before the Authority

- Are hard copies of shipping bills, duly stamped and signed by the LET Export Officer of Customs and showing particulars such as the courier, port of loading, flight, AWB number, declared weight, consignor and consignee, and invoice value, enough for filing a claim for refund of ITC on an export sale, even though the shipping bill is not trackable on the ICEGATE website?
- Is a drop-shipping transaction an export sale, or is it subject to IGST?

F Facts

The applicant supplies e-commerce products (quiet books sold under the Wow and Now brands) for export under a Letter of Undertaking. Customers pay in US dollars through PayPal, and goods are shipped by DHL, with manual shipping bills issued by customs but not traceable on ICEGATE because DHL lacks that facility. The applicant also earns income from drop-shipment, where the supplier delivers goods directly to the buyer without passing through the applicant's office or warehouse.

H Ruling

The authority held that the first question is procedural and does not fall within any of the matters listed in Section 97(2)(a) to (g), so no ruling could be given on it. On the second question, it held that in a drop-shipment the applicant neither owns nor delivers the goods and acts only as an intermediary, so there is no sale of goods by the applicant and the question whether it is an export sale or subject to IGST does not arise. The application was therefore rejected as **non-maintainable** .

R Reasoning

The authority noted that under Section 95 of the CGST Act, 2017 it may rule only on matters listed in Section 97(2). It found that the shipping bill question is technical or procedural and falls outside clauses (a) to (g) of Section 97(2). On the drop-shipment question, it found on the applicant's own description that the applicant only facilitates the sale between buyer and seller and makes no supply of goods, so there was nothing on which an export or IGST characterisation could operate. Because no supply of goods by the applicant was involved, Section 95 applied and the application was rejected. The order relies on the CGST Act provisions, with the MGST Act treated as identical for this purpose.

P Provisions Relied On

Section 95 of the CGST Act, 2017	Section 97(1) and 97(2)(a) to (g) of the CGST Act, 2017

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

Section 98 of the CGST Act, 2017 and the corresponding MGST Act, 2017 provisions

Corresponding provisions of the Maharashtra GST Act, 2017

! For the Practitioner

The order is useful for showing that an advance ruling will not be issued on procedural evidentiary questions, such as whether a non-trackable shipping bill suffices for an ITC refund, because they fall outside Section 97(2). It also indicates that an intermediary who does not itself sell goods in a drop-shipment cannot obtain a ruling on export or IGST treatment of the sale. It does not decide the merits of export treatment, shipping bill sufficiency, or IGST liability for drop-shipments, and it does not rule on any question where the applicant itself supplies goods. An appeal lies 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_63_2019-20_b-14_22.01.2020_wdcpl.pdf

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