MRS. VISHAKHAR PRASHANT BHAVE / MICRO INSTRUMENTS

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 23/2018-19/B- 87 Mumbai, dt. 10/8/2018 Dated **10.08.2018**

Q Questions Before the Authority

- (i) Whether the "Commission" received by the Applicant in convertible Foreign Exchange for rendering services as an "Intermediary" between an exporter abroad receiving such services and an Indian importer of an Equipment, is an "export of service" falling under section 2(6) & outside the purview of section 13 (8) (b), attracting zero-rated tax under section 16 (1) (a) of the Integrated Goods and Services Tax Act, 2017?
- (ii) If the answer to the Q. (i) is in the negative, whether the impugned supply of service forming an integral part of the cross-border sale/purchase of goods, will be treated as an "intra-state supply" under section 8 (1) of the IGST Act read with section 2(65) of the MGST Act attracting CGST/MGST? And, if so, at what rate?

F Facts

The Applicant, a sole proprietary concern based in Maharashtra, acts as a broker/facilitator procuring purchase orders for laboratory equipment from Indian buyers on behalf of foreign principals in Germany. The foreign principal directly invoices and ships the equipment to the Indian buyer, while paying the Applicant a commission in freely convertible foreign currency. The Applicant does not purchase or supply the equipment on its own account.

H Ruling

Commission received as intermediary for foreign exporter as export of service	**Answered in the negative**	Does not satisfy condition (iii) of Section 2(6) as place of supply is in India under Section 13(8)(b)
Classification as intra-State or inter-State supply and applicable tax rate	**Inter-State supply, IGST @ 18%**	Treated as inter-State supply under Section 7(5)(c) of the IGST Act

The Authority held that the Applicant's activity falls under the scope of **intermediary services** under Section 2(13) of the IGST Act, 2017. As a result, the place of supply is determined by Section 13(8)(b) to be the location of the supplier in India, disentitling the service from being treated as an **export of service** . The transaction is classified as an **inter-State supply** under Section 7(5)(c) of the IGST Act, attracting IGST at the rate of 18%.

R Reasoning

The Applicant acts as an agent/broker facilitating the supply of goods between foreign sellers and Indian buyers without taking ownership of the goods, which clearly fits the definition of an 'intermediary' under Section 2(13) of the IGST Act. Under Section 13(8)(b), the place of supply for intermediary services is the location of the supplier of service, which is in Maharashtra, India. Because the place of supply is not outside India, the transaction fails

condition (iii) of Section 2(6) and cannot be treated as an **export of service** . Furthermore, since the recipient is located outside India and the place of supply is in India, Section 7(5)(c) applies, making it an **inter-State supply** subject to 18% IGST.

P Provisions Relied On

Section 2(6) of IGST Act	Section 2(13) of IGST Act
Section 7(5)(c) of IGST Act	Section 8(1) of IGST Act
Section 13(8)(b) of IGST Act	Section 16(1)(a) of IGST Act

! For the Practitioner

Confirms that commission agents facilitating sales between foreign suppliers and domestic buyers qualify as **intermediaries** . Even when commission is received in convertible foreign currency, the place of supply remains the location of the supplier in India under Section 13(8)(b), disqualifying the transaction from **zero-rated export benefit** and making it subject to 18% IGST.

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 -> maha-gst-ara-23 dt.10.08.18 mi.pdf

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