M/s Office Official Liquidator, 12th Floor, 26-27, Corporate Bhavan, M G Road, Raheja Towers, Bengaluru-560040 (GSTIN 29AALO0041R1ZP)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 22 / 2019, Date: 11-09-2019 Dated **11.09.2019**

Q Questions Before the Authority

- Whether a sale of the aircraft by the Official Liquidator to a buyer located outside India is an export of goods under the GST law, so as to qualify for zero-rating under section 16 of the IGST Act, given that the invoice is raised on an overseas buyer and the aircraft is expected to be taken out of India after repairs and approvals.
- If the place of supply is not outside India and the sale is not an export of goods, what would the place of supply be?
- Whether the aircraft, imported for non-scheduled air transport (passenger) services, falls under Tariff item 8802 as an aircraft other than for personal use, and whether the GST rate would be 5 percent under Entry 244 of Schedule I when the buyer is a US corporate entity using it commercially. Also, whether GST compensation cess is leviable on this subsequent sale of a second-hand aircraft.
- Since the transaction is eligible for zero-rating, whether the buyer can claim a refund of the GST and the compensation cess paid by it.

F Facts

The applicant is the Official Liquidator of Kingfisher Airlines Ltd, appointed by the Hon'ble High Court of Karnataka, and is registered under the GST law. As liquidator, it sold the aircraft Corporate Jet Airbus A-319-133 (CIVT-VJM, MSN 8560) to the highest bidder through a global e-auction. The invoice was raised on a buyer located outside India, which the applicant said was a US corporate entity expected to take the aircraft abroad after repairs and approvals.

H Ruling

The Authority did not decide any of the four questions on their merits. It disposed of the application as **withdrawn** , on the applicant's request made by letter dated 04.09.2019. The applicant had stated that its questions were based on place of supply and that the sale and shipment of the aircraft had already been completed.

R Reasoning

The applicant sought a ruling under section 97 of the CGST and KGST Acts read with Rule 104, and the Authority acted under section 98(4) of both Acts. The applicant then wrote on 04.09.2019 seeking withdrawal, saying the sale and shipment were complete and the questions turned on place of supply. The Authority accepted the withdrawal and passed a **disposal without a ruling on the merits** . The questions cited section 16 of the IGST Act, Tariff item 8802, Entry 244 of Schedule I and compensation cess, but the order does not discuss or decide

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

any of these.

P Provisions Relied On

Section 97 of the CGST Act, 2017 and KGST Act, 2017 (application for advance ruling)

Section 98(4) of the CGST Act, 2017 and KGST Act, 2017 (order of the Authority)

Rule 104 of the CGST Rules, 2017 and KGST Rules, 2017

! For the Practitioner

This order gives no substantive answer on aircraft export zero-rating, place of supply, tariff classification or refund of compensation cess, so it has no precedential value on those points. A practitioner should not rely on it for any position. The questions are still useful as a record of how a liquidator's sale of a used aircraft to a foreign buyer was framed. The full order is worth reading only for that background or if the applicant's withdrawal reasoning matters to a similar case.

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 -> kar_aar_22_2019_ool_11.09.2019.pdf

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