M/s PAREXEL International Clinical Research Pvt. Ltd. (GSTIN 29AADCP9318C1ZD)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 122/2019, dated 30th September, 2019 (t… Dated **30.09.2019**

Q Questions Before the Authority

- Whether the company is liable to pay tax on the co-ordination services it provides to its affiliates outside India, that is, whether those services amount to export of services.
- Whether the company is liable to pay tax on the 'pass through' expenses it charges to its affiliates located outside India.

F Facts

The applicant is an Indian CRO subsidiary of PAREXEL International Corporation (USA). It co-ordinates and monitors clinical trials in India for its foreign affiliates (PAREXEL Prime entities), invoicing them on a cost-plus-15% basis. It also enters into agreements with investigators on behalf of sponsors and reimburses the investigator fees and similar costs to the applicant at actuals as 'pass through' expenses.

H Ruling

Liability to tax on co-ordination services provided to foreign affiliates (whether export of services)	**Not answered. The Authority held that Section 97 does not empower it to rule on the place of supply of goods or services, so the export question cannot be decided.**	No ruling on whether the services are export. The applicant's HSN classification argument (HSN 9983 or 998319, or CPC 83190) was not decided.
Liability to tax on pass-through expenses charged to foreign affiliates	**The applicant acts as a pure agent in receiving amounts from the foreign clients and passing them on to the local research institutions.**	Based on the Rule 33 pure agent analysis, the value of the invoices raised on the sponsor for payments to the principal investigator and institution would be excluded from the value of supply. This is expressly subject to the caveat that it is not a ruling on the nature of the supply by the investigator and institution to the sponsor.

The Authority declined to answer whether the co-ordination services amount to export, because Section 97 does not empower it to rule on the place of supply of services. On the pass-through expenses, the Authority held that the applicant acts as a **pure agent** when it receives amounts from foreign clients and passes them on to the local research institutions. The Authority also noted that the ruling is not a decision on the nature of the supply made by the principal investigator and institution to the sponsor.

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

R Reasoning

The Authority took the view that its power under Section 97(2) of the CGST Act extends to time and value of supply, not place of supply, so the export question turned on a matter outside its jurisdiction. On the pass-through expenses, it examined the contractual agreements and found that the applicant contracts with investigators as agent of the sponsor and receives no consideration beyond reimbursement. It then applied the four conditions in the Explanation to Rule 33 of the CGST Rules, 2017 and found them satisfied. The applicant's place of supply arguments under Section 13 of the IGST Act were recorded in the submissions but were not decided.

P Provisions Relied On

- Section 97 of the CGST Act, 2017 (including Section 97(2))
- Section 98(4) of the CGST Act, 2017 and KGST Act, 2017 (order form)
- Rule 33 of the CGST Rules, 2017 (value of supply in case of pure agent) and its Explanation
- Rule 104 of the CGST and KGST Rules, 2017 (application in Form GST ARA-01)
- Section 13 of the IGST Act, 2017 (place of supply, cited in submissions and not decided)

! For the Practitioner

A practitioner advising a CRO or similar service company on pass-through costs can rely on this order for the Authority's acceptance of the pure agent test under Rule 33 where the contract is made on the sponsor's behalf and the company only reimburses at cost. It does not decide whether co-ordination services to foreign affiliates are export, since the Authority declined jurisdiction on place of supply, so that question remains open and must be argued elsewhere. The caveat that the ruling does not cover the supply by the investigator and institution to the sponsor should also be noted.

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_122_2019_30.09.2019_picrpl.pdf

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