Mr. Rajendran Santhosh

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 64/2019, Date: 20-9-2019 Dated **20.09.2019**

Q Questions Before the Authority

- Whether the services provided by the applicant to M/s H-J Family of Companies amount to or result in a supply of services or both, within the meaning of that term?
- If yes, what is the classification of the services rendered by Mr. Santosh to H-J Family of Companies?
- If yes, is Mr. Santosh required to be registered under the CGST Act, 2017?
- If yes, what is the liability of Mr. Santosh to pay tax on the services rendered to H-J Family of Companies?
- If yes, what is the time and value of the supply of services rendered by Mr. Santosh to H-J Family of Companies?

F Facts

The applicant, an individual not registered under GST, was engaged as an "Independent Regional Sales Manager for the Middle East and Indian Markets" by H-J Family of Companies, a US-based manufacturer of distribution transformer components. He presents the company's products to prospective customers, reports weekly to a sales manager in Europe, and is paid a lump-sum monthly compensation of USD 5,600 with reimbursement of business expenses through a company credit card. Customers place orders and pay the company directly, and the applicant raises no invoices.

H Ruling

Whether services to H-J Family of Companies are a supply of services or both	**Yes, a supply of services**	The authority found the applicant is not an employee and is a supplier of services, based on the income being returned as business income and the designation 'Independent Sales Manager'.
Classification of the services	**HSN 9983.11, Other professional, technical and business services**	Based on the applicant acting as an intermediary under section 2(13) of the IGST Act, facilitating supply of goods without supplying them on his own account.
Whether registration under the CGST Act is required	**Yes, required to register under the CGST Act, 2017**	The authority found the services are taxable and the consideration exceeds the threshold.
Liability to pay tax (rate)	**Intra-State: CGST 9% and KGST 9%. Inter-State: IGST 18%**	Rates are taken from entry 21(ii) of the CGST and IGST rate notifications and entry 21(ii) of the Karnataka notification, as read from the scan.

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

Time and value of supply	**Time of supply under section 13(2) of the CGST Act, 2017. Value is the amount received from the recipient, including expenses reimbursed by the company**	The authority did not state a specific date or amount; it stated the general rule only.

The authority held that the applicant's services to H-J Family of Companies are a supply of services and that he is not an employee of the company. It classified the services as other professional, technical and business services under HSN 9983.11, treating him as an intermediary under the IGST Act. He is liable to register under the CGST Act, and tax applies at 9% CGST plus 9% KGST for intra-State supply or 18% IGST for inter-State supply.

R Reasoning

The authority found no evidence that the applicant is an employee of H-J Family of Companies. The income was declared as business or professional income, and the designation 'Independent Sales Manager' indicates otherwise. Because the applicant is not an employee, the authority did not accept the Entry 1 Schedule III argument that the arrangement is outside supply. It then treated him as an intermediary under section 2(13) of the IGST Act, which the CGST Act borrows through section 2(120). Since the services are taxable and above the threshold, registration is required. The authority applied the rate entries of Notification 11/2017-Central Tax (Rate) and Notification 8/2017-Integrated Tax (Rate), and section 13(2) for time of supply.

P Provisions Relied On

- Section 7 of the CGST Act, 2017, and section 2(109) (supply, separate consideration), as cited by the applicant
- Section 7(2)(a) of the CGST Act, 2017, read with Entry 1 of Schedule III (employee services), as cited by the applicant
- Section 22 of the CGST Act, 2017 (registration), as cited by the applicant
- Section 2(13) of the IGST Act, 2017 (definition of intermediary)
- Section 2(120) of the CGST Act, 2017 (words not defined in the Act)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, entry 21(ii)
- Notification No. 8/2017-Integrated Tax (Rate) dated 28.06.2017, entry 21(ii)
- Karnataka notification No. FD 48 CSL 2017 dated 29.06.2017, entry 21(ii)
- Section 13(2) of the CGST Act, 2017 (time of supply of services)
- Section 97 and section 98(4) of the CGST and KGST Acts and Rule 104 of the CGST and KGST Rules, 2017 (advance ruling…
- Advance Ruling of the Rajasthan Authority in M/s Habufa Meubelen B.V. dated 16.06.2018, cited by the applicant and not dis…

! For the Practitioner

This ruling is useful for independent sales agents or representatives who work for overseas principals without an Indian entity and are paid a fixed monthly fee plus expense reimbursement. It indicates that such an arrangement is likely to be a taxable service, that the representative may need to register, and how the rate and valuation rules apply. It does not decide the position for a genuine employee, and the authority did not expressly discuss the Habufa liaison-office ruling. The ruling is limited to the facts stated for this applicant, so the reasoning should be checked against any different contract terms.

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_64_2019_rs_20.09.19.pdf

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