M/s Syngenta Bioscience Private Limited, Santa Monica Works, Ilhas, Corlim, North Goa – 403110 (GSTIN 30AAACZ0348M1ZE)

Authority for Advance Ruling — Goa

Advance Ruling No. GOA/GAAR/09 of 2018-19/1456 Dated **29.08.2019**

Q Questions Before the Authority

- Whether the activity of technical testing services carried out by the applicant be treated as 'zero-rated supply'?
- If the answer to the aforesaid question is negative, whether the applicant is liable to pay IGST on the said 'supply'?

F Facts

The applicant is part of the Syngenta Group and provides R&D services from its EOU unit at Santa Monica Works, Corlim, Goa. Its T&E analytical division tests samples of goods that overseas persons, including affiliate Syngenta Crop Protection AG, make available to it in India, and the testing is carried out in Goa. The applicant sends the test report to the overseas customer, either with the goods or separately, and the goods are not exported back to the recipient.

H Ruling

Whether the technical testing services carried out by the applicant are 'zero-rated supply' (export of service)	**No. The service does not fall within the definition of export of service under section 2(6) of the IGST Act, 2017.**	Condition (iii) of section 2(6), that the place of supply is outside India, is not met. The place of supply is Goa under section 13(3)(a) of the IGST Act, because the goods are made physically available in India and are not exported back to the recipient. Pre-GST case laws cited by the applicant were held inapplicable.
Whether the applicant is liable to pay IGST on the supply, if the answer to Q1 is negative	**The applicant is liable to pay CGST and SGST on the supply. The order does not state an IGST liability.**	The order rests on the supplier and the place of supply both being in Goa, India. The answer is given in terms of CGST and SGST, not IGST.

The testing service is not an export of service under section 2(6) of the IGST Act, because its place of supply is in India and not outside India. Since the place of supply is Goa, the applicant is liable to pay CGST and SGST on the supply.

R Reasoning

The authority read the five conditions of export of service in section 2(6) of the IGST Act and found conditions (i), (ii), (iv) and (v) satisfied. It held that condition (iii), that the place of supply be outside India, failed. It then applied

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

section 13 of the IGST Act, under which the place of supply for services in respect of goods made physically available by the recipient is the location where the services are actually performed. The proviso for goods temporarily imported for repair and re-exported did not apply, because the goods were not exported back to the recipient. The place of supply was therefore Goa, and the applicant was held liable to CGST and SGST.

P Provisions Relied On

- Section 97(2) of the CGST/GGST Act, 2017 (basis of the application)
- Section 98 of the CGST/GGST Act, 2017 (form of the ruling)
- Section 96 of the GGST Act, 2017 and Rule 103 of the GGST Rules, 2017 (constitution of the Authority)
- Section 2(6) of the IGST Act, 2017 (definition of export of services)
- Section 8, Explanation 1 of the IGST Act, 2017 (referred to in section 2(6)(v))
- Section 13(1), 13(2) and 13(3)(a) of the IGST Act, 2017 (place of supply), including the proviso to section 13(3)(a)

! For the Practitioner

This ruling is useful for R&D and testing service providers that receive goods from overseas recipients for testing in India and do not return them. It shows that such services can fail export status, with the place of supply fixed at the location of performance under section 13(3)(a), so that intra-state GST applies. The ruling binds only the applicant. It does not decide cases where the goods are re-exported to the recipient, where the testing is performed abroad, or where the services qualify under another route, and it does not address refund or EOU-specific issues.

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 -> goa_aar_09_2018-19_sbpl.pdf

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