M/s Tata SIA Airlines Limited, Floor 10, Sector 43, Golf Course Road, Gurgaon-122002, Haryana (GSTIN 06AAECT8346F1Z8)

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2019-20/16 (In Application No. 16/2019… Dated **29.01.2020**

Q Questions Before the Authority

- Whether the charges in lieu of maintenance services recovered by the HO from the BO shall qualify as a supply of service by the HO to the BO.
- Whether the input GST credit relating to the procurements described in the application must be claimed under the Company's normal GSTIN, or whether the Applicant must take a separate GSTIN as an input service distributor (ISD) to distribute the credit from HO to BO.

F Facts

The applicant airline procures aircraft leases, aircraft repair assurance services, spares and other upkeep costs under its Haryana head office GSTIN, while the goods and services are used at its branch offices in other States. The HO recovers from each BO a consolidated lump-sum charge for maintenance of aircraft, calculated as the cost of assurance services, spares and other upkeep costs plus a mark-up, allocated by BO turnover. Spares held by the HO are transferred to BOs as needed and may be returned or moved to other BOs.

H Ruling

Whether maintenance charges recovered by HO from BO are a supply of service by HO to BO	****Yes. The activities are a supply under Section 7 and are liable to GST.****	Reasoned on the basis that HO and BO are distinct persons under Section 25(5), so Entry 2 of Schedule I applies. The internal MIS-entry argument was rejected.
Whether input credit must be claimed under the normal GSTIN or through a separate ISD registration	****Credit on services only (including lease and maintenance of aircraft) is distributed through the ISD mechanism. Credit on goods, including capital goods, is distributed through the normal registration mechanism.****	The ISD route applies only to common input service invoices, not to goods, citing GST Flyer Chapter 10 for that point.

The authority held that the activities undertaken by the applicant are a supply under Section 7 of the CGST Act, 2017 and are liable to GST. It further held that input tax credit on services only, including services relating to the lease and maintenance of aircraft, is to be distributed through the input service distributor mechanism, while credit

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

on goods, including capital goods, is to be distributed through the normal registration mechanism.

R Reasoning

The authority read Section 7(1) of the CGST Act, which covers supplies made for consideration in the course of business, and relied on Entry 2 of Schedule I, which treats supplies between distinct persons under Section 25 as supplies. Because HO and BO hold separate GST registrations in different States, Section 25(5) makes them distinct persons, so the mark-up charged by HO is taxable. On credit, the authority applied the definition of input service distributor in Section 2(61), noting that the ISD receives tax invoices for input services and distributes credit to registered units with the same PAN. It concluded that the ISD mechanism is confined to input services, so goods credit remains under normal registration.

P Provisions Relied On

- Section 7(1)(a) and (b) of the CGST Act, 2017
- Schedule I, Entry 2 of the CGST Act, 2017
- Section 25(5) of the CGST Act, 2017
- Section 16 of the CGST Act, 2017 (one rendering of the order reads Section 15; the numeral is not clearly legible)
- Section 2(61) (input service distributor), Section 2(83) (outward supply), Section 2(93) (recipient) of the CGST Act, 2017
- Section 31 and Section 49 of the CGST Act, 2017, as referenced in the order
- GST Flyer, Chapter 10 (non-statutory reference)
- Section 97(2)(iv), (v) and (vii) of the CGST/HGST Act, 2017 (as listed in the application)

! For the Practitioner

A practitioner with a multi-State airline or similar group can cite this ruling for the proposition that charges from a head office to its distinct State branches for shared services, including a mark-up, are taxable supplies under Entry 2 of Schedule I. It also supports the view that input credit on common services is distributed through an ISD while goods credit stays under normal registration. The order is an advance ruling binding only on the applicant and does not settle how the mark-up should be valued, how a pure cost-allocation without mark-up would be treated, or how the ISD distribution should be computed.

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 -> har_aar_16_2019-20_29.01.2020_tsal.pdf

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