GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING  
NATION  
GOODS AND SERVICES TAX Gx  
MARKET  
D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD:380009  
  
ADVANCE RULING (APPEAL) NO. GUJ/GAAAR/APPEAL/2023/ 04+  
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/19)  
  
Date :04 A2Z.2023  
  
Name and address of |: | M/s. Rajkot Nagarik Sahakari Bank Ltd.,  
  
the appellant Head Office, Arvindbhai Maniar Nagarik  
Sevalay, 150 feet Ring Road, Nr. Raiya Circle,  
Rajkot.  
  
GSTIN of the : | 244AAAAR2912F1ZO  
  
appellant ee  
  
Advance Ruling No. > | GUJ/GAAR/R/35/2021 dated 30.07.2021  
  
and Date  
  
Date of appeal | 06.09.2021  
  
Date of Personal : | 26.07.2023  
  
Hearing -  
  
Present for the : | Shri Paresh Sheth, Advocate  
  
appellant  
  
At the outset we would like to make it clear that the provisions of  
the Central Goods and Services Tax Act, 2017 and Gujarat Goods and  
Services Tax Act, 2017 (hereinafter referred to as the ‘CGST Act, 2017’ and  
the ‘GGST Act, 2017’) are pari materia and have the same provisions in like  
matter and differ from each other only on a few specific provisions. Therefore,  
unless a mention is particularly made to such dissimilar provisions, a reference  
to the CGST Act, 2017 would also mean reference to the corresponding  
  
similar provisions in the GGST Act, 2017.  
  
2: The present appeal has been filed under Section 100 of the CGST  
Act, 2017 and the GGST Act, 2017 by M/s Rajkot Nagarik Sahakari Bank  
Ltd (hereinafter referred to as Appellant) against the Advance Ruling No.  
GUJ/GAAR/R/35/2021 dated 30.07.2021.  
  
3. Briefly, the facts are enumerated below for ease of reference:  
  
4. The appellant, is registered with the department & their GST  
registration no. is 24AAAAR2912F1Z0.  
  
5b The State Government announced the “Atma Nirbhar Guja  
  
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Sahay Yojna’’ wherein Nagarik Sahakari Banks (including Banks registered  
under Multi State Cooperative Act) and Cooperative Credit Societies were to  
provide loans, without security upto Rs. | lacs to small traders, middle class  
businessman, individual artisans and working class, @ 8% interest. Out of  
this 8% interest, 2% interest was to be paid by the customer (loanee) while  
the remaining 6% interest was to be borne by the Gujarat State  
  
Government.  
  
6. Further based on the performance of the Banks disbursing these  
loans, they were to be granted a one-time incentive by the State Government,  
depending on the total lendingsdone under the Atma Nirbhar Gujarat Sahay  
Yojna. This incentive was over and above the 6% interest borne by the State  
  
Government as mentioned supra.  
  
7. On the belief that the ‘incentive’ so received under the scheme is  
akin to a ‘subsidy’ and hence is not leviable to GST, the appellant sought a  
ruling from the Gujarat Authority for Advance Ruling [GAAR] on the  
  
following questions viz  
  
. Whether the incentives received under “Atma Nirbhar Gujarat Sahay Yojna” dated  
16.05.2020 declared by the Gujarat Government could be considered as subsidy  
and not chargeable to tax?  
  
. Whether the incentive received under said scheme could be considered as supply of  
service under the provisions of section 7 under CGST Act?  
  
3. Whether the incentive received under said scheme if considered as supply then  
  
would it be covered under section 7(2) of CGST Act?  
  
4. Whether the incentive received under said scheme could be considered as excluded  
  
from the value of taxable supply under section 15(2)(e) of CGST Act, 2017.  
  
i)  
  
8. The GAAR vide its order No. GUJ/GAAR/R/44/2021 dated  
  
11.08.2021, gave the following ruling to the aforementioned questions:  
  
We hold the subject incentive amount liable to GST. The said  
Incentive is not subsidy and does not merit exclusion from valuation  
under section 15(2)(e) of the CGST Act. The subject supply is covered  
at section 7(1) (a) CGST Act and not covered at section 7(2) CGST  
Act.  
  
9. Being aggrieved with the aforementioned Ruling, the appellant  
has preferred the present appeal on the following grounds:  
  
e that the subsidy received in the form of incentive cannot be considered  
as consideration under the provisions of Section 2(31), ibid; Z  
  
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e the definition of consideration, makes it crystal clear that subsidy given  
either by the Central/State Government would not form part of  
consideration and therefore the subsidy in the form of incentive  
received by the petitioners could not be chargeable to tax;  
  
e that the subsidy in the form of incentive received is also not covered  
under the definition of scope of supply w/s 7(2), ibid:  
  
e that even in terms of Schedule- III of CGST Act, 2017, the payment  
received by the petitioners as incentive would not be chargeable to GST;  
  
e that according to them the word incentive represents subsidy; that since the word  
incentive is not defined under CGST Act, 2017, popular meaning as defined  
under various dictionary is required to the followed.  
  
e that as per new International Webster's Comprehensive Dictionary  
[Published by Trident Press International 1999 edition] incentive means  
Encouraging or Impelling while subsidy means Pecuniary aid directly  
granted by Government to an individual or private commercial enterprise  
deemed beneficial to the public; Any financial assistance afforded by one  
individual or government to another;  
  
e that payment made by either the Central/State Government as  
incentive or subsidy is nothing but the subsidy paid to achieve some  
object;  
  
e that they would like to rely on the following rulings/case laws viz  
  
o Rashmi Hospitality Services Pvt. Ltd. [KAR ADRG  
61/2019 dated 20-09-2019] wherein it was held that any  
compensation or amount paid for implementation of government  
scheme should be treated as subsidy. The decision is squarely  
applicable in this case.  
  
o Ponni Sugars and Chemicals Limited [2008(9)IMI 14]  
wherein the Hon’ble SC held that the purpose of payment by the  
Government is to allow subsidized loan to a specified class of  
persons and therefore any amount paid under the scheme should  
be considered as subsidy from the Government which is not  
liable to GST.  
  
e that the scheme announced by the Honorable Government is for the  
benefit of the public only and is not beneficial to individual or  
private commercial enterprise and therefore the amount being paid by  
the Government over and above reimbursement of 6% interest is  
nothing but "subsidy";  
  
e that even assuming that the incentive is not a "subsidy", then it could be  
considered as payment covered under the definition of "Actionable Claim"  
since by complying with the conditions laid down under the scheme, the  
applicant had accrued his claim for the payment to be sanctioned by the  
Government;  
  
e that the amount paid by Government under the said scheme could also be  
considered as compensation towards the interest since in general terms the  
banks are charging interest more than 8% but under this scheme were  
authorized to collect interest @ 8% only; that at the most it can be treated  
as differential interest, which is not chargeable to GST in terms of  
notification No. 12/2017-CT (R) dated 28.6.2017, as amended.  
  
e that they have neither supplied any goods nor services & thus the amount  
cannot be considered as consideration & hence is not covered u/s 7(1)(a)  
of CGST Act;  
  
10. During the course of personal hearing held on 26.07.2023, Shri  
  
Paresh Sheth, Advocate appeared on behalf of the appellant. He reiterated tary  
  
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written submissions made in the appeal.  
  
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Discussions and Findings:  
  
Li.  
  
Before dwelling on to the issue it would be prudent to reproduce  
  
the relevant extracts of the Resolutions issued for Aatma Nirbhar Gujarat  
  
Sahay Yojana. Since the documents are in vernacular, a free translation of the  
  
relevant clauses is reproduced below for ease of reference viz  
  
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Resolution dated 16.5.2020  
  
The scheme shall be known as ‘Aatma Nirbhar Gujarat Sahay Yojna’.  
  
The main objective of this scheme is to provide interest subsidy on unsecured  
loans to small traders, middle class persons, individual artisans and working  
class.  
  
Any person can get benefit under this scheme only once.  
  
The maximum rate of interest shall be 8% on the credit given to the  
borrowers under this scheme by Co-operative Banks and Co-operative  
Credit Societies.  
  
Interest subsidy at the rate of 6% per annum shall be provided by the State  
Government to all the beneficiaries who availed loans under this scheme.  
(Moratorium period included) when the beneficiary will get the loan at the  
interest rate of 2% per annum.  
  
State Government will provide the Co-operative Banks/ Cooperative Credit  
Societies, 2% incentive [for one time only] on the total credit extended by  
them.  
  
The amount of interest subsidy provided by the Co-operative Banks/ Co-  
operative Credit Societies will be reimbursed by the State Government on a  
quarterly basis.  
  
No additional charge such as form fee, stamp duty and processing charge  
shall be levied by the Co-operative Banks/ Co-operative Credit Societies  
Jrom the individuals availing such loans.  
  
In case loans are advanced to persons who are not members of Co-operative  
Banks/Cooperative Credit Societies no fees leviable as per the by-laws of the  
organization for making such a person a member, shall be charged from  
such loanees.  
  
. A Co-operative bank/ Co-operative Credit Society may, however take an  
  
advance cheque from the borrower to secure the loan and obtain a simple  
personal guarantor without collateral.  
  
During the course of audit by the Comptroller & Auditor General (CA G), the  
records pertaining to these Yojana should be produced on demand.  
  
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12.  
  
13.  
  
23,  
  
26.  
  
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Resolution dated 20.06.2020  
  
This scheme shall be known as ‘Atma Nirbhar Gujarat Sahay Yojana-II’. This  
Yojana will be effective from 01.07.2020.  
  
The main target of the scheme is to provide subsidy for loans availed by small  
traders, middle class persons and individual artisans to enable them to  
accelerate their economic activities.  
  
Persons can get benefit under this scheme only once. Persons who have availed  
benefit under Atmnirbhar Gujarat Sahay Yojana implemented vide Resolution  
No. SMB/16/2020/253/Yathi dated 16.05.2017 will not be eligible for benefits  
under this scheme.  
  
The maximum rate of interest on credit extended by Co-operative banks to  
beneficiaries under the scheme will be @ 8%  
  
All beneficiaries availing loan under this scheme will be repaid interest @ 4%  
per annum by the State Government. This interest subsidy amount will be  
provided in quarterly instalments (including moratorium period). The  
beneficiary has to pay interest @ of 4% per annum.  
  
Gujarat State Co-operative Bank Ltd., District Co- operative Banks Ltd.,  
including all Nagrik Cooperative Banks (including those banks registered  
under Multi Society Cooperative Societies Act) who have provided loans from  
the State Government under this scheme, will be provided a one time incentive  
@ 2% on the total amount lent under the scheme.  
  
Gujarat State Co- operative Bank Ltd., District Central Co- operative Banks  
Ltd. including all Nagrik Cooperative Banks (including those banks registered  
under Multi Society Cooperative Societies Act) shall not charge any additional  
charges such as form fee, processing charge and stamp duty, registration fee.  
Also, no stamp duty will be levied on bank documents, mortgage, encumbrance  
registration.  
  
Gujarat State Co- operative Bank Ltd., District Central Co- operative Banks  
Ltd. all Nagrik Co-operative banks in the state (including banks registered  
under the State Co.op. Societies Act) shall provide credit as per the provisions  
of the Reserve Bank of India relating to credit and the provisions of the Co-  
operative Banks bye- laws.  
  
Amendment dated 27.08.2020  
  
Amendment Resolution  
  
The following amendments are hereby issued in the conditions of Atmanirbhar  
Gujarat Sahay Yojana- II issued in respect of Sr. No (1). [Resolution dated  
20.6.2020]  
  
Condition No (13): Gujarat State Co- operative Bank Ltd., District. Cooperative  
Banks Ltd., all the Nagrik Sajkari Bank (including Banks registered under Multi  
State Cooperative Societies Act) who have given loan under the Yojana will be  
given a one- time (for one time only) incentive on the total credit made by them  
under Atmanirbhar Gujarat Sahay Yojana-2 as follows.  
  
For loans upto Rs. 10 crores — 2%  
  
For loans from Rs. 10 crores to Rs. 50 crores - 2.5%  
For loans from Rs. 50 crores to Rs. 100 crores — 3 %  
For loans above 100 crores — 4%  
  
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[2 As is already evident, we find that the sole contention of the  
appellant is that the amount received by them under the heading ‘incentive’ as  
mentioned in the State Government Resolutions, the relevant extract of which  
is reproduced supra, is akin to ‘subsidy’ and hence not leviable to GST. The  
appellants further contend that subsidy would also not form a part of supply  
u/s 7(2), ibid; that it is not taxable under Schedule-III of CGST Act, 2017.  
The appellant has also relied upon the dictionary meaning of the word subsidy  
  
and incentive to drive home the point that both the words mean the same.  
  
13. We find that the State Government Resolution, the copies of which  
were enclosed with the appeal papers and the relevant extract of which is  
reproduced supra, emphatically show that the Government Resolution  
purposefully used two words one being CUl% Ula in vernacular, [the literal  
translation being ‘vyaj sahay’| which basically would mean interest subsidy  
while the other word being incentive, which even in the Government  
Resolution is mentioned in English language, though the text of the entire  
  
Resolution is in Gujarati.  
  
14. Therefore, the submission that both the words mean the same is  
neither factually correct nor legally tenable. Had the words been same, there  
was no reason to have mentioned them differently in the Government  
Resolution. While the 6% interest rebate granted to the beneficiary/loanee  
who avails the loan is mentioned as CLl% USlU, the amount paid to the  
Cooperative Banks, Cooperative Credit Society, on achieving a certain  
amount of disbursement of loan target, is explicitly mentioned in a different  
  
and distinct terminology as an incentive.  
  
15. We find that the Banks were provided a base percentage of loan  
disbursement amount as an incentive. The incentive so granted varied,  
meaning thereby that the percentage of incentive increased on\_ higher  
disbursement of loan. At best, the incentive can be termed as a consideration  
to the Cooperative Banks for providing the service to the beneficiaries/loanees  
  
by extending loans under the scheme promoted by the State Government of  
  
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Government, fails. We further find that there is no bar on including the  
incentive received under consideration as far as definition of ‘consideration’  
as defined under section 2(31) of the CGST Act, 2017 is concerned. For the  
  
ease of understanding the same is reproduced here-in-below viz  
  
(31) "consideration" in relation to the supply of goods or services or both includes-  
  
(a) any payment made or to be made, whether in money or otherwise, in  
respect of, in response to, or for the inducement of, the supply of goods or  
services or both, whether by the recipient or by any other person but shall  
not include any subsidy given by the Central Government or a State  
Government;  
  
(b) the monetary value of any act or forbearance, in respect of, in response to,  
or for the inducement of, the supply of goods or services or both, whether  
by the recipient or by any other person but shall not include any subsidy  
given by the Central Government or a State Government:  
  
Provided that a deposit given in respect of the supply of goods or  
services or both shall not be considered as payment made for such  
supply unless the supplier applies such deposit as consideration for  
the said supply;  
  
Thus, the reliance of the appellant on various dictionary meaning to argue that  
both the words subsidy and incentive, mean the same, is not a plausible  
  
contention.  
  
16. The next submission of the appellant is that the subsidy in the  
form of an incentive received is also not covered under the definition of scope  
of supply u/s 7(2), ibid; that even in terms of Schedule III of CGST Act, 2017,  
the payment received by the petitioners would not be chargeable to GST.  
Before addressing the argument, we would like to reproduce both section 7(2),  
  
ibid and schedule III.  
  
Section 7. Scope of supply. -  
()  
  
(2) Notwithstanding anything contained in sub-section (1), —  
(a) activities or transactions specified in Schedule Ill; or  
(b) such activities or transactions undertaken by the Central Government,  
a State Government or any local authority in which they are engaged as  
public authorities, as may be notified by the Government on the  
recommendations of the Council, shall be treated neither as a supply of  
goods nor a supply of services.  
  
SCHEDULE III  
[See Section 7]  
  
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ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A  
SUPPLY OF GOODS NOR A SUPPLY OF SERVICES  
1. Services by an employee to the employer in the course of or in relation to his  
employment.  
2. Services by any court or Tribunal established under any law for the time being  
in force.  
3. (a) the functions performed by the Members of Parliament, Members of State  
Legislature, Members of Panchayats, Members of Municipalities and Members of  
other local authorities;  
(b) the duties performed by any person who holds any post in pursuance of the  
provisions of the Constitution in that capacity, or  
(c) the duties performed by any person as a Chairperson or a Member or a  
Director in a body established by the Central Government or a State Government or  
local authority and who is not deemed as an employee before the commencement of  
this clause.  
4. Services of funeral, burial, crematorium or mortuary including transportation  
of the deceased.  
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule I, sale of  
building.  
6. Actionable claims, other than lottery, betting and gambling.  
[7. Supply of goods from a place in the non-taxable territory to another place in  
the non-taxable territory without such goods entering into India.  
8.(a) Supply of warehoused goods to any person before clearance for home  
consumption;  
(b) Supply of goods by the consignee to any other person, by endorsement of  
documents of title to the goods, after the goods have been dispatched from the port  
of origin located outside India but before clearance for home consumption. ]  
[Explanation 1./ — For the purposes of paragraph 2, the term “court”  
includes District Court, High Court and Supreme Court.  
[Explanation 2. For the purposes of this paragraph, the expression  
“warehoused goods” shall have the same meaning as assigned to it in the  
Customs Act, 1962 (52 of 1962).]  
  
We find that the appellant has not explained how incentive would fall within the  
  
ambit of section 7(2) or Schedule III.  
  
17. The next argument of the appellant is that the scheme is for the  
benefit of the public and not beneficial to an individual or private  
commercial enterprise and therefore the amount being paid by the  
Government over and above reimbursement of 6% interest is nothing but  
‘subsidy’. The dispute here is not in respect of reimbursement of 6% interest  
to the beneficiary. However, to equate this subsidy of 6% granted to the  
loanee, as a part of relief measure announced by the State Government on  
account of the pandemic situation, with the incentive granted to the  
Cooperative Banks and Cooperative Credit Societies, which solely depended  
on the performance in disbursing loans, is not a prudent argument in the first  
place. This incentive granted based on the performance cannot be termed as a  
  
subsidy. Even otherwise, we find that the GAAR has clearly held that\_this  
  
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no benefit to the loanees. This was one of the ground adopted by the GAAR to  
hold that the incentive was not a subsidy. We are in complete agreement with  
  
this finding of the GAAR.  
  
18. An alternative plea raised in the appeal is that even if it is assumed  
that incentive is not a "subsidy", then it could be considered as payment  
covered under the definition of "Actionable Claim" since by complying with the  
conditions laid down under the scheme, the applicant had accrued his claim for  
  
the payment to be sanctioned by the Government.  
  
19. Let us examine the above contention. ‘Actionable claim’ has been  
  
defined u/s 2(1) of the CGST Act, 2017 as under viz  
  
(1) "actionable claim" shall have the same meaning as assigned to it in section 3 of  
the Transfer of Property Act, 1882 (4 of 1882);  
  
Now, actionable claim, as defined under section 3 of the Transfer of Property  
  
Act, 1882, states as follows viz  
  
“actionable claim” means a claim to any debt, other than a debt secured by  
mortgage of immoveable property or by hypothecation or pledge of moveable  
property, or to any beneficial interest in moveable property not in the possession,  
either actual or constructive, of the claimant, which the Civil Courts recognise as  
affording grounds for relief, whether such debt or beneficial interest be existent,  
accruing, conditional or contingent:  
  
20. Actionable claim as defined supra is an intangible movable  
property, and its transfer is dealt with in Chapter VIII of the Act, ibid.  
Accordingly, actionable claim means [a] claim to an unsecured debt and [b]  
  
beneficial interest in a movable property.  
  
21. Further, we find that the Hon’ble Supreme Court in the case of M/s.  
Sunrise Associates [CA No. 4552/1998], has held as under  
  
Distinct elements are deducible from the definition of ‘actionable claim' in  
Section 3 of the Transfer of Property Act. An actionable claim is of course as its  
nomenclature suggests, only a claim. A claim might connote a demand, but in  
the context of the definition it is a right, albeit an incorporeal one. Every claim  
is not an actionable claim. It must be a claim either to a debt or to a beneficial  
interest in movable property. The beneficial interest is not the movable property  
itself, and may be existent, accruing, conditional or contingent. The movable  
property in which such beneficial interest is claimed, must not be in the  
possession of the claimant. An actionable claim is therefore an incorporeal  
right. That goods for the purposes of Sales Tax may be intangible and  
incorporeal has been held in Tata Consultancy Services Vs. State of Andhra  
Pradesh (2005) 1 SCC 308.  
  
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Thus one time incentive earned proportionate to the total disbursements of  
loans, would not fall within the ambit of actionable claims so as to fall within  
the exclusion as per Sr. No.6 of Schedule-III, which deals with the activities of  
  
transactions which are neither supply of goods nor a supply of services.  
  
22. The appellant has further argued that the incentive paid by  
Government under the said scheme could also be considered as the compensation  
towards the interest since in general terms the banks are charging interest which  
is more than 8% but under this scheme were authorized to collect interest @&%  
only; that at best it can be treated as differential interest which is not chargeable  
to GST in terms of notification No. 12/2017-CT (R) dtd 28.6.2017, as amended.  
This argument, we find is not substantiated. Since it is not substantiated with  
facts as to what exactly was the rate charged for other borrowings outside the  
scheme, what was the rate charged by other Banks during the period under  
dispute etc., it is difficult to come to a conclusion as far correctness of the  
submission is concerned. Had that been the case, the incentive given would have  
been constant/static and would not have varied with the increase in the level of  
disbursements of loans. Even otherwise, we find that the loans were advanced  
during a period when the country was going through pandemic which could have  
also had its effect on the market borrowings & consequently on the rates charged  
by the Banks. The scheme provided for incentives, meaning rewards, which  
  
varied based on performance.  
  
23. In this regard to substantiate our view, we would like to rely on the  
case of Dilip Kumar & Company [2018 (361) ELT 577 (SC)], wherein the  
Constitution Bench of the Hon’ble SC held as follows:  
  
52. To sum up, we answer the reference holding as under -  
  
(1) Exemption notification should be interpreted strictly; the burden of  
proving applicability would be on the assessee to show that his case comes  
within the parameters of the exemption clause or exemption notification.  
  
2) When there is ambiguity in exemption notification which is subject to  
strict interpretation, the benefit of such ambiguity cannot be claimed by the  
subject/assessee and it must be interpreted in favour of the revenue.  
  
(3) The ratio in Sun Export case (supra) is not correct and all the  
decisions which took similar view as in Sun Export case (supra) stands  
overruled.  
  
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Thus in terms of the aforementioned judgement any claim for an exemption  
notification is to be strictly interpreted. The appellants contention of falling  
within the ambit of notification No. 12/2017-CT(Rate), is not legally tenable in  
  
terms of the findings recorded above.  
  
24. The last submission of the appellant is that they have not supplied  
any goods or services and the amount cannot be considered as consideration &  
hence is not covered u/s 7(1)(a) of CGST Act. This was addressed in paragraph  
15 holding that incentives were directly linked to the service provided by the  
appellant of granting loans to the beneficiary/loanee under the Scheme.  
  
Therefore, the above argument is not a legally tenable argument.  
  
25. The appellant has also relied upon two rulings/case laws viz  
  
o Rashmi Hospitality Services Pvt. Ltd. [KAR ADRG 61/2019 dated  
20-09-2019] wherein it was held that any compensation or amount paid  
for implementation of government scheme should be treated as subsidy.  
The decision is squarely applicable in this case.  
  
On examining the aforementioned ruling, we find that M/s. Rashmi had entered  
into an agreement with Deputy Commissioners of the Districts to provide  
hotel/restaurant services for the Indira Canteen through tender. For the restaurant  
services, M/s. Rashmi was collecting a specified amount from the beneficiaries  
based on daily menu. At the end of the month M/s. Rashmi was submitting a  
consolidated bill by showing the amount collected from the beneficiaries and  
subsidy available from the Government. The ruling was sought in respect of the  
said subsidy. However, we find that the ruling is not applicable to the present  
dispute primarily since unlike in this case, there was no incentive paid over and  
above the amount fixed to M/s. Rashmi. Even otherwise, in terms of Section 103  
of the CGST Act, 2017, the aforementioned ruling is applicable only to M/s.  
  
Rashmi [the applicant] and the jurisdictional officer.  
  
o Ponni Sugars and Chemicals Limited [2008(9)TMI 14] wherein the  
Hon’ble SC held that the purpose of payment by the Government is to  
allow subsidized loan to a specified class of persons and therefore  
any amount paid under the scheme should be considered as subsidy  
from the Government which is not liable to GST.  
  
We find that the appellant has erred in relying on the aforementigned =  
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the two questions of law framed by the Hon’ble Apex Court were as foliows  
viz  
(i) Whether the incentive subsidy received by the assesse is a capital receipt not  
includible in the total income?  
(ii) Whether the assesse was entitled to exemption under section 80P(2)(a)(i) of  
the Income Tax Act, 1961, in respect of interest received from the members of  
the society?  
In the aforementioned dispute, the questions on which the ruling was sought  
from GAAR at paragraph 7 are different. The reliance therefore, on the  
aforementioned judgement of the Hon’ble Supreme Court, is legally  
  
untenable.  
  
26. In view of the above findings, the appeal filed by appellant M/s  
Rajkot Nagrik Sahakari Bank Limited against Advance Ruling No.  
GUJ/GAAR/R/35/2021 dated 30.07.2021 of the Gujarat Authority for  
  
Advance Ruling is rejected.  
  
Ee. a hw) —  
  
mir Vakil ) (B V Siva Naga Kumari)  
Member (SGST) Member (CGST)  
  
Place: Ahmedabad  
Date: §'$.42.2023  
  
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