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THE MAHARASHTRA APPELLATE AUTHORITY FOR ADVANCE RULING FOR  
GOODS AND SERVICES TAX  
(Constituted under Section 99 of the Maharashtra Goods and Services Tax Act, 2017)  
ORDER NO. MAH/AAAR/DS-RM/p) /2023-24 Date- OL- 0 6. 202%  
  
BEFORE THE BENCH OF  
(1) Dr. D.K. Srinivas, MEMBER (Central Tax)  
(2) Shri. Rajeev Kumar Mital, MEMBER (State Tax)  
  
Name and Address of the M/s CHEP India Private Limited,  
  
Appellant: 7 os  
3rd Floor, Aver Plaza, Plot - B13, Opposite Citi Mall,  
New Link Road, Andheri (West), Mumbai — 400 053  
  
GSTIN Number: | 27AADCC3230A 1ZF  
  
—  
  
Clause(s) of Section 97, under Section 97 (c) & (g)  
  
which the question(s) raised:  
  
Date of Personal Hearing: | 21.03.2023  
  
Present for the Appellant: | (i) Shri. Sachin Agarwal, CA  
  
| Gi) Shri. Sarvesh Saraogi,CA  
  
Appeal No. MAH/GST-AAAR/11/2022-23 dated  
06.01.2023 against Advance Ruling No. GST-ARA- |  
82/2020-21/B-111 dated 01.12.2022.  
  
Details of appeal:  
  
Jurisdictional Officer: Range-I, Division-III, CGST & C. Ex, Mumbai West.  
|  
  
(Proceedings under Section 101 of the Central Goods and Services Tax Act, 2017  
and the Maharashtra Goods and Services Tax Act, 2017)  
  
1. At the outset, we would like to make it clear that the provisions of both the CGST Act  
and the MGST Act are the same except for certain provisions. Therefore, unless a  
mention is specifically made to such dissimilar provisions, a reference to the CGST Act  
would also mean a reference to the same provisions under the MGST Act.  
  
2 The present appeal has been filed under Section 100 of the Central Goods and Services  
Tax Act. 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter  
referred to as “CGST Act” and “MGST Act™} by M/s. CHEP India Private  
  
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B13. Opposite Citi Mall, New Link  
  
d, situated at 3rd Floor. Aver Plaza, Plot —  
“A ppellant”)  
  
400 053. (“hereinafter referred to as  
RA-82/2020-21/B-111 dated 01.12.2022.  
  
Limite  
Road. Andheri (West), Mumbai —  
against the Advance Ruling No. GST-A  
the Maharashtra Authority for Advance Ruling (hereinafter referred to  
  
pronounced by  
  
as “MAAR”).  
  
BRIEF FACTS OF THE CASE  
3, CHEP India Private Limited (hereinafter referred to as “the Appellant”, ‘CIPL’ or ‘the  
Company’) is a company registered under the provisions of Companies Act, 1956 and has  
its registered office situated at 3rd Floor, Aver Plaza, Plot — B13, Opposite Citi Mall,  
New Link Road, Andheri (West), Mumbai — 400 053. The Company is engaged in the  
business of leasing of pallets. crates and containers and is registered under the GST law  
  
bearing registration number — 27AADCC3230A 1ZF.  
  
4. CIPL is contemplating certain changes in its existing business model. The broad business  
  
mechanics of the proposed business model would be as follows:  
  
a. CIPL would be consolidating the ownership of all the equipment into the state  
  
of Maharashtra. Currently, while majority of the procurements / manufacture  
  
happen in Maharashtra, some of the procurements are also done from other  
states.  
  
As the ownership of equipment would be with CIPL, Maharashtra, it would be  
  
e other CIPL  
  
s  
  
entering into the arrangement with the customers and with all th  
  
units (located in other States) for leasing the equipment to them at the agreed  
  
leasing or hiring charges.  
  
CIPL. Maharashtra would thereafter lease the equipment to its other CIPL  
sed on their demand requirement. CIPL, Maharashtra would be  
quipment to the other unit of CIPL (Say CIPL, Karnataka) under  
ivery challan. CIPL, Maharashtra would be raising  
  
units ba  
sending the e  
the cover of the del  
periodical invoices for lease charges (based on number of days of usage) to  
CIPL. Karnataka.  
  
d. CIPL. Karnataka would thereafter be issuing the equipment to its customers  
who would be using it for movement of their goods through the supply chain.  
CIPL, Karnataka would be charging the lease charges to its customers based  
  
on the period for which the equipment would be used by the customers.  
  
Also, there are chances that other units of CIPL, (Say CIPL, Tamil Nadu) may  
require certain equipment from CIPL Maharashtra which are available with  
  
CIPL,Karnataka (under lease from CIPL Maharashtra).In such a case, on the  
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basis of instructions from CIPL, Maharashtra, CIPL, Karnataka would transfer  
the equipment to CIPL, Tamil Nadu. In such a case, the moment equipment  
reaches CIPL ‘Tamil Nadu, CIPL, Maharashtra would stop charging CIPL,  
Karnataka and start charging CIPL, ‘Tamil Nadu towards lease charges (basis  
number of days of usage), Further, CIPL, Karnataka would charge CIPL,  
Maharashtra a consideration for facilitation / arrangement of movement of  
  
equipment to CIPL, Tamil Nadu basis the instruction.  
  
The diagrammatic representation is provided below —  
  
a. Lease of  
Equipment &  
billing for lease  
  
b&c.  
  
Lease of charges  
Equipment  
& Billing  
for lease  
d. Lease of  
charges Equipment &  
billing for lease  
charges  
  
e. Lease of  
Equipment &  
Billing for  
lease charges  
  
e. Shipping of Equipment  
on instruction of CIPL  
(MH)  
  
In light of the above facts and in terms of the provisions of Section 97 of Central Goods  
  
& Services tax Act, 2017 (“CGST Act”), the Company had filed an advance ruling  
mmon portal on 17 March 2021 bearing ARN no.  
  
application on the GST co  
ised by the Appellant:  
  
AD270321032563G wherein the following questions were ra  
  
\* Question 1 - Whether the pallets, crates and containers (hereinafter referred as  
  
the Appellant located and registered in Maharashtra to its other  
  
“equipment”) leased by  
  
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GST registrations located across India (say CIPL Karnataka), would be considered as  
lease transaction and accordingly taxable as supply of services in terms of Section 7 of  
the Central Goods and Services Tax Act, 2017 (“CGST Act”) and Maharashtra Goods  
and Services Tax Act, 2017 (\*MGST Act”)?  
\* Question 2 — If the answer to Question | is Yes, what is the value on which GST has  
to be charged i.e. whether it should be lease charges or the value of equipment in terms  
of Section 15 of the CGST Act and MGST Act read with relevant Rules?  
" Question 3 — What are the documents that should accompany the movement of the  
goods from CIPL Maharashtra to CIPL Karnataka?  
\* Question 4 — Whether movement of equipment from CIPL Karnataka to CIPL Tamil  
Nadu on the instruction of CIPL Maharashtra can be said to be mere movement of  
goods not amounting to a supply in terms of Section 7 of the CGST Act and MGST  
Act, and thereby not liable to GST?  
\* Question 5 — With reference to Question 4 above, what are the documents that should  
  
accompany the movement of the goods from CIPL Karnataka to CIPL Tamil Nadu?  
  
6. A preliminary hearing opportunity for the aforesaid application was granted to the  
Appellant post which it was held that questions 3 and 5 cannot be admitted by the  
Authorities since the same relate to documentation and is thus, beyond the powers of  
  
Advance Ruling Authorities. Apart from the said two questions, other questions were  
  
admitted by the Authorities.  
  
7. Subsequently, a final hearing opportunity with respect to the admitted questions took  
place on 14 June 2022 and 15 November 2022 wherein detailed submissions were made  
  
by the Appellant on their interpretation on the questions asked. Additional submissions,  
  
as required by the Authorities were also made by the Appellant.  
  
8. Post the aforesaid final hearing, order no. GST-ARA-82/2020-21/B-111 dated 01  
  
December 2021 has passed wherein the following is held for the questions admitted:  
  
\* Question 1 — The transaction between CIPL Maharashtra and CIPL other locations  
may be treated as supply of leasing services.  
  
» Question 2 — Value on which GST is to be charged should be the value which is  
charged by the recipient branch to the ultimate customer in the other State or such  
  
other normal value which would be derived after taking into consideration the rate  
  
“which is equal to such rate which is normally charged to customers  
  
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7)  
  
\* Question 4 — The sites of the transaction in question is not within the State of  
  
Maharashtra and hence. the Authority does not have jurisdiction over the transaction  
  
Aggrieved by the ruling rendered by the Authorities with respect to Question 2 and 4  
above and by non-admission of Questions 3 and 5 above. the Appellant is filing the  
present appeal on the grounds mentioned below.  
  
Grounds of Appeal  
At the outset we would like to make it clear that the provisions of CGST Act and  
MGST Act 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 would also mean  
reference to the corresponding similar provisions in the MGST Act.  
Submissions with respect to Question 2  
It is submitted that the Hon'ble Maharashtra Authority for Advance Ruling in the  
impugned order has held that the transaction between CIPL Maharashtra and other  
registrations shall be considered a supply of leasing services. Further, the value of  
supply of such leasing services by CIPL Maharashtra to other registrations should be  
the value which is charged by the recipient branch to the ultimate customer in the other  
State or such other normal value which would be derived after taking into consideration  
the rate which is equal to such rate which is normally charged to customers.  
In this regard. the Appellant humbly wishes to state that the valuation mechanism  
suggested by the Hon’ble Advance Ruling Authorities is based on presumptions and  
surmises without having due regard to the applicable legal provisions of GST law. The  
valuation mechanism suggested is not derived according to the relevant valuation rules  
prescribed under GST and hence. cannot be adopted for valuing the underlying  
transaction in the present case.  
It is submitted that since the transaction of leasing services in the present case is  
between different GSTINs of the same entity, the valuation shall be governed as per  
Rule 28 of the CGST Rules which deals with valuation in case of supply of goods or  
  
services between distinct person as specified in sub-section (4) and (5) of section 25 of  
  
the CGST Act or related persons.  
According to the said rule 28. the value of supply shall be equal to the following value:  
be the open market value of such supply.  
  
if the open market value 1s not available, be the value of supply of goods or services of  
  
like kind and quality  
  
Pugs 5 of 36  
(c)  
  
10.5.  
  
10.6.  
  
10.7.  
  
10.8.  
  
if the value is not determinable under clause (a) or (b), be the value as determined by  
  
the application of rule 30 or rule 31, in that order:  
  
Provided that where the goods are intended for further supply as such by the  
recipient, the value shall, at the option of the supplier, be an amount equivalent to  
ninety percent of the price charged for the supply of goods of like kind and quality by  
the recipient to his customer not being a related person:  
  
Provided further that where the recipient is eligible for full input tax credit, the  
value declared in the invoice shall be deemed to be the open market value of the  
  
goods or services.  
[Emphasis supplied]  
  
From a plain reading of the second proviso to Rule 28, it is clear that in case of supply  
  
between distinct entities i.e. different GSTINs of the same entity, the invoice value  
  
shall be deemed to be the open market value or the transaction value for levy of GST  
  
where the recipient GSTIN is entitled to full input tax credit.  
  
It is submitted that in the present case, CIPL Maharashtra would be entering into a  
  
Memorandum of Understanding (MoU) with other registrations of the Company (say,  
  
CIPL Karnataka) to provide equipment on lease basis for which the consideration  
  
would be charged at a rate agreed in the MoU determined on the basis of lease charges  
or rental per day depending on number of days of usage of equipment. Invoice in this  
regard would be raised by CIPL Maharashtra periodically on the other CIPL branches  
for the equipment taken on lease by them.  
  
Since the recipient CIPL registrations would be eligible for full input tax credit, it is  
submitted that as per the proviso to Rule 28, the invoice value determined as above can  
be deemed as open market value or the transaction value for the purpose of GST levy.  
Accordingly, the valuation mechanism held by the Advance Ruling Authority is bad in  
law.  
  
It is submitted that a similar valuation position has been taken by advance ruling  
authorities in other cases such as:  
  
M/s BG Shirke Construction Technology Pvt. Ltd. [2021 (9) TMI 949 - Authority  
for Advance Ruling Maharashtra]  
  
M/s Kansai Nerolac Paints Ltd. [2019 (6) TMI 1108 — Authority for Advance  
Ruling Maharashtra]  
  
M/s Specsmakers Opticians Private Limited (2020 (1) TMI 63 - Appellate  
Authority For Advance Ruling, Tamil Nadu).  
  
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10.9. Further, it is submitted that in the Appellant's own case and in similar fact pattern, the  
  
Advance Ruling Authority. Karnataka had held that in such scenarios, the invoice value  
  
adopted by the Appellant can be considered as the transaction value for the purpose of  
  
GST levy. The order is reported in {2021 (7) TMI 973] and is attached as Annexure 4  
  
of this appeal for ease of reference.  
  
10.10. The Appellant also wishes to submit that adoption of the mechanism suggested in the  
  
advance ruling may not be commercially feasible for the entities due to the business  
  
dynamics and operations.  
  
10.11. In view of the above, it is submitted that the ruling rendered by the Advance Ruling  
  
Authority is bad in law since it has not considered the applicable legal provisions and  
  
the precedents with respect to the said issue.  
  
10.12. Hence, in terms of Section 101 of CGST Act. it is humbly prayed that the impugned  
  
11.1.  
  
order dated 01 December 2022 passed by the advance ruling authority be modified to  
the above extent for the ruling rendered for Question 2 in the advance ruling  
application.  
  
Submission with respect to non-admission of Question 4  
  
At the outset. it is submitted that post the preliminary hearing opportunity offered by  
the Advance Ruling Authorities. Question no. 4 was admitted by the Ld. Authority.  
However. the said question has not been answered by them on account of lack of  
jurisdiction. In this regard, it must be noted that once the question has been admitted  
by the Authority, it is understood that it is well within the jurisdiction and powers of the  
  
Authority under Section 97 of CGST Act to provide a ruling for the said question.  
  
. Further, it is submitted that in a similar fact pattern, in the Appellant’s own case, the  
  
question was answered by the Advance Ruling Authority, Karnataka (supra).  
  
. In view of the above, it is prayed that the said question be examined on merits by the  
  
Appellate Advance Ruling Authority. The Appellant has herein provided the  
transaction mechanics and their interpretation for analysis:  
  
Transaction mechanics: (Transaction with respect to leg (e) in the aforesaid  
diagrammatic representation) —- The chronological sequence of the transaction is  
explained below for ease of understanding —  
  
Initially, the equipment shall be leased out by the Applicant to the Company’s GSTIN  
in another State say, CIPL Karnataka. The Applicant shall raise periodic tax invoice  
for lease charges on CIPL Karnataka along with appropriate GST (Step (b) and (c) of  
the aforesaid diagrammatic representation).  
  
Let us assume that the ultimate customer in Karnataka (\*XYZ’ as per the aforesaid  
  
diagrammatic representation) has completed the use of the equipment as per its  
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requirement and after use, it has returned the same back to CIPL Karnataka. Now at  
this stage. the equipment is lying with CIPL Karnataka. Since CIPL Karnataka is still  
in the possession of the equipment, the Applicant shall continue to raise invoice for  
  
recovery of lease charges from CIPL Karnataka.  
It may so happen that the Company’s registration in another State (say, CIPL Tamil  
  
Nadu) requires the equipment which are lying with CIPL Karnataka. In such a scenario  
the Applicant i.e. CIPL Maharashtra shall enter into a lease arrangement with CIPL  
Tamil Nadu for the said equipment and instruct CIPL Karnataka to send the goods to  
CIPL Tamil Nadu.  
  
It must be noted that the responsibility with respect to generating delivery challan, e-  
waybill etc. for the purpose of moving the equipment to CIPL Tamil Nadu shall be that  
of CIPL Karnataka and not the Applicant. For facilitating the movement of equipment,  
CIPL Karnataka may charge a consideration from the Applicant and raise a tax invoice  
along with GST for recovering the said amount.  
  
Once the equipment reaches CIPL Tamil Nadu, the Applicant shall stop invoicing CIPL  
Karnataka for lease rentals and start invoicing CIPL Tamil Nadu for the lease charges  
  
on the basis of the new arrangement with it.  
  
Appellant’s interpretation:  
The scope of supply under Section 7(1)(a) of CGST Act includes sale, transfer,  
  
exchange, license etc. within its ambit. It must be noted that all forms of supply  
enumerated therein either involves vesting or divesting of rights or creation of an  
interest or right in property or a thing. Accordingly, in order to constitute supply, the  
person transferring the goods would be required to transfer its specified interest/right in  
property to the recipient of such goods.  
  
In the present case, the equipment owned by the Applicant is originally leased to CIPL  
Karnataka in pursuance of a lease agreement between such registrations. The  
equipment shall move to CIPL Tamil Nadu from CIPL Karnataka on the basis of  
instructions received from the Applicant. Such movement to CIPL Tamil Nadu is in  
incidence of the obligation as a lessee under the lease agreement entered between the  
Applicant and CIPL Karnataka. There is no transfer of interest of any kind in goods  
between CIPL Karnataka and CIPL Tamil Nadu in respect of the equipment. Hence, it  
cannot be said that there is a supply between CIPL Karnataka and CIPL Tamil Nadu in  
case of such movement.  
  
It must rather be noted that in such a case, CIPL Karnataka is supplying a service to the  
  
Applicant by facilitating the movement of equipment to CIPL Tamil Nadu.  
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Accordingly, such service of facilitating the movement of equipment would be taxable  
in the hands of CIPL Karnataka,  
  
12. Submission with respect to non-admission of Question 3 and 5  
  
12.1. In the impugned order, the Advance Ruling Authority has not admitted question 3 and 5  
of the application on the ground that the same is related to documentation which is  
outside the purview of Section 97 of CGST Act.  
  
12.2. In this regard, it is humbly submitted that the documents required are intricately linked  
to the other questions on which ruling is sought by the Appellant. Further, the said  
questions were also answered by Advance Ruling Authority, Karnataka in the  
Appellant’s own case (supra).  
  
12.3. In the Appellant’s view, since the underlying movement of goods under both the  
scenarios is for reasons other than supply of goods, a delivery challan shall be required  
to be issued in terms of Rule 55 of CGST Rules. No tax invoice shall be required for  
movement.  
  
Accordingly, it is humbly prayed before your goodself to examine the said questions on  
merits and render a ruling thereof.  
PERSONAL HEARING  
13. The personal hearing in the matter was conducted on 21.03.2023 which was attended by  
Shri. (i) Shri. Sachin Agarwal, CA & Shri. Sarvesh Saraogi, CA on behalf of the  
  
Appellant. During the personal hearing the Appellant reiterated their earlier submissions  
  
made while filing the Appeal under consideration.  
JURISDICTIONAL OFFICERS COMMENTS  
14. The Jurisdictional Officer vide their email dated 09.02.2023 have submitted the following  
submissions against the questions asked from the appellate authority;  
Question No. 2:  
(i) The department submitted that CIPL, Maharashtra and any of the branches of CIPL  
located outside Maharashtra are having separate GST registrations and are two entities  
deemed to be distinct persons. Thus, the valuation in such case shall be governed as per  
  
sub-section (4) and (5) of section 25 of the CGST Act,2017 read with second proviso to  
  
Rule 28 of the CGST Rules and accordingly the invoice value shall be deemed to be  
alue or the transaction value for levy of GST, where the recipient is  
credit. Since. the recipient branch of CIPL would avail input tax  
charged by the supplier branch of CIPL, if the recipient  
‘mate customer at the time of further supply of said  
  
d value addition after setting off the input tax  
  
open market v  
entitled to full input tax  
credit as per the lease value  
branch charges more value to the ulti  
equipment, they would pay more tax on sai  
  
credit availed by them at the time of receipt of such supply.  
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uestion No. 3 & 5:  
(ii) The department stated that the movement of goods in respect of any supply by CIPL,  
  
Maharashtra to its branch has to be covered by an Invoice as envisaged under Section 31  
of CGST Act, 2017 and e-way bill as per Rule 138 of CGST Rules, 2017. Since, CIPL,  
Maharashtra being supplier has to discharge tax liability on the said supply of services,  
it is essential for them to raise a tax invoice and unless the said transaction is reflected in  
GSTR-1 filed by them and tax is paid. the recipient branch of CIPL may not be able or  
entitled to avail input tax credit in respect of said supply in view of Section 16 of CGST  
Act, 2017  
Question No. 4  
(iii)The department submitted that the applicant so far has contended that CIPL,  
Maharashtra will be the owner of the equipment and they will supply said equipment to  
their branches on lease and hence they are not considering the value of equipment for  
payment of tax and ultimately they will be paying tax on the amount of service charged  
for the said leasing. Once it is accepted that tax is payable on service portion for leasing  
of equipment by CIPL. Maharashtra to any "X' branch of CIPL located in another state,  
the same analogy applies when the said equipment moves from the said 'X' branch to Y"  
branch of CIPL located in third state as per the instructions of CIPL, Maharashtra. In  
such case, if the movement of said equipment is in pursuance of an agreement between  
CIPL. Maharashtra and said "Y' branch of CIPL, then the valuation and documentation  
as discussed in the above paras has to be followed by CIPL, Maharashtra. In this regard,  
the CIPL, Maharashtra will pay applicable tax and raise taxable invoice to 'Y' branch of  
CIPL whereas, the X' branch of CIPL where the equipment is lying merely facilitate  
movement of said equipment from the location of 'X branch to the location of 'Y' branch  
under cover of delivery challan, as per Rule 55 of CGST Rules 2017.  
DISCUSSIONS AND FINDINGS  
15. We have carefully gone through the entire appeal memorandum containing the  
submissions made by the Appellant vis-a-vis the Advance Ruling passed by the MAAR,  
wherein the MAAR has held that the transaction between state of Maharashtra and State  
of Karnataka would be considered as lease transaction and accordingly taxable as supply  
of services in terms of Section 7 of the CGST and MGST Act, 2017. Secondly, MAAR  
didn’t answer question in respect of taxability of the aforesaid transaction since the  
business model is not operational. Thirdly, in question related to documentation for the  
movement of goods, the question has not been admitted. In answer to question no. 4 in  
relation to movement of goods by Maharashtra to Karnataka and in turn to Tamil Nadu  
  
will amount to supply, the same has not been answered. In relation to Question No. 5 for  
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20.  
  
>  
  
the documentation in relation to scenario of question no. 4, the same has not been  
admitted. The appellant is contending the ruling passed in respect to Question no. 2 and 4,  
  
as well as the no admission of the Question No. 3 and 5.  
  
- It is clear from the MAAR order that the transfer of such equipment on lease as per the  
  
agreement entered to between CIPL, Maharashtra and CIPL, Karnataka would amount to  
lease or renting of the goods for a consideration and hence would be a transaction of  
supply of services, as it is for a certain period of time and the same has not be challenged  
  
by the appellant also.  
  
. Since in the Appellant’s own case, Karnataka Advance Ruling authority vide order dated  
  
16.07.2021 passed the ruling in their favour, the same is being relied upon to analyse the  
  
case in the present scenario.  
  
Question No. 2  
  
. In answer to question no. 2, MAAR held that the value of supply of leasing services by  
  
CIPL Maharashtra to other registration should be the value which is charged by the  
recipient branch to the ultimate customer in the other states. The relevant provisions in  
  
relation to the valuation is as under  
  
.1. Section 15(1) which is related to the transaction value being considered as the value of  
  
supply & reads as under:  
“(1) The value of supply of goods or services or both shall be the transaction value,  
which is the price actually paid or payable for the said supply of goods or services or  
both where the supplier and the recipient of supply are not related and the price is the  
sole consideration for the supply.”  
From the above, it can be noted that the transaction value which is the price actually paid  
cannot be treated as the value of supply as the supplies are between the related persons i.e  
the branches of the same company. Hence, we proceed to examine the following  
provisions of the Act.  
“15(4) Where the value of supply of goods or services or both cannot be determined  
under sub-section(1), the same shall be determined in such manner as may be prescribed.  
15(5) Notwithstanding anything contained in sub-section (1) or sub-section (4) the value  
of such supplies as may be notified by the Government on the recommendations of the  
Council shall be determined in such manner as may be prescribed.  
Hence, the rules in relation to valuation needs to be examined which are as under:  
“Rule 28: Value of supply of goods or services or both between distinct persons as  
specified in sub-section (4) and (5) of Section 25 or where the supplier and recipient are  
related, other that where the supply is made through an agent, shall —  
  
(a) Be the open market value of such supply  
  
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(bi If te open market value os rat Daa be the value of sayy of Roads or  
services of like tand and quails  
<) Ef the valwe is not determinable wnder clause’) or iB), be the value as determined  
by the application af rule 30 or rude 3]. im that onder  
Provided that where the goots are intended for further supply as such by the recipeent  
the value shall at the option of the supplier be an amownt equivalent to ninety percent  
of the price charged tor supply of goods of like land and quality by the recipwent to his  
customer not beung a related person  
Provided furtier that where te recipecra is elagible for full sapud bax credit, the vaiwe  
declared in tie umvoiwe shall be deemed to be the open market value of the gooxts or  
  
wraes  
  
Thus, from the above, tis clear that the recipecnt, IPL. Kamataka, who is recipient of  
the leasing services cs cligitic for full input tax credit on the transaction between the  
applicant ard the CIPL. Kamataka and hence the valuc declared in the invoice would  
ie the valuc of goods on services of both as per the second proviso to Rule 28 and  
emer would be treated as the valuc of such supply. The aforesaid observation has been  
affirmed bs AAR Maharashtra in the case of Mis BG Shirke Construction  
Techmology Prt. Ltd. (2021 (9) TMI 949 - Authority for Advance Ruling  
Maharashtra], wherein it has been heid that we agree with the contention of the  
applacart that they may resort 10 valuation wider Rude 28 of the CGST Rules. in respect  
of mansactsons with related distinct persons who are eligible for full input tax credit as  
per the second proviso to Rule 28 of the CGST Rules. 01>. Further, the applicant has  
relied upon the rulings of M’s Kansai Nerolac Paints Ltd. [2019 (6) TMI 1108 -  
Asthority for Advance Ruling Maharashtra] and Mis Specs makers Opticians  
Private Limited (2020 (1) TMI 63 - Appellate Authority For Advance Rating.  
Tamil Nadu). Wherein similar stand was taken by the ruling authority. Similar stand  
was taken up by the applicant's own case by advance ruling authority of Karnataka  
y2921 0) TMI 973], Thus, we concur with the views expressed im the aforesasd  
yedgenert accordingly hold that the valuation in the present cast will be gowerned as per  
the second proviso to Rule 38 of CGST Rules, 2017 read with Section 1$ of the CGST  
  
and MGST Act. 2017  
  
\_Qecstion No. 3 and 5  
ornare’  
  
The third and fifth question ia a relation to the documents that should Be as  
fow the tramsactian mm questacn. The aforesaid questvcas were mot admitted Py MAAR on  
  
Sage tf ot  
22.  
  
the ground that the same is related to documentation which is outside the purview of  
WO  
Section 97 of CGST Act, 2017. The same has been reproduced as under:  
  
(1) An applicant desirous of obtaining an advance ruling under this Chapter may make  
  
an application in such form and manner and accompanied by such Jee as may be  
  
prescribed, Stating the question on which the advance ruling is sought.  
  
(2) The question on which the advance ruling is sought under this Ac  
of -  
  
(a) classification of any goods or Services or both;  
  
t, shall be in respect  
  
(b) applicability of a notification issued under the provisions of this Act;  
  
(c) determination of time and value of supply of goods or services or both;  
  
(d) admissibility of input tax credit of tax paid or deemed to have been paid;  
  
(e) determination of the liability to pay tax on any goods or services or both;  
  
() whether applicant is required to be registered;  
  
(g) whether any particular thing done by the applicant with respect to any goods or  
  
services or both amounts to or results in a supply of goods or services or both, within the  
  
meaning of that term.  
  
The appellant contends that the documents required are intricately linked to the other  
questions on which ruling is sought by the Appellant and the said questions were  
answered by Advance Ruling Authority, Karnataka in the Appellant’s own case.  
However, we find that the question raised by the applicant doesn’t fall in any of the  
categories mentioned under the provisions of Section 97(2) of CGST Act, 2017. Also, the  
present application has been done under the provisions of Section 97(2)(c) and 97(2)(g)  
of CGST Act, 2017. The question sought by the applicant doesn’t fall in either of the  
categories and hence cannot be answered. Further, it is on record that no supply of goods  
  
or services in the scenario explained by the appellant has been undertaken.  
  
Question No. 4  
  
The fourth question is “Whether movement of equipment from CIPL Karnataka to CIPL  
Tamil Nadu on the instruction of CIPL Maharashtra can be said to be mere movement of  
goods not amounting to supply in terms of Section 7 of the CGST Act and MGST Act,  
and thereby not liable to GST?” Thus, the same is related to movement of goods from  
  
CIPL. Karnataka to CIPL, Tamil Nadu on the instruction of CIPL, Maharashtra.  
  
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23. We notice that though the CIPL, Karnataka is in the possession of the goods, it is CIPL  
  
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25.  
  
26.  
  
27. In view of the above discussions and findings, we pass th  
  
4.  
  
Nn  
  
n  
  
Maharashtra who is the owner of the goods. The CIPL, Karnataka is a lessee of the goods  
and they have to give the goods back on the termination of the Contract of lease between  
  
CIPL, Karnataka and CIPL, Maharashtra.  
  
In case CIPL, Maharashtra instructs CIPL, Karnataka, on termination of contract between  
them, to transfer the goods to CIPL, Tamil Nadu. CIPL, Karnataka in such a situation,  
under the instruction of CIPL, Maharashtra arranges / facilitates to transport the goods to  
CIPL, Tamil Nadu, and thus the CIPL Karnataka acts as an agent of CIPL, Maharashtra in  
the said facilitation and not in independent capacity. Once, the CIPL Maharashtra issued  
instructions to CIPL, Karnataka, the contract of lease entered between them in respect of  
the said goods ends and the goods now held by CIPL, Karnataka as the bailee of CIPL,  
Maharashtra. Hence, CIPL, Karnataka would be acting in two capacities, first as an  
independent entity under the CGST Act for the leased goods while the lease contract of  
the specific goods is in force and next as a bailee of CIPL, Maharashtra. Once the lease  
contract is over, the CIPL, Maharashtra should enter into lease transaction with the CIPL,  
Tamil Nadu for the specific goods which are given on lease or rent and in effect it would  
amount to CIPL, Maharashtra picking the goods and sending to CIPL, Tamil Nadu.  
  
In such a case, the goods in movement is a consequence of the lease contract between the  
CIPL, Maharashtra and CIPL, Tamil Nadu which is a supply by CIPL, Maharashtra. The  
transaction is nothing but the combination of the transactions of returning back the goods  
on lease by CIPL, Karnataka to CIPL, Maharashtra and again sending the same goods on  
a new lease contract by CIPL, Maharashtra to CIPL, Tamil Nadu. Thus, it cannot be said  
der Section 7 of the CGST Act,  
  
any involvement of supply and  
basis by CIPL, Maharashtra to  
  
that the goods are moving not as a result of supply un  
2017. It cannot be termed as a mere movement without  
the said transaction of supply of goods on rental or lease  
CIPL, Tamil Nadu is liable to tax in the hands of CIPL, Maharashtra as the transaction is  
between CIPL, Maharashtra and CIPL, Tamil Nadu. Further, the services provided by  
  
CIPL, Karnataka to CIPL, Maharashtra in facilitating the transportation of goods to Crt,  
  
Tamil Nadu are exigible to GST.  
As regards question no. 3 and 5 regarding the documents re  
  
goods under movement, we concur with the observations expressed by MAAR wherein it  
e ambit of the Advance Ruling  
  
quired to be carried with the  
  
was stated that the said questions are not covered under th  
  
in terms of section 97 of the CGST Act, 2017.  
e following order:  
  
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28.  
  
Order  
We, hereby. modify the advance ruling pronounced by the MAAR, and hold as under in  
respect of the question no. (2). (3). (4) and (5):  
Question 2 — If the answer to Question | is Yes, what is the value on which GST has to  
be charged i.e. whether it should be lease charges or the value of equipment in terms of  
Section 15 of the CGST Act and MGST Act read with relevant Rules?  
Answer: The value declared in the invoice issued by the appellant would be the value  
on which GST has to be charged in terms of Section 15 of the CGST Act, 2017 read  
with second proviso to Rule28 of the CGST Rules, 2017.  
Question 3 — What are the documents that should accompany the movement of the  
goods from CIPL Maharashtra to CIPL Karnataka?  
Answer: The aforesaid question cannot be answered as the same is not covered within  
  
the ambit of advance ruling in terms of section 97 of the CGST Act, 2017.  
  
Question 4 — Whether movement of equipment from CIPL Karnataka to CIPL Tamil  
  
Nadu on the instruction of CIPL Maharashtra can be said to be mere movement of  
  
goods not amounting to a supply in terms of Section 7 of the CGST Act and MGST  
  
Act, and thereby not liable to GST?  
Answer: Movement of equipment from CIPL Karnataka to CIPL Tamil Nadu on the  
instruction of CIPL Maharashtra cannot be said to be mere movement of goods not  
  
amounting to a supply in terms of Section 7 of the CGST Act, 2017 as the said  
  
transaction would fall under the ambit of supply of services in terms of section 7 of the  
  
CGST Act, 2017. The said supply of services involved in the transaction under question  
is being provided by CIPL Karnataka to CIPL Maharashtra in the capacity of bailee of  
  
CIPL Maharashtra for which CIPL Karnataka is charging facilitation fee along with  
  
applicable GST from the Appellant, i.e, CIPL Maharashtra as per the Inter-unit  
  
Memorandum of Understanding entered between the Appellant and other state units. It  
is further clarified here that the said movement of goods from CIPL Karnataka to CIPL  
per the instruction received from CIPL Maharashtra, the owner of  
  
Tamil Nadu as  
htra to  
  
goods, will again be treated as supply of lease rental services by CIPL Maharas  
  
CIPL Tamil Nadu as ruled by the MAAR.  
Question 5 - With reference to Question 4 above, what are the documents that should  
  
accompany the movement of the goods from CIPL Karnataka to CIPL Tamil Nadu?  
  
Answer: The aforesaid question cannot be answered as the same is not covered within  
  
the ambit of advance ruling in terms of section 97 of the CGST Act, 2017.  
  
(Dr. D.K. SRINIVAS)  
  
AL)  
MEMBER  
  
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Copy to the:  
1. Appellant;  
  
2. AAR, Maharashtra  
  
3. Pr. Chief Commissioner, CGST and Central Excise, Mumbai Zone.  
4. Commissioner of State Tax, Maharashtra.  
  
5. Assistant/Deputy Commissioner of CGST Mumbai West, Division-III  
6. Web Manager, WWW.GSTCOUNCIL.GOV.IN  
  
7. Office copy.  
  
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