



This alert summaries the AAR Rulings under the GST Regime, rulings of courts and tribunals under the erstwhile Indirect Tax Regime:

- Passing on bonus by Del Credere Agent (DCA) to recipient is not a supply as DCA works as pure agent : K.K. Polymers (Prop. Adventage Agency (P.) Ltd (AAR- Raj)
- Sale and purchase of DFIA licenses attracts GST as it is different from duty credit scrips : Spaceage Syntex (P.) Ltd (AAR – Maharashtra)
- Back office support services to overseas companies treated as Intermediary Services : V Serv Global (P.) Ltd. (AAR – Maharashtra)
- Penal interest on default in EMI payment taxable under GST : Bajaj Finance Limited. (AAR – Maharashtra)
- GST leviable on transportation service if such service is integral component of composite supply : Emco Ltd., (AAR - Maharashtra)
- Assessee entitled to deduction of all trade discounts for computing taxable turnover : Maya Appliances (P.) Ltd. Vs. Addl. CCT (SC)
- Material handling & shifting couldn't be taxable as 'Manpower recruitment & supply agency service' : Shailu Traders Vs. CCE, Indore (CESTAT - New Delhi)
- No Service tax on commission received from foreign supplier for procuring orders from Indian buyers : CCE Vs. National Engineering Industries Ltd (HC - Raj.)

K.K. Polymers (Prop. Advantage Agency (P.) Ltd., (2018)100 Taxmann.com 17 (AAR-Raj)

- The applicant is a Del Credere Agent (DCA) of supplier of goods.
- It takes order from the customers and places these orders with the principal and is responsible to collect payment from customers
- For this purpose, DCA gets the commission from principal if payment is received by such principal from DCA or directly from customers within 10days, then early payment incentive would be given to DCA or customers, as the case may be.
- And when the payment is made by the DCA to principal on behalf of customers within 10days, then DCA gets additional bonus as incentive.
- The applicant filed an application for Advance Ruling to determine whether amount passed on to the customer by DCA would amount to supply?
- The Authority for Advance Ruling held that the additional discount relates to the supply which has already been made by the principal. Therefore, the passing on such bonus to the customers by DCA is in the nature of Pure Agent.
- Hence, passing of such additional bonus is not a supply.

Spaceage Syntex (P.) Ltd (2018) 99 Taxmann.com 234 (AAR-Maharashtra)

- The applicant was engaged in trading of Export Entitlement licenses.
- The applicant had submitted that DFIA's are paper authorizations that allow duty free import of inputs and are similar to duty free scrips.
- Further, the applicant filed an Advance Ruling to determine whether GST is applicable on sale of DFIA (Duty Free Import Authorization) licences.
- The authority observed that DFIA could not be considered as Duty Credit Script, also the Foreign Trade Policy itself had segregated both duty credit scrips and DFIA's into two different schemes.
- Therefore, Duty Free Import Authorization licence, issued to allow duty free import of inputs would be covered under HSN Code 4907 and would attract GST at applicable rate.

V Serv Global (P.) Ltd. (2018) 99 Taxmann.com 253 (AAR – Maharashtra)

- The applicant was engaged in back office administrative and accounting support services, pay-roll processing and maintenance of employee records to overseas clients.
- The applicant filed an Advance Ruling to determine whether it would constitute an 'export of services'?
- The authority observed that the applicant would facilitate supply of goods or services or both between overseas client and customers of overseas client.
- Therefore, applicant would be clearly covered and fall in 'intermediary' definition and the place of supply in such a case would be the location of supplier of services.
- Hence, services proposed to be rendered by the applicant would not qualify as 'export of services' and thus would not be treated as 'zero rated supplies'.

Bajaj Finance Limited (2018) 99 Taxmann.com 236 (AAR – Maharashtra)

- The applicant was engaged in providing various types of loan to customers. The applicant received penal charges on delayed payment of EMIs of loan.
- The applicant filed an application for Advance Ruling to determine whether penal charges on delayed payment of EMIs of loans would be considered as supply or not.
- The authority observed that penal charges on delayed payments would be considered as receipt of amounts for tolerating an act of their customers for having delayed / defaulted on their EMI payments within due dates.
- The amount received as penal charges would not be considered as additional interest and therefore was to be treated as 'supply' under the GST Act.
- Therefore, penal interest on default in EMI payment would be taxable under GST.

Emco Ltd., [2018] 100 taxmann.com 225 (AAR - MAHARASHTRA)

- The applicant was engaged in business of manufacturing and selling various products and solutions as required in Power Transmission and Distribution sector .
- The applicant, as part of its activities had entered into two contracts with Power Grid Corporation of India Limited (PGCIL), one for supply of towers and transmission line products and another contract for supply for services. As per second contract entered into with PGCIL in respect of various services.
- The applicant had filed instant application for advance ruling to determine as to whether GST was leviable on such freight charges being recovered from PGCIL and if so at what rate.
- Even though, two contracts were entered into between parties but in nutshell it was only one contract. The subject contracts are for commissioning of immovable property wherein transfer of property in goods is involved in execution of said contracts.
- The impugned supply of transportation service is not supply of stand alone service but integral component of composite supply in the nature of works contract.
- Therefore, GST is leviable on transportation charges levied by the applicant on PGCIL at 18 per cent.

MAYA APPLIANCES (P.) Ltd. Vs. Addl. CCT (2018) 90 Taxmann.com 317

- The assessee had allowed quarterly discount to its dealers on the basis of his sales turnover in every quarter of the financial year.
- It gave the discount to the dealer in the sales invoice raised in the subsequent quarter and claimed the deduction of discount from the total turnover for calculating the taxable turnover.
- The department disallowed the quarterly discount given by the assessee to its dealer on the ground that the discount was not relatable to the sales effected by the relevant tax invoices.
- The Supreme Court held that the discount could be claimed as deduction when such discounts were made in the regular trade practice.
- Therefore, all trade discounts were permissible deductions

SHAILU TRADERS Vs. CCE, INDORE (2018) 92 Taxmann.com 381 (New Delhi)

- The assessee had entered into agreement with a client for undertaking the activities of material handling and shifting within the premises of such client.
- The department held that the services provided by the assessee would fall under the category of 'Manpower recruitment or supply agency service'.
- The tribunal held that the employees deployed for executing the assigned task were under the control and supervision of the assessee.
- The assessee was not connected with any recruitment or supply of manpower to the client, therefore such service would not fall under the category of 'Manpower recruitment or Supply agency service'

CCE Vs. NATIONAL ENGINEERING INDUSTRIES Ltd. (2018) 93 Taxmann.com 342 (HC - Raj.)

- The assessee entered into a combined agreement for procuring orders from Indian buyers and was not paying the service tax on commission received in foreign currency for services rendered in India.
- The department held that the assessee was liable to pay service tax on the ground that the office of a subsidiary company in India would amount to an office of a holding company and not to be treated as export of services
- The revenue filed an appeal in the High Court
- The high court held that the branch of subsidiary company in India would not be treated as branch of the company.
- Hence, such services would be treated as export of services as service recipient was located outside India.

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