

APPLICABILITY OF GST ON REIMBURSEMENT OF EXPENSES TO A SUPPLIER

Brief of Reimbursement of Expenses:

As per the Contract or instruction of the Recipient, the Supplier has to incur some expenditures for supply of goods and services on behalf of the Recipient. Some times, it is noticed that the Recipient has imposed GST on the Reimbursement of Expenses and for some times, it is noticed that the Recipient has not charged any GST on such expenses. On the other hand, often it is found that the amount spent against Reimbursement of Expenses is shown in a separate invoice and often, it is noticed that the amount spent against Reimbursement of Expenses is indicated separately with the main invoice against supply of goods and services to the Recipient.

Type of Reimbursement of Expenses:

The Expenses are incurred by the Supplier on behalf of the Recipient and the same are reimbursed by the Recipient. Such kind of Expenses can be classified into 2 parts and such parts are a (Reimbursement of Expenses in form of Incidental Expenses) such kind of expenses are incurred by the Supplier in the course of supply of goods and services and these are the part of the supply value and hence, GST is applicable. Examples: travelling expenses, transportation charges where the supplier has rendered such service by their own vehicle (and) b (Reimbursement of Expenses in form of expenses paid by Supplier as a Pure Agent) such kind of expenses are incurred by the Supplier as a Pure Agent in the course of supply of goods and services and these are not the part of the supply value and hence, GST is not applicable. Example: transportation charges paid to a third-party transporter by the Supplier as a Pure Agent, Registration fees paid by the Supplier that is the consultant as a Pure Agent for supply of services etc.



CMA Dipankar Biswas
Cost Accountant



Meaning of Pure Agent:

In a layman's term, Pure Agent means a Supplier who makes a supply of goods and services to the Recipient and incurs some certain expenses as an ancillary support for supply of such goods or services the Supplier will claim the amount of such expenses as the Reimbursement. Hence here two kinds of relationship are executed by the Supplier and the Recipient against supply of goods and services and these are) a(Supply made as Principal-to-Principal Basis for main supply and) b(Supply made as Pure Agent for ancillary service.

The Concept of Pure Agent is borrowed from the Service Tax) Determination of Value (Rules 2006, and such term of Pure Agent is used in Rule 33 of the CGST Rules, 2017, As per the Explanation of Rule 33 of the CGST Rules, 2017, "Pure Agent "means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both.
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply.
- (c) does not use for his own interest such goods or services so procured and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Example: Roy and Associates, a CS Firm has collected Rs 55,000. from its client ABC & Z Co .Ltd as professional fees for the Financial Year 2020-2021 and such CS Firm has paid of Rs10,000-/as the Registration Fees of the Company on behalf of the company and here, Roy and Associates will claim of Rs -/10,000.as the Reimbursement of Expenses. Hence 1st service rendered by Roy and Associates is based on Principal-to-Principal basis and the 2nd service rendered by Roy and Associates is based on Pure Agent Basis.

Hence, GST will be applicable on 1st Service but GST will not be applicable on 2nd service.

Applicability of GST on the Reimbursement of Expenses:

As per Section (1)15 of the CGST Act" 2017, The value of a 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 the supply are not related and the price is the sole consideration for the supply ".and

as per Clause c (of the Section (2)15 of the CGST Act, " -2017 incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services shall be included in the value of supply of goods and services".

However, Rule 33 of the CGST Rules 2017, explains that the Reimbursement of Expenses incurred by the Supplier on behalf of the Recipient shall not be included in the value of supply of goods and services subject to satisfy the following conditions:

- (1) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;

Note -If the payment is made first and authorization is received after such payment, the aforesaid condition i.e(1) of Rule 33 of the CGST Rules 2017, will not be satisfied.

- (2) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service;

Note -Amount incurred by the Supplier as Pure Agent on behalf of the Recipient shall be separately indicated in the regular invoice raised by the Pure Agent.

and

- (3) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Note- The supplier is supplying the goods and services to the Recipient as a main supply and in addition, the Supplier can act as Pure Agent on behalf of the Recipient of the goods and services.

Note :If the aforesaid conditions mentioned in Rule 33 of the CGST Rules 2017, are not satisfied, the amount spent by the Supplier on behalf of the Recipient against Reimbursement of Expenses will be included in the value



of supply under GST and GST will be applicable on such Reimbursement of Expenses.

One Landmark Case Study on Applicability of GST on the Reimbursement of Expenses:

Appellate Authority for Advance Ruling for Goods and Service Tax, UP Vs .M/s Ion Trading India Private Limited: Here ,M/s Ion Trading India Private Limited ,the Appellant had received a request from its employees for parking facility and the employer was assured by the employees to recover the rental charges from its employees .The employer had made an agreement with Shantiniketan Properties Private Limited) Building Authority (for providing Parking Space through Lease Agreement.

The Appellant filed an Advance Ruling as per Section (1)97and (2)97 of the CGST Act 2017,regarding

- (1) whether the amount recovered from the employees towards the car parking charges payable to Shantiniketan Properties Private Limited) Building Authority (would be deemed as supply of service
- (2) if the aforesaid mentioned in (1) would be deemed as supply of service ,the value of such supply would be

NIL under the concept of Pure Agent mentioned in Rule 33 of the CGST Rule.2017,

The Authority of Advance Ruling dismissed the application stating that the supporting documents are not relevant. Then ,being aggrieved with the Order of The Authority of Advance Ruling ,the Appellant filed an Appeal to the Appellate Authority for Advance Ruling as per Section (1)100of the CGST Act .2017,The Appellate Authority for Advance Ruling ordered that the said service would be deemed as supply of service and the value of such service would be NIL as the Appellant satisfied all the conditions of Rule 33 of the CGST Act .2017,Hence ,no GST will be imposed against the said service provided by the employer to its employees.

Conclusion:

From the above discussion ,it is to be noted that the amount spent against Reimbursement of Expenses can be classified into two parts such as Reimbursement of Expenses in form of Incidental Expenses and Reimbursement of Expenses in form of expenses paid by Supplier as a Pure Agent .Hence, GST will be applicable on Reimbursement of Expenses in form of Incidental Expenses and no GST will be applicable on Reimbursement of Expenses in form of expenses paid by Supplier as a Pure Agent.

116