



## IMPACT OF ADVANCE RULING ON EXPORT OF SERVICES

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Recently Maharashtra Authority for Advance Ruling holds that back office support services is in nature of intermediary services. Rejects applicant's contention that such services qualify as export under GST laws

### **Background**

Versvglobal Private Limited (The Company) is engaged in providing back office support services to its overseas client. Activates includes the followings

- Coordination with client suppliers and customers
- Liaising with supplier on behalf of client
- Processing of payments
- Arranging the documentation for suppliers and customers
- Maintain client employees related records

The company posed a question before the Maharashtra Authority for Advance Ruling whether service provided would qualified as Zero rated supply in accordance with the GST Law?

The company also contended that it is fulfilling all the conditions required for the services to be qualify as export of services such as

- The supplier of services is located outside India
- The recipient of services is located outside India
- The place of supply of services is outside India
- The payment for such service has been received by the supplier of service in convertible foreign exchange and
- The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with the Explanation 1 of Sector 8

The company also stated that it is providing services to client on a principal to principal basis, and therefore, excluded from the definition of intermediary

### **Ruling of AAR**

AAR observed that all the activities performed by applicant for its client indicate that the applicant is engaged in arranging/facilitating supply of goods and services between client and its customers and therefore, qualifying as an intermediary.

As per this AAR ruling, services provided by intermediaries should not be treated as 'zero rated supplies.' would lead to litigation as the authorities would use it to slap taxes on many companies exporting services. the ruling may go against the GST law.

## **Impact on IT Industries**

Indian IT industry outsourcing market is around \$ 50 billion and Indian IT industries operates thru their overseas subsidiaries where overseas subsidiaries get the order from the customer and outsource it to their Indian counterpart to provide various services such as

- Accounting services
- Payroll processing services
- Business support Services
- IT enable services including remote infrastructure management services

Indian entities make the necessary arrangement to provide the services thru creating the delivery centers in various SEZ units to enjoy the benefit of direct & indirect tax, employee requisite manpower, deploy necessary hardware and software's and bill to their overseas entities in foreign currency based on fixed price basis or time and material basis as per the agreement. Their overseas entity in turn bill to the end customer based on the final agreement with customers.

Indian entities also ensure the FEMA compliance with respect to filling of necessary Softex to respective SEZ authorities and arranging the bank realization certificate from Authorized Dealer in support of their export claim.

Historically these IT companies are enjoying the benefit of refund of unclaimed service input against the export of these services and also getting the tax exemption under section 10 aa of the Income Tax Act, 1961. As per the advance ruling all these transactions between Indian entities and their overseas entities are subject to GST and Indian entity need to charge the GST on their invoices to overseas entity.

The amount of GST charge would become the expense for the overseas entity and they are not eligible to claim the input in their respective countries against these taxes.

In such a scenario either the Indian entity need to take the hit of GST or their overseas counterpart need to take the hit of GST. In any case it will impact the overall profitability of the company.