

18% GST Exigible on Services Provided by Airbus Group as it qualifies as Intermediary Services: The AAAR, Karnataka

Fact of the Case

The Appellant, Airbus Group is a Private Limited Company and operating as a subsidiary of Airbus Invest SAS, France. The Airbus Group (of which the Appellant is a part) generally procures parts, components or services from both domestic and international markets which are required for manufacturing and assembly of aerospace products like aircrafts, helicopters, etc. The Airbus Group has a specialized global sourcing team which is responsible for sourcing relevant products from various international markets.

The appellant has sought the advance ruling on the issue

- whether the activities carried out by the Appellant in India would constitute a supply of "Other Support Services" falling under Heading 9985 or as "Intermediary Service" classifiable under Heading 9961/9962 or any other classification of services as specified under GST laws.
- whether the services rendered by the Appellant would not be liable to GST, owing to the reason that such services may qualify as "export of services" in terms of clause 6 of Section 2 of the IGST Act, 2017 and consequently, be construed as a 'zero-rated supply' in terms of Section 16 of the IGST Act.

The Authority of Advance Ruling (AAR) ruled that the activities carried out in India by the Applicant would constitute a supply as "Intermediary services" classifiable under SAC 998599. Further, The services rendered by the Applicant do not qualify as 'export of services' in terms of sub-section 2 of Section 6 of the IGST 2017 and consequently, are exigible to GST at the rate of 18% in terms of clause (iii) of entry no. 23 of Notification No. 11/ 2017-Central Tax dated 28.06.2017."

However, the appellant contended that the true nature of the activities undertaken by the Appellant are very different from what has been observed by the AAR. The Appellant has relied heavily on the ruling given by the Authority of Advance Rulings under the Service Tax provisions in the case of GoDaddy India Web Services (P) Ltd Ruling No AAR/ST/08/2016 wherein the Authority therein has ruled that pure marketing and promotion services would not be intermediary services.

Decision of the Case

The Coram ruled that one of the important requirements for supply of any service to be treated as export of service' is that the place of supply of service is outside India.

The provisions for determination of place of supply of services where the location of the supplier or the location of the recipient of services is outside India are contained in Section 13 of the IGST Act, 2017. Section 13(8)(b) of the said Act stipulates that the place of supply in the case of intermediary services will be the location of the supplier of service. In this case, the activity of the Appellant who is the supplier of intermediary service i.e collection of information of parties in India, analysis of potential suppliers and skill development of existing suppliers, are all very much done in India, which is the location of the supplier of intermediary service. Therefore, by virtue of Section 13(8) (b) of the IGST Act, it automatically flows that the place of supply of the intermediary service provided by the Appellant to Airbus France, is in India. When the place of supply is in India, it does not satisfy one of the conditions for export of service, that the place of supply should be outside India. Therefore, we hold that the intermediary services provided by the Appellant to Airbus France, do not qualify as export of service.

The Karnataka Appellate Authority of Advance Ruling (AAAR) ruled that the 18% GST Exigible on Services Provided by Airbus Group as it qualifies as Intermediary services.