

ADVANCE RULING UNDER GST

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Section 97 of CGST Act – Advance Ruling in GST.

5th C.A. OR C.M.A.
OR CONSULTANT

RATE IS NIL OR
EXEMPT

4th C.A. OR C.M.A.
OR CONSULTANT

RATE IS 28%



TAXABLE PERSON



RATE OF PRODUCT

5%

12%

18%

28%

1st C.A. OR C.M.A.
OR CONSULTANT

RATE IS 12%

2nd C.A. OR C.M.A.
OR CONSULTANT

RATE IS 18%

3rd C.A. OR C.M.A.
OR CONSULTANT

RATE IS 5%

Section 97 of CGST Act – Advance Ruling in GST.



TAXABLE PERSON



1st Consultant

Cannot give GST Impact for Discounts.

2nd Consultant

Can give GST Impact for Discounts.

3rd Consultant

NOT Sure. Not ready to take any risk.

Section 97 of CGST Act – Advance Ruling in GST.



TAXABLE PERSON

Registered on E-Commerce Platform –

Compulsorily required to get registered in GST?

Selling Goods outside the State

Compulsorily required to get registered in GST?

Selling only Exempted Goods (T/O > 40 Lakhs)

Compulsorily required to get registered in GST?

1st Consultant

Compulsorily required to get registered.

2nd Consultant

Not compulsorily required to get registered.

3rd Consultant

NOT Sure. Not ready to take any risk.

Section 97 of CGST Act – Advance Ruling in GST.



TAXABLE PERSON

- GST Law is so complicated.
- All consultants are giving mix answers.
- I am unable to decide which **GST Rate to Supply?**
- I am unable to determine **Value of Supply?**
- No one understands **Time of Supply?**
- And every morning there is new **notification?** Whether it is applicable to me or not?

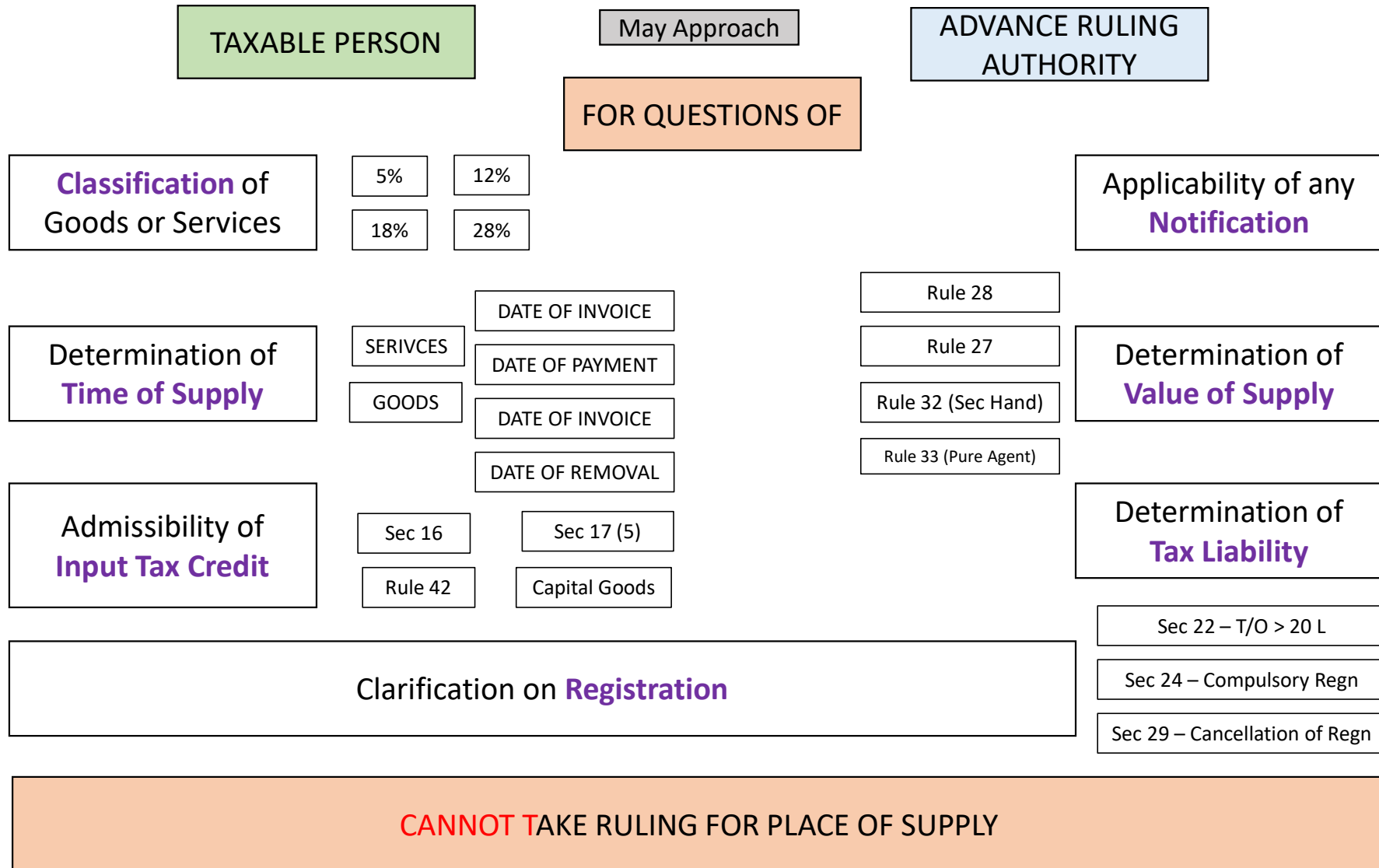


- Mr. Taxable Person, you are correct. But do not worry.
- **For your questions**, we are constituting one government authority.
- Name is “**Advance Ruling Authority**”



You can ask Questions directly to Advance Ruling Authority and they shall give their RULING (Answer).

Section 97 of CGST Act – Advance Ruling in GST.



Section 97 of CGST Act – Advance Ruling in GST.



- Taxable Person has doubt whether to charge **12% GST** or **18% GST** on the product.
- It is unable to decide **GST Rate**.



GST RATE
– **12%**



GST RATE
– **18%**



- Taxable Person may make an **application** in “**ARA – 01**” to “**Advance Ruling Authority**” to find out what is **applicable GST Rate (Classification)** on his Product.



- AAR shall call for Information / details / records in relation to product.
- It may study nature of the product.

Information

Details

Records



- AAR shall **set dates for hearing** the applicant and also his jurisdictional officer.
- It may call for **additional documents** / information if required.



- AAR on basis of such information / details / records may pass the ruling / judgement that rate for product is **12% or 18%** as case may be.
- Such ruling (answer) shall be passed **within 90 days of application**.



- Ruling of AAR shall be **binding on Taxable Person** who has made an application and also on **Jurisdictional Officer** of such Taxable Person.
- **Such ruling can be used by “Taxable Person” for future reference.**

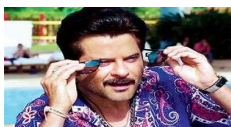


Jurisdictional
Officer

Section 97 of CGST Act – Advance Ruling in GST.



- Mr. A (Taxable Person) obtains **Advance Ruling** for **Rate of GST** on particular product.
- AAR calls for Information / records / details in relation to product and determines **rate as 5%.**
- AAR gives copy of Ruling within **90 days of application date.**



Proper Officer

- Proper Officer (GST Officer) puts a notice on Mr. A **that rate of GST was 12%.**
- **Why did he charge only 5%.**
- Proper Officer is **demanding difference of GST of 7% (12-5)** along with 18% Int p.a.



- Mr. A informs Proper Officer that he cannot take any action against him.
- **He shows “Ruling of Advance Ruling Authority” that rate of product determined as 5%.**
- **Hence he shall continue to charge GST @ 5%.**

Ruling
of AAR



Proper Officer

Conclusion:

- Advance Ruling is binding on “**Taxable Person**” who has sought the ruling and also on “**Jurisdictional officer**” of such Taxable Person.
- Advance Ruling can be used as **reference by “Taxable Person”.**

Section 97 of CGST Act – Advance Ruling in GST.



- Mr. Paresh (Taxable Person) now starts selling same goods as sold by Mr. A.
- **Mr. P also charged GST Rate of 12% as he knew that Mr. Akshay was charging GST Rate of 12% on same product.**
- **He knew that Mr. Akshay had obtained Advance Ruling & rate determined was 12%.**



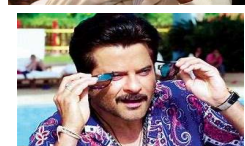
Proper Officer

- Proper Officer puts a notice on Mr. Paresh **that rate of GST was 18%.**
- **Why did he charge only 12%.**
- Proper Officer is **demanding difference of GST of 6% (18-12)** along with 18% Int p.a.



- Mr. Akshay approaches Proper Officer and shows advance ruling.
- **He informs government that rate given by “AAR” is 12% hence Mr. P is correct.**

Ruling
of AAR



Proper Officer

- Proper Officer asks Mr. Akshay that **“WHO OBTAINED ADVANCE RULING?”**
- **Did Mr. Paresh obtained Advance Ruling?**
- **Ruling given by AAR is binding only on person who has sought the ruling.**
- **It is not applicable on any other registered person.**



- **I, Mr. Akshay obtained AAR.**
- **No, Mr. Paresh did not obtain Advance Ruling.**



Conclusion:

- Advance Ruling is binding **only** on the **“Taxable Person”** who has **sought the ruling** and also on **“Jurisdictional officer”** of such Taxable Person.
- AAR can be used as Reference by other people.
- **But it is not binding on other taxable person.**
- So Jurisdictional Officer of Mr. Paresh **can refuse to refer such advance ruling** and make demand for difference amount.

Section 97 of CGST Act – Advance Ruling in GST.



- Mr. A is registered in GST in State of Maharashtra **and Delhi.**
- Mr. A (Taxable Person) obtains **Advance Ruling** for **GST Rate for** particular product in “**MAHARASHTRA**”.
- AAR Mah, calls for Information / records / details in relation to product and **determines rate as 5%.**
- AAR gives copy of Ruling within **90 days of application date.**



Officer of Delhi

- Officer of Delhi puts a notice on Mr. A (Regd in Delhi) **that rate of GST was 12%.**
- **Why did he charge only 5%.**
- Proper Officer is **demanding difference of GST of 7% (12-5)** along with 18% Int p.a.



- **Mr. A shows “AAR” Maharashtra Order to Officer of Delhi.**
- Mr. A informs him that he officer cannot do anything as he has order / ruling of AAR Maharashtra

Ruling of
AAR



- **Mr. A, you know concept of “Distinct Person” in GST Law?**
- **You know meaning of Distinct Person?**
- **Where have you taken AAR?**
- **As per concept of distinct person, will it be applicable to you in state of Delhi?**
- Sir, you should have also **taken separate AAR in state of Delhi.** **AAR of Maharashtra is not applicable in state of Delhi as per concept of Distinct Person.**



- **Yes, that is why I have taken separate GST Registration in state of Maharashtra and in Delhi.**
- **Yes Distinct Person means it shall be treated as Two Separate Persons in eyes of GST Law.**
- **I have taken AAR in State of Maharashtra.**
- **No, it shall be binding only in Maharashtra as I am separate person in eyes of GST in Delhi.**



Conclusion:

- Advance Ruling is binding on “**Taxable Person**” who has sought the ruling and also on “**Jurisdictional officer**” of such Taxable Person.
- Also it is binding only in state where he has taken.
- So Taxable Person shall be required “**STATE SPECIFIC ADVANCE RULING**” in GST.

Advance Ruling in State Specific

Registered in Maharashtra

Registered in Kerela

Registered in Gujarat



Registered in Delhi

Registered in GOA

Registered in Punjab



- Mr. Ratan Tata Sir have doubt regarding “**RATE OF GST**” on the product.
- He wants to obtain AAR to avoid future litigations and demand if any.
- **Where he shall be required to obtain AAR?**



- Mr. Ratan Tata Sir shall be required to **obtain separate AAR for each state.**
- Even though product is same, person is same still Taxable Person has to obtain **state specific GST AAR.**

AAR in
Maharashtra

AAR in Kerela

AAR in Gujarat

AAR in Delhi

AAR in Goa

AAR in Punjab

Place of Supply for Transportation of Goods Services – Section 12 (8) of IGST Act 2017.

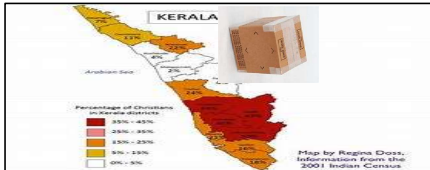


Transporter (Mr. A)
registered in Maharashtra

Transporter raised Tax Invoice of Rs 50,000 + GST on Mr. B.



Recipient (Mr B) registered
in Maharashtra



Goods loaded from Kerala



Goods loaded from Kerala and unloaded at Delhi.



Goods unloaded at Delhi.



TAXABLE PERSON

May Approach AAR of Maharashtra

May Approach AAR of Kerala

May Approach AAR of Karnataka

EACH AAR SHALL SAY THAT PLACE OF
SUPPLY IS THEIR STATE ONLY.

SO THAT THEIR STATE SHALL GET GST
REVENUE.

HENCE THERE **CAN NEVER BY ADVANCE
RULING FOR PLACE OF SUPPLY.**

Section 98 of CGST Act – Application for Advance Ruling in GST.

TAXABLE PERSON

MAKE AN APPLICATION IN
ARA - 01

GIVE DETAILS OF QUESTION FOR
WHICH RULING IS SOUGHT

MAKE PAYMENT OF FEES OF Rs
5,000 SGST AND 5,000 CGST.

TAXABLE PERSON SHALL FURNISH **RECORDS, INFORMATION, DOCUMENTS**, TO THE CONCERNED OFFICER.

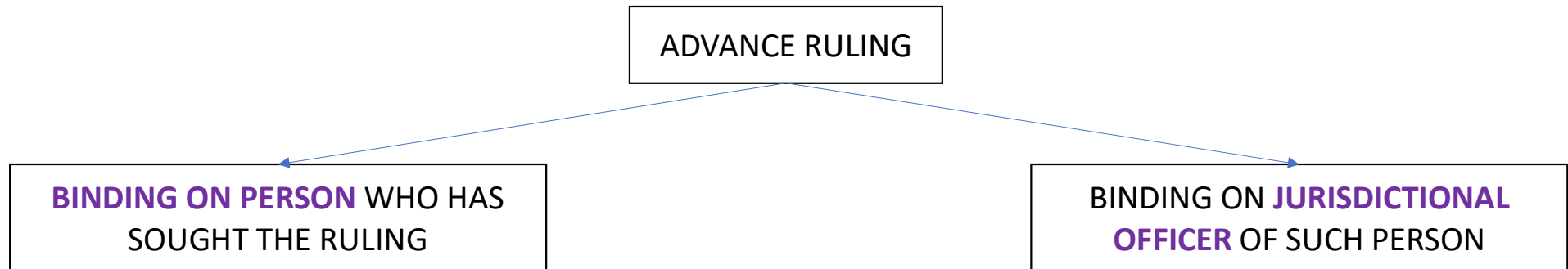
AAR SHALL **SET DATES** FOR HEARING APPLICANT AND JURISDICTIONAL OFFICER.

AAR SHALL PASS AN ORDER **WITHIN 90 DAYS FROM DATE OF APPLICATION.**

SUCH ORDER SHALL BE BINDING ON

TAXABLE PERSON

JURISDICTIONAL
OFFICER



IT IS **NOT BINDING ON ANY OTHER REGISTERED PERSON**

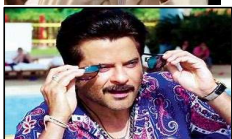
IT IS **NOT BINDING** ON PERSON WHO HAS SOUGHT THE RULING **IN DIFFERENT STATE**

IT IS STATE SPECIFIC

Section 100 & 101 of CGST Act – Appellate Authority for Advance Ruling in GST.



- Mr. A (Taxable Person) obtains **Advance Ruling** for **Rate of GST** on particular product.
- Mr. A has doubt whether rate is 5% or 12%.
- AAR calls for Information / records / details in relation to product and **determines rate as 18%**
- AAR gives copy of Ruling within **90 days of application date**.



Proper Officer

- Proper Officer asks Mr. Akshay that doubt tha na 5% or 12%.
- **Aur jao “Advance Ruling Authority ke pass”**
- **Rate determined by AAR is 18%.**
- **Such order shall be binding on Taxable Person and also on Jurisdictional Officer.**



- Is there a way where we can appeal or we can move application further?



- Since Taxable Person is not satisfied with order of AAR, he can make an **Application to “Appellate Authority for Advance Ruling**.



- **Appellate Authority shall call for Information, Records, Documents and Information.**
- They shall also obtain Order of Advance Ruling.
- **“Appellate Authority for Advance Ruling” shall pass an order / ruling within 90 days.**
- Appellate Authority may:
 - Accept Order of Advance Ruling Authority.**
 - Modify Order passed by Advance Ruling Authority.**
 - Annual / Set Aside Order passed by Advance Ruling Authority.**

Information

Details

Records

Advance Ruling
Order

- **Such order shall be binding on Taxable Person who has made an application, his Jurisdictional officer.**



Jurisdictional
Officer

Section 100 & 101 of CGST Act – Appellate Authority for Advance Ruling in GST.

TAXABLE PERSON

WITHIN 30 DAYS OF
ADVANCE RULING RECEIVED

MAY MAKE AN APPLICATION
IN ARA - 02

GIVE DETAILS OF QUESTION FOR
WHICH RULING IS SOUGHT

MAKE PAYMENT OF FEES OF Rs
10,000 SGST AND 10,000 CGST.

TAXABLE PERSON SHALL FURNISH RECORDS, INFORMATION, DOCUMENTS, TO THE CONCERNED OFFICER.

AAAR SHALL SET DATES FOR HEARING APPLICANT AND JURISDICTIONAL OFFICER.

AAAR SHALL PASS AN ORDER WITHIN 90 DAYS FROM DATE OF APPLICATION.

PERIOD OF 90 DAYS MAY BE EXTENDED BY 30 DAYS.

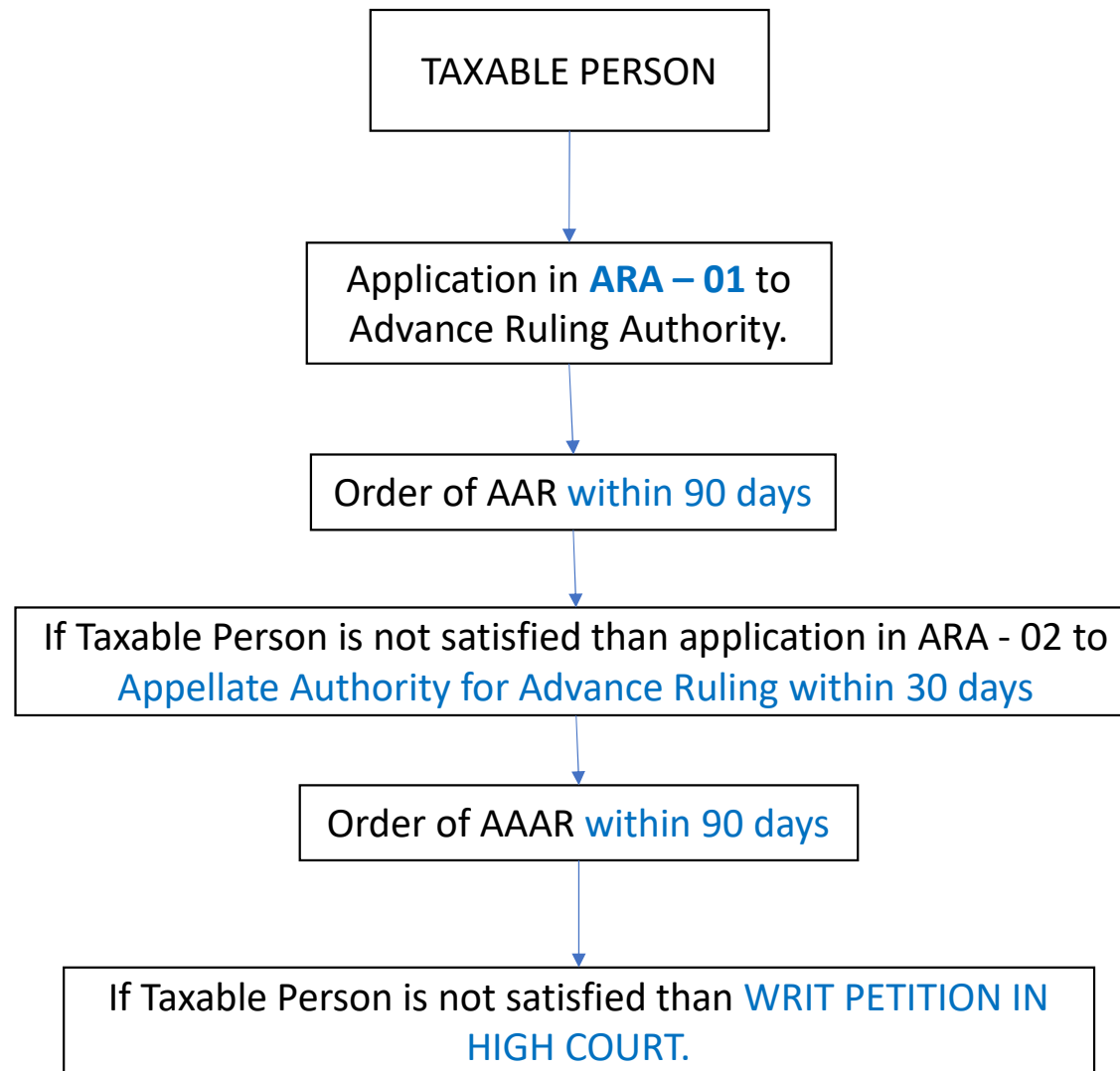
AAAR MAY ACCEPT, REJECT, ANNUL SET ASIDE ORDER OF AAR.

SUCH ORDER SHALL BE BINDING ON

TAXABLE PERSON

JURISDICTIONAL
OFFICER

ADVANCE RULING
AUTHORITY



Step 1: Go to User Services and select “My Applications”.



Goods and Services Tax

ANGAD JASBIRSINGH A ▾

Dashboard **Services ▾** GST Law Search Taxpayer ▾ Help ▾ e-Way Bill System

Registration Ledgers Returns Payments **User Services** Refunds

My Saved Applications **My Applications**

View/Download Certificates View Notices and Orders

View My Submissions Contacts

Search HSN / SAC Holiday List

Search Taxpayer Opted In / Out of Composition Feedback

Grievance / Complaints Locate GST Practitioner (GSTP)

Engage / Disengage GST Practitioner (GSTP) Furnish Letter of Undertaking (LUT)

View My Submitted LUTs View Additional Notices/Orders

Step 2: Select Advance Ruling from Drop Down Application.

[Dashboard](#) [Services ▾](#) [GST Law](#) [Search Taxpayer ▾](#) [Help ▾](#) [e-Way Bill System](#)

[Dashboard](#) [Services](#) [User Services](#) [My Applications](#)

My Applications

• indicates mandatory fields


Application Type •

Advance Ruling ▾


Select

Advance Ruling

From Date

DD/MM/YYYY 

To Date

DD/MM/YYYY 

SEARCH

NEW APPLICATION

Step 3: Make payment of SGST and CGST of Rs 5,000 each.

DashboardServices ▾GST LawSearch Taxpayer ▾Help ▾e-Way Bill System

Dashboard > Services > User Services > My Applications > New Application

Select Act(s) for which Advance Ruling Application has to be filed.

☒ SGST☐ CGST☐ IGST

Acts	Fee Applicable (in ₹)	Amount available in Cash Ledger (in ₹)	Amount to be paid (in ₹)
SGST	5000.00	1230.00	3770.00
CGST	-	-	-
IGST	-	-	-
Total (in ₹)	5000.00	1230.00	3770.00

DEPOSIT IN CASH LEDGER

CREATE APPLICATION FOR ADVANCE RULING

Instructions

1. If there is not sufficient balance in Cash Ledger (under Fee head), i.e. "Amount to be paid " is not nil, then click on **Deposit in Cash Ledger** button to deposit the required amount, in Cash Ledger.

2. If sufficient balance is available in Cash Ledger (under Fee head), i.e "Amount to be paid" is nil for all the selected acts,

Step 4: Click on Create Application for Advance Ruling after making payment..

[Dashboard](#) [Services ▾](#) [GST Law](#) [Search Taxpayer ▾](#) [Help ▾](#) [e-Way Bill System](#)

[Dashboard](#) > [Services](#) > [User Services](#) > [My Applications](#) > [New Application](#)

Select Act(s) for which Advance Ruling Application has to be filed.

☒ SGST ☐ CGST ☐ IGST

Acts	Fee Applicable (in ₹)	Amount available in Cash Ledger (in ₹)	Amount to be paid (in ₹)
SGST	5000.00	1230.00	Nil
CGST	-	-	-
IGST	-	-	-
Total (in ₹)	5000.00	1230.00	Nil

[DEPOSIT IN CASH LEDGER](#) [CREATE APPLICATION FOR ADVANCE RULING](#)

Instructions

1. If there is not sufficient balance in Cash Ledger (under Fee head), i.e. "Amount to be paid " is not nil, then click on **Deposit in Cash Ledger** button to deposit the required amount, in Cash Ledger.
2. If sufficient balance is available in Cash Ledger (under Fee head), i.e "Amount to be paid" is nil for all the selected acts, then click on **Create Application for Advance Ruling** button to fill and submit the application.

Step 5: Filling Application Form.

Dashboard

Services ▾

GST Law

Search Taxpayer ▾

Help ▾

e-Way Bill System

Dashboard > Services > User Services > My Applications > New Application > Advance Ruling Application

Application Type	GSTIN/UIN/Temporary ID	Legal Name	Status of the Applicant
Advance Ruling Application	05ALYPD6528P1ZB	Gyanendra Prakash Dwivedi	Registered

• indicates mandatory fields

Details of Jurisdictional Officer

Application Filed For •
SGST ▾

Name

Designation

Email ID

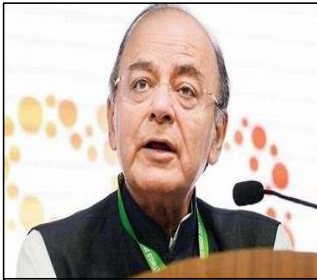
Address

Jurisdiction Details

AAR – Nipha Exports Pvt Ltd (AAR – West Bengal).

Nipha Exports
Pvt Ltd.

- Co. purchased an **Ambulance** for its employees for Rs 10L + **1.8 L GST**.
- Co. seeks Advance Ruling whether it shall be eligible for **Input Tax Credit** of Rs 1.8 Lakhs?



Advance Ruling
Authority

- AAR discussed section 17(5) of CGST Act 2017.
- It studied exceptions to the clause a of section 17(5) of CGST Act **which allows Input Tax Credit for GST paid** on purchase of Motor Vehicle.

Transportation of Persons in
vehicle having approved seating
capacity of more than 13

Transportation of Passengers

Exceptions

Further Supply

Imparting Training

Transportation of Goods

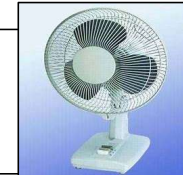
Nipha Exports
Pvt Ltd.

- Ambulance is not covered under any of exceptions of Clause a of section 17(5).
 - Hence Input Tax Credit of Rs 1. 8 Lakhs is **not admissible to Nipha Exports Pvt Ltd**.
-
- Input Tax Credit of Rs 1.8 Lakhs **was blocked u/s 17(5)**.

AAR- Polycab Wires Pvt Ltd (AAR – Kerala).

Polycab
Wires Pvt Ltd

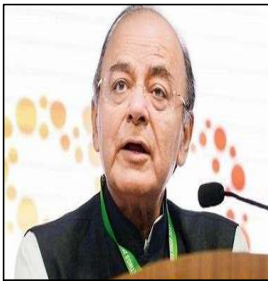
- Applicant is registered in Kerala State.
- It is dealer in Electrical Goods and Cables.
- It manufactures such goods for Rs 10L + **12% GST**.



There was flood in Kerala State, hence many homes, offices were destroyed.

Polycab
Wires Pvt Ltd

- Co. gave all such electrical fans, switches and electrical goods to needy people **without consideration**.
- It gave as a part of **Corporate Social Responsibility (CSR)**.
- Co. sought "Advance Ruling" what shall be GST implication for such CSR Activities.

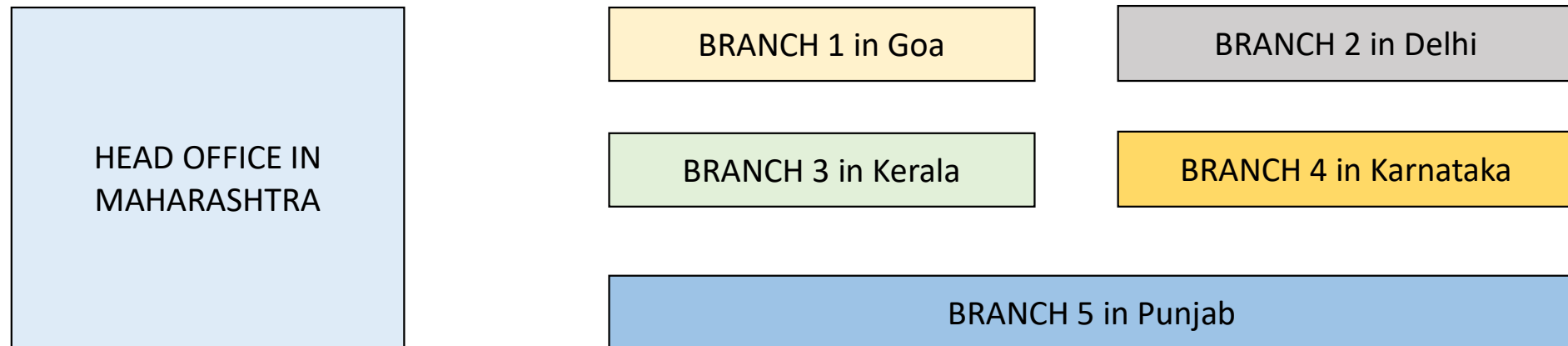


Advance Ruling
Authority

- I agree that you have done good work ie to donate to needy people.
- But sir, as per **Schedule I of CGST Act 2017, Permanent Transfer** or Disposal of Business Assets without consideration shall be Taxable Supply.
- You shall be required to **pay GST on Market Value or Cost of Production + 10%**.

- Also there is one more option, since you have given as **GIFT** or free to recipients.
- If you do not want to apply Schedule I of CGST Act, then your **Input Tax Credit of Rs 1.2 lakhs** so paid on manufacture of such Electrical Goods given **shall be reversed**.

AAR - Columbia Asia Hospital.













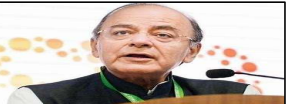
Head Office is doing **Salary Working, IT Administration , Management Services of Branch.**

- AAR held that GST is payable for supply of services by **Head Office to Branch.**
- GST is payable on such supply of services.

This shall be huge burden on branches as branch shall not be eligible for Input Tax Credit as Branches are giving Exempt Services (Healthcare).

WRIT PETITION IS FILED IN HIGH COURT.

AAR – Caltech Polymers Pvt Ltd.

Caltech Polymers Pvt Ltd.	<ul style="list-style-type: none"> Co. is in business of manufacture and sale of Footwear. It has opened a canteen for its employees. It is selling all kind of fast food, chips, cold drinks etc. 	 
	  	
Caltech Polymers Pvt Ltd.	<ul style="list-style-type: none"> Co. is recovering only cost incurred for making such food from its employees. It is not recovering any profit. Eg: if Cost of making burger is Rs 15, then Co. is recovering only Rs 15. 	
Caltech Polymers Pvt Ltd.	<ul style="list-style-type: none"> Co. seeks Advance Ruling whether it shall be required to charge GST on recovery of expenses of Food from Employees or it shall be covered under Pure Agent ie Rule 33? 	
 <p>AAR</p>	<ul style="list-style-type: none"> AAR held that “Recovery of food expenses” from the employees for the canteen services provided by company would come under the definition of ‘outward supply’. Consideration recovered may or may not be for pecuniary benefit (Profit Motive). Hence Co. shall be required to collect GST on Canteen Fees recovered from Employees. 	
Caltech Polymers Pvt Ltd.	<ul style="list-style-type: none"> AAR what if we do not recover any amount from our employees. We supply without consideration to our employees. Ab to GST nahi lagaoge na? 	
 <p>AAR</p>	<ul style="list-style-type: none"> Beta yaad karo, Schedule I “Supply between Related Person” without consideration shall also be considered as Taxable Supply even though without consideration. Employer and Employee are Related Person in GST. Hence even if you give for free, GST shall be payable on Market Value. 	

If Employer includes in Terms of Employment ie in Employment Contract that Free Food shall be provided to all employees, than GST may not be applicable as per schedule III of CGST Act 2017

AAR – ROTARY CLUB.

ROTARY CLUB

Rotary Club is **collecting Membership fees** from its members of Rs 50 Lakhs during the year.

Such amount is utilized for **conducting event, activities for members** and also for extension of **swimming, gym facilities to members**.

- Rotary club is **not earning any profit**.
- It is not pecuniary in nature.

SUPPLY

CONSIDERATION

PERSON

BUSINESS

- AAR held Membership Fees is **considered as Consideration** received in relation to supply of services

- Club is included in definition of **person** in GST.
- Activities of Club is also included in **definition of business** in GST.

Since membership fees collected exceeds Rs 20 Lakhs, **Rotary Club shall be liable to get registered in GST.**

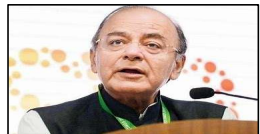
AAR – Rod Retail Pvt Ltd (AAR – Delhi).



- RR Pvt Ltd is having **shop at Indian Airport**.
- It is selling **sunglasses** to people at Airport.
- Many Foreigners (**International Boarding Pass**) buys



- R R obtains Advance Ruling whether sale of sun-glasses to foreigners shall be considered as **“Export of Goods”**.
- As per Section 2(43) of CGST Act, Export of Goods means taking **goods out of India to place outside India**.
- **Also foreigners are paying consideration in foreign currency.**



AAR

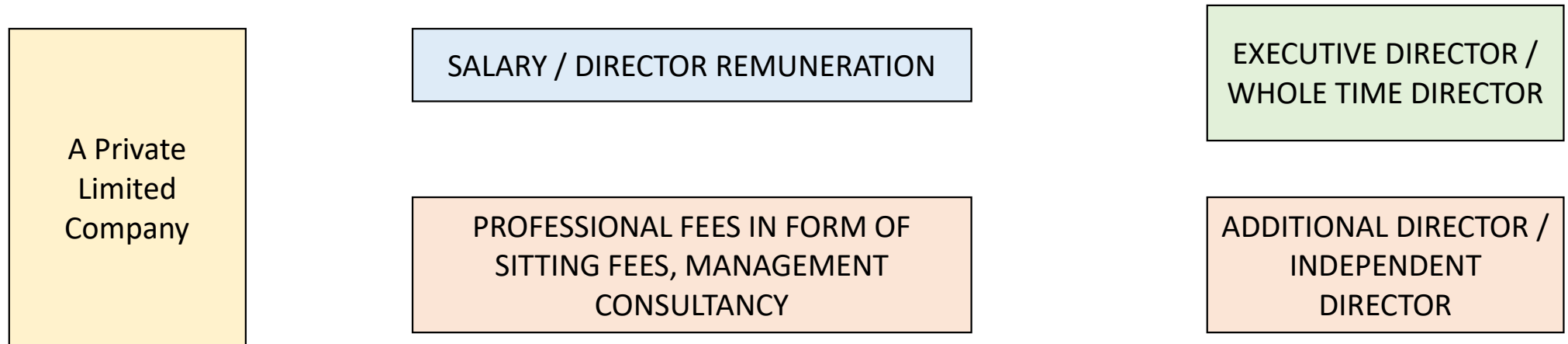
- RR Pvt Ltd, I agree that you are out of **“Custom Frontiers of India”**.
- But still you are in **territory of India**.
- GST shall be applicable on sale of goods.
- It shall **not be considered as “EXPORT” of Goods**.



- In the case of **M/s Hotel Ashoka** (International Tourism Development Corporation Limited) vs. Assistant Commissioner of Commercial Taxes, **Supreme Court** had held in **earlier laws** that Shops may be geographically located in India but these are located beyond the customs area and transaction would be said to have been taken place out of India.
- Hence in **old laws it was considered as Exempt** but not in GST Law.
- But under GST, it is written as Taking goods out of India to **place outside India**.
- Shops are outside Customs frontiers but still **in India**.
- Hence it shall **not be considered as “EXPORTS”**.

- Many countries are offering **refund** of taxes paid at airports. Such mechanism is also not yet implemented which shall make products costly at airport.

AAR – Shri Anil Kumar Agarwal.



- AAR held Remuneration paid to Executive directors / Whole Time Directors are consideration **in form of Salary**.
 - Hence **GST Shall not be applicable**.
-
- However Renumeration paid to Additional Director / Independent Director in form of “**Sitting Fees, Management Consultancy Fees**” shall be subjected to GST under Reverse Charge Mechanism to Pvt Ltd Co.

AAR – Rajashri Foods Pvt Ltd (AAR- Karnataka).

Rajashri Foods Pvt Ltd.

Manufacturing Unit at Seshadripuram

Manufacturing Unit at Hiriyur

Manufacturing Unit at Ramanagara

Rajashri Foods Pvt Ltd.



Plant & Machinery



Building



Bank and Other Loans

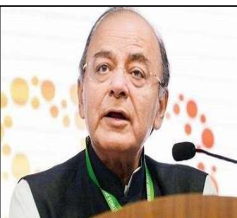
BUYER

- Co. transferred its entire Hiriyur unit to buyer.
- Co. Transferred P &M, Building, Other Fixed Assets, Current Assets, Banks and other loan to buyer.
- For such supply, bank charged consideration of Rs 5 Crores.

Rajashri Foods Pvt Ltd.

- Bank is seeking AAR **whether GST is applicable on consideration of Rs 5 Crores?**
- If yes what shall be GST Rate?

ADVANCE RULING IN
GST



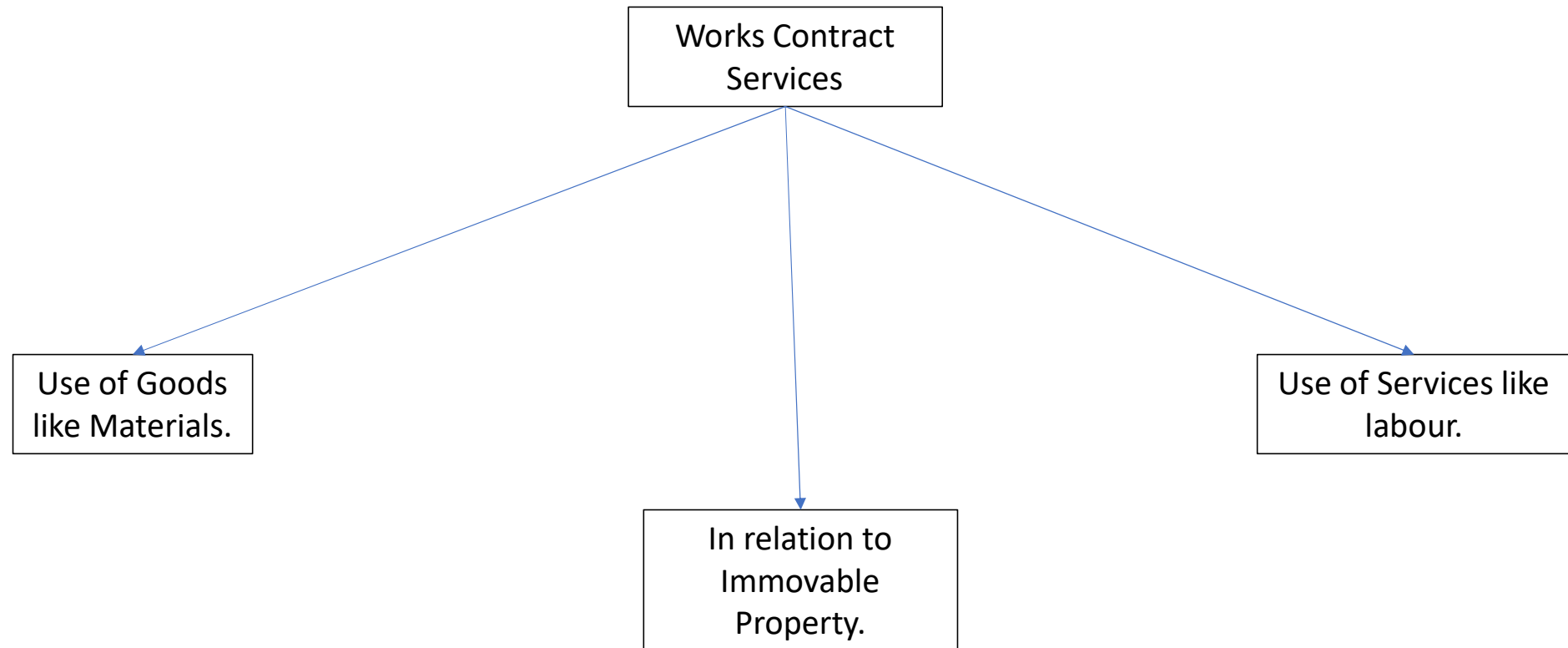
AAR

- As per section 7 of CGST Act, Supply includes sale, services, transfer, barter, exchange, license, rental, lease, disposal made or agreed to be made for a consideration.
- Hence such transfer of manufacturing unit shall be **considered as "SUPPLY"**.
- Transfer of Business as a **Going Concern** as a whole or in Independent part **is Exempt** under GST Law as per Notification No 12/2017.
- Hence **GST shall not be applicable on Rs 5 Crores.**

Rajashri Foods Pvt Ltd.

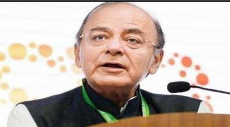
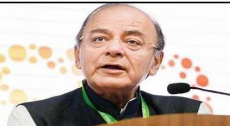
AAR – Tewari Warehousing Co. Pvt Ltd.

Generally works contract means combination of goods and services in relation to immovable property.

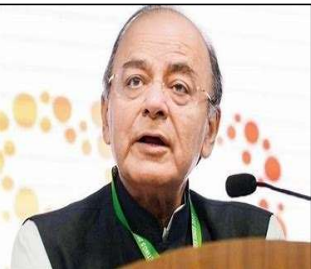


- Input Tax Credit in relation to “Works Contract are blocked u/s 17(5) of CGST Act 2017.

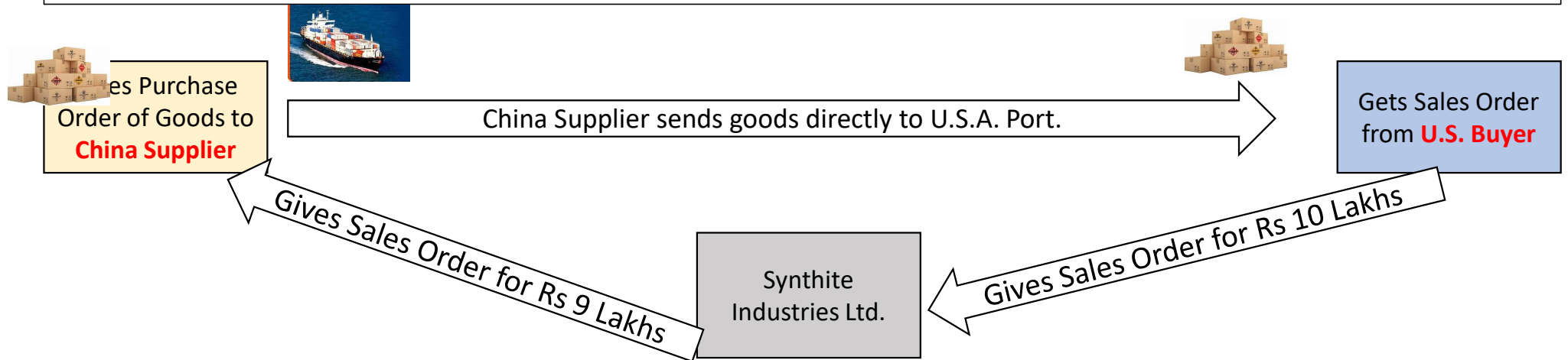
AAR – Tewari Warehousing Co. Pvt Ltd.

Tewari Warehousing Co. Pvt Ltd.	<ul style="list-style-type: none"> Applicant is supplying “Warehousing Services” using pre-fabricated technology for buyer. Warehouse is constructed on land which is on lease for a period of 30 years for purpose of building storage facility. Applicant can dismantle and reconstruct structure, like columns, beams, rafters, wall sheets, roof shed etc. which are joined with one another by nuts and bolts, and can be easily dismantled and restructured at another location. Applicant raises an Invoice of Rs 1 Crore + 18% GST. 	BUYER
Tewari Warehousing Co. Pvt Ltd.	<ul style="list-style-type: none"> Co. makes an Application to AAR that Input Tax Credit for Works Contract Services in relation to Immovable Property is blocked u/s 17(5). However, in his case, Warehouse can easily get dismantled and be constructed at some other location. Hence Co. is of opinion that Input Tax Credit of Rs 18 Lakhs shall be admissible. 	ADVANCE RULING IN GST
 AAR	<ul style="list-style-type: none"> AAR held that warehouse is being constructed on land which is on lease for period of 30 years or more. Such Lease can be further extended by obtaining a fresh lease. Also warehouse may or may not be dismantled. The structure being built is, therefore, not for the purpose of temporary enjoyment, but intended to be used as a permanent structure subject to usual business uncertainties. 	Tewari Warehousing Co. Pvt Ltd.
 AAR	<ul style="list-style-type: none"> The warehouse being constructed is immovable property. Applicant is constructing a warehouse that is intended to be used as a permanent structure. The warehouse cannot be conceived without beneficial enjoyment of the civil structure embedded on earth. Input Tax Credit of Rs 18 Lakhs is not admissible u/s 17(5). 	Tewari Warehousing Co. Pvt Ltd.
<ul style="list-style-type: none"> In case of “Solid & Correct Engineering Works”, Apex Court held that attachment without necessary intent to making it permanent cannot be an immovable property. Also in case of “Sirpur Paper Mills Ltd”, Apex court had held that machine cannot be an immovable property merely because it is attached to a foundation embedded in the earth. The test is whether the machine can be dismantled and sold in the market. 		

AAR – Takko Holding GmbH (AAR – Tamil Nadu).

Takko Holding (Germany)	<ul style="list-style-type: none"> Takko holding Germany supplies “Readymade Garments” to Indian purchasers. Takko Holding Germany establishes “Liaison Office” in Tamil Nadu. RBI has permitted M/s Takko Germany to establish Liaison Office. 	Liaison Office
Liaison Office	<div>Liaison Office shall be doing following work.</div> <div> <div>TECHNICAL SUPPORT</div> <div>ORDER PLACEMENT</div> <div>QUALITY CHECKS</div> </div> <ul style="list-style-type: none"> It shall not undertake any activity of Trading, commercial or industrial nature nor they would enter into any business contracts on its own. There is no commission/ fees being charged or any other remuneration being received/ income being earned by the office in India for the liaison activities/ services rendered by it. 	
Takko Holding (Germany)	<ul style="list-style-type: none"> H.O. reimburses the expenses incurred by Takko for their operations in India which are in the nature of salary, rent, security, electricity, travelling etc. They do not have any other source of income. Further the liaison office is strictly prohibited to undertake any activity of trading, commercial or industrial nature or entering into any business contracts in its own name. 	Liaison Office
Liaison Office	<ul style="list-style-type: none"> It approaches AAR whether amount reimbursed to Liaison Office shall be considered as Consideration against Services provided by Liaison Office. Whether GST shall be applicable on reimbursement given to Liaison Office? Whether Schedule I shall be applicable for supply of services between distinct/ related without consideration? 	<div>ADVANCE RULING IN</div> <div>GST</div>
 <div>AAR</div>	<ul style="list-style-type: none"> The liaison activities being undertaken by the applicant when strictly in line with condition specified by RBI permission letter do not amount to supply under CGST and SGST Act. The Applicant is not liable to pay CGST, SGST or IGST, as applicable. The Applicant is not required to get itself Registered under GST for the liaison activities. 	Liaison Office
	<ul style="list-style-type: none"> The liaison office is acting as an extension of the German Office in its procurement activities from suppliers in India as has been spelt out in the RBI permission letter. Hence, they are neither related nor distinct persons, but are in fact working as employees of the foreign office. Liaison Office shall not be required to get registered in GST and is not required to charge GST on reimbursement. 	

AAR – Synthite Industries LTD (AAR – Kerala).



- Synthite Industries Ltd seeks Advance Ruling **whether GST shall be applicable on Rs 9 Lakhs as Import of Goods?**
- Also whether Supply to U.S. Buyer for Rs **10 Lakhs can be considered as "Export of Goods"?**

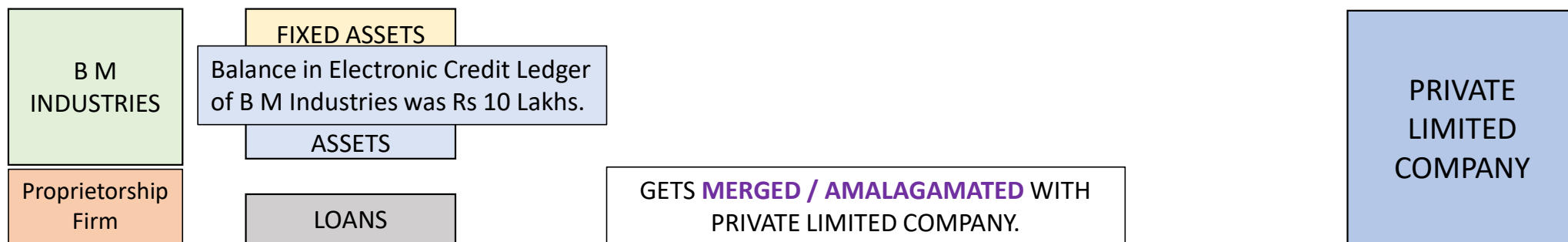
- ARA held that GST is applicable on Import of Goods when Importer files **"Bill of Entry" for Home consumption.**
- In given case, Goods have not reached Indian Port.
- Goods are directly supplied from China to U.S.
- Hence there is **no question of GST on Rs 9 Lakhs** for Import of Goods from China.

- Also as per Section 2(43) of CGST Act, Export of Goods means **taking goods out of India** to place outside India.
- In given case, Co. has not taken goods outside India from India.
- Hence it **cannot be considered as "Export of Goods"**.

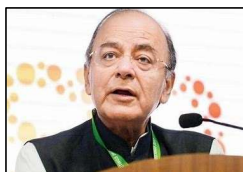
- Wef 1st Feb 2019, Such Third Party Shipments are classified as **"NON TAXABLE SUPPLIES" – SCHEDULE III SUPPLY.**

- Hence Synthite Industries Ltd shall **not be liable to pay IGST on Import of Goods** of Rs 9 Lakhs.
- Also Co. shall **not be liable to pay IGST on Goods sold of Rs 10 Lakhs to U.S. Buyer.**

AAR – B M Industries (AAR – Haryana).



- B M Industries seeks Advance Ruling **whether GST shall be applicable for transfer of “Fixed Assets”, “Current Assets” and “Loans” without consideration to Pvt Ltd Co?**
- Also whether B M Industries can transfer **“UNUTILISED INPUT TAX CREDIT” of Rs 10 Lakhs lying in “ELECTRONIC CREDIT LEDGER” TO PRIVATE LIMITED CO?**

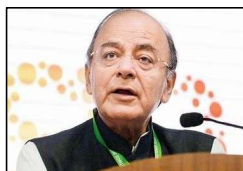


AAR

- As per section 7 of CGST Act, Supply includes sale, services, transfer, barter, exchange, license, rental, lease, disposal made or agreed to be made for a consideration.
- Hence such **transfer of Assets and Liabilities** shall be **considered as “SUPPLY”**.
- Transfer of Business as a **Going Concern** as a whole or in Independent part **is Exempt** under GST Law as per Notification No 12/2017.
- Hence **GST shall not be applicable on transfer of Assets and Liabilities to Private Limited Company.**

B M INDUSTRIES

Proprietorship Firm



AAR

- Also as per Section 18 (3) of CGST Act, 2017, Merging Entity or Amalgamating Entity may transfer **“UNUTILISED INPUT TAX CREDIT”** to MERGED ENTITY OR AMALAGAMATED COMPANY.
- **B M Industries shall be required to file “ITC – 02” for transfer of Input Tax Credit to Pvt Ltd Co.**
- **C.A. or Cost Accountant Certificate shall be required if ITC is above Rs 2 Lakhs.**



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B M INDUSTRIES

Proprietorship Firm

AAR – Sadashiv Anajee Shete (AAR – Maharashtra)

E-COMMERCE
PORTAL



Income earned by any person through performance of **religious ceremonies, puja, religious pilgrimage** are exempt from GST.

- Sadashiv Anajee Shete made an **“E-Commerce Portal”**.
- Any customers seeking **“Religious Pandits”, Religious Gurus for any festival, occasion or even for crematorium (death) may find such gurus and pandits at such “E-Commerce Portal”**.
- Customers shall pay Rs 1800 directly to “Pandits or Gurus” etc.
- **Customer shall pay Rs 200 to E-Commerce Portal as Commission Income.**
- **Mr. Sadashiv also recovers Rs 50 from such Pandits or Gurus.**
- Sadashiv Anajee Shete seeks “Advance Ruling” **whether GST shall be applicable on Income earned by “E-Commerce Portal” from Customers and also from Pandits?**
- **As per Mr. Sadashiv, he is indirectly supplying religious services and hence GST shall not be applicable.**



AAR

- In given case, Mr. Sadashiv is **facilitating in making available Pandits/Brahmins for the conducts of puja** or Abhishek through such persons who are in his touch and are ready to be available at his request.
- The **puja** or Abhishek are actually **performed by the Pandits/Brahmins** on the desired location of customers.
- All the **religious functions are carried out by Pandits** on their own once he informs the details of the persons the and place where the service is to be performed.
- **Mr. Sadashiv is not a persons who actually perform the service like puja / Abhishek.**
- He is **facilitator between the pundits and customers**. He is **acting as an agent to coordinate** between the person who wants services of conduct of religious ceremony like puja, abhishek from the pundits who are actually performing.
- We find that the **pundits are not a employee** of the applicant.



- Mr. Sadashiv shall be liable to collect and pay GST on **“Commission earned from Customers of Rs 200”**
- Also Mr. Sadashiv shall be liable to collect and pay GST on **“Commission earned from Pandits / Brahmins of Rs 50”**.

AAR – Jabalpur Entertainment Complexes Pvt Ltd (AAR – Madhya Pradesh).



APPLICANT



Applicant seeks “Advance Ruling **what shall be GST Rate for Food**, soft drinks, and snacks sold in the Snack Bar & Food Court?”

Applicant seeks “Advance Ruling **whether it shall be eligible for Input Tax Credit for GST paid on Projector Rental, Movie Distribution**, Other



Pays 40% of Ticket Revenue to Movie Distributor

Say Rs 20 Lakhs + 3.6 Lakh GST

Pays Rental to Projector owner

Say Rs 5 Lakhs + 90K GST



Applicant seeks “Advance Ruling **whether it shall be eligible for Input Tax Credit for GST paid on AMC for maintenance of Wash Rooms & Walls**.”



Contract of Rs 10L + 1.8 Lakhs GST



Contract of Rs 50L + 9 Lakhs GST

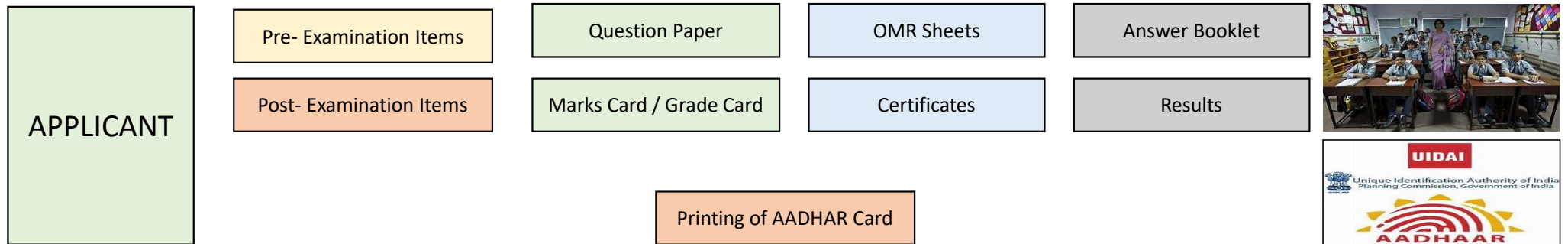
AMC
CONTRACTOR



AAR

- AAR held that GST Rate for Food, Soft Drinks and snacks **shall be 5%**. (Without availing Input Tax Credit on purchase).
- AAR held that Mall is collecting **GST @ 12% on sale of movie tickets**.
- Hence **GST paid for any expenses incurred in relation to movie shall be eligible credit**.
- Hence GST paid of Rs **3.6 Lakhs to movie distributor shall be eligible Input Tax Credit**.
- Similarly **GST paid of Rs 90K for Project Rental shall be eligible Input Tax Credit**.
- For ITC in relation to wash rooms and walls, AAR held that such **ITC are in relation to “WORKS CONTRACT SERVICES”**.
- Hence **ITC of Rs 1.8 Lakhs on AMC of Washroom and ITC of Rs 9 Lakhs on Walls shall be disallowed U/s 17(5) of CGST Act 2017 IF CAPITALISED**.
- If they are expensed **out in Profit and Loss Account than such Input Tax Credit shall be eligible**.

AAR – K L Hi Tech Secure Print Ltd (AAR – Telangana).



- Applicant is providing **pre & post examination** services to educational institute.
- Applicant is also providing **services of printing** of Aadhar Card to UIDAI.

- Applicant seeks “Advance Ruling” **what shall be GST Rate for examination services provided to “Educational Institute”? (CONSIDERATION - Rs 18 Lakhs)**
- He also seeks “Advance Ruling” **what shall be GST Rate for services provided to “UIDAI”? (CONSIDERATION - Rs 3 Lakhs)**

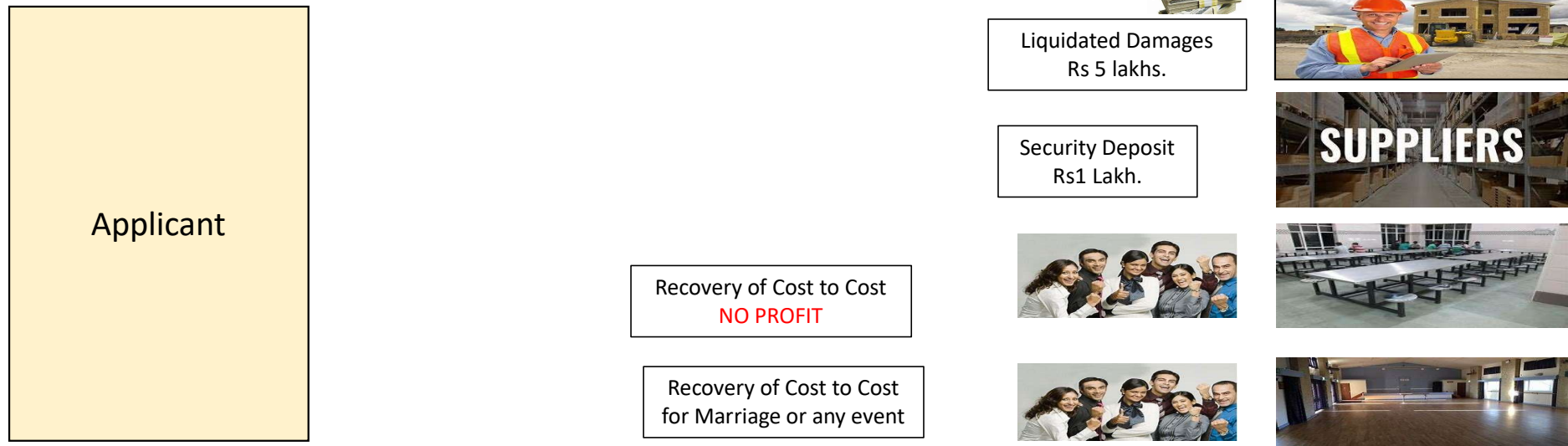


AAR

- As per “Notification No 12/2017”, Services provided to “Educational Institute” for conduct of an Examinations are **EXEMPT under GST**.
- **Conduct of Examination includes Pre as well as Post Examination fees.**
- **Hence GST shall not be applicable on consideration of Rs 10 Lakhs recovered from educational institute.**

- As per “Notification No 11/2017”, Services provided to “UIDAI” for printing of Aadhar Card are **taxable @ 12% under GST**.
- **Hence Applicant shall recover GST @ 12% for Aadhar Card Services to UIDAI.**

Advance Ruling – General Manager Defense Ordnance Factory Bhandara. (ΔΔR – Maharashtra).



- Applicant had given a contract to contractor.
- Contractor could not complete the contract in time, hence as per terms of contract, **Applicant recovered Rs 5 Lakhs as Liquidated Damages.**
- **Whether GST shall be applicable on Rs 5 Lakhs?**



- Applicant used to collect **“Security Deposit”** from Suppliers before obtaining services from them.
- **Applicant forfeited Rs 1 Lakh of Security Deposit as suppliers could not meet obligations.**
- **Whether GST shall be applicable on Rs 1 Lakh?**



- Applicant used to collect **“Canteen Fees”** from Employees for food and snacks.
- **It is collected on Cost to Cost basis ie No Profit element.**
- **Whether GST shall be applicable?**



- Applicant had Community hall which they are providing on **Rental Basis to employees for marriage** or any event.
- **Again it is recovering only on Cost to Cost basis ie No Profit element.**
- **Whether GST shall be applicable?**



Entity Registered under 12AA
of Income Tax Act

Consideration against religious
services are “**EXEMPT**” for



Consideration Charged for Supplying
Religious Services like **puja, aarti, abhisekh.**

Consideration charged for Renting of
Residential Rooms upto Rs 1,000 per day

Consideration charged for Supplying Services
by way of **Lectures**

Consideration charged for
Supply of **Prasad**



Consideration charged for
Renting of **Community halls**
upto Rs 10,000 per day



Consideration charged for
Renting of **Commercial**
upto Rs 10,000 per day



Advance Ruling – Sri Malai Mahadeshwara Swamy Kshethra Development Authority.



Advance Ruling – Sri Malai Mahadeshwara Swamy Kshethra Development Authority.

Applicant



- Applicant is selling Ladoos and prasad to devotees.
- Range of such ladoos is from Rs 5 to Rs 100.
- Applicant wants to know whether it is required to collect GST on Sale of Ladoos?



Microsoft
Point Prese

- Applicant is selling Cloth Bag also to devotees.
- Range of such cloth bag is Rs 20.
- Applicant wants to know whether it is required to collect GST on Sale of Cloth Bag for Rs 20?

- Applicant have given tenders for collection of vehicle entry fees.
- Mr. A won it and paid Rs 56,08,077 to Applicant and obtained right to collect vehicle entry fees from customers.
- Applicant wants to know whether GST is applicable on sale of rights of vehicle entry fees or not?



Microsoft
Point Preser

- Applicant is selling rights for tonsuring heads of the devotees.
- Applicant sold such rights to Mr. B for Rs 60 lakhs.
- Applicant wants to know whether it is required to collect GST on Rights sold in relation to tonsuring heads?

- Applicant is collecting consideration from devotees of Rs 100 for attending "RELIGIOUS LECTURE".
- Applicant wants to know whether it is required to collect GST on Rights sold in relation to "RELIGIOUS LECTURES".



Presentation