

Activities of liaison office do not amount to supply of service: Karnataka AAAR

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Summary

The Karnataka Appellate Authority for Advance Ruling (AAAR) in a recent case has set aside the order of Karnataka Authority for Advance Ruling (AAR) and held that the activities of a liaison office (LO) in India of a foreign entity do not amount to supply of services and are not liable to GST. The AAAR stated that an LO is a place of business to act as a communication channel between the head office and does not undertake any commercial/trading/industrial activity. Further, the LO cannot generate any income and also cannot earn any commission/fee or any remuneration.

The HO located in Germany and the LO in India cannot be treated as separate persons but as one legal entity. Therefore, the liaison activity performed by the LO in India for the HO is in the nature of a service rendered to self. A service rendered to self cannot come within the purview of supply under GST.

Facts of the case

- The appellant¹ is an organisation incorporated in Germany and is engaged in promoting applied research and development for the benefit of industry and society.
- It has established a liaison office (LO) in India to carry out activities as permitted by the Reserve Bank of India (RBI).
- It had sought an advance ruling before the Karnataka AAR to understand whether activities carried out by the LO for the HO shall be a supply under the GST law.
- The Karnataka AAR had held that the liaison activities being undertaken by the LO in line

with the conditions specified by RBI amounts to supply².

- Aggrieved by the said order, the appellant filed the present appeal.

Karnataka AAAR's observations and ruling³

- **No generation of income by LO:** The LO cannot generate any income or engage in any commercial/trading activity. It is operating entirely on inward remittances from the HO for office maintenance in India. Such inward remittances received from HO for maintaining the office in India it cannot be termed as consideration for liaison activity.

¹ Fraunhofer- Gessellschaft Zur Forderung

² Karnataka AAR order no. KAR ADRG No. 50/2020 dated 8 October 2020

³ Karnataka AAAR order no. KAR/AAAR/04/2021 dated 22 February 2021

- **No separate legal identity:** The LO is registered with same name of the HO and does not have a separate legal identity. The LO is a geographical extension of the HO.
- **Not related parties:** The LO is not a separate entity under the law and as the LO is not a person recognised in law the question of being a related person to the HO does not arise.
- **Services rendered to self:** As the HO located in Germany and the LO in India cannot be treated as separate persons but as one legal entity, the liaison activity performed by the LO in India for the HO are in the nature of a service rendered to self. Therefore, a service rendered to self cannot come within the purview of supply under GST.
- **No supply:** Thus the AAAR held that the activities of LO does not amount to a supply of service⁴ and shall also not be covered under activities by related persons⁵.

Our comments

This is an important and welcome judgment by the Karnataka AAAR, which may set precedence in similar pending matters. The ruling may bring required relief for the MNCs operating under a similar model and thereby help to curb litigation on this account.

The ruling seems to be in line with similar rulings given by the Tamil Nadu AAR⁶ wherein it had held that LO is nothing more than an extended arm of the HO and performs no separate functions other than those specified and approved by the RBI. The Rajasthan AAR⁷ and the Maharashtra AAR⁸ had also pronounced similar rulings earlier.

Even though the advance ruling is applicable only to the applicant, the same acts as a guiding tool for other taxpayers with similar issues.

⁴ U/s 7(1)(a) of the CGST Act, 2017

⁵ Clause 2 of Schedule I of the CGST Act, 2017

⁶ Takko Holding GmbH

⁷ Habufa Meubelen B. V.

⁸ M/ Hitachi Power Europe GmbH

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