

Supply of common administrative services by HO to other units leviable to GST: Haryana AAR

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Summary

The Haryana Authority for Advance Ruling (AAR), in a recent case, has held that the services supplied by a head office to its other units/offices by way of performing activities, such as accounting, marketing support, administrative support, IT support, sales planning, training, policy formation, is leviable to GST.

Facts of the case

- The applicant¹ is engaged in manufacturing and trading of plastic houseware products. It has a head office (HO) in Gurugram, manufacturing facility in Dehradun and 6 warehouses in various states in India.
- The HO provides various business support services to these units like marketing support, administrative support, accounting, auditing, tax compliance, sales training.
- The above services are included while cross charging the expenses to other units on basis of **sales turnover ratio, number of employees, etc.** of these units. The applicant is discharging the applicable tax liability on such services by utilising input tax credit (ITC).
- In addition, certain services are distributed by input service distributor (ISD) to the recipient locations/units using prescribed distribution mechanism.
- The applicant sought an advance ruling from the Haryana AAR in respect of following issues:
 - Whether the activities carried out by the HO for the locations/offices situated in other states, i.e. to the distinct persons would be construed as supply of services between distinct persons and be leviable to GST?
 - Whether the HO would be eligible to claim ITC of tax paid on the procurement of goods/services, which are used by it in the course of supply of services to the location/offices since goods/services?
 - Whether the HO is required to be registered as an ISD for the distribution of ITC to recipient locations/offices of the tax paid on input services?

¹ Tupperware India Pvt. Ltd.

- Whether value arrived by the applicant in invoice be deemed open market value?

Haryana AAR's observations and ruling²

- **Whether activities carried out by HO for other units would be construed as supply and leviable to GST?**

The services supplied by HO to units/offices by way of performing activities that benefit other distinct person is chargeable to GST³.

- **Whether HO would be eligible to claim ITC of tax paid goods/services procured, which are used in the course of supply of services to other units?**

The ITC of GST paid on the receipt of goods or services from a third party can be availed by HO⁴.

- **Whether HO is required to be registered as ISD?**

In the present case, as the applicant intends to distribute common credit received by HO, the applicant must compulsorily obtain separate registration as an ISD⁵.

- **Whether value arrived by the applicant in invoice be deemed open market value?**

The value arrived at by the applicant with respect to provision of such services by the HO on a reasonable basis and declared in the respective invoice would be deemed to be the open market value in respect of each such invoice raised on the units⁶.

² AAR No. HAR/HAAR/R/2018-19/59 dated 28 August 2020

³ Section 7(1) of the CGST Act, 2017 readwith Section 25(4) of the CGST Act, 2017 readwith Entry No. 2 of Schedule I of the CGST Act, 2017

⁴ Section 16(1) of the CGST Act, 2017 readwith Section 2(94) of the CGST Act, 2017

⁵ Section 2(61) of the CGST Act, 2017

⁶ Rule 28 of the CGST Rules, 2017

Our comments

Most business organisations with a pan-Indian presence have similar operating models, wherein the employees at the corporate office or the head office render common group services to other units.

The Karnataka Appellate Authority for Advance Ruling (AAAR) in the case of M/s Columbia Asia Hospitals Pvt. Ltd. had held that the corporate office is providing service to its other distinct units by way of carrying out activities such as accounting, administration work. with the use of the services of the employees working in the corporate office the outcome of which benefits all the other units and such activity shall be treated as a taxable supply. The Karnataka High Court has granted a stay on the AAAR's order and the decision is awaited.

While the Karnataka AAAR did not discuss the valuation of such supply, the Haryana AAR has held that the value arrived at by the applicant with respect to the provision of such services by the HO on a reasonable basis and declared in the respective invoice would be deemed to be the open market value in respect of each such invoice raised on the units.

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