

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 96/ 2019

Dated: 27th September, 2019

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

1.	Name and address of the applicant	M/s JUNIPER NETWORKS SOLUTION PRIVATE LIMITED No.111 TO 115/4, 2 ND Floor, Elnath Building, Exora Business Park, Amane Bellandur Khane, Marathalli Sarjapur Ring Road, Bengaluru 560103
2.	GSTIN or User ID	29AAECJ1345A1ZZ
3.	Date of filing of Form GST ARA-01	15.07.2019
4.	Represented by	Sri Harsh Shah, Advocate
5.	Jurisdictional Authority - Centre	Pr Commissioner of Central tax, Bangalore East
6.	Jurisdictional Authority - State	LGSTO-015, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of 1. Rs.5,000-00 under CGST Act vide CIN RBIS19072900152588 dated 17.07.2019 2. Rs.5,000-00 under KGST Act vide CIN RBIS19072900069501 dated 09.07.2019

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s Juniper Networks Solution India Private Limited (JNSIPL), (called as the 'Applicant' hereinafter), having GSTIN number 29AAECJ1345A1ZZ, has filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 and Section 97 of the KGST Act, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST



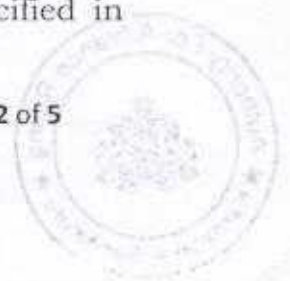
2. The Applicant is a Private Limited Company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

Whether delivery of spares by JNSIPL, Karnataka (i.e. the applicant) would constitute a supply under Schedule I of the CGST Act, 2017, by the applicant to JNSIPL, Maharashtra?

3. The applicant furnishes some facts relevant to the stated activity:

- a. The applicant states that they are engaged in import and sale of networking equipments to customers in India. The said entity is also engaged in provision of maintenance contracts (AMC) pertaining to the equipments supplied.
- b. Import and sale of equipments in India is not a subject matter of this application and therefore is not discussed hereunder. JNSIPL provides AMC services in respect of equipments supplied to the customers across India. These AMC Contracts are executed by JNSIPL, Maharashtra. Applicable GST is discharged by JNSIPL, Maharashtra on issuance of an invoice for such AMC services.
- c. The AMC supplies made by JNSIPL Maharashtra broadly comprises of equipment (i.e. Hardware) support and services. Further troubleshooting options are also made available to the customer.
- d. As one of the obligations under the AMC, JNSIPL Maharashtra is required to deliver spares to the location, as directed by the customer, when required. These spares are imported by JNSIPL, Maharashtra and supplied to JNSIPL, Karnataka on payment of GST. The same is occasioned to reduce the downtime in delivery of spares. Considering the nature of equipment, it is quintessential to make available the spares to the customers in a very short time.
- e. On receipt of the request, the spares held with the applicant are delivered to the location as directed by JNSIPL, Maharashtra's customer. No consideration is received by the applicant for the deliveries occasioned by them. An invoice for the above is issued by the applicant to JNSIPL, Maharashtra for supplies made to the customer as a Bill to Ship to document.

4. The applicant states that the term "supply" has been given under section 7 of the CGST Act, and the term "supply" has much wider ambit and includes a list of specific activities. However, it may be noted that there has to be a consideration attached to it in order to qualify a transaction as "supply". The only exception provided is for the activities are specified in Schedule I of the CGST Act.



4.1 Therefore, an activity cannot be termed a “supply” in the absence of consideration, subject to the activities specified under Schedule I of the Act. The relevant entry of Schedule I of the Act is given as under:

“Schedule I – Activities to be treated as supply even if made without consideration

Entry 2: Supply of goods or services or both between related persons or distinct persons as specified in section 25, when made in the course or furtherance of business.”

4.2 Further, Section 25(4) of the CGST Act states as under:

“A person who has obtained or is required to obtain registration in a State or Union Territory in respect of an establishment, has an establishment in another State or Union Territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.”

4.3 As observed from the above, it is understood that separate GST registrations of JNSIPL (operating in Maharashtra and Karnataka) would be treated as distinct persons for the purposes of this Act.

5. The applicant submits that any movement, sale, transfer, etc, which is undertaken between two or more related persons or persons who are distinct persons under CGST Act without consideration, would be considered as a “supply” under GST.

5.1 In the present case, there is delivery by JNSIPL, Karnataka to the customer as per the terms of the AMC entered by JNSIPL, Maharashtra. It may be noted that there is no flow of consideration from customer to JNSIPL, Karnataka, whether monetary or otherwise. The said delivery of spares is on the account of a contractual obligation between JNSIPL Maharashtra and the customer who has entered into the AMC.

Activity	Implication under the GST Legislation
Delivery of spares by JNSIPL, Karnataka to the customer	<ul style="list-style-type: none">• Transaction between two unrelated parties• Occasioned without receipt of any consideration therefore excluded from “supply” as defined under the CGST Act• Not governed under any contractual obligation between the said parties



Supply between Karnataka and Maharashtra and JNSIPL, JNSIPL,	<ul style="list-style-type: none"> • The entities of JNSIPL located in Karnataka and Maharashtra are related as per GST Legislation • Supplies between related persons made without consideration would constitute a supply as per Schedule I of the CGST Act
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6. FINDINGS & DISCUSSION:

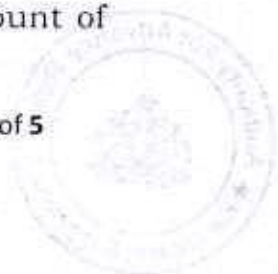
We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri.Harsh Shah, Advocate, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

6.1 The transaction of the applicant is examined and found that the contract of AMC is between the JNSIPL, Maharashtra and the ultimate consumer and the applicant is not a party to it. JNSIPL, Maharashtra is paying the taxes on these services and they shall be responsible for the delivery of the services to the consumer.

6.2 The applicant, on request for goods to execute the contractual obligation, delivers the goods from his account to the ultimate consumer and raises the invoice on JNSIPL, Maharashtra. The applicant charges IGST on the invoice as it is an interstate supply, which is deemed to be a supply even without consideration.

6.3 The delivery of spares is a bill to ship to transaction and the ultimate delivery of the spares is on the account of JNSIPL, Maharashtra to the consumer for the purpose of AMC services undertaken by JNSIPL, Maharashtra on which IGST is paid in Maharashtra, rightly so.

6.4 The supply by the applicant is not to the consumer, but to JNSIPL, Maharashtra and the delivery is to the ultimate consumer on account of JNSIPL, Maharashtra.



5. In view of the foregoing, we rule as follows

RULING

The delivery of spares by the applicant to the ultimate consumer on account of M/s JNSIPL, Maharashtra, where invoice is raised against M/s JNSIPL, Maharashtra and the goods are delivered to the ultimate consumer of M/s JNSIPL, Maharashtra, would not amount to a supply to the ultimate consumer under the GST Act. However, the supply is made to M/s JNSIPL, Maharashtra and invoice needs to be raised on them.


27.09.2019

(Harish Dharnia)
Member



(Dr. Ravi Prasad M.P.)
Member



Place, Bengaluru,
Date, 27.09.2019

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Pr. Commissioner of Central Tax, Bangalore-East
4. The Asst. Commissioner, LGSTO-015, Bengaluru
5. Office Folder