

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. V. Borhade, Joint Commissioner of State Tax
(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AABCE3886A1ZT
Legal Name of Applicant	ECOOOL GAMING SOLUTIONS PRIVATE LIMITED
Registered Address/Address provided while obtaining user id	613A WING, KOHINOOR CITY, 6TH FLOOR LBS MARG, KURLA WEST, Maharashtra, MUMBAI - 400070
Details of application	GST-ARA, Application No. 38 Dated 13.06.2018
Concerned officer	Commissionerate Mumbai East.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A	Category
B	Description (in brief)
	ECOOOL GAMING SOLUTIONS PRIVATE LIMITED acting as distributor or marketing agents of State Government of Mizoram and procure online tickets from organising state for distribution across Maharashtra through our dealers / sales terminals
Issue/s on which advance ruling required	(ii) determination of time and value of supply of Applicability of a notification issued under the provisions of this Act (v) determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by ECOOL GAMING SOLUTIONS PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following ISSUE.

1. Whether application is liable to pay IGST under section 5 (3) of IGST act, 2017.
2. Whether Serial No.5 of Notification No. 4/2017 - Integrated Tax (Rate) is applicable on supply received by the applicant.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST 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 provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".



FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

Brief Facts---

The applicant is acting as distributor or marketing agent of lottery schemes organised by the State Government of Mizoram (hereinafter referred as 'organizing state') and procure online tickets from organising state for distribution across Maharashtra. The lottery tickets are sold through a chain of dealers / sales terminals of applicant spread across Maharashtra.

Copies of the agreement made between organizing State and applicant is attached herewith and marked as Exhibit 1) The applicant is registered under GST primarily to pay GST under Reverse Charge Mechanism on supply of lottery tickets by the organising state.

There is no dispute that rate of GST prescribed on lottery tickets is 28% if lottery scheme is authorised by the State. There is no dispute that reverse charge mechanism is applicable on the supply of lottery tickets by the organizing state to distributors (like applicant).

Applicable Legal Provisions--

Sec. 5 (3) of IGST Act, 2017 (similar provision in Sec. 9 of Central GST Act & Maharashtra GST

Act also provides the following powers to appropriate government -

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

The aforesaid provision provides for powers to notify supplies under RCM and recipient became the person liable to pay GST in such cases. However, the determination of nature of supply and tax rate payable will be same as applicable to supplier.

Vide Serial No. 5 of Notification No. 4/2017 - IGST (Rate) (similar notifications issued in CGST SGST also], the following supply of Goods has been notified under RCM -

Description of Goods	Supplier of Goods	Recipient of Goods
Supply of lottery.	State Government, Union Territory or any local authority	Lottery distributor or selling agent. Explanation. For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub section 1 of Sec. 11 of the Lotteries (Regulations) Act, 1998

In accordance with above notification, the applicant is paying IGST under Reverse charge mechanism at the rate of 28% with place of supply as State of Maharashtra.

Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought).

Grounds/Interpretation Relied on by the Applicant--

Most Respectfully Submitted -

To the Hon'ble Members of Authority for Advance Rulings, Maharashtra

- That the applicant is registered under GST primarily to pay GST under reverse charge mechanism on supply of lottery tickets by the organising state as distributor or marketing agents of such organising state.
- That the supply of lottery tickets are covered under RCM under IGST Act as well as under CGST/SGST Act;
- That under the IGST Act, Government issued Notification No. 4 /2017 - IGST (Rate) and notified supply of lottery tickets as goods covered under RCM. The distributors / agent of organising state have been notified as person liable to pay IGST;**
- That in the instant case (based on agreements attached with Brief Facts given in Annexure 1 and marked as Exhibit 1) the supplier (i.e. organising state) is located outside Maharashtra;
- That in the instant case, the recipient of supply i.e. the applicant) is located in the State of Maharashtra;**
- That as per Sec. 7 (1) of IGST Act, which reads as under -
Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply

are in--

- (a) two different States;
- (b) two different Union territories; or
- (c) a State and a Union territory,

Shall be treated as a supply of goods in the course of inter-State trade or commerce

- That the place of supply is State of Maharashtra in the instant case, as determined under Sec.10 (1) (C) of IGST Act, 2017 which reads as under -

The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,--

- (a)
- (b)

(C) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;



8. That the lottery tickets are notified as goods under GST and in case of online tickets, no movement is involved, therefore, applying Sec. 10 (1) (c) above, place of supply is determined as Maharashtra i.e. place where lottery tickets are made available or delivered for distribution.
9. That, therefore the place of supplier i.e. organising state is outside Maharashtra and place of supply is in Maharashtra, the transaction ought to be treated as inter-state supply as per Sec.7(1) given in Para 6 above.
10. That therefore, IGST is payable on supply of lottery tickets by the organizing State from Outside Maharashtra to a dealer located in the State of Maharashtra.
11. That the applicant prays before Hon'ble Authority to pronounce the ruling based on the aforesaid interpretation of law and held the levy of IGST on the supply of lottery tickets involved in the instant case;
12. That any other interpretation will leave Serial No. 5 of Notification No. 4 / 2017 ibid as obsolete and useless and IGST would be never payable;
13. That the applicant craves leave to add / modify any of the above ground during the course of hearing.

03. CONTENTION - AS PER THE CONCERNED OFFICER--

The submission, as reproduced verbatim, could be seen thus-

M/s Ecool Gaming Solutions Pvt. Ltd., 37/1966, 613-A-Wing, Kohinoor City, 6th Floor, L.B.S.Marg, Kurla(West), Mumbai 400070, (here in after referred to as 'the applicant') has filed above detailed application under Sec. 97 & 98 of the Central Goods & Service Tax Act, 2017 read with Rule 104 (1) of the CGST Rules, 2017 seeking advance ruling on:

- (i) Whether applicant is liable to pay IGST under Section 5(3) of IGST Act,2017;
- (ii) Whether Serial No.5 of Notification No.4/2017 - Intergrated Tax (Rate) is applicable on supply received by the applicant.

2. M/s Ecool Gaming Solutions Pvt. Ltd., registered under GSTIN No.27AABCE3886A1ZT is engaged in acting as distributor or marketing agents of lottery schemes organised by the State Government of Mizoram (hereinafter referred to as 'organising state') and procure online tickets from organising state for distribution across Maharashtra. In Point No.15 of the application (Annexure-I), the applicants submitted that the lottery tickets are sold through a chain of dealers/sales terminals of applicant spread across Maharashtra. Further submitted that the applicant is registered under GST primarily to pay GST under Reverse Charge Mechanism on supply of lottery tickets by the organising state and the rate of GST prescribed on lottery tickets is 28% if lottery scheme is authorised by the State and submitted that there is no dispute that reverse charge mechanism is applicable on the supply of lottery tickets by the organising state to distributors (like applicant) and mentioned/discussed Sec.5(3) of IGST,2017 and Serial No.5 of Notification No.4/2017-IGST(Rate).

3. The basic issue to be decided in the application is whether

- (i) Whether applicant is liable to pay IGST under Section 5(3) of IGST Act,2017;
- (ii) Whether Serial No.5 of Notification No.4/2017 - Intergrated Tax (Rate) is applicable on supply received by the applicant.

The applicant in Point No.15 of the application, have stated that the relevant provisions viz. Section 5(3) of IGST Act,2017 and Serial No.5 of Notification No.4/2017-IGST(Rate) dated 28.06.2017 under which the applicant is paying IGST under Reverse Charge mechanism at the rate of 28% with place of supply as State of Maharashtra.

However, in Point No.16 (Annexure-II) serial No.10, the applicant has **wrongly interpreted** that the IGST is payable on supply of lottery tickets by the organizing state from outside Maharashtra to a dealer located in the State of Maharashtra. **The applicant's interpretation that Serial No.5 of Notification No.4/2017 - Intergrated Tax (Rate) ibid will be obsolete and useless and IGST would be never payable, is completely wrong and without any logic.** IGST is payable correctly on supply of lottery tickets under Section 5(3) of IGST Act,2017 (the charging section) read with Serial No.5 of Notification No.4/2017-IGST(Rate) dated 28.06.2017 under reverse charge mechanism by the applicant and not by the organising state viz. State of Mizoram.

PRAYER--

- Considering the facts discussed in foregoing paragraphs, the question framed by the applicant in Point No.14,
- (i) whether applicant is liable to pay IGST under Section 5(3) of IGST Act,2017, the answer is "Yes".
 - (ii) whether Serial No.5 of Notification No.4/2017 - Intergrated Tax (Rate) is applicable on supply received by the applicant, the answer is "Yes".

04. HEARING

The case was taken up for Preliminary hearing on dt. 17.07.2018 when Sh. Mahesh Bhattar, consultant along with Sh. Mahadev Batwalkar, Sr. Manager Taxation appeared and requested for admission of application as per contentions in their ARA. Jurisdictional Officer, Sh. Shashikant Deshmukh Supdt., Mumbai East Commissionerate appeared and made written submissions .

The application was admitted and called for final hearing on 07.08.2018, Sh. Mahesh Bhattar, consultant along with Sh. Mahadev Batwalkar, Sr. Manager Taxation appeared and made oral and written submissions. Jurisdictional Officer, Sh. Manoj Kumar Inspector Mumbai East Commissionerate appeared and stated that they have already made written submissions.

05. OBSERVATIONS

We have gone through the facts of the case. We find that:

1) The applicant is registered person under GST ACT. As per the agreement made between organizing State and applicant ,he is acting as distributor or marketing agents of lottery schemes organised by the *State Government of Mizoram (hereinafter referred as 'organizing state')* and *procures online tickets from organising state for distribution across Maharashtra. The lottery tickets are sold through a chain of dealers / sales terminals of applicant spread across Maharashtra.*

2) We find that the applicant is paying GST under Reverse Charge Mechanism (hereinafter referred as RCM) on supply of lottery tickets by the organising state. He is having no dispute that rate of GST prescribed on lottery tickets by way of RCM is 28% if lottery scheme is authorised by the State.

3).We find that the applicant has raised the following questions before the advance ruling authority:

- i. Whether applicant is liable to pay IGST under section 5 (3) of IGST act, 2017.
- ii. Whether Serial No.5 of Notification No. 4/2017 - Integrated Tax (Rate) is applicable on supply received by the applicant.

4) We find that Section 5(3) of the IGST Act reads as under:-

Section 5(3) -The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

5) The above position would be very clear from the facts of the case which are reiterated as under:-

In the present case, applicant is recipient of supply in the form of lottery and is located in Maharashtra. The supplier of lottery is the *State Government of Mizoram* which is located outside State .Therefore as per the provisions of Section 7(1) of the IGST Act, the transaction shall be treated as a supply of goods in the course of "interstate" trade or commerce.

In view of Section 5(3) of the IGST Act, we find that Notification No. 4/2017Integrated Tax (Rate) dated 28.06.2017 has been issued which provides the description of goods in respect of which Integrated Tax shall be paid on Reverse Charge basis by the recipient of the Inter-State supply of such goods.

We find the 'Lottery' is covered under this Notification which is as under:-

Sr. no	Tariff item ,sub heading or chapter	Descript ion of Goods	Supplier of Goods	Recipient of Goods
5	--	Supply of lottery.	State Government, Union Territory or any local authority	Lottery distributor or selling agent. Explanation. For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub section 1 of Sec. 11 of the Lotteries (Regulations) Act, 1998

In the present case, we clearly find that the supplier of Lottery in the present case is the State Government of Mizoram and the recipient of supply i.e. Lottery distributor or Agent, is the applicant in the present case who is located in Maharashtra and therefore the applicant is liable to payment of IGST under Reverse Charge mechanism as per the provisions and Notification referred above.

05. In view of all above deliberations, the questions can be answered thus -

ORDER

(under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 38/2018-19/B- 11) Mumbai, dt. 10.09.2018

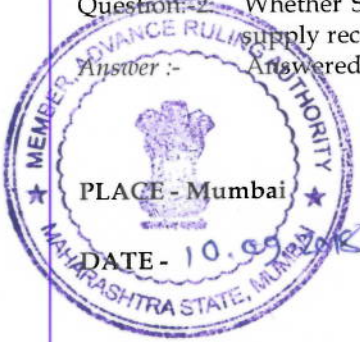
For reasons as discussed in the body of the order, the questions are answered thus -

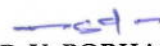
Question :-1. Whether applicant is liable to pay IGST under section 5 (3) of IGST Act, 2017.


Answer :- Answered in affirmative.

Question :-2. Whether Serial No.5 of Notification No. 4/2017 - Integrated Tax (Rate) is applicable on supply received by the applicant.

Answer :- Answered in affirmative.




B. V. BORHADE
(MEMBER)


PANKAJ KUMAR
(MEMBER)

CERTIFIED TRUE COPY

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Jt. Commissioner of S.T., Mahavikas, Mumbai for website.


MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai - 400021