

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY
PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6**

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, IRS Joint Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise,
Chennai-34.
2. Thiru S. Vijayakumar, M.Sc., Joint Commissioner (CT)/Member(FAC),
Office of the Joint Commissioner(ST), Enforcement
Inter-State Investigation Cell, Chennai-6

ORDER No.14/AAR/2018 DATED:27.09.2018

GSTIN Number, if any / User id		Unregistered
Legal Name of Applicant		M/s Takko Holding GmbH
Registered Address/Address provided while obtaining user id		1/1 J-16, Thannerpandal Colony, Avinashi Road, Annuparpalayam, Tirupur, Tamil Nadu-641652
Details of Application		GST-ARA-01 Application Sl. No. 11 Dated:23.03.2018
Concerned Officer		State: The Assistant Commissioner (ST) Thiruppur(Rural) Assessment Circle, Commercial Taxes Building, 3 rd Floor, Tirupur Kumaran Road, Tirupur – 641 601. Centre: Coimbatore Division
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Liaison office
B	Description (in Brief)	Working as liaison office - Acting as communication channel between the parent company and Indian companies
Issue/s on which advance ruling required		Determination of liability to pay tax on any services
Question(s) on which advance ruling is required		1. Whether liaison office is liable to pay GST? 2. Whether a liaison office is required to be registered under GST Act? 3. Whether the Activities of a liaison office amount to supply of services?

Note : Any appeal against the advance ruling order shall be filed before the Tamilnadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

Takko Holding GmbH is a company incorporated in Germany. They are permitted by RBI to have a Liaison Office of the company at 1/1 J-16, Thannerpandal Colony, Avinashi Road, Anupparpalayam, Tirupur-641652 (hereinafter referred to as 'Takko' or the 'Applicant') under certain conditions. Takko is not registered under GST.

The applicant have submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/-each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

They have sought advance ruling on the following :

1. Whether liaison office is liable to pay GST?
2. Whether a liaison office is required to be registered under GST Act?
3. Whether the Activities of a liaison office amount to supply of services?

2.1 The facts of the case is that RBI upon certain terms and conditions has permitted Takko to conduct the following activities:

1. Representing in India the parent company / group companies
2. Promoting export import from / to India

3. Promoting technical / financial collaborations between parent / group companies and companies in India
4. Acting as communication channel between the parent company and Indian companies (supplier of goods to parent company at Germany)

Out of the above activities allowed, Takko is performing only one activity - Acting as communication channel between the parent company located outside India and Indian companies. Except the proposed liaison work, the office in India, not to undertake any activity of trading, commercial or industrial nature nor they enter into any business contract in their own name without prior permission. No commission / fees be charged or any other remuneration received / income earned by the office in India for the liaison activities / services rendered by it or otherwise in India.

2.2 The activities of Takko are:

1. Order enquiries are received from German office and sent to the supplier in India for their price quote;
2. Prices are collected from various suppliers, and informed to German office;
3. German office confirms the order for the supplier with lowest price quote deliver terms;
4. The order production process are followed by Merchandising Department (collecting data for each stage of the progress till the execution of order) and communicated to German office;
5. The Quality Department audits / monitors the quality parameters of the merchandise on continuous basis until the final inspection of the merchandise & shipment and communicates with the Supplier and the German office;
6. The Shipping Department coordinates with German office and supplier for opening of Letter of Credit in the supplier's name, submission of document for booking space with the shipping company and send the final documents to German office through the respective supplier after effecting the shipment;
7. Admin Department coordinates for the overall administration of Takko;

8. All the administrative expenses are met by the German office. (I.e. as per RBI instruction in their approval; the entire expenses of the office in India is met exclusively out of the funds received from abroad through normal banking channels).

2.3 They have stated that under GST supply includes all forms of supply made for a consideration by a person in course or furtherance of business. For activity of Liaison office, no consideration is being received. The Liaison office is maintained by inward remittances from German office to meet expenses. Hence, activities are not a supply. It will not come under Sl. No. 2 of Schedule I as services without consideration from related persons or distinct persons as German Office and Liaison Office are not related person as there is only one legal entity and no relationship can be established. They are not a distinct person under Section 25 as distinct persons have establishments in more than one state or Union Territory. As per RBI terms and conditions, they are not engaged in any business or furtherance of business as they are only acting as communication channel between German office and Indian exporters. They are not permitted to obtain IE Code, raise invoice on German office and hence are not required to take registration under GST.

3.1 The Applicant was heard in person on 16.05.2018 and 21.06.2018. They have stated that the Holding company procures Readymade garments based on designs given by them to manufacturers in Tirupur ; they do not have any financial transactions with such suppliers or sister firms around the world; the expenses of administration are paid by Germany office routed through Liaison Office by bank under intimation to RBI; the Germany office alone identifies the Indian Supplier; there are no furtherance of business, no consideration and no supply as per GST; there are no foreign consultants of the liaison office. Takko further furnished documents relating to the details of order placement, procurement, quality checking activities along with documentary support; sample Invoice for order placed with the manufacturer; RBI Permission letter; Statement of Accounts & Income-Tax Returns, Inward Remittance

Report and sample invoices for the expenditure, appointment letter and Payment document of any one employee, detailed write-up of activities.

3.2 All documents submitted by the applicant were examined. It is seen that RBI has permitted M/s Takko Holding GmbH, Germany to establish a Liaison Office in Tirupur, Tamil Nadu as they are engaged in trading of clothing & textiles and operates clothes shops and markets. The Liaison office has been permitted to undertake only the limited set of activities as listed in para 2.1 above. No other activities are permitted and no consideration shall be charged for the liaison activities or any other activities in India. Liaison Office cannot render any consultancy or any services directly /indirectly with / without consideration. All expenses of the office are to be met only out of funds received from abroad. This is substantiated by the Statement of accounts, Annual Statement Form 49C filed under Income Tax Act, Bank Inward Remittance advice submitted by the Applicant. It is seen from the screenshots of online software supplied by the Applicant that all communication for the various liaison activities are undertaken through electronic means. The activities undertaken by the applicant include communicating to suppliers in India the order enquires received from German office, communicating to German office price quotes received, collecting order sheets and communicating to the concerned supplier. The applicant also coordinates with the supplier on daily basis for producing the readymade garments as per the order sheet received in terms of the design, sampling, quality assurance checks, and audit after production. They also coordinate with the supplier for shipping the goods. The purchase orders for procurement of readymade garments are raised only by the German office on the suppliers in India and Letter of Credit is opened by the German office to the supplier's Bank who raises invoices on the German Office and exports the goods. Takko do not receive any consideration from the Indian exporters.

4.1 The advance ruling is sought on

1. Whether liaison office is liable to pay GST?
2. Whether a liaison office is required to be registered under GST Act?
3. Whether the Activities of a liaison office amount to supply of services?

The above questions may be answered by first clarifying whether the liaison activities undertaken by the applicant amounts to a supply and then whether it is a taxable supply and whether the applicant should take registration under CGST /SGST Act.

4.2 In the case at hand, Takko are working as the liaison Office of M/s. Takko Holding GmbH, Germany with the prior permission of RBI. Liaison Activities include acting as communication channel between the parent company and Indian supplier of goods to parent company at Germany in terms of the procurement, order placement, quality checks, and technical support shipping of the Readymade garments. Takko is not receiving any consideration for this from the suppliers. Except this liaison work, this office in India would not undertake any activity of trading, commercial or industrial nature nor would they enter into any business contracts in its own name without RBIs prior permission. 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. The HO, 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.

4.3 In order to be a supply liable to GST, an activity has to fall under Section 7 of the CGST Act, 2017 which reads as under:

7. (1) for the purposes of this Act. The expression "supply"

includes—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business:

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) The activities to be treated as supply of goods or supply of services as referred to in Schedule II.

From the submissions made by the applicant as discussed in above paras, it is seen that the applicant/liaison office is working as per the terms and conditions stipulated by RBI and the reimbursement of expenses & salary of employees is paid by M/s Takko Holding GmbH to the liaison office. No consideration for any activity is being charged by the liaison office and the liaison office does not have any business activities of its own as specified by RBI conditions.

Further, Schedule I of CGST Act specifies that supply of services between related parties or distinct persons as per Section 25, even without consideration, constitute a supply. Takko 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. Accordingly, none of the liaison activities of Takko is covered under the definition of supply. Hence, Takko would not be a supplier under CGST /SGST Act and hence is not required to obtain registration under Section 22 of CGST /SGST Act or pay CGST, SGST or IGST as applicable.

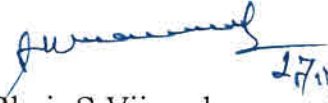
5. In view of the foregoing, we rule as under:

RULING

1. 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.
2. In view of Ruling at 1 above, the Applicant is not liable to pay CGST, SGST or IGST, as applicable.

3. In view of Ruling at 1 above, the Applicant is not required to get itself Registered under GST for the liaison activities.


Ms. Manasa Gangotri Kata, IRS
Member, CGST


Shri. S. Vijayakumar, M.Sc.,
Member (FAC), TNGST

6.
To

M/s. Takko Holding GmbH,
1/1 J-16, Thannerpandal Colony,
Avinashi Road, Anupparpalayam,
Tirupur-641652

/By SPAD/



Copy Submitted to:

1. The Additional Chief Secretary / Commissioner of Commercial Taxes, II Floor, Ezhilagam, Chepauk, Chennai-600 005.
2. The Principal Chief Commissioner of GST & Central Excise, No 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

Copy to:

3. The Assistant Commissioner (ST) Thiruppur (Rural) Assessment Circle, Commercial Taxes Building, 3rd Floor, Tirupur Kumaran Road, Tirupur - 641 601.
4. The Commissioner of GST & C.Ex., Chennai South Commissionerate,
5. Master File/ Spare-2.