



**BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING**

**for the State of Andhra Pradesh (Goods and Service Tax)**

(Office at O/o Chief Commissioner of State Tax, Govt. of A.P., D No 5-56, Block-B,  
R.K. Spring Valley Apartment, Bandar Road, Edupugallu, Vijayawada, A.P – 521151)

**Present:**

**Sri PEEYUSH KUMAR, (Member) (State Tax)**

**Sri NARESH PENUMAKA, (Member) (Central Tax)**

The 31<sup>st</sup> day of August, 2020

Order /AAAR/AP/ 02(GST)/2020

In

Application No. AAAR/02(GST)/2020

|   |                                       |  |
|---|---------------------------------------|--|
| 1 | Name and address of the appellant     | M/s DKV Enterprises Private Limited,<br>Flat No.A3, 7-8-10/2, Crystal due<br>Apartment, Opp: Harbour Park,<br>Pandurangapuram,<br>Visakhapatnam-530003,<br>Andhra Pradesh. |
| 2 | GSTIN                                 | 37AACCD0179J1ZL  |
| 3 | Date of filing of Form GST<br>ARA-02  | 26.05.2020.  |
| 4 | Date of Hearing (Video<br>Conference) | 16.06.2020.  |
| 5 | Authorized Representative             | Sri KVJLN Sastry, Advocate.  |
| 6 | Jurisdictional Authority –<br>State   | Assistant Commissioner (ST),<br>China Waltair Circle, Visakhapatnam<br>Division.   |

**ORDER**

M/s. DKV Enterprises Private Limited, Pandurangapuram, Visakhapatnam (hereinafter referred to as appellant) registered under GST Act, had filed an application before the Appellate Authority for Advance Ruling in ARA-02 dated 05.05.2020, contending the Ruling passed by the Authority for Advance Ruling, A.P vide Ruling AAR NO. 04/AP/GST/2020, dated: 24.02.2020. As per sub section 2 of section 100 of APGST Act 2017/CGST Act 2017, the appeal shall be filed within a period of 30 days from the date on which the ruling sought to be appealed against is communicated to the applicant. The appellant requested for the condonation of delay citing the special circumstances that led to lockdown due to Covid-19. The appeal is considered and the delay is condoned by this authority in exercise of the powers contained in proviso to subsection 2 of Section 100 of the Central Goods and Services Tax Act 2017 and the Andhra Pradesh Goods and Services Tax Act 2017, and the appeal is admitted.

## **1. Brief History of the Case:**

The appellant i.e., M/s. DKV Enterprises Private Limited, filed an application in Form GST ARA-02 dated 05.05.2020 before the Appellate Authority for Advance Ruling, Andhra Pradesh seeking clarification against Ruling AAR NO. 04/AP/GST/2020, dated: 24.02.2020.

M/s. DKV Enterprises Private Limited, Visakhapatnam is an authorized non-exclusive consultant for Grace products (Singapore) Pte Limited for the sale of fluid cracking catalyst and additives. Grace Division is a business unit of W.R.Grace(Singapore) Pte. Ltd., a Singapore corporation (hereafter 'Grace', with its principal place of business at 501 orchard Road, #07-02 Wheelock place, Singapore 238880 and it engaged DKV Enterprises Pvt Ltd as it's authorized non-exclusive consultant for sale of it's products to the HPCL Visakha Refinery, the CPCL Chennai Refinery and the IOCL Barauni Refinery (herein after the "Territory") reserving unto itself and its affiliates the right to sell the products directly in the territory or through other consultants and distributors.

Query raised by the applicant in ARA-01:

The question whether consultancy services provided to Overseas client is export or not.

The AAR ruled that the services in question are not 'Export of Service' but 'Intermediary Services' for the reasons explained, and attract IGST.

Aggrieved by the Ruling of the Authority for Advance Ruling, the appellant filed an application before the Appellate Authority for Advance Ruling in ARA-02 dated 05.05.2020, contending the Ruling passed by the Authority for Advance Ruling, A.P vide Ruling AAR NO. 04/AP/GST/2020, dated: 24.02.2020 and pleaded this authority to clarify whether consultancy services provided to Overseas client is export or not.

## **2. Personal Hearing:**

The case was taken up for hearing on 16<sup>th</sup> June 2020, for which the authorized representative Sri KVJLN Sastry, Advocate attended through web conference and reiterated the written submission. The appellant submits that the Advance Ruling authority has misinterpreted the nature of service and came to conclusion that the service provided by the applicant is not an export.

Moreover a request was made by the appellant to remand back the case to its original authority in light of the recent developments in the subject case, referring to a judgment in case of IBM India Pvt Ltd. V.s Commissioner of Central Excise & State Taxes., Bangalore-LTU, reported in 34 GSTL page 436. Consequent upon the request of the appellant, this authority remanded the case back to its original Authority to examine afresh and dispose accordingly.



**Order:**

In view of the foregoing, the case is remanded to it's original authority.

Sd/-Peeyush Kumar  
Chief Commissioner (State Tax)  
Member

Sd/-Naresh Penumaka  
Chief Commissioner (Central Tax)  
Member

//t.c.f.b.o//



Deputy Commissioner (ST)

**DEPUTY COMMISSIONER (ST)**  
C.O. Chief Commissioner of State Tax,  
Government of A.P., Vijayawada

**To:**

- 1) M/s DKV Enterprises Private Limited, Flat No.A3, 7-8-10/2, Crystal Due Apartment, Opp: Harbour Park, Pandurangapuram, Visakhapatnam-530003, **(By Registered Post)**

**Copy to:**

1. The Authority for Advance Ruling, A.P O/o the Chief Commissioner(ST), Edupugallu, Vijayawada
2. The Assistant Commissioner of State Tax, China Waltair Circle, Visakhapatnam Division. **(By Registered Post)**
3. The Superintendent, Siripuram Range, Visakhapatnam North (CGST) Division **(By Registered Post)**
4. Stock file / spare copy

**Copy submitted to**

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada.
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. **(A.P) (By Registered Post)**

8/16/09/2020  
**DESPATCHED**