



**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, Bunder Road, Edupugallu, Vijayawada,
Andhra Pradesh – 521151)

Present:

Sri PEEYUSH KUMAR (Member) (State Tax)

Sri NARESH PENUMAKA (Member) (Central Tax)

The 21st day of September, 2020

Order /AAAR/AP/03 (GST)/2020

1	Name and address of the appellant	M/s.Ushabala Chits Private Limited, 25-2-12-2, UshaBala Complex, John Street, Narasimha Rao Pet, Eluru-534006, Andhra Pradesh.
2	GSTIN	37AAACU3570G1ZC
3	Date of filing of Form GST ARA-02	24.06.2020
4	Date of Personal Hearing	17.09.2020
5	Authorized Representative	Sri R.Narasimha Murthy
6	Jurisdictional Authority – State	Assistant Commissioner (ST), Eluru Circle, Eluru Division.

(Under Section 101 of the Central Goods and Service Tax Act and the Andhra Pradesh Goods and Service Tax ACT).

At the outset, we would like to make it clear that the provisions of both the CGST Act and the APGST 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 APGST Act.

The present appeal has been filed under Section 100 of the Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and APGST Act”] by M/s.Ushabala Chits Private Limited (herein after referred to as the “Appellant”) against the Advance Ruling No. AAR No.13/AP/GST/2020 dated 05.05.2020 issued by the Authority for Advance Ruling, Andhra Pradesh.

1. Brief Facts of the Case:

The appellant is a company engaged in conducting chit auctions. The foreman is responsible for registering the members, collection of money from the members, conduct of auctions and other related matters. The applicant is collecting the foreman

commission @5% from the amount to be distributed to the member taking the prize money. The GST paid on the foreman commission is @12%. If the subscribers fail to deposit subscriptions by the specified date, appellant charges interest/penalty and it is dependent upon the period of delay from specified date to actual date of payment.

Under the GST law, the Appellant is of the view that penalty/interest collected from the defaulting subscribers cannot be treated as supply and therefore, the same is not subjected to GST levy.

The Appellant had filed an application for Advance Ruling before the Authority for Advance Ruling on 06.01.2020 on the following questions:

- 1) Whether the interest/penalty collected for delay in payment of monthly subscription by the members forms a supply under GST?
- 2) If the said interest/penalty is a supply, what is the classification and rate of duty applicable on the said supply?

The Authority for Advance Ruling Andhra Pradesh in its orders in **AAR No. 13/AP/GST/2020 dated 05.05.2020** held:

1. The interest/Penalty collected for delay in payment of monthly subscription by the members is a supply under the GST.
2. The said Interest/Penalty is classified under Sl. No 15 of Heading 9971 Financial and related services, GST @12% as per Notification No 8/2017-Integrated Tax (Rate) dated, the 28th June, 2017 as amended from time to time.

Aggrieved by the impugned order dated 05.05.2020, the appellant has filed the present appeal, on the following grounds.

3. Grounds of Appeal:

- a)** The appellant submits that in terms of Chit Fund Act, 1982 and Andhra Pradesh Chit Fund Rules, 2008, the foreman can collect interest not exceeding 18% per annum on the subscription amount paid belatedly by the subscriber. The Appellant is following the said provisions and is collecting the interest in the name of penalty, which is merely for delay in payment of subscription amount.
- b)** In terms of Sl.no.6 to Schedule III to APGST Act, 2017, actionable claims are neither supply of goods nor supply of services. Since the prize money being paid to the winning subscriber is actionable claim, it is not a supply within the meaning of APGST Act, 2017. Even the Notification No.11/2017-CT(Rate) dated 28.06.2017 prescribes GST on the foreman commission and not on chit amount, being actionable claim. It is further submitted that interest on deposits is exempt from GST net in terms of Sl.No.27 of the Notification No.11/2017-CT(Rate) dated 28-6-2017.

- c)** The applicant submits that in terms of Section 15(2)(d) of the APGST Act, 2017, the value of supply includes interest or late payment or penalty for delayed payment of any consideration. Therefore, the interest, penalty or late fee are considered as part and parcel of the consideration towards the execution of activity. Accordingly, the interest/penalty collected for delay in payment of subscription charges would be treated as a part of subscription charges, which are not chargeable to GST.
- d)** Further attention is invited to the Circular No.102/21/2019-GST dated 28.06.2019 issued by the CBIC, wherein it was clarified that in cases involving interest or penal interest on delayed payment of EMI are not leviable to GST as the said amount is treated as part of Actionable Claim and being interest on deposit, extended in terms of Notification No.12/2017-CT(Rate) supra.
- e)** The consideration towards the foreman services is represented by 5% of the prize money on which the applicant is already discharging GST liability.
- f)** In view of the above, the interest/penalty collected for delay in payment of subscription amount is treated as neither supply of goods nor supply of services and cannot be levied to GST.
- g)** However, the Advance Ruling authority misrepresented the facts by referring to the subscription amount cannot carry interest ignoring the fact that there is a legal interest provision in terms of Chit Fund Act, 1982 and AP Chit Fund Rules, 2008 and thus, the appellant has collected interest as provided under law. Hence, the penalty is nothing but interest and there is no provision under Chit Fund Act, 1982 to collect penalty, but only interest.
- h)** There is absolutely no analogy of chit amount with railway ticket, which is an amount paid for transportation and not a financial arrangement. Therefore, the original authority erred in making improper comparison to arrive at the decision.
- i)** Further reference is invited to Section 3 of Transfer of Property Act, 1982 which refers actionable claim to be "a claim of any debt, or to any beneficial interest in movable property other than the debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, not in possession, either actual or constructive, of the claimant, which the civil courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent."
- j)** In the instant case, the subscription amount to be paid is a beneficial interest in movable property, which is money and the beneficial interest may be conditional and contingent. Accordingly, the subscription amount squarely falls under actionable claim.

3. Personal Hearing:

The proceedings of Hearing were conducted through video conference on 17th September 2020, for which the authorized representative, Sri R.Narasimha Murthy attended and made additional submissions as under:

4. Additional Submissions:

A. As per the chit agreement, the subscribers are under an obligation to pay the chit installments in time every month as the foreman has to pay the prize amount to the prized subscriber within the stipulated time.

B. In terms of Rule 17(2) of the Andhra Pradesh Chit Fund Rules, 2008, the quantum of interest and the amount of interest to be collected by the foreman has been regulated, which is reproduced hereunder for ready reference:

"(2) Rate of interest payable by the defaulted subscriber and the duty of foreman on receipt of subscription:-

Every subscriber who defaulted in payment of installments in time as per the chit agreement, shall pay the interest @18% per annum on the amount so payable to the foreman and the foreman shall pay the amount of dividend of each draw even to the defaulted subscriber as and when the subscriber pays the defaulted subscription."

C. It can be understood from the above that the subscribers incur a debt equivalent to the defaulted installment amount on the due date for payment of the installment amount. In fact, in terms of Section 64 of the Chit Funds Act, 1982 the word debt is used for a claim for or against foreman. This clearly indicates that if the subscription amount is not paid within the stipulated period, it is considered as debt.

D. Interest/penalty charged for the delay in payment of monthly installments of subscription is interest/penalty only on the debt incurred by the subscribers and not consideration towards the supply of services.

E. The appellant submits that in terms of Chit Fund Act, 1982 and Andhra Pradesh Chit Fund Rules, 2008, the foreman can collect interest not exceeding 18% per annum on the subscription amount paid belatedly by the subscriber. The appellant is following the said provisions and is collecting the interest on the outstanding subscription amount, which is nothing but the debt to be paid by the subscriber.

F. The appellant submits that the word-Interest – has been defined, vide clause 2(zk) of Notification No.11/2017-CT (Rate) dated 28.06.2017 as, *"interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized."*

- G.** A perusal of the above clearly indicates that the debt can be incurred in respect of any claim or right or obligation, which in this case is incurred by the subscriber by defaulting to pay the amount within the due date. Hence, what is collected by the appellant is interest on debt, which is exempt from GST levy in terms of SL.No.27 of Notification No.11/2017-CT (Rate) dated 28.06.2017 as amended.
- H.** Further attention is invited to the Circular No.102/21/2019-GST dated 28.06.2019 issued by the CBIC, wherein it was clarified that in cases involving interest or penal interest on delayed payment of EMI are not leviable to GST as the said amount is treated as part of Actionable Claim and being interest on deposit extended in terms of Notification No.12/2017- CT(Rate) supra. Applying the above analogy to the present case, it can be seen that the interest is on delayed payment of subscription amount, which is nothing but actionable claim and thus, no GST is payable.
- I.** The Advance Ruling Authority overlooked the provisions of Chit Fund Act, 1982 and AP Chit Fund Rules, 2008 in examining the nature of interest collected and thus, correct position of law has not been reflected in the ruling passed.
- J.** The Advancing Ruling Authority considered the activity to be equivalent to railway ticket, which is factually and legally incomparable since an amount paid for transportation is not a financial arrangement. Therefore, the original authority erred in making improper comparison to arrive at the decision.
- K.** Further reference is invited to Section 3 of Transfer of Property Act, 1982 refers to actionable claim to be "a claim of any debt, or to any beneficial interest in movable property other than the debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, not in possession, either actual or constructive, of the claimant, which the civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent." Considering the above definition, the subscription amount is actionable claim.

In the light of the above, the appellant submits that the original authority did not properly appreciate the factual and legal aspects and passed the advance ruling treating the 'interest' to be supply of service. Hence, it is requested to consider the facts detailed above and pass just and suitable orders as may be deemed fit.

5) Discussion and Findings:

We have gone through the entire records of the appeal, facts of the case, and also considered the written and oral submissions made at length by the appellant as well, in light of the Ruling pronounced by the AAR.

The issue at hand for discussion is whether the interest / penalty charged on the delayed payment of subscriptions by Members of a Chit Fund, is a supply liable to GST under the GST law.

1. It is an undisputed fact that the appellant is a company engaged in Chit Auctions. The appellants are conducting the chits as regulated by the Chit Fund Act, 1982 and Andhra Pradesh Chit Fund Rules, 2008.

2. The Ruling of the Advance Ruling Authority, Andhra Pradesh in the orders dated 05.05.2020 held that the said interest/penalty is classified under Sl. No 15 of Heading 9971 Financial and related services, GST @12% as per Notification No. 8/2017-Integrated Tax (Rate) dated, the 28th June, 2017 as amended from time to time.

3. At the outset, it would be appropriate to examine the actual HSN entry relating to the taxable event regarding Chit funds. As per Sl. No.15 of the Notification No.11/2017-Central Tax(Rate), dated 28.06.2017 under Heading 9971, the description of the taxable service reads as follows:

(i) Services provided by a foreman of a chit fund in relation to chit.

Explanation.-

(a)"chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical instalments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount;

(b)"foreman of a chit fund" shall have the same meaning as is assigned to the expression "foreman" in clause (j) of section 2 of the Chit Funds Act, 1982 (40 of 1982).

Therefore, under Heading 9971 of the cited Notification No.11/2017-Central Tax (Rate) the taxable supply in relation to Chit Fund business is the **Services provided by a foreman of a chit fund in relation to chit.**

4 In order to understand the "services" provided by the foreman of a Chit, and the consideration for the same, it would be appropriate to reproduce Sections 21 and 22 of the Chit Fund Act, 1982 and the relevant rules of the Andhra Pradesh Chit Fund Rules, 2008 as under:

Section 21 of the Chit Fund ACT, 1982

Rights of foreman.—(1) The foreman shall be entitled,—

(a) in the absence of any provision in the chit agreement to the contrary, to obtain the chit amount at the first installment without deduction of the discount specified in the chit agreement, subject to the condition that he shall subscribe to a ticket in the chit:

Provided that in a case where the foreman has subscribed to more than one ticket, he shall not be eligible to obtain more than one chit amount in a chit without discount;

(b) to such amount not exceeding five per cent. of the chit amount as may be fixed in the chit agreement, by way of commission, remuneration or for meeting the expenses of running the chit;
(emphasis added)

(c) to interest and penalty, if any, payable on any default in the payment of installments and to such other amounts as may be payable to him under the provisions of the chit agreement; (emphasis added)

(d) to receive and realize all subscriptions from the subscribers and to distribute the prize amounts to the prized subscribers;

(e) to demand sufficient security from any prized subscriber for the due payment of future subscriptions payable by him.

Section 22. Duties of foreman.

(1) *The foreman shall, on the prized subscriber furnishing sufficient security for the due payment of future subscriptions, be bound to pay him the prize amount:*

Provided that the prized subscriber shall be entitled to the payment of the prize amount without any security whatsoever if he agrees to the deduction therefrom of the amount of all future subscriptions and in such a case, the foreman shall pay the prize amount to the prized subscriber within seven days after the date of the draw or before the date of the next succeeding instalment, whichever is earlier:

Provided further that where the prize amount has been paid to the prized subscriber under the first proviso, the amount deducted shall be deposited by the foreman in an approved bank mentioned in the chit agreement and he shall not withdraw the amount so deposited except for the payment of future subscriptions.

(2) *If, owing to the default of the prized subscriber, the prize amount due in respect of any draw remains unpaid until the date of the next succeeding instalment, the foreman shall deposit the prize amount forthwith in a separate account in an approved bank mentioned in the chit agreement and intimate in writing the fact of such deposit and the reasons therefor to the prized subscriber and the Registrar:*

Provided that where any prized subscriber does not collect the prize amount in respect of any instalment of a chit within a period of two

months from the date of the draw, it shall be open to the foreman to hold another draw in respect of such instalment.

(3) Every payment of the prize amount or the amount of future subscriptions under sub-section (1), and the deposit of the prize amount under sub-section (2), shall be intimated to the subscribers at the next succeeding draw and the particulars of such payment or deposit shall be entered in the minutes of the proceedings of that draw.

(4) The foreman shall not appropriate to himself any amount in excess of what he is entitled to under clause (b) or clause (c) of sub-section (1) of section 21:(emphasis added)

Provided that where the foreman is himself a prized subscriber, he shall be entitled to appropriate to himself the prize amount subject to his complying with the provisions of section 31:

Provided further that the foreman may appropriate to himself the interest accruing on the amount deposited under the second proviso to sub-section (1).

(5) The foreman shall not admit any person as a subscriber to a chit, if, by such admission, the total number of tickets mentioned in the chit agreement is increased.

(6) The foreman shall distribute among the subscribers, in accordance with the chit agreement, the dividend either in cash, gain or by way of adjustment towards the subscriptions payable for the next installment, if any.

The Andhra Pradesh Chit Fund Rules, 1982

CHAPTER II Rule 2

(2) Rate of interest payable by the defaulted subscriber and the duty of foreman on receipt of subscription: - *Every subscriber who defaulted in payment of installments in time as per the chit agreement, shall pay the interest @ 18% per annum on the amount so payable to the foreman and the foreman shall pay the amount of dividend of each draw even to the defaulted subscriber as and when the subscriber pays the defaulted subscription.*

4.1. From the provisions of law as extracted above, it is clear that apart from other services, one of the services rendered in relation to a chit is the collection of instalments from subscribers who defaulted in payment of the same. In addition, the foreman is duty bound to collect interest on such defaulted instalments, which the law under Section 21(1)(c) of the Chit Fund Act, 1982 entitles him to retain. It is pertinent to add that a Chit Fund business survives on the collection of instalments from all subscribers to a chit, which is then given to the Prized Subscriber who succeeds by way of lots or auction, and is repeated month after month till the conclusion of the chit. Any failure in payment of instalment by a subscriber would hamper the foreman in making the payment to the Prized Subscriber and jeopardize the entire flow of the chit. As foreman of the chit, it is his duty to collect and pass on the moneys to the Prized Subscriber. This service of

ensuring that all instalments are received from all subscribers to a chit is the service rendered by the foreman in relation to the chit. As per Section 2(d)

“chit amount” means *the sum-total of the subscriptions payable by all the subscribers for any instalment of a chit without any deduction of discount or otherwise;*”

Further, as per Section 2 (m) of the Chit Fund Act, 1982

“prize amount” means *the difference between the **chit amount** and the discount, and in the case of a fraction of a ticket means the difference between the **chit amount** and the discount proportionate to the fraction of the ticket, and when the prize amount is payable otherwise than in cash, the value of the prizes amount shall be the value at the time when it becomes payable;*

Under Section 22(1) of the Chit Fund Act, cited above, the law casts a duty upon the foreman to pay the “Prize amount” to the “Prized Subscriber” as detailed in the said Section 22. The foreman can comply with this provision only if the **“chit amount”** has been paid by all the subscribers, to constitute the “Prize amount”, which, as defined in Section 2(m) of the Chit Fund Act, is primarily the **“chit amount”** as defined under Section 2(d). It is extremely clear that unless all instalments of a chit are received by the foreman, the payment of the prize amount would be hampered. This clearly brings out the service that the foreman renders in ensuring that all the instalments of all subscribers is collected. Therefore, the collection of delayed/defaulted instalments and penal interest thereon is purely a service rendered in relation to a chit and cannot be given any other connotation.

4.2. Hence, we are of the considered view that the collection of defaulted instalments and interest thereon by the foreman is a supply of service in relation to the chit and squarely falls under the HSN classification of Heading 9971 as services provided by a foreman of a chit fund in relation to chit under Notification No.11/2017-Central Tax(Rate) Dated 28.06.2017 / Notification No.8/2017-Integrated Tax(Rate) dated 28-6-2017 as amended from time to time.

4.3. Therefore, we uphold the Order of the Authority for Advance Ruling dated 05.05.2020 to the extent that the collection of delayed instalments and interest thereon is a taxable service classifiable under HSN 9971 of Notification No.11/2017-Central Tax (Rate) Dated 28.06.2017/ Notification No.8/2017-Integrated Tax(Rate) dated 28.06.2017 as amended from time to time.

5. In the matter of exemption from GST of the interest element under Notification No 12/2017 dated: 28.06.2017, the same appears misplaced and out of context for reasons discussed hereunder.

5.1. Exemption under Serial No. 27 of Notification No.12/2017 – CT(Rate) dated - 18.06.2017 reads as follows:

Heading No. 9971 -- Services by way of—(a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter sesale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

5.2. Further, the term “interest” has been defined under clause (zk) of para 2 of the above said Notification, which reads as under:

*“(zk) “interest” means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or **other charges in respect of the moneys borrowed or debt incurred** or in respect of any credit facility which has not been utilized”*

5.3. When both the entry mentioned above and the definition of the word “interest” is read contextually, it is clear that what is talked about here is a completely different service and has no relation to the manner a Chit Fund business is run. In a Chit floated by a Chit Fund company, there is no concept of extending deposits, loans or advances. On the other hand, it is the subscribers who come together to subscribe towards the prized amount which is aggregated and taken by each member on the basis of lots or auction. There is no deposit or loan or advance involved which is referred to in the entry mentioned above. The word “means” is to be interpreted in a restrictive usage applicable to moneys borrowed or debt incurred and cannot be equated with the Interest/Penalty charged from the defaulting Subscribers of Chit Fund. Further the interest realized from the defaulting subscribers is different with that of the interest against loan or advance by the Bankers and other Financial Institutions. Therefore, we are of the considered opinion that there is no exemption available under Notification No.12/2017-Central Tax (Rate) as claimed by the appellant.

5.4. Thus the Orders dated 05.05.2020 of the Advance Ruling Authority are upheld to the extent that there is no exemption available to the appellant under Notification No.12/2017-Central Tax(Rate) dated 28.06.2020.

6. Further the appellant relying on the proviso under the Section (3) of the Transfer of Property Act, 1982 contended that the subscription amount is ‘Actionable Claim’.

6.1. Under the Chapter-II-B, Section 45-I of the Reserve Bank of India Act, 1934 defines the Financial Institutions. The relevant extract is made as under:

45 -I Definitions.

In this Chapter, unless the context otherwise requires, –

1[(a) “business of a non-banking financial institution” means carrying on of the business of a financial institution referred to in clause (c) and includes business of a non-banking financial company referred to in clause (f);]

2[(c) “financial institution” means any non-banking institution which carries on as its business or part of its business any of the following activities, namely: –

(v) *Managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;*

(vi) *collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lump sum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person,*

6.2. It is also relevant to mention that by Finance Act, 2015, definition of service contained in sub-section (44) of Section 65B of the Act has been amended by adding explanation 2 which reads as under:

*Explanation 2 For the purposes of this clause, the expression transaction in money or actionable claim **shall not include***

(i) any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out-

(a) by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any

Other manner;

(b) by a foreman of chit fund for conducting or organizing a chit in any manner.

By the aforesaid amendment, activity carried out by foreman of a chit fund for conducting or organizing a chit in any manner is to be covered by the expression transaction in money or actionable claim. Thus, it has been brought specifically within the definition of service by the aforesaid amendment which takes effect from June 15, 2015. Therefore, there is no dispute that w.e.f. June 15, 2015, service tax is payable on chit fund.

6.3. A Division Bench of the High Court of Punjab speaking through TekChand, J. in **CIT v. Dr. Sham Lal Narula AIR 1963 Punj. 411 = 1962 (1) TMI 64 - PUNJAB HIGHCOURT** thus articulated the concept of interest as,

"The words 'interest' and 'compensation' are sometimes used interchangeably and on other occasions they have distinct connotation.

'Interest' in general terms is the return or compensation for the use or retention by one person of a sum of money belonging to or owed to another. In its narrow sense, 'interest' is understood to mean the amount which one has contracted to pay for use of

borrowed money.... In whatever category 'interest' in a particular case may be put, it is a consideration paid either for the use of money or for forbearance in demanding it, after it has fallen due, and thus, it is a charge for the use or forbearance of money. In this sense, it is a compensation allowed by law or fixed by parties, or permitted by custom or usage, for use of money, belonging to another, or for the delay in paying money after it has become payable."

Further the Interest /penalty collected from the defaulted Subscribers as well as the interest earned on the Deposit of undistributed Prize Money/dividends in the Bank are appropriated to the Foreman as per the provisions under the Section 22 sub-section(4) of the Chit Fund Act,1982 at par with the Commission to the Foreman.

6.4. In view of the above discussions,the appellant is a Financial Institution/Company. As per the amended Finance Act, 2015 the transactions of the chit fund are included in the term 'Service' and excluded from the 'Actionable Claim'. Hence the Monthly Subscription or the interest collected from the defaulted subscribers is not Actionable Claim. The Interest is the consideration as per the settled principle of Law.The Interest is appropriated to the foreman's Account and not distributed to the Members of the Chit.The Appellant is a Financial Institution as per the R.B.I.Act,1934 and the amendments thereon.

6.5. It is relevant to reproduce the statutory provisions pertaining to "Supply", and "Value of Supply" as defined under the CGST Act, 2017.

Section 7 defining "Supply" reads as follows:

7. Scope of supply.—(1) *For the purposes of this Act, the expression —supplyincludes—*

(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;

...

Section 15 explains the value of supply as under:

Section 15 (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services orboth where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include---

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods

and Services Tax Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

For the record, it may be noted that under Section 15(2)(d), the said interest or late fee or penalty for delayed payment of any consideration is for **any supply**. It is not necessary that it flows out of a "taxable supply". Further the word "consideration" has also been defined under Section 2(31) —as "*consideration in relation to the supply of goods or services or both includes—*" ... It may be noticed that again it is in relation to supply of goods and not taxable supply. Hence, the claim of the appellant that the interest element is not taxable as it is arising out of money/actionable claim, etc., does not hold water in light of the statutory definitions cited.

6.6. As discussed in paras above, the collection of defaulted / delayed instalments is a service performed by the foreman in relation to a chit. The appellant has been attempting to divert attention from this fact by bringing in the concept of actionable claims, etc. As seen from the law on Chits cited, it is clearly evident that it is the job of the foreman to collect defaulted instalments for which the penal interest of 18% as per law is collected by him and he is further permitted to retain the same by law. Hence, the interest so collected for the service rendered in relation to a chit, will be liable to GST at the rates applicable under HSN Heading 9971, (Notification No.11/2017-Central Tax(Rate) dated 28.06.2017) as it is earned in connection with the supply of service by the foreman to the chit.

7. Accordingly, this authority rules as follows:

ORDER

- (i) The collection of delayed instalments along with interest / penalty from the members of a chit constitutes the taxable supply of the **Services provided by a foreman of a chit fund in relation to chit.**

- (ii) **The Services provided by a foreman of a chit fund in relation to chit** is classified under **HSN Heading 9971** under Notification No.11/2017-Central Tax (Rate) Dated 28-6-2017 / Notification No. 8/2017-Integrated Tax (Rate) dated 28-6-2017 as amended from time to time. The rate of tax would be as applicable under the said heading 9971 of the cited notifications, depending on the nature of supply, i.e., intra state or interstate.
- (iii) The ruling of the Authority for Advance Ruling vide their *order No. AAR No.13/AP/GST/2020* dated 05.05.2020 Authority for Advance Ruling, Andhra Pradesh stands modified accordingly.

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)

**O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada**

To:

M/s. Usha Bala Chits Private Limited, 25-2-12-2, Usha Bala Complex, John Street, Narasimha Rao Pet, Eluru-534006 (Andhra Pradesh). **(By Regd. Post)**

Copy to:

1. The Assistant Commissioner (ST), Eluru Circle, Eluru Division. **(By Regd. Post)**

2. The Superintendent, Bhimavaram Range, Eluru (CGST) Division **(By Regd Post)**

3. The Authority for Advance Ruling, A.P O/o the Chief Commissioner (ST), Edupugallu, Vijayawada.

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)

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