

**THE MAHARASHTRA APPELLATE AUTHORITY FOR ADVANCE RULING FOR  
GOODS AND SERVICES TAX**

(Constituted under Section 99 of the Maharashtra Goods and Services Tax Act, 2017)

ORDER NO. MAH/AAAR/AM-RM/08/2022-23

Date- 23.06.2022

**BEFORE THE BENCH OF**

(1) Shri Ashok Kumar Mehta, MEMBER (Central Tax)

(2) Shri Rajeev Kumar Mital, MEMBER (State Tax)

Name and Address of the Appellant:	M/s. Dubai Chamber of Commerce and Industry- Liaison Office, 9 floor, Platina, G block, Plot C59, Bandra Kurla Complex, Bandra East, Mumbai- 400051, Maharashtra.
GSTIN Number:	271900000340ARY (URD- Temporary user id)
Clause(s) of Section 97, under which the question(s) raised:	(f) whether applicant is required to be registered: (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
Date of Personal Hearing:	29.09.2021 & 25.02.2022
Present for the Appellant:	Shri Saket Patavari, Advocate
Details of appeal:	Appeal No. MAH/GST-AAAR-01/2021-22 dated 23.07.2021 against Advance Ruling No. GST-ARA-35/2019-20/B-14 dated 24.05.2021
Jurisdictional Officer:	Deputy/Assistant Commissioner, Division -IV, Mumbai East, CGST & Central Excise Commissionerate.

(Proceedings under Section 101 of the Central Goods and Services Tax Act, 2017  
and the Maharashtra Goods and Services Tax Act, 2017)

1. 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 provisions under the MGST Act.

2. The present appeal has been filed under Section 100 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "CGST Act" and "MGST Act"] by M/s. Dubai Chamber of Commerce And Industry- Liaison Office, 9 floor, Platina, G block, Plot C59, Bandra Kurla Complex, Bandra East, Mumbai- 400051, Maharashtra ("hereinafter referred to as "Appellant") against the Advance Ruling No.GST-ARA-35/2019-20/B-14 dated 24.05.2021, pronounced by the Maharashtra Authority for Advance Ruling (hereinafter referred to as "MAAR").

### **BRIEF FACTS OF THE CASE**

- 3.1 Dubai Chamber of Commerce & Industry, Dubai (hereinafter referred to as 'DCCI Dubai') is a non-profit organization. Dubai Chamber of Commerce and Industry, Liaison Office, India (hereinafter referred to as 'DCCI LO' or 'the Appellant') is located at 9<sup>th</sup> floor, Platina, G block, Plot C59, Bandra Kurla Complex, Bandra East, Mumbai- 400051.
- 3.2 All the commercial organizations registered in mainland Dubai and undertaking businesses in Dubai, by law, must obtain membership of DCCI Dubai. The mission of DCCI Dubai is to represent, support and protect the interests of the business community in Dubai. It does so by creating a favorable environment, promoting Dubai as an international business hub, and by supporting the development of businesses. Thus, DCCI is established and governed by the decree/law of Dubai for development of Dubai's businesses at large.
- 3.3 That DCCI - LO has been set up to play a key role in the growing trade and diplomatic relations between India and the UAE in pursuance to the meetings held between the Heads of the two countries, i.e., the Hon'ble Prime Minister of India and Hon'ble President of U.A.E. The functions undertaken by the DCCI-LO/Appellant are as follows:
- Liaison between India office and Dubai office - This involves sharing of general information/ knowledge in relation to opportunities in UAE or India for the proposed businesses that includes information pertaining to updates in regulations, policy framework, business trends, potential areas of growth in business, etc.
  - Attending and representing DCCI - Dubai H.O. in various seminars, conferences & trade fairs / exhibitions- At major events in India, the office promotes the emirate of Dubai to companies intending to grow their international presence. DCCI - LO/Appellant also informs Indian businesses about key exhibitions in Dubai to boost their international business as a helpdesk / information centre.
  - Connecting businesses in India with business in UAE and vice versa - Extending support to business in UAE/ India by providing introductions/references of each other and also help in setting up initial meetings to break the ice. However, post initial setting up meeting they don't have any role to play, and the appellant does not even know whether these businesses indeed undertake any business or not. Further, there is no fee charged on the Indian businesses either by DCCI, Dubai or the India liaison office, i.e., the Appellant, for such introduction/ references.
  - Organizing events & interactions with Indian businesses for sharing information about Dubai and vice-versa - As a part of diplomatic mission, events and interactions

are organized with Indian business to promote Dubai as a business hub and support the growth of trading relationship between businesses in India and the UAE.

3.4 Further, the Appellant is required to comply with the conditions/regulations laid down by the RBI to carry out their aforementioned activities. The conditions prescribed by the RBI, which the Appellant are bound to comply with, are enumerated as under

- (a) The Appellant's activities are restricted only to Liaison activities between India office and Dubai office;
- (b) That except the proposed liaison work, the DCCI-LO office in India shall not undertake any activity of trading, in commercial or industrial nature, nor shall it enter into any business contracts in its own name without prior permission of the RBI;
- (c) That no commission/fees shall 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;
- (d) That the entire expenses of the office in India will be met exclusively out of the funds received from abroad through normal banking channels;
- (e) That the office in India shall not borrow or lend any money from/to any person in India without RBI permissions.
- (f) That the office in India will not render any consultancy or any other services directly/indirectly with or without any consideration;
- (g) That the office in India shall not acquire, hold, transfer/ dispose any immovable property;
- (h) That the office in India will not have signing/commitment powers, except than those, which are required for normal functioning of the office on behalf of the Head Office located at Dubai.

3.5 In order to avoid any kind of tax disputes in future and for certainty of position, DCCI LO, i.e., the Appellant, had sought an advance ruling before the MAAR under Section 97 of the Central Goods and Services Tax Act, 2017, on the following questions:

- a. Whether the activities performed by Appellant shall be treated as supply under GST law?
- b. Whether the Appellant is required to obtain GST registration?
- c. Whether the Appellant is required to pay GST.

3.6 The MAAR, vide Advance Ruling Order No. GST-ARA-35/2019-20/B-14 dated 24.05.2021, held as under:

- (a) *The activities performed by the Appellant would be treated as supply under GST law;*
- (b) *The Appellant was required to obtain GST registration;*
- (c) *The Appellant was liable to pay GST;*

3.7 The MAAR has based the aforesaid ruling on the following grounds:

- That the Appellant connects businesses in India with business partners in Dubai, which is nothing but supply of services. Appellant acts as a conduit between some business partners in Dubai and certain businesses in India;

- That the Appellant is satisfying all the conditions prescribed for an intermediary, and thereby, holding the Appellant as an intermediary;
- That the Appellant calls itself a liaison office and an intermediary can be called "by whatever name"; That by connecting businesses in India with business partners in 'Dubai, the Appellant is actually arranging or facilitating the supply of goods or services or both, or securities, between two or more persons;
- That from the website of DCCI Dubai, it is seen that they are providing various services for which fees are charged which makes it clear that the Appellant's Head Office, i.e., DCCI Dubai is a profit-making organization; In that case, the Appellant cannot be considered as a non-profit making organization; That the Appellant are not a non-profit organization and are undertaking supply of services for a consideration;
- That the activities undertaken by the Appellant are nothing but "Business", and the same are covered by the scope of the term "Supply" defined under the CGST Act, 2017.
- That the Appellant are receiving consideration from its Head Office in excess of expenses incurred by it as contended by the Jurisdictional Officer, and therefore, the Appellant cannot be treated as a non-profit organization.

#### GROUND OF APPEAL

4. The Appellant have filed their appeal dt 23.07.2021 against the MAAR's Order dt 24.05.2021 before the Maharashtra Appellate Authority for Advance Ruling (hereinafter referred to as "the MAAAR") on following grounds -

- 4.1 The Appellant have filed the present Appeal by relying on the recent CBIC Circular No.157/13/2021-GST dated 20.07.2021 that provides for extension of timelines for filing an appeal to AAAR under GST owing to 2<sup>nd</sup> wave of COVID pandemic. Relevant para of the circular has been reproduced below;

*"(c) Appeals by taxpayers/ tax authorities against any quasi- judicial order: - Wherever any appeal is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.*

*5. In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws."*

- 4.2 The Appellant have referred to Para 5.6.2 of the impugned ruling, wherein the MAAR has discussed and concluded that the Appellant qualify to be an "intermediary"; Referring to the said para, the Appellant have further contended that the very base of the impugned Advance Ruling lacks factual findings, and had been pronounced

hypothetically, and that the MAAR has wrongly jumped to the conclusion that Appellant is arranging or facilitating supply between businesses which would be involved in trading of goods or provisions of services without giving Appellant an opportunity of being heard.

- 4.3 Such conclusion drawn by the MAAR in the impugned Order is neither supported by any fact on record, nor backed by any proper reasoning on the part of the MAAR.
- 4.4 That 'connecting businesses' is completely different from 'arranging or facilitating supply of goods or services; that Businesses can be 'connected' with each other in various ways and does not necessarily mean they are undertaking any supply of goods or services with each other. Further, if at all, the MAAR had any doubts, or would have required any clarifications, it could have sought the required information/clarification from the Appellant. However, MAAR proceeded to pronounce the impugned ruling based on assumptions, surmises and conjectures;
- 4.5 The Appellant are undertaking, on behalf of its Dubai Head Office, the promotion of businesses by acting as a link between Indian Business firms with the potential Dubai Business Partners for any future business venture, as a part of the larger diplomatic initiatives undertaken by the Heads of both the countries. Therefore, the said activities cannot be construed as 'businesses' or 'supply' as provided under the CGST Act, 2017, and accordingly, they were not required to take GST registration.
- 4.6 That just because it promotes business between two countries it will not get qualified under the definition of "intermediary" provided under the GST law. If that logic is to be applied then Government's initiatives of promoting business would also get covered under the "intermediary", which would be absurd; That, it is further submitted that DCCI Dubai, being a body regulated by a statute under the UAE law, it performs function of promotion of business and trade relations between India and UAE, through DCCI- LO/Appellant.
- 4.7 Referring to the Paras 5.10 and 5.11 of the impugned ruling, wherein the MAAR has compared activities of the Appellant as 'auxiliaries to trade', the Appellant have submitted that the dictionary meaning of the word 'auxiliary' is 'providing supplementary or additional help and support'. It has been submitted by the Appellant that it does not provide any direct or indirect help or support in the running of any businesses. Further, the activities of the Appellant cannot be compared to services such as transportation, banking, warehousing etc. as enlisted in Para 5.10 of the impugned ruling; That Appellant is involved in general promotion of trade relations between businesses located in India and UAE;
- 4.8 The Appellant are prohibited from undertaking any commercial or business activity directly or indirectly in terms of Regulation 2(e) of the Foreign Exchange Management Regulations, 2016 (hereinafter referred to as "FEMR") which governs establishment of Liaison Office (hereinafter referred to as 'LO') in India, which provides as under:

*“'Liaison Office' means a place of business to act as a channel of communication between the principal place of business or Head Office or by whatever name called and entities in India but which does not undertake any commercial /trading/ industrial activity, directly or indirectly, and maintains itself out of inward remittances received from abroad through normal banking channel.”*

- 4.9 Reference has also been made to Regulation 4(b) of FEMR in relation to permissible activities by LO reiterated below along with Schedule II mentioned therein:

*“A person resident outside India permitted by the Reserve Bank under these Regulations to establish a branch or liaison office in India may undertake or carry on any activity specified in Schedule I or II, as the case may be, but shall not undertake or carry on any other activity unless otherwise specifically permitted by the Reserve Bank.*

*Schedule II – Permitted activities for a liaison office in India of a person resident outside India:*

- i. Representing the parent company / group companies in India.*
- ii. Promoting export / import from / to India.*
- iii. Promoting technical/ financial collaborations between parent / group companies and companies in India.*
- iv. Acting as a communication channel between the parent company and Indian companies.”*

- 4.10 Further, the Appellant have also stressed upon the terms and conditions on basis which RBI has granted DCCI Dubai to establish an LO in India, the relevant extract of which are mentioned hereinunder:

- (a) That the Appellant's activities are restricted only to Liaison activities between India office and Dubai office;
- (b) That except the proposed liaison work, the office in India shall not undertake any activity of trading, in commercial or industrial nature, nor shall it enter into any business contracts in its own name without prior permission of the RBI;
- (c) That no commission/fees shall 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;
- (d) That the entire expenses of the office in India will be met exclusively out of the funds received from abroad through normal banking channels;
- (e) That the office in India shall not borrow or lend any money from/to any person in India without RBI permissions.
- (f) That the office in India will not render any consultancy or any other services directly/indirectly with or without any consideration;
- (g) That the office in India shall not acquire, hold, transfer/ dispose any immovable property;
- (h) That the office in India will not have signing/commitment powers, except than those, which are required for normal functioning of the office on behalf of the Head Office located at Dubai.

- 4.11 That neither the Appellant nor its Dubai Head office is receiving any sorts of consideration in the form of fee or commission from any company in India for acting as link between that Indian company and Dubai based company;
- 4.12 That expenses incurred by the Appellant (predominantly office rent, salaries etc.) for the purpose of liaison / representation activity are remitted from DCCI Dubai on a cost-to-cost basis, through normal banking channel;
- 4.13 Further, referring to Section 2(17)(a) of the CGST which defines the term 'Business', the Appellant have submitted that their activities would not fall under any of the activities mentioned in the said definition of Business which includes the terms like trade, commerce, manufacture, profession, vocation, adventure, wager and any other similar activities, and therefore, their activities will not be construed as Business and accordingly will not be construed as 'Supply' either, as provided under Section 7 of the CGST Act, 2017;
- 4.14 That the activities undertaken by the liaison office does not tantamount to 'Business', as any contrary interpretation would question the very existence of such office vis-à-vis RBI mandate and Foreign Exchange Management Regulations, and it would also invite heavy penal implications;
- 4.15 That the Appellant have further submitted that for any activity to qualify as 'supply', it requires presence of two different persons, one being the supplier, and another being the recipient; that the Appellant are mere extension of its Dubai Head Office, and therefore, are not separate legal entity. Accordingly, the activities undertaken by the Appellant would not constitute "Supply" under the CGST Act, 2017 as the Appellant and its Dubai Head Office are one and the same person;
- 4.16 That the Appellant have relied upon the following Advance Ruling Orders to assert their claim that activities of a liaison office are not 'supply' under the GST law:
- i. M/S. Wilhelm Fricke SE – AAR, Haryana [2020 (1) TMI 690];
  - ii. Habufa Meubelen B.V. - AAR, Rajasthan [2018 (7) TMI 883];
  - iii. M/S. Takko Holding GmbH – AAR, Tamil Nadu [2018 (10) TMI 315];
  - iv. M/S. Fraunhofer-Gesellschaft zur Förderung der Angewandten Forschung - Appellate AAR, Karnataka [2021(2) TMI 1164];
- 4.17 That the Appellant are not authorized to conduct any business or commercial activity in India, whether directly, or indirectly. The Appellant are involved only in liaison activities, attending and representing DCCI Dubai in various seminars, conferences & trade fairs, connecting businesses in India with business partners in UAE and vice versa, and organizing events & interactions with Indian stakeholders for sharing information about Dubai. Thus, by no stretch of imagination, can it be said that the Appellant are carrying out the business of supply or receipt of goods or services or both on behalf of any other person, for it to qualify as an agent. Further, its activity of connecting businesses in India with business partners in Dubai can by no stretch of imagination be equated with arranging or facilitating the supply of goods or services or both, between two or more persons;

- 4.18 That it is submitted that while the MAAR ruled that Appellant are arranging or facilitating a supply, the impugned ruling fails to identify the underlying supply which the Appellant are apparently arranging/facilitating. It is further submitted that in the present case, there is no such underlying supply of goods or services which the Appellant are facilitating;
- 4.19 That for a person to qualify as an 'intermediary', he should have an active role in arranging or facilitating the actual supply of goods or services. However, in the present case, once businesses connect with each other as a result of promotional activities or introduction or references undertaken by Appellant, the Appellant are neither involved nor concerned with any actual supply which may or may not take place between such businesses. Appellant are not involved in any discussions, negotiations etc. between businesses in respect of any supply, which may or may not undertake between the businesses in India and those in Dubai. It should be noted that Appellant may not even be aware of whether the connected businesses in India and Dubai undertook any transaction or supply between each other at that time or in future;
- 4.20 That reference has also been made to an Advance Ruling under the service tax law in the case of M/s. Godaddy India Web Services Pvt. Ltd. Versus Commissioner of Service Tax, Delhi-IV [2016 (46) S.T.R. 806 (A.A.R)]:

**Additional Submissions dated 06.08.2021 by the Appellant**

5. The Appellant vide the additional submissions dated 06.08.2021 have expounded the activities undertaken by them as under:
- (i) The liasoning activities undertaken by the Appellant involve the sharing with the DCCI -H.O., Dubai, general information/knowledge, such as information relating to updates in regulation, policy framework, business trends, etc., in relation to generic business opportunities in UAE or India.
  - (ii) The Appellant, *inter- alia*, also reports its plans and activities to DCCI H.O., which include sharing monthly work details with DCCI H.O. in relation to events attended/organized, number of meetings conducted during the month, etc.
  - (iii) The Appellant are attending various events such as seminar, conferences, trade fair, business exhibitions on behalf of their Head Office, i.e. DCCI, Dubai, wherein they attend as participants or speakers with an objective of promoting Dubai as an International Business Hub by sharing information about the regulations updates in Dubai, its visions, business policy frameworks, etc. The Appellant have also enumerated some of the events which they attended in the past, such as Retail Leadership Summit, India International Jewelry Show, NASSCOM Technology Leadership Forum, etc.
  - (iv) The Appellant also accompany members from their Head Office who would visit India to attend and speak at any seminar/conferences.



- (v) The Appellant connect businesses in India with the businesses in Dubai by undertaking the following activities:
- (a) by way of making introduction and references to the business entities in India who are seeking any distribution partners for their goods or services in Dubai and vice-versa by sharing the contact details from the database maintained by them for setting up the initial meetings between the businesses in India and the businesses in Dubai;
  - (b) by way of introducing Indian business firms, who seek the guidance for setting up of businesses in Dubai, with the professional services firms, such legal firms, business consultancy firms, etc. located in Dubai;
  - (c) by way of organizing events or interactions for business delegations wherein the Appellant arrange for physical meeting between the business delegations of Dubai and business entities of India and vice-versa for purpose of better understanding of the business landscapes in India and vice-versa. The Appellant have also further submitted that they have organized many seminars, round table discussions and conferences where they have engaged with various businesses in India and shared information about Dubai as a high potential business destination, the regulatory changes or updates being introduced in Dubai, its logistic and financial infrastructure, etc.
  - (d) by way of conducting numerous virtual events in the form of Webinars to discuss India-Dubai business landscapes in specific sectors like Logistics, Retail, Foods & Beverages, etc.
- (vi) That the funds from DCCI H.O. are received based on expense forecast (cost-to-cost basis) for a quarter. That this arrangement is mainly to ensure the availability of funds at all times and to reduce the administrative burden of bank charges at DCCI H.O.'s end arising from frequent fund transfer. It has further been submitted that excess funds, if any, received by the Appellant, are set off against the expense forecast for the succeeding quarter.

#### Respondent's Submissions

6. The Respondent/Jurisdictional Officer vide their letter dated 13.08.2021 has filed their comments/ submissions in the present appeal matter, the extracts of which are mentioned as under:
- (i) That "Dubai Chamber's Representative Office in India, established in June, 2018 in Mumbai, is continuously engaging with business in India and Dubai. The India Office gathers first hand market information and identifies opportunity areas for the members of Dubai chamber, by participating at major events in India. Thus, the Mumbai office promotes the interest of Dubai companies intending to grow their international presence. They encourage Indian business, along with gathering & dissemination of market intelligence. The Mumbai office also facilitates business by way of B2B meetings, trade missions, networking events, buyer seller meets and brainstorming with business on their plans for Dubai and India"

- (ii) That there is definitely a supply of services by the Appellant to various businesses in India and Dubai and such supply is done by the Appellant as an intermediary;
- (iii) That Dubai Chamber, UAE, i.e., parent organization, cannot be considered a non-profit entity on the basis of content, information available on the official website of the same. There is explicit mention of a document namely 'ATA' Carnet and the services like Credit Rating services against which a fee is charged and profit is earned. Since, the parent organization itself is profit making entity, the Appellant also cannot be non-profit organization;
- (iv) That the Appellant has categorically stated that it connects business in India with business partners in Dubai, which is nothing but kind of activity undertaken and covered under GST and liable for the Tax, as a part of definition of business. "Connecting Business" has a vast/broader meaning and includes facilitating and supply of goods or services. The purpose of opening Liaison Office is to increase the business between two countries by removing any difficulties faced by the trade. So, in short, indirectly it is in the course or furtherance of business only and whatever additional amount is received by DCCI-LO is consideration received for providing this service.
- (v) As regards the Appellant's contention that DCCI- L.O. is not undertaking any business in India, and hence is not involved in supply of services as per the definition of supply provided under Section 7 of the CGST Act, 2017, the Respondent has submitted that as per Section 2 (17) (a) even if an activity undertaken by a party is not for any pecuniary benefit, it will be treated as business under the CGST Act, 2017. This implies that for an activity to be considered as business it is not mandatory that the same has to be taken up with a motive to earn profit.
- (vi) As regards the Appellant's contention that they are not receiving any consideration from any businesses in India or Dubai and that they are receiving only the reimbursement of monthly expenses incurred by them on cost-to-cost basis, the Respondent, by referring to the provisions of Section 2(31) which contains the definition of the term "consideration", has submitted that any amount received in the course or furtherance of business will be treated as consideration.
- (vii) That the Appellant's contention that they are receiving remittance for the expenses incurred on cost-to-cost basis is already proved wrong on the basis of their financials where it was clearly shown that they have not received remittance on cost-to-cost basis, instead there was sufficient surplus, and this surplus was nothing but consideration and this fact is very well accepted by the authority in their ruling. On the other hand, the Appellant is not having any strong argument against this except that of avoiding the bank charges. Thus, they are receiving the fund in excess. Expenses like office Rent, Salary, Security services, etc. are pre-determined and known in advance for monthly payment/reimbursement and hence the excess amount received from their Dubai Head Office is nothing but profit earned by the DCCI-LO for providing services to Business entities.

## PERSONAL HEARING

- 7.1 Personal hearings in the matter were held on 29.09.2021 and 25.02.2022 in the virtual mode, which were attended by Shri Saket Patwari, Advocate, on behalf of the Appellant as well as by the jurisdictional officer. Shri Patwari reiterated all the earlier submissions including the additional submissions dated 06.08.2021 & 24.09.2021. Subsequent to the 1<sup>st</sup> Personal Hearing, the Appellant filed additional submissions dated 13.10.2021, wherein they expounded the activities carried out by them on behest of their Dubai Head Office. During the course of second personal hearing, Shri Patwari, reiterated the additional submissions dated 08.02.2022, wherein he had contended that activities of the liaison office cannot be said to be in relation to any business, or commerce, owing to the restrictions imposed on the Liaison Office's activities by the RBI in terms of FEMR, 2016, and therefore, the said liaisons activities undertaken by the Appellant cannot be termed as "supply" in terms of Section 7(1)(a) of the CGST Act, 2017, and hence are not liable to GST. During the said second personal hearing, the Appellant's Representative Shri Patwari also sought to file the synopsis of the entire submissions made by them before this Appellate Authority.
- 7.2 Consequent to the aforesaid personal hearing proceedings, the Appellant filed a written submissions dated 09.03.2022, wherein they once again referred to various Advance Ruling Orders, such as *the Karnataka AAAR Order in the case of Fraunhofer-Gesellschaft zur Förderung Der Angewandten Forschung [2021(2) TMI 1164]*, *the Tamil Nadu AAR Order in the case of M/S. Takko Holding GmbH – [2018 (10) TMI 315]*, *the Rajasthan AAR Order in the case of Habufa Meubelen B.V. [2018 (7) TMI 883]*, *the Haryana AAR Order in the case of Wilhelm Fricke SE – AAR, Haryana [2020 (1) TMI 690]*, *the Maharashtra AAR Order in the case of the World Economic Forum, India L.O.*, along with the *CESTAT Mumbai Orders in the case of Lubrizol Advanced Materials India Pvt. Vs. C.C.E., Belapur [2019 (22) G.S.T.L. 355]* and *Chevron Phillips Chemicals India Pvt. Ltd. Vs. Commissioner of CGST & C.E., Mumbai East*.
- 7.3 By placing reliance on the aforesaid Advance Ruling Orders, the Appellant argued that since Liaison Office and its Head Office, located abroad, are the same legal entity, therefore, any activity undertaken by the Liaison Office at the behest of its overseas Head Office would be construed as service rendered to self, which would be out of the purview of the supply as envisaged under Section 7(1)(a) of the CGST Act, 2017, and hence, not liable to GST.
- 7.4 By placing reliance on the aforementioned CESTAT Mumbai Judgments, the Appellant contended that they could not be held as an "intermediary" in terms of Section 2(13) of the IGST Act, 2017 as they were not arranging or facilitating any supply of goods or services or both. They further submitted that their roles are limited to only making initial introductions or references of the Dubai business entities to the Indian business entities and vice-versa; and that they were neither involved nor concerned in any way in any business deals which may or may not happen between the Dubai business entities and Indian

business entities. As such, they did not play any role in arranging or facilitating any supply of goods or services or both.

- 7.5 Vide the aforesaid written submissions dated 09.03.2022, the Appellant further contended that even if their activities were considered as services being provided to their Dubai Head Office, they could not be termed as “intermediary” as held by the Maharashtra AAR, because the said supply would be in the nature of Principal- to- Principal basis owing to the fact that they were receiving money from Dubai Head Office only, and not from Indian or Dubai business entities. The Appellant further submitted that, in such case also, their services would be exempt from GST in terms of entry at Sl. No. 10F of the Notification No. 9/2017-I.T.(Rate) dated 28.06.2017 as the place of supply in this case would be location of the recipient of services in terms of provisions of Section 13(2) of the IGST Act, 2017, and therefore, the place of supply of services in the present case would be Dubai, which is outside the taxable territory, where no GST could be levied.
- 7.6 The Appellant also relied on the certificate from the statutory auditor which clearly stated that the Appellant had received remittances from its Head Office based on the expenses forecast, and the said funds were utilized only for the purposes of expenses of L.O., and that the excess remittances, if any, received from the Head Office, were also utilized only for the purposes of expenses of L.O., and that the same were not attributable to profits. As such, the Appellant argued that since the said remittances were being received from their Dubai H.O. on cost-to-cost basis to sustain their operations in India, the same could not be construed as consideration for providing services to their Dubai H.O.
- 7.7 Replying to the query raised in the personal hearing with regard to the membership fee paid by the Indian businesses to the DCCI, Dubai Head Office in the case of setting up of Dubai units by the Indian businesses, which would be a consideration in itself charged from the Indian companies, the Appellant vide their aforesaid written submissions dated 09.03.2022 replied that as per the RBI guidelines, the DCCI L.O. cannot collect any fee from anyone in India. They further submitted that the membership fee collected by M/s. DCCI, H.O. from any Indian entity intending to set up its unit in Dubai was for the services to be provided by DCCI, H.O. to that very Indian entity. However, in such cases, the liability to discharge GST on the said membership fee, if any, would be on the Indian businesses on the reverse charge basis in accordance with the provisions of section 5(3) of the IGST Act, 2017, and not on the Appellant as the said membership services were being provided by the Dubai H.O. to the Indian businesses.

### DISCUSSIONS AND FINDINGS

8. We have carefully gone through the appeal memorandum encapsulating the facts of the case and the grounds of the appeal along with all the additional submissions made by the Appellant during the course of the personal hearing proceedings. We have also examined the impugned Advance Ruling passed by the MAAR, wherein it has been held that the activities undertaken by the Appellant will tantamount to those of “intermediary” as provided under Section 2(13) of the IGST Act, 2017 for the reason that the Appellant are

arranging and facilitating the supply of goods or services or both between the Indian businesses and the Dubai businesses by connecting them by way of introductions/references, and thereby, it has been held that the impugned activities will be covered under the ambit of "Supply" as provided under Section 7 of the CGST Act, 2017, and accordingly, the Appellant are required to take GST registration and discharge their GST liability on the amount received from their Dubai Head Office for undertaking the impugned activities at the behest of their Head Office.

9. On perusal of the Appeal memorandum conjoined with the impugned Advance Ruling Order passed by the MAAR, the moot issues before us are as under:
  - (i) Whether the host of activities undertaken by the Appellant at the behest of their Dubai Head Office can be construed as that of an "intermediary" as held by the MAAR or otherwise;
  - (ii) Whether the said activities undertaken by the Appellant can be construed as "Supply" as envisaged under Section 7 of the CGST Act, 2017;
  - (iii) Whether the place of Supply of the impugned activities is within taxable territory;
10. At the outset, we proceed to discuss the first moot issue, i.e., whether the host of activities undertaken by the Appellant at the behest of their Dubai Head Office can be construed as that of an "intermediary" as held by the MAAR, or not. To decide this issue, we would like to examine the definition of "intermediary" as provided under Section 2(13) of the IGST Act, 2017. The same is being reproduced hereinunder for the sake of reference:

*"(13) 'intermediary' means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;"*
11. On perusal of the aforesaid definition of "intermediary", it is seen that for any person to be covered under the ambit of an intermediary, he is required to fulfill the following criteria:
  - (a) He should be a broker, an agent or any other person, by whatever name called;
  - (b) He should arrange or facilitate the supply of goods or services or both, or securities, between two or more persons;
  - (c) He should not supply such goods or services or both or securities on his own account;

Now, on application of the aforesaid pre-requisites in the facts of the case, it is noticed as under:

- (i) That the Appellant can be construed as an agent of their Head Office located in Dubai for the reason that they are undertaking the impugned activities at the behest of their Head Office wherein they participate and represent in various seminars, conferences, trade fairs, or exhibitions, in the capacity of a representative of their Dubai Head Office for attaining the purpose and objectives of their Principal, i.e., their Dubai Head Office. Further, they also undertake organizing of various events, interaction programmes for providing platforms where the business entities of India get the information/details about the potential business partners of Dubai with whom they can collaborate to

expand their businesses in Dubai along with other information which include updates in business regulation, policy framework, being introduced in Dubai for the foreign trade or investments. As all the aforesaid activities are being carried out by the Appellant on the direction received from their Dubai Head Office, therefore, the Appellant can aptly be termed as an agent of their Dubai Head Office.

- (ii) However, it is seen from the facts of the case that the Appellant is merely acting as a link between the businesses in India and Dubai by sharing the details of the potential business partners of India or Dubai, as the case may be, or by making references to, or introduction of the Dubai business entities to the Indian businesses and vice-versa, or by acting as an information centre for providing details regarding any updates taking place in the business regulations of Dubai, the potential area of growth and business trends, etc. We observe that they are not arranging or facilitating the actual supply of any goods or services or both or securities between the Indian businesses and Dubai businesses, the transactions which may or may not take place between them. Therefore, we are of the view that merely acting as link for communication between the Indian businesses and the Dubai businesses, where they are not undertaking any arrangement or facilitation of supply of any goods or services or both, or securities between the business entities of the two countries, will not render them as an "intermediary" between the Indian businesses and the Dubai businesses. Further, it is pertinent to mention that Appellant are not receiving any fee or consideration either from the Indian Businesses or from Dubai Businesses for any of the activities undertaken by them, which adds to the aforementioned proposition that neither the Indian Businesses nor the Dubai Businesses are recipients of the Appellant's services in terms of the definition of the recipient provided under Section 2(93) of the CGST Act, 2017. However as the Appellant are receiving consideration from their Dubai Head Office only, and not from any business entities of either India or Dubai, thereby, making their Dubai Head Office as the sole recipient of their service.

Thus, on basis the aforesaid observations, it can be safely concluded that the Appellant are not acting as an "intermediary".

12. Now, having concluded that the Appellant are not "intermediary", we set out to discuss the activities undertaken by the Appellant at behest of their Dubai Head Office. It is not disputed that activities undertaken by the Appellant are considered as "services" as per the definition provided under section 2(102) of the CGST Act, 2017,

*2(102) "services" means anything other than goods, money and securities but includes activities relating to the 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;*

The said definition has very wide connotation attributable to the expression "*anything other than goods, money and securities*" under the GST law. Now, we proceed to discuss the nature of the services provided by the Appellant at the behest of their Dubai Head Office. On perusal of the activities undertaken by the Appellant, it is noticed that the Appellant are undertaking a bunch of activities, which are enumerated hereinunder:

- a) By way of making introduction and references to the business entities in India who are seeking any distribution partners for their goods or services in Dubai and vice-versa by sharing the contact details from the database maintained by them for setting up the initial meetings between the businesses in India and the businesses in Dubai;
  - b) By way of introducing Indian business firms, who seek the guidance for setting up of businesses in Dubai, with the professional services firms, such as, legal firms, business consultancy firms, etc., located in Dubai;
  - c) By way of organizing events or interactions for business delegations wherein the Appellant arrange for physical meetings between the business delegations of Dubai and business entities of India and vice-versa for purpose of better understanding of the business landscapes in India and Dubai. The Appellant have further submitted that they have organized many seminars, round table discussions and conferences where they have engaged with various businesses in India and shared information about Dubai as a high potential business destination, the regulatory changes or updates being introduced in Dubai, its logistics and financial infrastructure, etc.
  - d) By way of conducting numerous virtual events in the form of Webinars to discuss India-Dubai business landscapes in specific sectors like Logistics, Retail, Foods & Beverages, etc.
13. On close scrutiny of the aforementioned activities undertaken by the Appellant, it is noticed that all these activities may be construed as an individual independent supply in itself, if undertaken by the Appellant separately. Further, it is observed that the Appellant are charging, from their Dubai Head Office, a single price or consolidated amount, i.e., reimbursement of the monthly expenses on cost- to- cost basis. Thus, on the basis of the above attributes, it can be concluded that the bunch of activities undertaken by the Appellant is nothing but the "mixed supply" as provided under Section 2(74) of the CGST Act, 2017. The same is being reproduced hereinunder for the sake of reference:
- "2. In this Act, unless the context otherwise requires,—*
- "(74) "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.*
- Illustration. — A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;"*
14. Now, on perusal of the activities of the Appellant mentioned at para 12 above, it is conspicuous that the Appellant, inter-alia, are organizing various seminars, conferences, other interactive events for Indian Business entities and Dubai Business entities/ delegates for the better understanding of the business landscapes in India and Dubai, and for

promoting and projecting Dubai as an international business hub as a part of the diplomatic mission of their Dubai Head Office. Thus, such activities of the Appellant can be grouped under the category of "support services" having the Service Accounting Code "998596" which has the description as "*Events, exhibitions, conventions and trade shows organization and assistance services*". Further, the other activities of the Appellant such as sharing information with their Dubai Head Office about the regulation updates, policy framework, business trends, potential areas of business in India and activities like participation in the various seminars, conferences, trade fairs, exhibitions, etc. as a representative of the DCCI H.O. for promoting Dubai as an attractive international business hub, and for attracting foreign investors in Dubai and that of organizing various webinars for the Indian and Dubai businesses, can be grouped under support services having Service Accounting Code "998599", and having description as "*Other support services nowhere else classified*". Thus, it is opined that the Appellant are providing support services to their Dubai Head Office, which attracts GST at the rate of 18% (CGST @9% + SGST@9%) in terms of item (iii) of the entry at Sl.No. 23 of the Notification No. 11/2017-C.T.(Rate) dated 28.06.2017, having the description "Support services other than (i) and (ii) above".

15. Coming back to the second moot issue as to whether the said activities undertaken by the Appellant can be construed as "Supply" as envisaged under Section 7 of the CGST Act, 2017, it is concluded that the host of activities carried out by the Appellant will come under the ambit of "Supply" as provided under Section 7 of the CGST Act, 2017, which, inter-alia, covers all forms of supply of goods or services or both made or agreed to be made for a consideration by a person in the course or furtherance of business. The same is being reproduced hereinunder for the sake of reference:

"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, license, 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."

16. Now, we set out to determine the third moot issue as to whether the place of Supply of the impugned activities is within taxable territory, or otherwise. Since, the recipient of the services is located in Dubai, i.e., outside India, in order to determine this issue, we will refer to the provisions made under Section 13 of the IGST Act, 2017 which determines the place of supply of services where location of supplier or location of recipient is outside India. Under this Section, we will refer to the sub-section (5), which is being reproduced hereinunder:



“Section 13.

- (5) *The place of supply of services supplied by way of admission to, or organization of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organization, shall be the place where the event is actually held.”*

Since, the Appellant are, inter-alia, undertaking numerous activities pertaining to the organization of the various events in the nature of seminars, conference, round table discussions, etc., the place of supply in such cases will be the place where such events have been held. As it is evident that the Appellant are organizing such events in India, the place of supply of such services, provided by the Appellant, will be in India, i.e., in the taxable territory.

17. It is worth mentioning here that some components of the Appellant's supply of services are not in the nature of organization of events, such as those pertaining to the activities of participation in the various seminars, conferences, trade fair, exhibitions, reporting regulatory changes, potential areas of growth, business policies etc., on behalf of the Dubai Head Office, for promoting Dubai as international business hub. As discussed earlier, such services can be grouped under SAC 998599 having description as “Other support services nowhere else classified”. In such case, the place of supply of services will be governed by sub- section (2) of the Section 13 of the IGST Act, 2017, which reads as under:

“Section 13

*(1).....*

*(2)The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:”*

Since the recipient of the services under question is located abroad, the place of supply of such services in terms of section 13(2) of the IGST Act, 2017, will be outside India, and hence, in the non-taxable territory. Accordingly, such supply will not be liable to GST.

18. Thus, in view of the above findings, it is seen that the Appellant are undertaking the mixed supply of taxable services as well as non-taxable services as discussed hereinabove. Since, the supply of said taxable services are event-based support services bearing Service Accounting Code 998596 and having the description as “Events, exhibitions, conventions and trade shows organization and assistance services”, which attracts the GST at the rate 18%(CGST@9%+SGST@9%) in terms of the item (iii) of the entry at Sl.No.23 of the Notification No.11/2017-C.T.(Rate) dated 28.06.2017, having the description “Support services other than (i) and (ii) above”, as discussed hereinabove, the mixed supply of services provided by the Appellant, in terms of clause (b) of Section 8 of the CGST Act, 2017, will be deemed to be the supply of the event-based support services grouped under the SAC 998596, which attracts GST at the rate of 18 %. Clause (b) of Section 8 of the CGST Act, 2017, is reproduced hereinunder:

*(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.*

As the event-based support services, which are grouped under the SAC 998596, attract IGST at the rate of 18%, i.e., the highest rate of tax among all the elements of the bunch of

services provided by the Appellant to their Dubai Head Office, the host of services provided by the Appellant will be deemed to be supply of this specific event-based support service classified under SAC 998596, and accordingly, the Appellant will be liable to pay IGST on the entire amount received from Dubai Head Office, DCCI-H.O.

19. Thus, on the basis the above discussions, it is concluded that the Appellant are required to obtain GST registration, and pay IGST on the entire amount received from their Dubai Head Office for providing the said mixed supply of support services.
20. The Appellant, vide their submissions made in the grounds of appeal, have contended that DCCI is a non-profit organization setup by the law in Dubai, and is intended to safeguard and promote the interests of businesses in Dubai. They have further submitted that all the business entities based in Dubai have to mandatorily take the membership of DCCI in order to carry out their businesses in Dubai against the prescribed membership fee to be paid to DCCI. They have further submitted that DCCI Liaison Office has been setup as a part of diplomatic relationship between India and Dubai to promote the trade and economic relationship between the two countries in pursuance to the meetings held between the Heads of the two countries, i.e., Hon'ble Prime Minister of India and the Hon'ble President of U.A.E. They have also submitted that the DCCI -L.O., like its Dubai H.O., is also a non-profit organization, and is not involved in any commercial activities, whatsoever, in terms of guidelines issued by the R.B.I. under Foreign Exchange Management Act, 1999. As per the said guidelines, the Appellant are neither permitted to undertake any commercial transaction or business activities in India nor are they entitled to collect any fee or commission from any Indian firms for carrying out their liaisoning activities at the behest of its Dubai H.O. Thus, they have submitted that they are not undertaking any business as they are not receiving any consideration from any Indian companies/firms for undertaking any liaisoning work such as making references or introduction of any Dubai business entities to Indian business entities who seek business partners in Dubai for expansion of their business in Dubai, and thereby, their activities will not come under the ambit of Supply as provided under Section 7 of the CGST Act, 2017, and therefore, they are not required to take GST registration, and pay any GST on the reimbursement amount being received from their Dubai Head Office for undertaking the liaisoning activities. They have also contended that any contrary interpretation in this regard will be contradictory to the guidelines issued by the R.B.I. which hypothesize that the liaisoning activities carried out by the Appellant will not constitute business as they are not permitted to charge any fee or commission from any businesses in India or Dubai.
21. As regards the aforementioned contention put forth by the Appellant, it is opined that just because a body or an entity is setup under the law to attain some specific objectives, that body or entity does not get exemption from payment of GST under the GST law unless such body or entity is specifically exempted from GST on the supply of goods or services or both, made by it, by way of an entry in the exemption notification. It is further opined that the Foreign Exchange Management Act and the GST Act are entirely different Acts having their own objectives and purposes. There is no correlation between these two laws. Therefore, the definitions and meanings assigned to the term "business" in these two Acts

are completely different. Hence, any activity which is not business as per the mandate of R.B.I. can be construed as a business under the GST Law. Further, it has also been contended by the Appellant that they are not charging any fee or commission from Indian or Dubai businesses for undertaking their liaisons activities, and hence, are not engaged in any supply owing to the absence of consideration in the present case, and thereby, their activities will not come under the ambit of supply as provided under Section 7(1)(a) of the CGST Act, 2017, which mandates the presence of consideration for a transaction to qualify as "supply". In this regard, it is stated that though they are not charging any fee or commission from the Indian and Dubai business entities, they are definitely receiving an amount in the form of monthly reimbursement of expenses (cost- to- cost basis) from their Dubai Head Office, which will definitely be construed as "consideration" in terms of its definition provided under Section 2(31) of the CGST Act, 2017, which reads as under:

*"2. In this Act, unless the context otherwise requires, —*

*(31) "consideration" in relation to the supply of goods or services or both includes—*

- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*

*Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;"*

Thus, on plain reading of the aforesaid definition of "consideration", it is apparent that the a very wide connotation has been given to the term "consideration" by the legislature which is evident by the presence of the expressions "*any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person*", having a very wide expansion, which would clearly include even the payment, which are in the nature of reimbursement of the expenses. Thus, the cost -to -cost reimbursement, received by the Appellant from their Head Office in respect of the supply of services, will be construed as "consideration".

22. Further, it is also pertinent to mention that the host of activities undertaken by the Appellant at the behest of their Dubai Head Office can aptly be construed as vocation which as per the "Merriam Webster Dictionary" means "the special function of an individual or group". Since, the Appellant are also undertaking specific functions assigned by their Dubai Head Office, their activities can aptly be construed as "vocation". The said term "vocation" finds its mention among the set of terms included in the definition of the term "business", and thereby, the said bunch of activities undertaken by the Appellant will be construed as "business" in terms of its definition provided under Section 2(17) of the CGST Act, 2017, which reads as under:

"2. In this Act, unless the context otherwise requires, —

.....

(17) "business" includes—

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a license to book maker in such club; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities".

23. It is also germane to mention that the aforesaid definition of the term "business" also includes the activities which are not done for pecuniary benefit. Hence, the contention, put forth by the Appellant that they are non-profit organization, and thereby, their activities will not constitute business, does not hold water, and hence, is not tenable.

24. The Appellant have also contended that they are mere extension of its Dubai Head Office, and are, therefore, not a separate legal entity. They further argued that since both DCCI-L.O. and DCCI H.O. are one and the same, therefore, the activities undertaken by the Appellant will not constitute supply in terms of Section 7 of the CGST Act, 2017 as there has to be presence of two persons to constitute supply.

25. To decide this issue as to whether the Appellant, i.e., DCCI-L.O. and its Dubai Head Office, i.e., DCCI-H.O. are one and the same person, or otherwise as per the GST law, we would like to refer to the definition of the "person" provided under Section 2(84) of the CGST Act, 2017, which reads as under:

Section 2 (84) "person" includes—

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central Act, State Act or

*Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;*

*(h) any body corporate incorporated by or under the laws of a country outside India;*

*(i) a co-operative society registered under any law relating to co-operative societies;*

*(j) a local authority;*

*(k) Central Government or a State Government;*

*(l) society as defined under the Societies Registration Act, 1860;*

*(m) trust; and*

*(n) every artificial juridical person, not falling within any of the above;*

26. On perusal of the above definition of the term "person", it is seen "*that anybody corporate incorporated by or under the laws of a country outside India*" is a person. This means that as per the CGST Act, 2017, DCCI-H.O. is a person as it has been incorporated under the laws of a country outside India. Further, from the same definition of "person", reproduced above, it is also manifest that "*every artificial juridical person, not falling within any of the above*" is also a person. This leads us to conclude that DCCI-L.O., i.e., the Appellant, who is also bound to comply with various statutory obligations in India, viz.- filing of Annual Income Tax Returns with the Income Tax Authorities, filing of Annual Financial Statements with the Registrar of the Companies under the Indian Companies laws, etc., can definitely be considered as an artificial juridical person. Thus, it is seen that DCCI-H.O. and DCCI-L.O./Appellant are two different persons as per the GST law, and thereby, the activities undertaken by the Appellant at the behest of their Dubai Head Office will clearly constitute supply in terms of Section 7(1)(a) of the CGST Act, 2017 as all the pre-requisites of the supply provided under Section 7(1)(a) of the CGST Act, 2017 are being satisfied by the activities undertaken by the Appellant at the behest of their Dubai Head Office.

27. The Appellant, to strengthen their contentions, have referred to the below mentioned Advance Ruling Orders:

- i. M/S. Wilhelm Fricke SE – AAR, Haryana [2020 (1) TMI 690]
- ii. Habufa Meubelen B.V. - AAR, Rajasthan [2018 (7) TMI 883]
- iii. M/S. Takko Holding GmbH – AAR, Tamil Nadu [2018 (10) TMI 315]
- iv. M/S. *Fraunhofer-Gesellschaft zur Förderung der Angewandten Forschung* - Appellate AAR, Karnataka [2021(2) TMI 1164]

In this regard, it is opined that the aforesaid Advance Ruling orders are not binding on this Appellate Authority, and hence, the same are not being considered here for the purpose of references or application of their ratio decided in the present case. Further in case of the decision given by AAAR, Karnataka in the case of M/s *Fraunhofer-Gesellschaft zur Förderung der Angewandten Forschung*, it is observed that the facts in the said case are different that those of this instant case of the Appellant. In the case of M/s *Fraunhofer-Gesellschaft zur Förderung der Angewandten Forschung*, their liaisoning Office was not involved in any business or commercial activity like organizing seminars, conferences other interactive events etc which constitute supply of services. whereas in the instant case the appellant is


actively involved in organizing various seminars, conferences, other interactive events for Indian Business entities and Dubai Business entities, sharing information with their Dubai Head Office about the regulation updates, policy framework, business trends, potential areas of business in India and activities like participation in the various seminars, conferences, trade fairs, exhibitions, etc. which involves supply of services.

28. As regards the CESTAT Mumbai Orders, cited by the Appellant, in the case of Lubrizol Advanced Materials India Pvt. Vs. C.C.E., Belapur [2019 (22) G.S.T.L. 355] and Chevron Phillips Chemicals India Pvt. Ltd. Vs. Commissioner of CGST & C.E., Mumbai East, it is stated that we concur with the aforesaid CESTAT judgments, and therefore, the observations made by us in the facts and circumstances of the present case are not contrary to the ratio decided in the aforesaid CESTAT Order. That is, we are also of the view that the Appellant are not acting as an “intermediary” as held by the Maharashtra AAR.
29. In view of the above discussions and findings, we pass the following order:

### ORDER

30. We, hereby, modify the Ruling passed by the MAAR vide Order No. GST-ARA-35/2019-20/B-14 dated 24.05.2021, by holding that the host of activities performed by the Appellant at the behest of their Dubai Head Office will come under the ambit of “Supply” in terms of Section 7(1)(a) of the CGST Act, 2017, and are required to take GST registration, and discharge their IGST liability, if any, on the amount received from their Dubai Head Office. Thus, the Appeal filed by the Appellant is not maintainable, and hence, hereby, dismissed.

  
(RAJEEV KUMAR MITAL)  
MEMBER

  
(ASHOK KUMAR MEHTA)  
MEMBER

#### Copy to:

1. M/s. Dubai Chamber of Commerce and Industry- Liaison Office, Appellant.
2. Authority for Advance Ruling (AAR), Maharashtra
3. Pr. Chief Commissioner, CGST and Central Excise, Mumbai Zone.
4. Commissioner of State Tax, Maharashtra.
5. Deputy/Assistant Commissioner CGST & Central Excise, Division-IV, Mumbai East Commissionerate.
6. Pr. Commissioner, CGST and Central Excise, Mumbai East Commissionerate.
7. Web Manager, WWW.GSTCOUNCIL.GOV.IN
8. Office copy.