

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/RS-SK/ 27/2020-21

Date- 03.11.2020

BEFORE THE BENCH OF

(1) Shri Rakesh Kumar Sharma, MEMBER (Central Tax)

(2) Shri Sanjeev Kumar, MEMBER (State Tax)

Name and Address of the Appellant:	M/s. Portescap India Private Limited, Unit no. 2, SDF-1, SEEPZ-SEZ, Andheri East, Mumbai, Maharashtra - 400096.
GSTIN Number:	27AAACK4896K1ZZ
Clause(s) of Section 97, under which the question(s) raised:	(e)determination of the liability to pay tax on any goods or services or both;
Date of Personal Hearing:	15.10.2020
Present for the Appellant:	Mr. Thirumalai, Advocate
Details of appeal:	Appeal No. MAH/GST-AAAR-06/2020-21 dated 28.08.2020 against Advance Ruling No. GST-ARA-93/2019-20/B-31, dated 12.03.2020.
Jurisdictional Officer:	Assistant Commissioner CGST & C.Ex., Division X, Mumbai East Commissionerate.

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

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 “the CGST Act and MGST Act”] by M/s. Portescap India Private Limited (“the Appellant”) against the Advance Ruling No. GST-ARA-93/2019-20/B-31, dated 12.03.2020., pronounced by the Maharashtra Authority for Advance Ruling (hereinafter referred to as MAAR)

BRIEF FACTS OF THE CASE

- 3.1 M/s. Portescap India Pvt. Ltd., having GSTIN 27AAACK4896K1ZZ, is engaged in the activity of manufacturing of customized motors in India. The Appellant is an SEZ Unit and engaged in exports of the manufactured goods outside India.
- 3.2 The Appellant procures Rental Services from Santacruz Electronic Export Processing Zone (SEEPZ), Special Economic Zone (SEZ) Authority, situated at SEEPZ Service Centre Building, Andheri East, Mumbai-400096 having GSTIN 27AAALS4995G1ZH.
- 3.3 In accordance with the Notification No. 18/2017 - Integrated Tax (Rate) dated 05.07.2017, the Central Government exempts services imported by a unit or a developer in the Special Economic Zone for authorized operations, from the whole of the integrated tax leviable thereon, under Section 5 of the IGST Act, 2017.
- 3.4 The issue in the present case is whether tax is payable under reverse charge mechanism (RCM) on procurement of domestic services like “renting of immovable property services” from SEEPZ SEZ, in accordance with Notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017, amended by Notification No. 03/2018- Central Tax (Rate) dated 25.01.2018. The extract from the aforementioned Notification No. 03/2018, dated 25.01.2018 is as follows:

Sl. No	Category of supply of Services	Supplier of Service	Recipient of Service
“5A	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable	Central Government, State Government, Union territory or local authority	Any person registered under the Central



property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).		Goods and Services Tax Act, 2017.”
--	--	------------------------------------

3.5 The Appellant have submitted that the objective of government for SEZs include, inter-alia, allowing tax free procurement of goods and services with support in basic essential infrastructure facility for production of goods or services. Section 7 of the SEZ Act, 2005 provides for exemptions from taxes, duties or cess, to all goods or services procured from a DTA (Domestic Tariff Area) or foreign suppliers specified in the first schedule. According to Section 51 of the SEZ Act, 2005, the provisions of the SEZ Act, 2005 would have overriding effect on provisions of any other act including taxation laws.

3.6 Section 26 of the SEZ Act, 2005 deals with the exemption from taxes on the services provided to a developer or unit to carry out the authorized operations in a SEZ. The grant of exemption will be subject to the terms and conditions as prescribed by the Central Government in terms of sub-section (2) of Section 26 of the SEZ Act, 2005.

3.7 As per Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, the Central Government has exempted Services provided by Central Government, State Government, Union territory or a local authority, where the consideration for such services does not exceed five thousand rupees subject to the proviso mentioned therein. Additionally, in accordance with the Notification No. 13/2017-Central Tax (Rate), dated 28.06.2017 read with Notification No. 3/2018 – Central Tax (Rate), dated 25.01.2018, Services supplied by Central Government, State Government, Union territory or local authority to a business entity, the recipient of service is required to pay tax on reverse charge mechanism.

3.8 In light of the above facts, the Appellant filed an application before the Maharashtra Advance Ruling Authority (MAAR) to obtain a ruling with regard to the questions, mentioned below:

- (i) Whether Appellant is required to pay tax under reverse charge mechanism on procurement of renting of immovable property services from the SEEPZ Special



Economic Zone Authority in accordance with Notification No. 13/2017-C.T.(Rate), dated 28.06.2017 read with Notification No. 03/2018 - Central Tax (Rate), dated 25.01.2018?

- (ii) Whether Appellant is required to pay tax under reverse charge mechanism on any other services, in accordance with Notification No. 13/2017, dated 28.06.2017 read with Notification No. 03/2018 - Central Tax (Rate), dated 25.01.2018?
- (iii) If, answers to the above questions are in the affirmative, then the tax under reverse charge mechanism is required to be paid under which tax head i.e., IGST or CGST and SGST?

3.9 The Maharashtra AAR vide their Ruling No. GST-ARA-93/2019-20/B-31, dated 12.03.2020, held that the Advance Ruling application filed by the Appellant for obtaining Advance Ruling in respect of the issues mentioned therein is not maintainable, thereby rejecting the aforesaid application. The Maharashtra AAR based their ruling on the ground that the subject application was not admissible in terms of Section 95(a) of the CGST Act, 2017, which provides that ***the Advance Ruling can be sought on matters or on questions specified in sub-section 2 of Section 97 or sub-section (1) of Section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.*** In the subject case, the Appellant was not undertaking the impugned supply, rather they were the recipient of the impugned services, i.e., "Renting of immovable property services". They further observed that since the impugned transactions, i.e. services of Renting of immovable property, were not in relation to the supply of goods or services or both, undertaken or proposed to be undertaken by the Applicant, the subject Advance Ruling application could not be admitted in terms of the provision of Section 95(a) of the CGST Act, 2017.

4. Aggrieved by the aforesaid Advance Ruling passed by the MAAR, the Appellant have preferred the present appeal before the Maharashtra Appellate Authority for Advance Ruling (MAAAR).



GROUND OF APPEAL

5. The Appellant have mentioned the following grounds of appeal:
- 5.1 That the MAAR has failed to appreciate the harmonious reading and interpretation of Section 95 and Section 97 of the CGST Act, 2017;
- 5.2 The Section 9(3) of the CGST Act, 2017, related to Reverse Charge Mechanism (RCM), is reproduced below: -
- “The Government may, on the recommendations of the Council, by Notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”*
- 5.3 That Section 16 of the IGST Act, 2017 pertains to zero-rated supplies, the relevant portion of which is being reproduced below: -
- 16. (1) “zero rated supply” means any of the following supplies of goods or services or both, namely: —*
- (a) export of goods or services or both; or*
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.*
- 5.4 That the Sectoral FAQ’s on “Exports” issued by the CBIC gives the following clarifications regarding goods or services or both supplied to the SEZ units/developers:-

“6. When a SEZ unit or SEZ developer procures any goods or services from an unregistered supplier, whether the SEZ unit or SEZ developer needs to pay IGST under reverse charge or these will be zero rated supplies?”

Supplies to SEZ unit or SEZ developer have been accorded the status of inter-State supplies under the IGST Act. Under the GST Law, any supplier making inter-State supplies has to compulsorily get registered under GST. Thus, anyone making a supply to a SEZ unit or SEZ developer has to necessarily obtain GST



registration. " Thus, a supply to SEZ will be considered as an inter-state supply and as long as the same supply is used for authorized operations of the SEZ, the same will be zero-rated in terms of Section 16 of the IGST Act, 2017;

- 5.5 That the Default List of Services approved by the Department of Commerce (F. No. D.12/19/2013-SEZ, dated 02.01.2018) for authorized operations specifically includes "Renting of Immovable Property" within its ambit. Therefore, it is being submitted that there can be no liability on the SEZ unit, since the service received by the SEZ unit would be considered as a zero-rated service in terms of Section 16 of the IGST Act, 2017;
- 5.6 That Notification No. 18/2017- Integrated Tax (Rate), dated 05.07.2017 which has exempted services, imported by a unit or a developer in the Special Economic Zone for authorized operations, from the whole of the integrated tax leviable thereon under Section 5 of the Integrated Goods and Service Tax Act, 2017; Thus, SEZ units enjoy an exemption from IGST for import of services.
- 5.7 That the aforementioned notification is applicable not only for services procured from overseas service providers but from services procured within India as well, since the transaction with an SEZ is considered an inter-state supply and aforementioned notification exempts an SEZ unit from IGST on import of service. Therefore, the Appellant should not be liable to pay any GST on reverse charge on the renting the immovable property from the SEZ authority;
- 5.8 That the Hon'ble Telangana and Andhra Pradesh High Court in **GMR AEROSPACE ENGINEERING LIMITED AND ANOTHER Vs. UNION OF INDIA AND OTHERS (2019 (8) TMI 748)** mentioned that as long as the services are used for authorized operations of the SEZ unit, the same should be exempted from the levy of tax.
- 5.9 That in light of the aforementioned submissions, the Appellant is of the view that they are not required to comply with the requirements of Notification No. 13/2017-Central Tax. (Rate), dated 28.06.2017 read with Notification No. 03/2018 - Central Tax (Rate), dated 25.01.2018, for any or all services mentioned therein.



- 5.10 That one of the questions on which Advance Ruling can be obtained as per Section 97(2) is “admissibility of input tax credit of tax paid or deemed to have been paid”. Accordingly, it can be inferred that the Advance Ruling can also be filed by the Appellant wherein the Appellant is in receipt of goods or services or both.
- 5.11 The Appellant have placed reliance on the following Advance Rulings issued by Advance Ruling Authorities of Andhra Pradesh, Karnataka and by Appellate Advance Ruling Authorities of Odisha, wherein the question was as to whether the Applicant / Appellant in that case was liable to pay tax under reverse charge mechanism.

Sl. No.	Authority and State	Advance Ruling No.	Appellant's Name
1	Andhra Pradesh AAR	AAR No. 29/AP/GST/2019, dated 16-07-2019	PKR Projects and Engineers
2	Karnataka AAR	KAR ADRG 97/2019, dated 27-09-2019	M.K. Agro Tech Pvt. Ltd.
3	Karnataka AAR	KAR ADRG 66/2019, dated 21-09-2019	JSW Steel Ltd
4	Odisha AAAR	03/ODISHA-AAAR/2019-20, dated 05-11-2019	Penguin Trading and Agencies Limited

RESPONDENT's /DEPARTMENT's SUBMISSIONS

6. The submissions made by the Jurisdictional Officer/Respondent are as under:

- 6.1 that the Advance Ruling passed by the MAAR is perfectly legal and correct in as much as the Advance Ruling application filed by the Appellant has rightly been rejected by the MAAR in terms of Section 95(a) of the CGST Act, 2017, after observing that the issue/question in respect of which the Advance Ruling was sought for by the Appellant was not pertaining to the supply, undertaken or proposed to be undertaken by the Appellant, as the Appellant is not the supplier of the impugned service, i.e., “Renting of immovable property service” but the recipient of the said services; that the said



service of the “Renting of immovable property” is supplied by the SEEPZ SEZ Authority;

6.2 As regards the contention, put forth by the Appellant, in as much as the Section 97(2) of the CGST Act, 2017 provides for the Advance Ruling on the issue of the admissibility of the Input Tax Credit of the tax paid or deemed to have been paid, thereby justifying the Advance Ruling application filed by them as they are also receiving the services, namely, “Renting of immovable property service”, it is submitted by the Respondent that the mechanism and the scope of the Advance Ruling, provided under the CGST Act, 2017, is limited by its definition and meaning provided under Section 95(a) of the CGST Act, 2017, which clearly provides that *the Advance Ruling can be sought on matters or on questions specified in sub-section 2 of Section 97 or sub-section (1) of Section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant*. Since, the Appellant has not undertaken the supply under question, i.e. “renting of immovable property service” as they are the recipient of the said services, the Appellant are not eligible to file the Advance Ruling on this very issue, i.e. determination of liability to pay tax under RCM, on the supply of impugned services, in terms of the provision of Section 95(a) of the CGST Act, 2017.

6.3 As regards the contention, put forth by the Appellant, wherein they have referred to Section 9(3) of the CGST Act, 2017 to emphasize that for supplies made under reverse charge mechanism, “recipient becomes the supplier of goods/services for determination of liability, thereby inferring that the impugned transaction can be regarded as the supply of services undertaken by the Appellant, the Respondent has submitted that it is nowhere mentioned in the aforesaid Section 9(3) of the CGST Act, 2017 that the person, i.e. the recipient of the supply will become the supplier or the transaction will become the supply undertaken by the person, who happens to be the recipient in such cases. The Respondent has further submitted that the person, who is deemed to be the supplier of goods or services or both for the payment of tax under RCM will remain the recipient of goods or services or both and the said supply will still be maintained as the supply undertaken by the original supplier and not the person/recipient of the supply, who is held liable for paying tax for such supply under reverse charge basis, in terms of Section 9(3) of the CGST Act, 2017.



- 6.4 The Responded has relied upon the Advance Ruling No. 18/AAR/2018, dated 29.10.2018, passed by the Tamil Nadu Advance Ruling Authority in the application filed by M/s. Naga Limited, wherein it has been held that the applicant is the recipient of the services and not supplier of such service, accordingly the application is not liable for admission.

PERSONAL HEARING

7. A hearing in the matter was held in the virtual mode via video conferencing on 15.10.2020, which was attended by Shri Thirumalai, Advocate as a representative of the Appellant, and by Ms. Rhea Joshi, Assistant Commissioner (Central Tax), as the Jurisdictional officer/Respondent, in the subject appeal matter.
- 7.1 During the course of the said hearing, Shri Thirumalai referred to the Hon'ble Kerala High Court Judgment, dated 03.02.2020 in the case of Sutherland Mortgage Services Inc. Vs. Principal Commissioner of Customs, Central GST and Central Excise, Kochi, wherein the Hon'ble High Court has inter-alia observed that the provision as per clause (e) of sub-section (2) of Section 97 of the CGST Act, 2017 is in wide terms and consequently held that the issues like the "Place of Supply", which is not expressly enumerated under sub-section (2) of Section 97 of the CGST Act, 2017, but the determination of which is crucial for the determining the liability to pay tax on any goods or services or both as envisaged under clause (e) of Section 97(2) *ibid.*, would also come under the ambit of the Advance Ruling.
- 7.2 He also referred to the Advance Ruling pronounced by Odisha AAAR in the case of ***Penguin Trading and Agencies Limited***, wherein the Appellate Authority has passed the ruling on the applicable rate of tax, payable under reverse charge basis, on the lease amount paid to the State Government for the grant of rights related to the mining lease, thereby contending that the question raised by them also come under the scope of the Advance Ruling.
- 7.3 Ms. Rhea Joshi, the jurisdictional officer reiterated their earlier written submissions filed before us wherein they had referred to the impugned Advance Ruling passed by the MAAR to contend that the recipients of the goods or services or both are not eligible to seek the Advance Ruling in terms of the provision of Section 95(a) of the CGST Act, 2017. In this regard, reliance has been placed on ***Advance Ruling passed by the Tamil Nadu AAAR in the case of M/s. Naga Limited***. As regards the two case laws cited by



the Appellant, viz. (i) *Odisha AAAR order in the case of Penguin Trading and Agencies Limited* and (ii) *Hon'ble Kerala High Court Judgment, dated 03.02.2020 in the case of Sutherland Mortgage Services Inc. Vs. Principal Commissioner of Customs, Central GST and Central Excise, Kochi*, it has been submitted that the facts of the aforesaid cases, relied upon the Appellant, are clearly different from the facts the present case, and therefore, are clearly distinguishable.

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 other relevant documents. We have also examined the impugned ruling passed by the Maharashtra Advance Ruling Authority, wherein it has been held that the Advance Ruling application filed by the Appellant for obtaining Advance Ruling in respect of the issues mentioned therein is not maintainable, and thereby it has rejected the aforesaid application. The MAAR based their ruling on the ground that the subject application was not admissible in terms of Section 95(a) of the CGST Act, 2017, which provides that *the Advance Ruling can be sought on matters or on questions specified in sub-section 2 of Section 97 or sub-section (1) of Section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant*. It has been observed by the MAAR that in the subject case, the Appellant is not undertaking the impugned supply, rather they are the recipient of the impugned supply, i.e., "Renting of immovable property services", and therefore, the impugned transaction, i.e. services of Renting of immovable property, is not in relation to the supply of goods or services or both, undertaken or proposed to be undertaken by the Appellant, and thereby has rejected the Advance Ruling application filed by the Appellant in terms of the provision of Section 95(a) of the CGST Act, 2017.
9. Having gone through the above appeal memorandum, and the rulings of the Maharashtra Advance Ruling Authority (MAAR) on the question raised by the Appellant, the only moot issue before us is whether the Advance Ruling application filed by the Appellant is maintainable in terms of Section 95(a) read with Section 97(2) of the CGST Act, 2017 or not. Thus, we are going to restrict our discussions within the periphery of the aforesaid issue, i.e. the maintainability of the subject Advance Ruling application filed



by the Appellant before the Maharashtra Advance Ruling Authority. We will not go beyond the aforesaid issue to decide the question asked by the Appellant as to whether they are liable to pay tax under reverse charge on the subject transaction, i.e. services of “renting of immovable property”, received from the SEZ Authority, as we are of the opinion that it would be legal and proper for the Advance Ruling Authority to pass an Advance Ruling on the questions asked by the Appellant after considering the merits of the subject application filed by the Appellant, depending upon the outcome of the maintainability issue of the subject Advance Ruling application, which would eventually be decided by us in this present appeal proceedings.

10. At the outset, we would like to refer to the relevant provisions related to the Advance Ruling, as provided under Section 95(a) of the CGST Act, 2017, which provides the meaning of the term “Advance Ruling” as envisaged under the CGST Act, 2017. The same is being reproduced hereinunder:

Section 95(a) “advance ruling” means a decision provided by the Authority or the Appellant Authority to an applicant on matters or on questions specified in sub-section 2 of Section 97 or sub-section (1) of Section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

11. On plain reading of the texts of the aforesaid provisions, it is amply clear that the Advance Ruling can be sought only in respect of such supplies, which have been undertaken or proposed to be undertaken by the applicant. In other words, it can be said that only “supplier” of goods or services or both, can seek the Advance Ruling and not the “recipient” of such supplies. Thus, we agree with the observations made by the Maharashtra Advance Ruling Authority to the extent that it is **only** the **supplier** of goods or services or both, who is eligible to file the application for Advance Ruling in respect of the questions specified under Section 97(2) of the CGST Act, 2017.
12. However, the Appellant, in their submissions, have mentioned about a deeming provision under Section 9(3) of the CGST Act, 2017, which is being reproduced hereinunder:

Section 9(3): The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall be apply to such recipient



as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

13. Section 9 of the CGST Act, 2017 is the section dealing with 'levy and collection'. It provides for the levy of CGST on all intra-state supplies of goods or services or both. Section 9(3) of the CGST Act, 2017 in keeping with the tenor of the Section also speaks about the 'liability to pay tax'. Under this sub-section, the Government specifies the categories of '*supply of goods or services*' or both, the tax on which shall be paid on reverse charge basis. Further the words occurring in the Section – '*and all provisions of this Act shall apply to such recipient as if he is the person liable to pay tax in relation to such supply of goods or services or both*' are important. This section determines the category of recipients who are liable to pay tax. Though the recipient is not a supplier, as per the deeming fiction in the section, if he is covered by the notification issued under Section 9(3) of the CGST Act, 2017 he does become liable to pay tax and more importantly, all the provisions of this Act become applicable to him. Therefore, all the provisions of the CGST Act, 2017, including the provisions related to the Advance Ruling, as laid down under Chapter XVII of the CGST Act, 2017, will be applicable to such recipients. Also, Section 31 (3)(f) of the CGST Act, which deals with 'Tax Invoice', requires a registered person, who is liable to pay tax under section 9(3) to *issue a tax invoice* in respect of goods or services received by him. As per Rule 36 (1)(b), the recipient is also eligible to take input tax credit on the basis of the tax invoice. This makes it clear that the recipient deemed to be liable to pay tax, he is well, within his rights to make an application for Advance Ruling to know whether *he is liable to pay tax*.

14. The Appellant have raised the issues as to whether they are liable to pay tax on the receipt of "renting of immovable property" services from the SEEPZ SEZ Authority as well as on the other services procured by them wherein they are liable to pay tax under RCM, in terms of the provisions of the Notification No. 13/2017-C.T. (Rate), dated 28.06.2017, as amended by Notification No. 03/2018-C.T. (Rate), dated 25.01.2018. In this regard, we observe that the said questions, asked by the Appellant, can aptly be construed to be covered under the clause (e) of Section 97(2) of the CGST Act, 2017, which provides for the *determination of the liability to pay tax* on any goods or services or both. The aforesaid observation also finds support from the Kerala High Court Judgment in the case of *Sutherland Mortgage Services Inc. vs. Principal*



Commissioner of Customs, Central GST and Central Excise, Kochi [2020 (3) TMI 186-Kerala High Court], wherein the High Court during the course of the judicial review of the Advance Ruling pronounced by the Kerala Advance Ruling Authority *inter-alia* observed that the provision as per clause (e) of sub-section (2) of Section 97 of the CGST Act, 2017 is in wide terms and the Advance Ruling Authority is obliged to provide the Advance Ruling in all the matters pertaining to the determination of the liability to pay tax on any goods or services or both so that the applicant could get due clarity and precision about various aspects of taxation in the transactions undertaken by them. The High Court in the aforesaid case went on to hold that even the question related to the “place of supply”, which has not been expressly mentioned under sub-section (2) of Section 97 of the CGST Act, 2017, would come under the jurisdiction of the Advance Ruling for the purpose of deciding the issue pertaining to the determination of the liability to pay tax on any goods or services or both, as enumerated under clause (e) of the Section 97 (2) of the CGST Act, 2017. Thus, it is evident from the aforesaid High Court Judgment that the clause (e) of Section 97(2) of the CGST Act, 2017 has got a very wide connotation and would cover all sorts of transactions, where the Advance Ruling on the questions related to the determination of the liability to pay tax including the liability under RCM (Reverse Charge Mechanism) can be sought by the Applicant in terms of the provisions related to the Advance Ruling as provided under Chapter XVII of the CGST Act, 2017.


15. Hence, in view of the above discussion, we are of the view that the Appellant is eligible to file the subject Advance Ruling application, wherein they have sought the Advance Ruling as to whether they are liable to pay tax under RCM on the services of “renting of immovable property” received from the SEZ Authority and also on any other services liable for payment of GST under RCM in terms of the Notification No. 13/2017-C.T. (Rate), dated 28.06.2017 as amended. Accordingly, the MAAR should not have rejected the subject application on the grounds mentioned in the impugned Advance Ruling, and should have decided the issue on merits. Therefore, we are of the opinion that the subject Advance Ruling application should be decided by the MAAR on merits, and accordingly the same is required to be remitted to the MAAR.

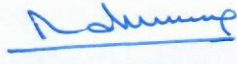
16. Thus, in view of the above discussions, we pass the following order:



ORDER

17. We, hereby, set aside the Ruling passed by the MAAR, wherein the Advance Ruling application filed by the Appellant has been declared as non- maintainable. We, further, hold that the Maharashtra AAR should consider the subject application on merits. Accordingly, the application for the Advance Ruling is remitted to the Maharashtra Advance Ruling Authority for fresh consideration on merits. Thus, the appeal filed by the Appellant is hereby disposed of in above terms.


(SANJEEV KUMAR)
MEMBER


(RAKESH KUMAR SHARMA)
MEMBER



Copy to the:

1. Appellant;
2. AAR, Maharashtra
3. Pr. Chief Commissioner, CGST and C. Ex., Mumbai
4. Commissioner of State Tax, Maharashtra
5. Assistant Commissioner, CGST & C.Ex, Division -X, Mumbai East
6. Commissioner, CGST & C.Ex, Mumbai East
7. Web Manager, WWW.GSTCOUNCIL.GOV.IN
8. Office copy.