

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)

AMENDED ORDER NO. MAH/AAAR/SS-RJ/32A/2018-19 **Date- 14.08.2019**

BEFORE THE BENCH OF

(1) Smt. Sungita Sharma, MEMBER

(2) Shri Rajiv Jalota, MEMBER

Name of the Appellant	Assistant Commissioner, Central Tax, Division-IV, CGST, Pune-II Commissionerate
Details of appeal	Appeal No. MAH/GST-AAAR-32/2018-19 dated 23.01.2019 against Advance Ruling No. GST-ARA-33/2018-19/B-118 dated 28.08.2018
Legal Name of the Respondent	Lions Club Of Poona Kothrud
GSTIN Number/User Id	271800000726ARI/URD
Registered Address/Address provided while obtaining user id	201, 2 nd Floor, Lotus Residency, Opp. to Lane Joshis Railway Museum, Kothrud, Pune- 411 038
Details of the AAAR order sought to be amended under Section 102 of the CGST Act, 2017	ORDER NO. MAH/AAAR/SS-RJ/32/2018-19 dated 23.04.2019

PROCEEDINGS

(under Section 102 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

- A. 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.



- B. In the present case, appeal had 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 Assistant Commissioner, Central Tax, Division-IV, CGST, Pune-II Commissionerate (herein after referred to as the "Appellant" or "the Department" interchangeably) against the Advance Ruling No. GST-ARA-33/2018-19/B-118 dated 28.08.2018, which was disposed of by the AAAR Order No. MAH/AAAR/SS-RJ/32/2018-19 dated 23.04.2019. However, pursuant to the said AAAR order dated 23.04.2019, the Respondent in this appeal i.e. Lions Club of Poona Kothrud has brought to our notice, certain shortcomings in the above said order, vide the additional submissions, made before us on 12.06.2019, which are detailed herein under:

The Respondent vide their above submissions dated 12.06.2019 pointed out that the membership fee recovered by them from their members is not appropriated towards provision of the leadership program to their members as envisaged under the above mentioned AAAR order dated 23.04.2019. The entire membership fee collected by the Respondent is spent towards meeting various administrative expenses only. In order to support their above stated claim, they have referred to the clause 8 and 9 of the Declaration of the Body of Individuals dated 27.02.2019, which has been reproduced herein under:

7. ***The BOI may collect funds from each member as decided from time to time on its membership***
8. ***Such funds collected shall be utilized only for paying Members meeting expenses for formulation of policies and directions; administrative expenses, office supplies; communication and such other incidental expenses for updating education for the purpose of carrying on Service activities in a better manner.***
9. ***The Members shall not be entitled to any facilities whatsoever such as sports, fitness, recreation, lifestyle, entertainment and personal transportation etc.***



- C. They have also furnished the payment receipts, issued to their members, for registration in programs such as Club Quality Initiative Workshops. They have also furnished one flyer cataloguing various programs pertaining to the communication skill, managerial skill, and leadership skill, etc., which also reveals the amount of the registration fee for participating in such training programs/workshops.

Discussion and Findings

1. We have perused the additional submission made by the respondent on 12.06.2019 vide which they have submitted that the membership fee charged by them from their members, which are exclusively used for meeting the administrative expenses, is not leviable to GST as the same is not received for extending any benefits or facilities to its members, whatsoever, including the arrangement of any training programs/workshops imparting leadership skills, communication skills etc.. Further, they have brought to our notice that they charge the registration fee for imparting communication skill, managerial skill, and leadership skill by organising workshops etc. on which they agree to pay GST, subject to the condition that their annual turnover exceeds the threshold limit prescribed under the GST law.
2. In view of the above submissions made by the Respondent, we intend to examine the facts of the case vis-à-vis our findings in the Order in question. For this purpose, we would like to revisit the **para 18 & 19 of the order in question**, wherein we had discussed the activities of the Respondent covered under the ambit of 'supply' and then the 'consideration' part of this supply made by the respondent respectively.

For the ease of reference, para 18 is being reproduced herein under:

Further, coming to the issue no.(b) i.e. whether the activities, undertaken by the Respondent by way of organizing the Leadership program exclusively for their Lion members, can be considered as service or not.

The Respondent have inter-alia submitted that they organize Leadership program exclusively for their Lion members, which covers the aspects of 'how to be a Game Changer' Management skill, Communication Skill,



Executive skill, Leadership Skill etc., which clearly benefits the members of the Club, who have paid the subscription fee to become the Lion members. It is pertinent to note that these Leadership Programs are conducted only for the Lion members. Non- Lion members are not allowed to participate in such programs. Thus, by doing so, the Respondents have rendered activity for the benefit of its members against the membership fee.

Now, we will discuss the meaning of services provided in the Section 2(102) of the CGST Act, 2017 which is reproduced herein under:

“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;

Thus, the GST Law has given very wide connotation for services, which will cover any activity other than which involves goods, money and securities. Therefore, the activity of the Respondent in as much as they are conducting the Leadership Program exclusively for the Lion club members can clearly be considered as service being provided by the Respondent to its members.

3. Thus, ongoing through the above reproduced para, it is clearly revealed that in the original AAAR order dated 23.04.2019, we had held ***“the arrangement of the training programs/workshops related to the various aspects of ‘how to be a Game Changer’ Management skill, Communication Skill, Executive skill, Leadership Skill etc., which clearly benefits the members of the Club, who have paid the subscription fee to become the Lion members”*** as the only supply, being made by the Respondent to its members, which would be subject to GST. It is to be mentioned that we have not discussed any other activities of the Respondent, which will be covered under the scope of Supply.
4. Now, we set out to discuss para 19, which deals with the **consideration portion** of the above discussed supply. Para 19 is being reproduced herein under for the ease of reference:



Now, we want to examine the issue no. (c) above i.e. Whether the fee collected by the Respondent i.e. the Lions Club from its members in the form of entrance fee and annual membership fee can be treated as consideration or not.

For this, we will discuss the meaning of the term consideration envisaged under Section 2(31) of the CGST Act, 2017, the relevant extract of which has been reproduced herein below:

“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 State Government;

(b)

Thus, from the above inclusive definition of the term “consideration”, it can decisively be construed that the membership fee collected by the Club from its members is not only meant for meeting the administrative expenses, but is also towards organising the Leadership Program for the direct or indirect benefits of the members. Any Leadership Skill along with other skills discussed supra, imparted to any Lion member is not restricted or limited to any particular project, but the overall impact of such qualities developed in any person stays for his entire life span and the benefits accrued out of such skills will undoubtedly go much beyond the Projects undertaken by the Lions Club. Thus, any membership fee collected by the Lions Club from its members will definitely be understood as “consideration” as the same has been paid for the supply of services.

5. On perusal of the above para, it is being revealed that in the original AAAR Order dated 23.04.2019, we had held the membership fee collected by the club from its members as the consideration for the supply made by the Club/Respondent in the form of organising training programs/workshops imparting leadership skills, etc. to the members. However, on revisiting the original facts and



submissions made by the respondent during the course of the personal hearing, held on 28.03.2019 i.e. prior to the issuance of the order in question, it is seen that our above discussed findings, wherein we had held the membership fee as the consideration for the supply of the leadership program, is misplaced and notional as there is no cogent evidence or ground to insinuate that the membership fee collected by the Respondent from its members is also appropriated towards organising such training programs/workshops imparting leadership skills etc. In addition to this, we had also not distinguished the Respondent's submission in this regard even as the Respondent, in para 13.2 of their submissions filed before us on 28.03.2019 during the course of personal hearing, had provided the break-ups of the expenditure under various heads of the membership fee *i.e. club membership and cabinet membership fee* while elucidating the reasons as to why these membership fees should not be subjected to GST .

6. The various expenditure heads under which the Club membership fee collected by the Respondent is appropriated or utilized are detailed as under:

- i) Meeting Expenses
- ii) Printing of Circulars
- iii) Stationery
- iv) Postage
- v) Greetings
- vi) Fees payable to International office
- vii) Fees payable to Multiple office

7. The various expenditure heads under which the Cabinet membership fee collected by the Respondent is appropriated or utilized are detailed as under:

- i) Meeting Expenses of Cabinet Members
- ii) Printing of Circulars
- iii) Stationery
- iv) Postage
- v) Greetings



8. Further, they have also submitted that *no other facilities or benefits such as sports, fitness, recreation, lifestyle, entertainment and personal transportation are provided to its Members.*
9. The Respondent, vide their submissions dated 12.06.2019 filed for the amendment of the AAAR Order dated 23.04.2019, has also drawn the attention to the para 8 & 9 of the Declaration of Body of Individuals (BoI) executed on 27.02.2019, wherein it was declared as under:
- 7. The BOI may collect funds from each member as decided from time to time on its membership**
- 8. Such funds collected shall be utilized only for paying Members meeting expenses for formulation of policies and directions; administrative expenses, office supplies; communication and such other incidental expenses for updating education for the purpose of carrying on Service activities in a better manner.**
- 9. The Members shall not be entitled to any facilities whatsoever such as sports, fitness, recreation, lifestyle, entertainment and personal transportation etc.**
10. In order to support the above declaration of the BoI dated 27.02.2019, they have also furnished payment receipts, for the registration fee of the training program/workshops, charged by the Respondent to its members, various flyers in respect of the training programs/workshops pertaining to the communication skill, managerial skill, and leadership skill, etc., which also contains the details of the registration fees associated with such training programs/workshops organised by the Respondent for its members.
11. The abovementioned documents submitted by the Respondent also substantiate their contention that the separate fees are charged from their members for participation in the training programs/workshops organised by the Respondent;



and that no amount of the membership fee is appropriated towards organising such activities for its members.

12. Thus, in view of the above deliberation, we agree with the Respondent's submissions to the extent that membership fee collected by them will not subject to the GST and only the registration fee charged from the members for participation in the training programs/workshops will be subjected to GST. Hence, in light of the apparent mistake in the original order dated 23.04.2019 to the extent discussed herein above, we proceed to amend the said original AAAR Order No. MAH/AAAR/SS-RJ/32/2018-19 dated 23.04.2019 as per the provision of Section 102 of the CGST Act, 2017, as under:

ORDER

We, hereby, amend the para 19 of the original AAAR Order No. MAH/AAAR/SS-RJ/32/2018-19 dated 23.04.2019 in as much as the membership fee, collected by the Respondent from its members, will not construed as consideration for levy of GST; rather it is the registration fee, collected by the Respondent from its members for organising the skill oriented workshops, will be construed as consideration against the supply made by the Respondent to its members, and accordingly will be leviable to GST, while maintaining that Lions Club of Poona Kothrud, on account of the activities i.e. organising training programs/workshops for its members, is liable to take registration for discharging their GST liability.


(RAJIV JALOTA)
MEMBER




(SUNGITA SHARMA)
MEMBER

- Copy to- 1. The Appellant
2. The AAR, Maharashtra
3. The Pr. Chief Commissioner, CGST and C.Ex., Mumbai
4. The Commissioner of State Tax, Maharashtra
5. The Respondent.
6. The Web Manager, WWW.GSTCOUNCIL.GOV.IN
7. Office copy