



BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH

Goods and Service Tax

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Commissioner of State Tax (Member)
2. Sri. RV Pradhamesh Bhanu, Joint Commissioner of Central Tax (Member)

AAR No.09/AP/GST/2022 dated:30.05.2022

1	Name and address of the applicant	M/s. Andhra Pradesh Industrial Infrastructure Corporation Limited, Flat No. 9 to 11 floors, APIIC Tower-I, CFC plot no.1, IT Park, Mangalagiri, Guntur-522503, Andhra Pradesh.
2	GSTIN	37AABCA9029K1ZG
3	Date of filing of Form GST ARA-01	20.12.2021
4	Hearing (Virtual)	07.03.2022
5	Represented by	Ms Vishnu Priya Dumpa
6	Jurisdictional Authority - State	Assistant Commissioner (ST), Mangalagiri Circle, Guntur Division.
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(e) determination of the liability to pay tax on any goods or services or both

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub- section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in pari materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Andhra Pradesh Industrial Infrastructure Corporation Ltd (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

APIIC Limited was incorporated under Companies Act, 1956 on 26.09.1973 and is wholly owned undertaking of Government of Andhra Pradesh. APIIC Limited allots the land to the SC/ST/BC entrepreneurs duly collecting certain percentage of the land cost from the entrepreneurs at the time of allotment of land and the sale agreement for the same will be executed on satisfaction of certain allotment

conditions by the entrepreneur. With regard to the balance amount of the land cost, the same will be collected from the entrepreneur in annual installments along with interest duly providing moratorium period.

The applicant had filed an application in form GST ARA-01 dated 20.12.2021 by paying required amount of fee for seeking Advance Ruling on the following issues, as mentioned below:

4. Questions raised before the authority:

The applicant seeks advance ruling on the following:

APIIC allots the land to the SC/ST/BC entrepreneurs by collecting 25% of the land cost from the entrepreneurs at the time of allotment of land and the sale agreement for the same will be executed on satisfaction of certain allotment conditions by the entrepreneur. With regard to the balance 75% of the land cost, the same will be collected from the entrepreneur in 8 equal annual installments @ 16% p.a rate of interest duly providing 2 years moratorium period. The entire interest income on the balance land cost is being recognized in the Financial Year in which the sale agreement is executed.

The applicant approached this authority seeking a clarification, whether the interest amount receivable on the balance land cost is taxable under GST or not.

On verification of basic information of the applicant, it is observed that the applicant is under State jurisdiction, i.e. Assistant Commissioner (ST), Mangalagiri Circle, Guntur Division. Accordingly, the application has been forwarded to the jurisdictional officer and a copy marked to the Central Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

Remarks were received from the Central jurisdictional officer concerned on the issue, for which the Advance Ruling was sought by the applicant.

5. Applicant's Interpretation of Law:

Since, the interest collected/ collectable from the entrepreneurs do not fall under the category of entry 27 in notification no.12/2017 - Central Tax (Rate), dated 28.06.2017, the interest amount is not exempt from tax and it is liable to GST @ 18%. Further, section 15(2)(d) of the Act is not applicable to this case as sale of land amounts to neither supply of goods nor supply of services as per schedule III of the Act.

6. Virtual Hearing:

The proceedings of Hearing were conducted through video conference on 29th June, 2021, for which the authorized representative, Ms Vishnu Priya Dumpa attended and reiterated the submissions already made.

7. Discussion and Findings:

We have examined the issues raised in the application. The taxability of the goods and services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined to decide the question involved in the present Ruling.

As seen from the application, it is clear that APIIC allots the land to the SC/ST/BC entrepreneurs by collecting 25% of the land cost from the entrepreneurs at the time of allotment of land, while the remaining 75% of the land cost will be collected from the entrepreneur in 8 equal annual instalments @ 16% p.a rate of interest duly providing 2 years moratorium period. The entire interest income on the balance land cost is being recognized in the Financial Year in which the sale agreement is executed. The applicant sought clarification regarding the taxability of the interest amount receivable on the balance land cost.

If we look into the transaction i.e., the sale of land, it is neither supply of goods nor Supply of services, as per para 5 of Schedule -III, which reads as under,

"Schedule III [See section 7] Activities or Transactions Which Shall Be Treated Neither As A Supply Of Goods Nor A Supply Of Services

5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building."

Whereas, the contract/ agreement that is executed between APIIC and its beneficiaries shall be treated as supply of service as per para 5(e) of Schedule -II, which reads as under,

"Schedule II [See section 7] Activities To Be Treated As Supply Of Goods Or Supply Of Services

5. Supply of services

*(e) **agreeing to the obligation** to refrain from an act, or to tolerate an act or a situation, or **to do an act**; and"*

Thus, it is supply of service, wherein the beneficiary is obligated to fulfil certain conditions of paying annual instalments @ 16% p.a rate of interest at specified periods as per the contract between the applicant and beneficiaries. Now we examine whether the 'interest' component in the above transaction would form a part of taxable supply as per Section 15 (2)(d) which reads as under,

"Value of taxable supply

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

(a) -----

(b) ----

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

In the instant case the applicant, APIIC had given a facility to the beneficiaries, by extending the service of fixation of annual instalments with an interest @ 16% p.a for delayed payment of 75% of total consideration over a period of time. In such a case, the interest on the credit facility allowed by the applicant is part of the value of taxable supply and shall be liable to GST.

In view of the above we rule as under.

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Whether the interest amount receivable on the annual instalments fixed by the applicant is liable to GST or not.

Answer: Affirmative

Sd/-D. Ramesh
Member

Sd/-RV Pradhamesh Bhanu
Member

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


Deputy Commissioner (ST)
DEPUTY COMMISSIONER (ST)
O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada

To

1. ✓ M/s. Andhra Pradesh Industrial Infrastructure Corporation Limited, Flat No. 9 to 11 floors, APIIC Tower-I, CFC plot no.1, IT Park, Mangalagiri, Guntur-522503, Andhra Pradesh **(By Registered Post)**

Copy to

1. The Assistant Commissioner of State Tax, Mangalagiri Circle, Guntur Division. **(By Registered Post)**
2. The Superintendent, Central Tax, CGST Kadapa Range, Kadapa Division. **(By Registered Post)**

Copy submitted to

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

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.