

GOA AUTHORITY FOR ADVANCE RULING.

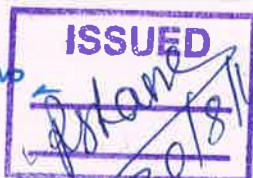
(Constituted under section 96 of the Goa Goods and Services Tax Act,
2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and
Services Tax Rules, 2017)

BEFORE THE BENCH OF

- (1) Shri. J. K. Meena, Addl Commissioner of Central Tax
(2) Smt. Sarita S. Gadgil, Addl Commissioner of State Tax

Advance Ruling No. GOA/GAAR/09 of 2018-19/ 1456

Name of the Applicant	M/s Syngenta Bioscience Private Limited
Address	Santa Monica Works, Ilhas, Corlim, North Goa – 403110
GSTIN	30AAACZ0348M1ZE
Date of Application	12/02/2019
Under Section 97(2) of the CGST/IGST Act, 2017 under which question raised	1. Whether the activity of on the technical testing services carried out by the applicant be treated as 'zero-rated supply'? 2. If the answer to the aforesaid question is negative, then is the applicant liable to pay IGST on the said 'supply'?
Date of Hearing	20.08.2019
Persons Present for Hearing	Shri Gauresh Kavalekar, Purchase Manager



PROCEEDING

(Under Section 98 of the Goa Goods and Services Tax, Act 2017)

The present application has been filed under section 97 of the Goa Goods and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the SGST Act and CGST Act) by M/s Syngenta Bioscience Private Limited, Santa Monica Works, Ilhas, Corlim, North Goa – 403110, seeking an Advance Ruling in respect of the following question: “Whether the activity of on the technical testing services carried out by the applicant be treated as ‘zero-rated supply’.

The applicant is part of Syngenta Group which is headquartered in Switzerland and presently engaged in providing the R&D services on the agrochemical products to group companies across the globe. The applicant is providing the aforesaid services from its EOU unit situated at Santa Monica Works, Corlim, Goa. The applicant also carries out technical testing services on goods for its customer located outside India. The goods on which technical testing is carried out are made available to the applicant in India and the activity of technical testing on goods is carried out in Goa.

The contract R&D division of the Applicant carries out research activity with an objective to develop and formulate new molecules / compounds as per the requirements of the overseas affiliate customer, Syngenta Crop Protection AG, a company incorporated in the Switzerland and economic owner of IP within the Syngenta Group of companies. The issue of which clarification is being sought is with respect to the T&E division and its activities are summarized below:

- i. T&E Analytical division performs testing on samples of goods received from persons located outside India.
- ii. The goods received from overseas persons are developed products which are either launched or due to be launched in the market for the customers.



- iii. The testing of goods is carried out by Applicant with the objective of providing a test report with the results to the overseas customer. The test report is sent to the overseas customer by Applicant either along with the goods received for testing or without such goods. The test report provided by the Applicant is used in various R&D operations by the overseas customers.

The applicant sought clarification on the following issues:

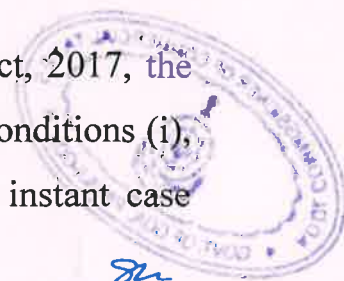
1. Whether the activity of on the technical testing services carried out by the applicant be treated as 'zero-rated supply'?
2. If the answer to the aforesaid question is negative, then is the applicant liable to pay IGST on the said 'supply'?

The point-wise reply to the applicant's queries is as follows –

Point No. 1: Export of service is defined under Section 2 of IGST Act, 2017. As per the provisions of Section 2(6) of the IGST Act, 2017, export of services means the supply of any service when, -

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

In order to be qualified as export of service under IGST Act, 2017, the above 5 conditions need to be fulfilled. In the instant case, conditions (i), (ii), (iv) and (v) are fulfilled. To examine whether in the instant case



condition (iii) is also fulfilled or not, the place of supply of service needs to be determined. However, the place of supply of service is determined as per the provisions of Section 13 of the IGST Act, 2017 which reads as under-

13 (1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

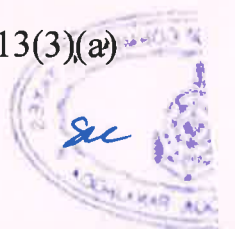
(2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services: Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

(3) The place of supply of the following services shall be the location where the services are actually performed, namely: —

(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;

In the instant case, the goods on which technical testing is carried out are made available to the applicant in India and are not exported back to the recipient. Hence the exclusionary clause under Section 13(3)(a)



is not applicable to the instant case. The activity of technical testing on goods is carried out in Goa, India. Hence the place of supply of service is rightly determined as per Section 13(3) of the IGST Act, 2017 which is the location of the supplier of the service i.e. Goa, India. Since the place of supply of service is in India, condition (iii) under Section 2(6) of the IGST Act, 2017 is not fulfilled. Hence the service provided by the applicant doesn't falls within the definition of export of service as defined under Section 2(6) of the IGST Act, 2017.

Since the case laws quoted by the applicant belong to Pre-GST service tax regime, those can't be made applicable to the instant case.

Point No. 2: Since the supplier of service is in Goa, India and place of supply of service as determined under Section 13(3)(a) is also in Goa, India, the applicant is liable to pay CGST and SGST on the aforesaid supply of service.


In view of the above facts and provisions the ruling is given as under:

ADVANCE RULING UNDER SECTION 98 OF THE CGST/GGST ACT,
2017

1. The service provided by the applicant doesn't falls within the definition of export of service as defined under Section 2(6) of the IGST Act, 2017.
2. The applicant is liable to pay CGST and SGST on the aforesaid supply of service


(J. K. Meena)
Member




(Sarita S. Gadgil)
Member

Dated: - 29/08/2019

Place: - Panaji – Goa

To,

M/s Syngenta Bioscience Private Limited,

Santa Monica Works,

Ilhas, Corlim, North Goa – 403110.

Copy to

1. The State Tax Officer, Panaji Ward, Panaji – Goa;
2. The Dy. Commissioner of State Tax, Panaji Ward, Panaji;
3. The Commissioner of State GST, Panaji – Goa;
4. The Commissioner of Central GST, Panaji – Goa; ✓
- ✓ 5. Office file;
6. Guard file.

