

AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI -600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Tmt. K. Latha, M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No. 44/ARA/2021 Dated: 28.12.2021

GSTIN Number, if any / User id		33AADCC3230A1ZM
Legal Name of Applicant		CHEP INDIA PRIVATE LIMITED
Trade Name of the Applicant		CHEP INDIA PRIVATE LIMITED
Registered Address / Address provided while obtaining user id		C/O. KM Trade Link, Paramount Logistics, 124, Eraiyur Road, Vallam Village, Sriperumbudur Taluk, Kanchipuram, Tiruvallur-602105
Details of Application		Form GST ARA - 001 Application Sl.No.18 dated 29.04.2021
Concerned Officer		Centre: Chennai Outer Commissionerate State: Sriperumpudur Assessment circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision
B	Description (in brief)	The applicant is engaged in leasing pallets, crates and containers (equipment) to customers in Tamilnadu and its registrations

	Issue/s on which advance ruling required	<p>i. Determination of time and value of supply of services</p> <p>ii. Whether any particular thing done by the applicant with respect to any services amounts to or results in a supply of service within the meaning of the term.</p>
Question(s) on which advance ruling is required	<p>1. Whether the pallets, crates and containers (hereinafter referred as equipment") leased by CHEP India Private Limited (CIPL) located and registered in Tamil Nadu to its other GST registrations located across India (say CIPL Kerala), would be considered as lease transaction and accordingly taxable as supply of services in terms of Section 7 of the Central Goods and Services Tax Act, 2017 ("CGST Act") and Tamil Nadu Goods and Services Tax Act, 2017 ("TNGST Act")?</p> <p>2. If the answer to Question 1 is Yes, what is the value on which GST has to be charged i.e. whether it should be lease charges or the value of equipment in terms of Section 15 of the CGST Act and TNGST Act read with relevant Rules?</p> <p>3. What are the documents that should accompany the movement of the goods from CIPL, Tamil Nadu to CIPL, Kerala?</p> <p>4. Whether movement of equipment from CIPL, Kerala to CIPL, Karnataka on the instruction of CIPL, Tamil Nadu can be said to be mere movement of goods not amounting to a supply in terms of Section 7 of the CGST Act and TNGST Act, and thereby not liable to GST? With reference to</p>	

	Question 4 above, what are the documents that should accompany the movement of the goods from CIPL, Kerala to CIPL, Karnataka?
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Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

CHEP INDIA PRIVATE LIMITED, Shed No.K2 Survey No.402/1 C2, KM Trade Link, Poonamalee Taluka, Padur Road, Kuthambakkam Village, Tiruvallur-602107 (hereinafter called the 'Applicant' or CIPL) was registered under the GST Vide GSTIN 33AADCC3230A1ZM. They have sought Advance Ruling on the following questions:

1. Whether the pallets, crates and containers (hereinafter referred as equipment") leased by CHEP India Private Limited (CIPL) located and registered in Tamil Nadu to its other GST registrations located across India (say CIPL Kerala), would be considered as lease transaction and accordingly taxable as supply of services in terms of Section 7 of the Central Goods and Services Tax Act, 2017 ("CGST Act") and Tamil Nadu Goods and Services Tax Act, 2017 ("TNGST Act")?
2. If the answer to Question 1 is Yes, what is the value on which GST has to be charged i.e. whether it should be lease charges or the value of

a. CIPL would be consolidating the ownership of all the equipment into the state of Tamil Nadu. Currently, while majority of the procurements / manufacture happen in Tamil Nadu, some of the procurements are also done from other states.

as follows:

The broad business mechanics of the proposed business model would be have stated that they are contemplating certain changes in its existing business goods through their supply chains more efficiently, sustainably and safely. They all times. CIPL enhances performance for customers by helping them transport model known as "pooling". Ownership of the equipment rests with CIPL at industrial and retail sector throughout the supply chain, under a business of re-usable unit-load equipment for shared use by multiple participants within Applicant is a part of this global organization and its business is primarily renting Securities Exchange (ASX) and has its headquarters in Sydney, Australia. The wholly owned subsidiary of Brambles Limited, a company listed on the Australian 2.1. The applicant has stated that they are an Indian company and a

Rules 2017.

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST

Karnataka?

5. With reference to Question 4 above, what are the documents that should accompany the movement of the goods from CIPL, Kerala to CIPL, CGST Act and TNGST Act, and thereby not liable to GST?

4. Whether movement of equipment from CIPL, Kerala to CIPL, Karnataka on the instruction of CIPL, Tamil Nadu can be said to be mere movement of goods not amounting to a supply in terms of Section 7 of the

3. What are the documents that should accompany the movement of the goods from CIPL, Tamil Nadu to CIPL, Kerala?

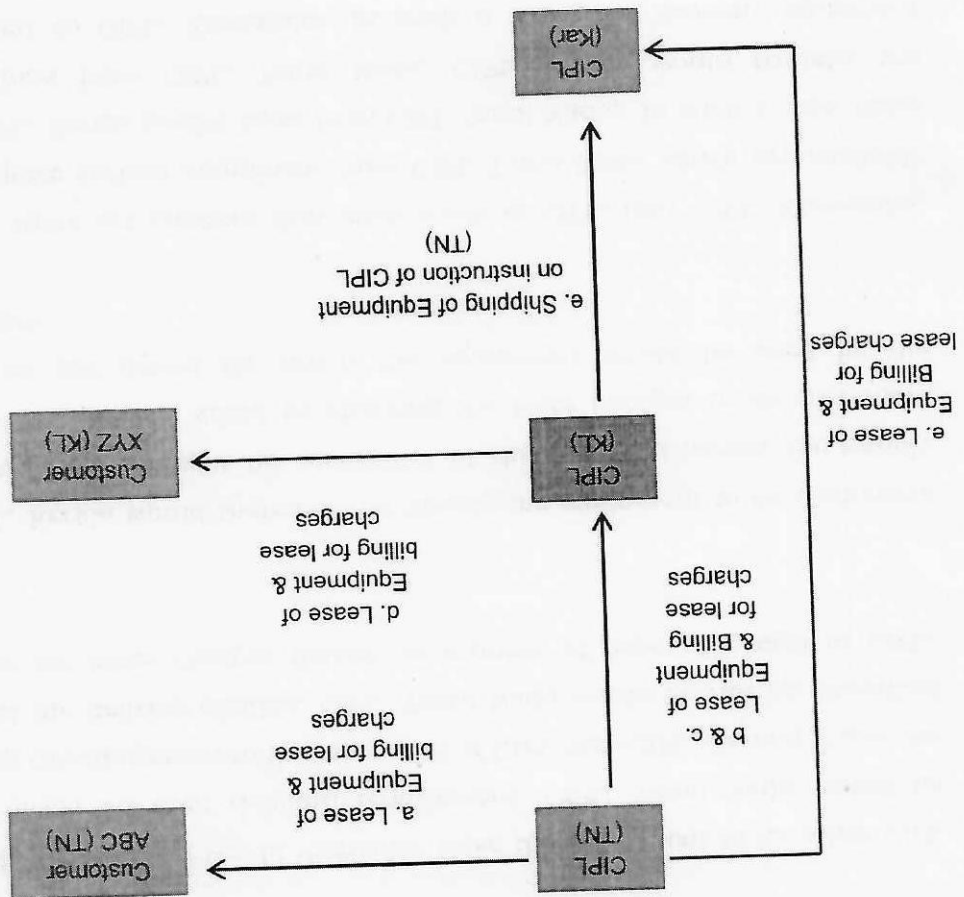
relevant Rules?

equipment in terms of Section 15 of the CGST Act and TNGST Act read with

- b. As the ownership of equipment would be with CIPL, Tamil Nadu, it would be entering into the arrangement with the customer and all the other CIPL units (located in other States) for leasing the equipment to them at the agreed leasing or hiring charges.
- c. CIPL, Tamil Nadu would thereafter lease the equipment to its other CIPL units based on their demand requirement. CIPL, Tamil Nadu would be sending the equipment to the other unit of CIPL (Say CIPL, Kerala) under the cover of the delivery challan. CIPL, Tamil Nadu would be raising periodical invoices for lease charges (based on number of days of usage) to CIPL, Kerala.
- d. CIPL, Kerala would thereafter be issuing the equipment to its customers who would be using it for movement of their goods through the supply chain. CIPL, Kerala would be charging the lease charges to its customers based on the period for which the equipment would be used by the customers.
- e. Also, there are chances that other units of CIPL, (Say CIPL, Karnataka) may require certain equipment from CIPL Tamil Nadu which are available with CIPL, Kerala (under lease from CIPL Tamil Nadu). In such a case, basis instructions from CIPL, Tamil Nadu, CIPL, Kerala would transfer the equipment to CIPL, Karnataka. In such a case, the moment equipment reaches CIPL Karnataka, CIPL, Tamil Nadu would stop charging CIPL, Kerala and start charging CIPL, Karnataka towards lease charges (basis number of days of usage). Further, CIPL, Kerala would charge CIPL, Tamil Nadu a consideration for facilitation and arrangement of movement of equipment to CIPL, Karnataka basis the instruction.

➤ In respect of Q.No1 the applicant has stated that the definition of supply is wide enough to include "lease" within its ambit. Also, as per point 5(f) of Schedule II, "transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration" is deemed as service under GST. The term "lease" is not defined under the GST law. Accordingly, the applicant has referred to Indian Accounting Standard (Ind AS) 116 which provides for principles for the recognition, measurement, presentation and disclosure of leases in the books of account. As per the Ind AS, lease is defined as "A contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration". Also, "lease" is

2.2 On interpretation of law, the applicant has referred to various statutory provisions under the CGST Act 2017 and the applicant's view in respect of the questions raised in the Advance Ruling application is as below:



The diagrammatic representation is provided below -

defined in 105 of the Transfer of Property Act, 1882 in relation to immovable property as under - "A lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.'

- The applicant has stated that any lease transaction is deemed as supply of services as per Schedule II since it involves transfer of right to use any goods for consideration. In the instant case, CIPL, Tamil Nadu also transfers the right to use the equipment for a period of time to third party customers in Tamil Nadu and other CIPL registrations across India for periodical considerations. In respect of the customers in Tamil Nadu, the Applicant is considering the transaction as leasing of equipment basis the explanation provided above. CIPL, Tamil Nadu is discharging GST on the invoice amount which is computed basis period of usage of equipment. Further, to clarify if such lease transaction can be entered into between different registrations of the same Company the Applicant has stated that Section 25 of the CGST Act has created a deeming provision basis which two registrations of same Company are considered as distinct person under GST. Accordingly, there can be supply of goods or services between such registrations even in case no consideration is involved as per the entry in Schedule I of the CGST Act. They have stated that joint reading of Section 25 of CGST Act and Schedule I, transactions entered with the third-party customer and transactions entered with GST registrations in other states are kept at par when it comes to determination of taxability under GST. Also, entry in Schedule I or any other provisions in the CGST Act does not restrict the nature of transaction which can be entered into between different registrations of the Company to be considered as taxable under GST. In other words, since the definition of supply contains lease within its ambit, there can be a lease transaction entered into between two different registrations of the same Company similar to the lease transaction entered with third party customer. Hence, the applicant has viewed that CIPL, Tamil Nadu can enter into lease transaction with CIPL branches in other States registered under the respective State GST legislation across India

say for e.g., CIPL, Kerala and such transaction would be taxable under GST as a lease transaction between the two branches which are deemed to be distinct entities for the purpose of GST legislation.

➤ In respect of Q.No.2 The applicant has stated that CIPL, Tamil Nadu has entered into agreement with CIPL, Kerala to provide equipment on lease basis for which the consideration would be charged at an agreed rate (i.e. Lease charges or rental per day) depending on number of days of usage of equipment. Invoice in this regard would be raised by CIPL, Tamil Nadu periodically on the other CIPL branches for the equipment taken on lease by them.

➤ As per Rule 28 of CGST Rules read with Section 15 of the CGST Act mentioned in the legal background above in case of transaction between distinct person, invoice value can be deemed as transaction value in case the recipient is eligible to take full input tax credit. The applicant has relied on the decision of the Appellate Authority for Advance Ruling, Karnataka in the case of Specsmakers Opticians Private Limited (2020 (1) TMI 63 - Appellate Authority For Advance Ruling, Karnataka)

➤ They have stated that in the instant case, since CIPL, Kerala is eligible to take entire input tax credit, the invoice value should be deemed to the transaction value for the purpose of levy of GST. Also, since CIPL, Tamil Nadu is supplying goods to CIPL, Kerala pursuant to a lease arrangement and not as a result of transfer of equipment, the lease charges charged by CIPL, Tamil Nadu should be the transaction value / deemed transaction value chargeable to GST. The applicant has also referred to the provisions of Section 18(6) of the CGST Act, which states that - "In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher". The applicant is of the view that the intention behind the provision is that the person should be reversing the proportionate credit availed on capital goods in case such capital goods are disposed or sold or transferred after usage. However, the said provision would be applicable only in case the person is supplying capital goods as

goods and not as service. Hence, in the instant case since the equipment are provided by CIPL, Tamil Nadu on temporary lease (similar to transaction of lease entered into between CIPL Tamil Nadu and third-party customers) and not sold or disposed permanently, the provisions of Section 18(6) of the CGST Act would not be applicable.

- In respect of Q.No.3 the applicant has stated that as per Rule 55 of the CGST Rules, when goods are transported without invoice and for reasons other than supply of such goods, a delivery challan is required to be issued for purpose of transportation of such goods. In their case, the movement of equipment is not in pursuance of supply of equipment but is a supply of service under the CGST Act. Accordingly, a delivery challan is required to be issued for the purpose of transportation of such goods. Also, since the lease charges would be billed basis the number of days of usage by service recipient, the equipment would be transferred to the service recipient at the inception under the delivery challan without discharging taxes and the tax would be paid based of service invoice issued periodically. They have also stated that as per Rule 138 of the CGST Rules, the consignor has to issue e-way bill in case the value of goods exceeds INR 50,000. Accordingly, the Applicant would also be issuing e-way bill along with delivery challan in terms of the said Rules.
 - In respect of Q.No.4 they have stated that the, levy of GST is on supply and the scope of supply is discussed in Section 7 of the CGST Act. Accordingly, it is necessary to determine whether the movement of equipment between CIPL Offices will qualify as supply under Section 7(1) of the CGST Act. The applicant has stated that the modes of transfer which have been enumerated in Section 7(1)(a) of the CGST Act are as below:
 - a) Sale is defined in Section 54 of the Transfer of Property Act, 1882 in the following manner:

"a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised, -
- They have also referred to the following case laws to substantiate their contentions:
- i. Hon'ble Supreme Court in the case of Joint Commercial Tax Officer, Harbour Division, 11, Madras v. Young Men's Indian Association (Regd.), Madras (1970) 1 SCC 462

equipment are for reasons other than by way of supply. In such a case, no not taxable under GST. Accordingly, it can be said that movement of movement of equipment between CIPL, Kerala to CIPL, Karnataka per se is issued in terms of Rule 55 of the CGST Rules. As mentioned above, the reasons other than by way of supply, a delivery challan is required to be In respect of Q.No.5 they have stated that in case of supply of goods for receive for the service.

hands of CIPL, Kerala in respect of the consideration / fee that it would facilitating the movement of equipment would be taxable under GST in the movement of equipment to CIPL, Karnataka. Accordingly, such service of supplying the service to CIPL, Tamil Nadu by facilitating / arranging the The Applicant has also stated that in such a case CIPL, Kerala is CGST Act and attract levy of GST.

CIPL, Karnataka which will constitute as Supply under Section 7 of the Act. It is only the provision of equipment on lease by CIPL, Tamil Nadu to Act and accordingly would not be taxable under Schedule I of the CGST equipment would not constitute supply under Section 7(1)(a) of the CGST and CIPL, Karnataka in respect of the equipment, such a transfer of there is no transfer of interest of any kind in goods between CIPL, Kerala number of days the equipment remained with it. In such a situation, since Kerala. Further, CIPL, Tamil Nadu raises an invoice on CIPL, Kerala for the under the lease agreement entered between CIPL, Tamil Nadu and CIPL, movement to CIPL, Karnataka is in incidence of the obligation as a lessee on the basis of instructions received from CIPL, Tamil Nadu. Such require the equipment, the same would be transferred to CIPL, Karnataka agreement between such registrations. In case CIPL, Kerala does not Tamil Nadu and will be leased to CIPL, Kerala in furtherance of a lease recipient of such goods. In their case, the Equipment is owned by CIPL, would be required to transfer its specified interest/right in property to the Accordingly, in order to constitute supply the person transferring the goods divesting of rights or creation of an interest or right in property or a thing. enumerated under Section 7(1)(a) of the CGST Act involves either vesting or In view of the above facts, the Applicant has stated that all forms of supply

Rasiklal Monckdal, AIR 1989 SC 1333

iii. Hon'ble Supreme Court in the case of I.T. Commissioner Bombay

ii. Sunil Siddarthbai v. CIT (1985) 156 ITR 509 (SC)

invoice is required to generated under GST and the movement would be made under the cover of delivery challan in terms of Rule 55 of the CGST Rules. Also Rule 138 of the CGST Rules. requires the consignor to issue e-way bill in case the value of goods exceeds INR 50,000. Accordingly, CIPL, Kerala would also be issuing e-way bill along with delivery challan in terms of the said Rules.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 05.10.2021 virtually. Shri Sachin Agarwal, the Authorised representative (AR) appeared for the hearing virtually and reiterated the submissions. When asked to explain the scenario presented in Q.No.4, the AR submitted that the scenario is a proposed arrangement wherein, the Tamilnadu unit will be the owner of the assets and they can only lease the assets. Technically this will be a bill to ship to model for service of leasing. In this model the transaction will be among the units of CHEP India, located in various states, wherein, there will be no money flow. Only book adjustments will be made and the invoices will be raised with GST payment. They submitted that a MOU will be executed among the units, a copy of which will be submitted. They were asked to submit sample copies of purchase order, delivery challan/ tax invoice and a detailed write up on Q.No.4.

3.2 The applicant was given another opportunity to be heard virtually on 30.11.2021. The Authorised representative appeared for the hearing virtually. They reiterated the submissions made along with the application and made subsequent to the previous hearings. He stated that CHEP Manufacturing is proposed to be merged with CHEP India in which the assets of CHEP Manufacturing is proposed to be vested with CHEP India. They stated that they have not finalized as to where they are going to consolidate the assets and they are looking into consolidation in Karnataka or Maharashtra or Tamil Nadu. They stated that they have obtained ruling from Karnataka. They further stated that they do not have any further documents to furnish before this Authority on the questions raised by them or the proposed model of merger and consolidation of assets.

2. With respect to transaction explained at Point B (Transaction mechanics with respect to Qn.No 4), the applicant's interpretation of the GST law, with regard to statement at B1(iv).i.e., "The responsibility with respect to generating DC, E-Way Bill etc for the purpose of moving the equipment to CIPL, Karnataka shall be that of CIPL, Kerala and not the applicant" may be furnished . Further when the ownership of the equipment rests with CIPL,

proposed activity for which ruling is sought before this authority. registers. The same is required to establish the factual position of the the supporting documentation i.e., assets to be consolidated and the relevant in the books of accounts of M/s. CIPL, the company may be furnished with consolidated. The factual proposal regarding the consolidation of ownership Nadu and CIPL, Karnataka along with the list of equipment proposed to be proposed to consolidate all the existing equipment as assets of CIPL, Tamil applicant was asked to explain with establishing documents as to how CIPL the ownership of all existing equipment in the state of Karnataka. The that under para 4.2.1, it is stated that the applicant would be consolidating Tamil Nadu. On perusal of the ruling issued by AAR, Karnataka, it is seen existing equipment in India shall be consolidated in the applicant's GSTIN in 1. In para (A2a) of their submissions it is stated that the ownership of all

following specific details:

4.2 Further, letter was issued to the applicant on 29.10.2021 seeking the

of the applicant in the new business model.

GSTIN of the company. They have submitted a document containing broad contours of the MoU which is proposed to be entered among different GSTINs

> They have also stated that no MoU has been executed between the different business model. sample agreement with the customer in accordance with the current purchase order, tax invoice or delivery challan. They have submitted a applicant is not in a position to provide required documents such as is a proposed business model and has not been effectuated till date, they

> The applicant has stated that as the transaction specified in their application

following additional facts :

4.1 The applicant vide their letter dated 07.10.2021 (received on 18.10.2021) reiterated their submissions on the proposed business model and submitted the

Tamil Nadu and CIPL, Tamil Nadu moves the equipment from CIPL, Kerala to CIPL, Karnataka it may be explained as to how CIPL, Kerala is responsible for generation of DC, E-way Bill etc for moving the equipment to CIPL, Karnataka. In this scenario, what is the service rendered by CIPL, Kerala to CIPL, Tamil Nadu.

3. Proposed accounting model of the lease rentals and the relevant accounting standards may be furnished.

4.3 The applicant replied to the above notice vide their email dated 09.11.2021. The response of the applicant is given below verbatim: –

(i) Response: As already stated in the advance ruling applications filed in Tamil Nadu and Karnataka, it is reiterated that the business model with respect to which ruling is being sought is a proposed model which the Company is planning to undertake. Prior to effectuating the said business model, the Company seeks to obtain an advance ruling to clarify the applicable GST position. Further, since the said business model is still at a proposal stage, the Company is in the process of contemplating the State(s) wherein the consolidation of assets can be done. Accordingly, the Company has proceeded to obtain a ruling in all the probable States where the said consolidation may be done. At this juncture, it is imperative to take note of the definition of the term “advance ruling” in Section 95(a) which specifies that advance ruling may be obtained in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. In this regard, it must also be noted that since the business model is at a proposal stage, it is not possible to provide documents with respect to the proposed transactions. However, it must be noted that all the aspects of the proposed transactions have been explained to your goodself at the time of hearing and in the subsequent correspondence exchanged. The Company has also submitted a sample agreement which is entered by the Company with the customer under the current operating model. It is also submitted that the Company is engaged in the business of pooling and leasing of pallets and crates to the customers across India. Hence, the proposed consolidation would be with respect to such assets lying in different States of the country.

(ii) Response: It must be noted that the goods shall always be owned by CIPL Tamil Nadu. However, the possession of the goods may be with another CIPL registration (CIPL Kerala in the present case). During business, there are chances that other

5.1 The Central Jurisdictional authority reported that there are no pending proceedings on the issue raised by the applicant in their Advance Ruling application. They also furnished comments on the issues raised in the Advance Ruling application.

part of revenue/ cost of the Company.

get nullified in the audited financial statements and thus, do not separately form financial statements are prepared for the Company as a whole, these transactions since the inter-unit transactions are within the same Company and the audited transactions between different GSTINs of CIPL. However, it must be noted that Accounting Standards shall be followed by the Company for recording inter-unit with effect from 01 April 2019. Similarly, it must be noted that appropriate Indian with respect to lease rentals, the Company has been following Ind AS 116 – Leases Accounting Standards) Rules, 2015. For recording revenue from final customers under Section 133 of the Companies Act, 2013 read with Companies (Indian Accounting Standards) Rules, 2015. For recording revenue from final customers (iii) Response: The Company follows the Indian Accounting Standards notified

goods.

delivery challan and e-waybill shall be issued by CIPL Kerala as the consignee of consignee of goods. Accordingly, despite CIPL Tamil Nadu being the owner of goods, Rule 55 of CGST Rules, delivery challan shall also be required to be issued by the movement of the goods, e-waybill should be raised by CIPL Kerala. Similarly, as per goods. Since as per the inter-unit MoU, CIPL Kerala is responsible for causing other words, the responsibility of generation of e-waybill rests with the consignee of required to issue an e-waybill before the commencement of such movement. In CGST Rules, 2017, any registered person who causes the movement of goods is dated 07 October 2021. In this regard, it must be noted that as per Rule 138 of Annexure 5 – Broad contours of inter-unit MoU submitted along with the letter basis of the instructions received from CIPL Tamil Nadu. Please refer point A.3 of CIPL Kerala shall be responsible to effect the movement to CIPL Karnataka on the Memorandum of Understanding (MoU) between CIPL Tamil Nadu and CIPL Kerala, towards lease charges. It must be noted that it is proposed that as per the Applicant would stop charging CIPL Kerala and start charging CIPL Karnataka, the equipment to CIPL Karnataka. The moment equipment reaches CIPL Karnataka, the basis the instructions from the Applicant, CIPL Kerala would transfer the available with CIPL Kerala (under lease from CIPL Tamil Nadu). In such a case, units say, CIPL Karnataka may require equipment from the Applicant which are

5.2 The State Jurisdictional authority has submitted that there are no pending proceedings on the issue raised by the applicant in their Advance Ruling application.

6. We have considered the application filed by the applicant and various submissions made by them as well as the comments of the State and Central Tax officers. Applicant have submitted that they are contemplating to consolidate the ownership of their assets in the state of Tamil Nadu under a proposed business model called 'pooling', wherein the ownership is said to rest with the applicant. They propose to rent/lease such equipment to their customers and their units situated in other states. In this scenario, they have applied for ruling on the following issues:-

1. Whether the pallets, crates and containers (hereinafter referred as equipment") leased by CHEP India Private Limited (CIPL) located and registered in Tamil Nadu to its other GST registrations located across India (say CIPL Kerala), would be considered as lease transaction and accordingly taxable as supply of services in terms of Section 7 of the Central Goods and Services Tax Act, 2017 ("CGST Act") and Tamil Nadu Goods and Services Tax Act, 2017 ("TNGST Act")?
2. If the answer to Question 1 is Yes, what is the value on which GST has to be charged i.e. whether it should be lease charges or the value of equipment in terms of Section 15 of the CGST Act and TNGST Act read with relevant Rules?
3. What are the documents that should accompany the movement of the goods from CIPL, Tamil Nadu to CIPL, Kerala?
4. Whether movement of equipment from CIPL, Kerala to CIPL, Karnataka on the instruction of CIPL, Tamil Nadu can be said to be mere movement of goods not amounting to a supply in terms of Section 7 of the CGST Act and TNGST Act, and thereby not liable to GST?
5. With reference to Question 4 above, what are the documents that should accompany the movement of the goods from CIPL, Kerala to CIPL, Karnataka?

The question Nos.1,2 &4 raised before us are regarding determination of whether the proposed act of the applicant in leasing/renting the equipment amounts to rendering of a supply and the classification and value of supply in such

the clauses contained therein are just indicative broad pointers which may proposed to be executed. It is observed that the MOU has a disclaimer that furnished a document containing broad contours of the MOU which is under GST law so far. However to provide a better understanding they had different GSTINs of the company which are considered as distinct person (v) As the model is a proposed one, no MOU has been executed between the and thus do not separately form part of revenue/cost of the company.

Therefore the transactions get nullified in the audited financial statements audited financial statements are prepared for the company as a whole. (v) Their inter-unit transactions are within the same company and the to produce documents with respect to the proposed transactions.

(iv) As the business model is at the proposal stage, it is not possible for them still at the proposal stage.

contemplating where the consolidation may be done as the business model is obtain a ruling in all the probable states as they are in the process of (iii) They have obtained ruling from Karnataka and they have proceeded to Tamil Nadu.

assets and they are looking for consolidation in Karnataka or Maharashtra or (ii) They have **not finalized as to where they are going to consolidate** the India.

which the assets of Chep manufacturing is proposed to be vested with CHEP propose to merge M/s. Chep Manufacturing along with M/s. Chep India in (i) During the Personal hearing held on 30.11.2021, they stated that they

7.2 The crux of their submissions is as follows:-

7.1 Applicant is primarily engaged in renting of re-usable unit-load equipment for shared use by multiple participants within the industrial and retail sector through out the supply chain under a business model named 'pooling'. They have submitted that they are contemplating certain changes in the existing business model and the broad mechanics of the proposed model would be that the ownership of all the equipment will be consolidated in the state of Tamil Nadu and hence have raised the above questions for ruling.

a situation. These questions are covered under Section 97(2) of the GST Act and are admissible. However questions 3 & 5 are on the procedural aspect of the proposed transactions and are out of the purview of Section 97(2), therefore not admitted.

form part of the MOU and that it is not the final MOU. Further commercial and legal aspects may be added in the final draft.

(vi) They had submitted a copy of agreement entered between them and their customer namely, M/s. Trac Auto Transmission.

8.1 From the submissions above, it is observed that the business model proposed is in the stage of contemplation and has not attained finality with respect to merger, disposition of the assets and the following supply, in as much as the applicant could not provide any finalized document such as MOU for the proposed transactions, list of assets proposed to be vested with the applicant for such supply requiring the ruling. When they were addressed to furnish the list of assets proposed to be consolidated, they had submitted that the proposal is still in proposal stage only and they are unable to furnish any documents to that effect also. Further the MOU furnished by them is also said to be not final and is subject to changes in commercial or legal aspects. Thus the MOU submitted by them cannot be relied upon to understand the terms on which the different units of the applicant agree upon. The accounting part of the transactions also will not be reflected in their accounts as the entries are said to be nullified as the audited financial statement will be for the whole company. Thus the applicant has not furnished any clear terms on which the proposed business model will be operational.

8.2 The proposed business model appears to be a mere plan which may or may not fructify with the assets at the disposal of the applicant for further supply. Hence the merger and consolidation of assets are merely planned and has not reached the stage with clear roadmap of how the proposal will take effect. Further they have stated that they are proposing to consolidate the assets in either of the three states namely, Karnataka or Maharashtra or Tamil Nadu. They are not clear about where the assets will be consolidated and supplies effected. Without knowing if assets will be consolidated in Tamil Nadu or not, facilitating the further supply of such assets, the questions on the value to be adopted for such supply, etc are premature and this authority is constrained to examine the issue without any substantiating legal documents.

8.3. As per Section 95 of the GST Act, Advance Ruling can be sought in respect of the proposed supplies. In the case at hand, the ruling sought on the classification of the supply, method of valuation and determination of tax liability etc, can be



Shri T.G.VENKATESH
(Member CGST)

Member (SGST)

Smt. K. LATHA

1. The Questions 1, 2 & 4 raised by the applicant are not answered for want of substantiating documents.
2. Q. No. 3 & 5, being procedural and not covered under Section 97(2) of the CGSAT/TNGST Act, 2017, are not admitted

RULING

9. In view of the above, we rule as under:

8.4 In view of the above, we find that though Q.1, 2 & 4 are covered under Section 97(2) of the GST Act, the applicant failed to establish that the questions relate to the 'Proposed' transactions to be undertaken by them as required under Section 95(a) of the Act, in as much as they could not establish that the assets will be consolidated with them and the supply to the distinct persons will be made by them, therefore we restrain from extending any ruling.

decided only based on the nature, features, intended purposes of the proposed business model. Without any concrete proposal, the applicant is building castles in the air. This forum is constrained to examine the issue further without even a road map of the proposed business model, essential details about the assets to be consolidated, the place where such consolidation is proposed to take place and the terms of transactions proposed to be effected within the different GSTNs of the applicant. Without all these details and substantiating documentary evidences, this authority finds the application for ruling not answerable.

To

CHEP INDIA PRIVATE LIMITED

C/O. KM Trade Link, Paramount Logistics,

124, Eraiyur Road, Vallam Village,

Sriperumbudur Taluk,

Kanchipuram,

Tiruvallur-602105

// BY SPEED POST WITH ACK.DUE //

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & Central Excise, Chennai Outer Commissionerate.
Newry Towers, No 2054, I Block II Avenue, 12th Main road, Anna Nagar,
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4. The Assistant Commissioner (ST), Sriperumbudur Assessment circle,
4/109, Varadharajapuram,
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