

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

4, Vibhuti Khand, Gomti Nagar, Lucknow

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING UNDER
SECTION 98 OF THE GOODS AND SERVICES TAX ACT, 2017**

Sub:- GST ACT, 2017 – Advance Ruling U/s 98 – liability to tax under GST Act in respect to application dated 28.07.2018 from M/s SPFL Securities Ltd. 15/63-M, SPFL House, Civil Lines, Kanpur– Order– Reg.

- 01) M/s SPFL Securities Ltd. 15/63-M, SPFL House, Civil Lines, Kanpur (here-in after called the applicant) is a registered assessee registered under GST having GSTIN no. 09AABCS2452C1ZP.
- 02) The applicant is engaged primarily in the business of providing services of stock broking i.e. purchasing and selling of shares on behalf of the clients on exchange platform by virtue of being a recognized BSE/NSE appointed Stock Broker.
- 03) The Applicant has submitted application for Advance Ruling dated 20.10.2018 enclosing duly filled Form ARA-01 (The application form for Advance Ruling) along with annexure and attachment.
- 04) The Applicant in his application sought following question for determination by the Authority—

Taxability on delayed payment charges on reimbursement of amount by client to Applicant, where client failed to pay amount paid to Stock Exchanges for purchase of securities with T+1(Trading day plus one day) under SEBI regulation norms and deducted by Stock Exchange from Applicant's account being purchase consideration of securities which are neither goods nor service under GST. Annexure-I (Statement of facts) and Annexure-2 (Statement containing the applicant's interpretation of law and /or facts, as the case may be , in respect of the aforesaid question(s) (i.e. Applicant's view point and submissions on issues on which the advance ruling is sought) were also submitted by the applicant along with Form ARA-01.



05) The Application for advance ruling was forwarded to the Jurisdictional GST officers to offer their comments/views/verification report, which were resolved vide letter dated 12.12.2018

06) The Applicant was granted a personal hearing on 13.12.2018. Shri Prakhar Gupta, C.A. and the Authorized representative appeared for hearing. During the personal hearing party submitted/intended/stated-
that he is submitting their views in their written submission dated 28.07.2018 and he would like to reiterate the same.

DISCUSSION AND FINDING

We have gone through the submission made by the applicant and examined the detailed explanation submitted by them. We observe that the question sought by the applicant to decide before us is whether the applicant will be liable to pay GST on the delayed payment charges recovered from the client towards trading of securities (which is neither goods nor services under GST) upon payment made by them beyond the time stipulated by the stock exchange and SEBI and for which payment is deducted by the stock exchange from the applicant's account.

We also observe that delayed payment charges squarely get covered under GST for the purpose of taxation. The applicant is regularly providing services of 'trading of securities on behalf of customers' which is a supply of service on which the applicant is admittedly paying GST. Delayed payment charges are also linked to the above services of 'Trading of securities on behalf of customers' and GST on the same shall be payable in view of Sections 15(2)(d) of CGST Act, 2017 and the UPGST Act, 2017, which reads as follows:-

"The Value of supply of goods and services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price sole consideration for the supply.

1. The Value of supply shall include—

(a) Any taxes, duties, cesses, fees and charges levied under any law.....Act, if charged separately by the supplier;

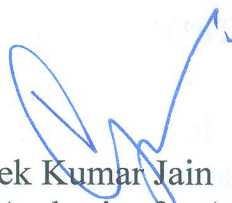


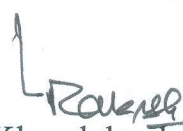
- (b) Any amount that the supplier is liable to pay.....goods or services or both;
- (c) Incidental expenses, including commission.....supply of services;
- (d) Interest or late fee or penalty for delayed payment of any consideration for any supply and**
- (e) Subsidies directly linkedby the Central Government and State Government."

In view of the above, both the members unanimously rule as under;

RULING

"Applicant is liable to pay GST on the delayed payment of charges which are overdue from the client towards trading of securities and reimbursed to them."


Vivek Kumar Jain
Member of Authority for Advance
Ruling
CGST


R K Khandelwal 14/12/18
Member of Authority for Advance
Ruling
SGST



To,

M/s SPFL Securities Ltd.
15/63-M, SPFL House
Civil Lines, Kanpur-

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 18

Date: 14.12.2018

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Advance Ruling Appellate Authority.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Advance Ruling Appellate Authority.
3. The Commissioner, CGST & Central Excise, Commissionerate, Kanpur, Uttar Pradesh.
4. Through the Additional Commissioner, Commercial Tax, ~~Lucknow~~, Uttar Pradesh to jurisdictional tax assessing officers. Kanpur

