

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
14 Beliaghata Road, Kolkata – 700015

Name of the Applicant	Premier Vigilance & Security Pvt Ltd
Address	4B Monalisa Building, Orient Row, Kolkata – 700017
GSTIN	19AABCP5848B1ZF
Case Number	23 of 2018
Date of Application	August 10, 2018
Order number and date	20/WBAAR/2018-19 dated 02/11/2018
Applicant's representative heard	Ms. Shivani Shah, Advocate

1. The Applicant, stated to be a provider of security services to the Bank, seeks a Ruling on chargeability of GST on the Toll Taxes reimbursed by its clients or the ability to claim it as a deduction under Rule 33 from the value of supply, being expenditure incurred as a pure agent under the CGST/WBGST Acts, 2017 (hereinafter referred to as the "the said GST Act").

Advance Ruling is admissible under Section 97(2)(e) & (g) of the said GST Act.

The Applicant submits that the question raised in the Application has neither been decided by nor is pending before any authority under any provisions of the GST Act.

The officer concerned raises no objection to the admission of the Application.

The Application is, therefore, admitted.

2. The Application states that the Applicant provides security service to the Banks. The Applicant also transports cash/coins/bullion in specially built vehicles or Customized Cash vans (CCVs). In course of such transportation, the vehicles move along National and State Highways and the Applicant pays toll charges to both NHAI and State Authority, which is reimbursed by the client Banks.

3. Rule 33 of the GST Rules states that:-

Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

4. Explanation to the Rule 33 defines –

For the purposes of this rule, the expression —pure agent means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The above Rule provides an example by way of illustration. Corporate services firm A is engaged to handle the legal work pertaining to incorporation of Company B. Other than his service fees, A also recovers from B registration fee and approval fee for the name of the company, paid to the Registrar of Companies. The fees charged by the RoC for registration and approval of the name are compulsorily levied on B. A is merely acting as pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

5. The Applicant submitted excerpts from the agreements entered with the client Banks. The Agreement may be considered as the prototype of all Agreements made with the various client Banks and all discussions regarding the Agreement is to be taken as relevant to and applicable for all the Agreements entered into by the Applicant with the client Banks.

The agreements mention that toll and parking charges will be paid on the actual amount. But the Banks do not specifically authorize the Applicant as a 'pure agent' or acknowledge payment of the toll charges as their own liability.

The Applicant admits in the Application about owning the vehicles. The toll is charged for providing the service by way of access to a road or bridge (SAC 9967). The Applicant, being the owner of the vehicles, is the recipient of the service provisioned on payment of toll. The Applicant admittedly is the beneficiary and liable to pay the toll, which is compulsorily levied on the vehicles. The expenses so incurred are, therefore, cost of the service provided to the Banks. Reimbursement of such cost is no disbursement, but merely the recovery of a portion of the value of supply made to the Banks.

The Applicant is, therefore, not acting in the capacity of a 'pure agent' of the Bank while paying toll charges. Such charges are costs incurred, so that his vehicles can access roads/bridges to provide security services to the recipient.

6. Toll charges paid are not, therefore, to be excluded from the value of supply under Rule 33. GST shall, therefore, be payable at the applicable rate on the entire value of the supply, including toll charges paid.

In view of the foregoing, we Rule as under

RULING

Toll charges paid are not to be excluded from the value of supply under Rule 33. GST shall, therefore, be payable at the applicable rate on the entire value of the supply, including toll charges paid.

The Applicant is not acting as a 'pure agent' of the Bank while paying toll charges, which are the cost of the service provided to the Banks so that his vehicles can access roads/bridges to provide security services to the recipient.

This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the GST Act.

Sd-

(VISHWANATH)

Member

West Bengal Authority for Advance Ruling

Sd-

(PARTHA SARATHI DEY)

Member

West Bengal Authority for Advance Ruling