



# Goods and Services Tax

## AAR-Andhra Pradesh- Interest/penalty collected for delay in payment of monthly subscription of chit fund by members has to be classified under Heading No. 9971 as 'financial and related services'

### Facts

- 1.) The applicant (**M/s. Ushabala Chits Private Limited**) is a company engaged in conducting chit auctions. They register the members and conduct auction in respect of each chit each month. The member winning the auction will collect the prize money from the company. The company will be collecting subscriptions from members by dividing the prize money with number of members.
- 2.) The applicant is collecting the foreman commission @5% from the amount to be distributed to the member taking the prize money. The GST is paid on the foreman commission @12%. The foreman is responsible for registering the members, collection of money from the members, conduct of auctions and other related matters.
- 3.) The applicant is responsible to pay the prize money by due date to the winner of auction. However, many, a time, the subscribers fail to deposit subscriptions by the specified date. In such scenario, the applicant is borrowing the money from banks by payment of interest and making payment to the prized subscribers.
- 4.) In order to maintain discipline in payment and also to cover the interest cost, the applicant charges interest/penalty from the members paying the subscriptions belatedly and the interest is dependent upon the period of delay from specified date to actual date of payment.
- 5.) The interest /penalty has no element of services except that it is in an auction in money as much as it is collected as a part of subscription for delay.

### Issue before the AAR

- 1.) Whether the interest/penalty collected for delay in payment of monthly subscription by the members forms a supply under GST?
- 2.) If the said interest/penalty is a supply, what is the classification and rate of duty applicable on the said supply?

### Discussion and Findings of the AAR

- 1.) It is clear from the simple reading of 15(2)(d) that the interest, late fee or penalty charged from customer shall be added to the transaction value and hence shall be taxable at the rate at which such goods/ services are taxable or in other words the classification of interest, late fee or penalty cannot be different from the classification of goods or services.
- 2.) The additional amount being charged on delayed payment termed as Interest, late fee or penalty on the amount delayed in specified time cannot be bifurcated as such additional payment do not have its own classification. It is taking colour from original supply i.e., supply of financial and related services.

3.) Further Section 8 of GST Act 2017 deals with composite supply -

Sec 8 - Composite supply means a supply comprises two or more goods/services, which are naturally bundled and supplied in with each other in the ordinary course of business, one of which is a principal supply'

In this case financial and related service is the principal supply and all other ancillary supplies shall take colours from the principal supply itself and it shall be classified as principal supplies i.e. financial and related services.

4.) The additional amount being charged in delay of payment by whatever name called should be classified as principal supply and the classification of the same cannot differ from the original supply. Hence the additional amount charged on delayed payment shall be taxed as per original supply i.e. under Sl. No 15 of Heading 9971 Financial and related services, GST@12% as per Notification No. 8/2017-Integrated Tax (Rate) dated, the 28th June, 2017 as amended from time to time.

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