

Goods and Services Tax

Supply of goods made from Goa on behalf of a third party registered outside Goa to a place in Goa, has to be taxed as inter-State supply of goods.

Facts

- High Tech Refrigeration & Air conditioning Industries, have their registered office in Goa has opted for Composition from the date of migration.
- Taxpayer deals in supply of goods as well as provides services. Details of the Goods /Commodities & Services supplied in relation to Air conditioning, Electronic integrated system, maintenance and repair service.

Issue before the AAR

- Fixing of Air conditioner & VRV system in Goa for a client (Recipient) registered outside Goa but not registered in Goa. Whether IGST or (SGST & CGST) rate applicable & whether billing B to C OR B To B.
- Supplying of Air conditioner to client (Recipient) registered outside Goa but not registered in Goa consisting of Air conditioner (28%) Copper pipe, Drain pipe, Electric cable etc (18%) and fixing rate (18%). These items can be supplied/Billed them separately under GST
- Supplying of Air conditioner (28%) for residential house in Goa consisting of in case require additional item Copper pipe, Drain pipe, Electric cable etc (18%) and fixing rate (18%). Billing them separately is allowed/ok.
- Can installation of Air conditioner (28%) can be done by sister concern or Third party to client based in Goa or Outside Goa @ (18%) GST for
- Can composite Dealer raise Service Bill for Fixing of Air Conditioner & also what GST Rate applicable.
- Whether stabilizer may or may not be sold with Air conditioner what is the Rate of GST Applicable on Stabilizer (18%) when it is Attached / Supplied with Air conditioner (28%)

Provisions of Law referred

- Sec 97(2) The question on which the advance ruling is sought under this Act, shall be in respect of,
 - (a) classification of any goods or services or both;
 - (b) Applicability of a notification issued under the provisions of this Act;
 - (c) Determination of time and value of supply of goods or services or both;
 - (d) Admissibility of input tax credit of tax paid or deemed to have been paid;
- Sec 10(1)(b) of IGST Act is reproduced as “where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.”

Discussion and Findings of AAR

- Issues raised by the applicant are not covered by section 97(2) of the GST Act on which Advance Ruling can be sought.
- Only one issue could be dealt by this authority for issuing Ruling and that is whether supply made by applicant from Goa on behalf of third person who is not in the taxable territory of Goa to a place in Goa is to be taxed as Inter-State Supply or Intra State Supply.
- For classification of any supply as Inter-State Supply or Intra-State Supply, two ingredients are relied upon and these are location of the supplier and place of supply.
- In the instant case, location of the supplier is Goa, place of supply will be outside Goa as per section 10(1)(b) of the IGST Act since, goods are supplied on behalf of a registered person outside Goa to a place in Goa.
- The nature of supply made by the applicant is to be treated as a supply of goods in the course of inter-State trade or commerce and tax is to be charged accordingly.

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