

**No GST concession on Service of supply of test bunch equipment as it does not amount to an ingredient to build Aircraft**

The Karnataka Authority of Advance Ruling (“**the KAAR**”) in *Re: M/s Testmeasures Spherea Solutions Private Limited [KAR ADRG 46/2022 dated December 2, 2022]* denied to grant Goods and Service Tax (“**GST**”) concession as the service of supply of test bunch equipment does not amounts to an ingredient to build Aircraft.

**Facts:**

M/s Testmeasures Spherea Solutions Private Limited (“**the Applicant**”) is a private limited and wholly owned subsidiary of M/s Spherea Test and Services (“**the Parent Company**”). The Parent Company had entered into an agreement to provide a set of services to a customer in France who in turn has agreed to provide such services to a customer in India.

The Applicant stated that two equipments (test benches for aeronautics cases) are sold by the Parent Company to their customer in India. These test benches are currently with Indian Air Force at their Operational Forward bases.

The Applicant stated that the test benches were used to test and prove the airworthiness of the aircraft’s equipment and also on detection of any errors, the test benches were used for correction of such errors to ensure safe flight. The Applicant had to provide certain services with respect to test benches and the invoice of such services was to be raised on the Parent Company as the Applicant did not had any direct contract with the Indian consumer.

The Applicant contended that the activities supplied by them are categorized as Maintenance, Repairs and Overhaul (“**MRO**”) and are classifiable under the head of SAC 9987(ia) in terms of the Notification no. 02/2020- Integrated Tax dated March 26, 2020 [Amendment to the Notification No. 11/2017-Central Tax (Rate), dated the June 28, 2017] (“**the Notification**”) i.e. the maintenance, repair and overhaul in respect of aircraft, aircraft engines and other aircraft

components and parts and thus, the company was eligible for the 5% GST concession rate. The Applicant also submitted that the place of supply of services should be the location of the recipient and as the Parent Company is outside India and registration is not obtained the place of supply should be outside India and the services shall be treated as zero rated supply.

The Applicant filed this application for Advance Ruling under Section 97 of the Central Goods and Services Act, 2017 (“**the CGST Act**”) read with Rule 107 of the Central Goods and Services Rules, 2017 (“**the CGST Rules**”) and Section 97 of Karnataka Goods and Services Act, 2017 (“**the KGST Act**”) read with Rule 107 of the Karnataka Goods and Services Rules, 2017 (“**the KGST Rules**”) in FORM GST ARA-01.

**Issue:**

- i. Whether the services provided by the Applicant to its parent company relating to the test benches which are in the name of MRO services, be classified under heading “9987i(a): Maintenance, Repair or Overhaul services in respect of aircrafts, aircrafts engines and other aircraft components or parts”?*
- ii. If the answer to the above is in affirmative, then whether the Place of supply is the ‘location of recipient’ as per the Notification No. 02/2020-Integrated Tax dated March 26, 2020 which is the location of the Parent Company (Outside India) and that can be construed as exports of services?*
- iii. If the answer to the first question is in negation, then we would like to know the classification of the services provided to the parent company and can it be considered as exports of services ?*

**Held:**

The KAAR held as under:

- The agreement is for maintenance and repair of MERMOZ System (i.e. Designate the Automatic Test Equipment aimed at testing Line Replaceable Units and repairing with the use of Test Program Sets (“TPS”) and is composed of the System Hardware, the system Software and the related documentation) which is to test the worthiness of the aircraft. Therefore, the impugned services are relevant to maintenance and repair services of instruments for testing airworthiness of an aircraft.
- The Applicant is providing maintenance and repair service of test bench equipment which are used for testing air worthiness of an aircraft. Such equipment does not qualify to be an aircraft or an aircraft engine or other aircraft components or parts. Thus, the said service will be classifiable under SAC 998719 ‘Maintenance and Repair services of other machinery and equipment’ as per Scheme of Classification of Services.
- Thus, the entry Sl. No. 25i(a) of Notification No. 11/2017 of Central Tax rate dated June 26, 2017 as amended vide Notification no. 02/2020- Integrated Tax dated March 26, 2020 and the concessional rate of 5% would not be applicable.
- Further, the issue as to whether the services supplied by the Applicant would be classified as export of services is not ruled as it is outside the jurisdiction of Authority.

**Relevant Provisions:**

***Section 97 of the CGST Act:***

***Application for advance ruling***

*(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

*(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;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

**Rule 107 of the CGST Rules**

*Certification of copies of the advance rulings pronounced by the Appellate Authority*

*A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to-*

- (a) the applicant and the appellant;*
- (b) the concerned officer of central tax and State or Union territory tax;*
- (c) the jurisdictional officer of central tax and State or Union territory tax; and*
- (d) the Authority,*

*in accordance with the provisions of sub-section (4) of section 101 of the Act.*

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